



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
NOVEMBER 9, 2016  
CITY COUNCIL CHAMBERS

## AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – October 26, 2016
9. PRESENTATIONS
10. CONSENT CALENDAR

CITY CLERK'S OFFICE

DATE 11/4/16 TIME 2:30 P.M.

SERVED BY Regina Byers

RECEIVED BY [Signature]

- a) Request for Approval of Amendment No. 1 in the Amount of \$82,542.94 – Additional Preventative Maintenance and Software Services for City of Santa Fe Cloud and/or Hosting Specific Terms and Conditions for City of Santa Fe Asset Management Plan; Ameresco, Inc. (LeAnn Valdez)
- b) Request for Approval of Grant Award and Agreement in the Amount of \$52,150 – City of Santa Fe Emergency Management Director Position; U.S. Department of Homeland Security and Emergency Management. (David Silver)
- c) Request for Approval of Professional Services Agreement in the Amount of \$444,960 – City's ERP System Implementation Project Management Services (RFP #17/13/P); Berry Dunn McNeil & Parker, LLC. (Renee Martinez)
- d) Request for Ratification of Local Government Road Fund Cooperative Agreement in the Amount of \$50,205 – Funding to Aid Construction for Roadway Improvements to La Cieneguita from Camino Carlos Rey to Agua Fria Street; New Mexico Department of Transportation. (David Catanach)



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- e) CONSIDERATION OF RESOLUTION NO. 2016-\_\_\_\_. (Mayor Gonzales, Councilor Ives and Councilor Lindell)  
A Resolution in Support of the Guns to Gardens Project Sponsored by New Mexicans to Prevent Gun Violence. (Chief Gallagher)  
  
Fiscal Impact – \$1,500 for Police Overtime
- f) CONSIDERATION OF RESOLUTION NO. 2016-\_\_\_\_. (Councilor Maestas and Councilor Ives)  
A Resolution Authorizing and Supporting the Submittal of the City's Project Application to the Santa Fe Metropolitan Planning Organization for Funding Under the Fiscal Year 2018/2019 NMDOT Administered Funds from the Transportation Alternatives Program. (Leroy Pacheco)  
  
Fiscal Impact – Expenditures = FY 18/19 - \$500,000 for Professional Services; FY 19/20 - \$1,500,000 for Capital Outlay Revenue = FY 18/19 - \$72,800; FY 19/20 - \$218,400 (City Match 2012-14 GO Bond)
- g) CONSIDERATION OF RESOLUTION NO. 2016-\_\_\_\_. (Mayor Gonzales and Councilor Ives)  
A Resolution Requesting the City Manager to Direct Staff to Determine the Feasibility of an Art Exhibit of a Curated Exhibit of Reproductions of Some of the Finest Art of the Museo Del Prado from Madrid. (Randy Randall)
- h) Request for Approval of City of Santa Fe Schedule for 2017 City Council and Council Committee Meetings. (Yolanda Y. Vigil)
- i) Pursuant to Resolution No. 2016-33, the Santa Fe Film and Digital Media Commission's Six Month Report. (Alexandra Ladd) **(Informational Only)**
- j) Update on Cerrillos Road Construction Project. (David Quintana) **(Informational Only)**
- k) Request for Approval of City of Santa 2016/2017 Resident Survey. (Adam Johnson)
- l) Update on Attrition and Vacancy Report as of September 30, 2016. (Adam Johnson) **(Informational Only)**
- m) Revenue Analysis and Forecast. (Adam Johnson) **(Informational Only)**



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- n) Pursuant to Resolution No. 2016-24, Report on Upcoming New Year's Eve Celebration. (Randy Randall) **(Informational Only)**
- o) Ratification of Grant Agreements in the Total Amount of \$700,000: (Cameron Humphres) **(Postponed on October 13, 2016)**
  - 1) Request for Ratification of Small Community Air Service Development Program Grant and Budget Increase in the Amount of \$500,000 – Enhancement of Air Service; U.S. Department of Transportation.
  - 2) Request for Ratification of Air Service Assistance Program Grant and Budget Increase in the Amount of \$200,000 – Marketing Support for Air Service Development; New Mexico Department of Transportation, Aviation Division.
- 11. MATTERS FROM THE CITY MANAGER
- 12. MATTERS FROM THE CITY ATTORNEY
- Executive Session:

In Accordance with the New Mexico Open Meetings Act §§10-15-1(H) (7) and (8) NMSA 1978, Discussion Regarding Threatened or Pending Litigation in Which the City of Santa Fe is a Participant, Including, without Limitation, Discussion Relating to *In the Matter of the Application by the City of Santa Fe for Permit to Use as Supplemental Well*, HU-12-018 and HU-12-023; and Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights by the City of Santa Fe, Including, Without Limitation, Discussion Relating to the Granting of an Easement for Utilities Across Certain City Land. (Kelley Brennan)
- 13. Action with Respect to the Application by the City of Santa Fe for Permit to Use as Supplemental Well, HU-12-018 and HU-12-023. (Kelley Brennan)
- 14. MATTERS FROM THE CITY CLERK
- 15. COMMUNICATIONS FROM THE GOVERNING BODY

## **EVENING SESSION – 7:00 P.M.**

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. SALUTE TO THE NEW MEXICO FLAG



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
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CITY COUNCIL CHAMBERS

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

- 1) Request from Cordelia O. Roybal Enterprises, LLC for a Transfer of Location of Inter-Local Dispenser License #2792, with On-Premise Consumption Only and with a Patio, from Santa Fe Sol, 37 Fire Place, Santa Fe to Midtown Bistro, 901 San Mateo Street, Suites A & B. (Yolanda Y. Vigil)
- 2) Request from Iconik Coffee Roasters, LLC for a Restaurant Liquor License (Beer and Wine) with On-Premise Consumption Only, and With a Patio, to be Located at Iconik Coffee, 1600 Lena Street, Suite A1 and A-2. (Yolanda Y. Vigil)
- 3) CONSIDERATION OF BILL NO. 2016-36: ADOPTION OF ORDINANCE NO. 2016-\_\_\_\_. (Mayor Gonzales and Councilor Ives)  
An Ordinance Amending the Land Development Code to Update Land-Use Categories, Table of Permitted Uses to Add Agricultural Uses; Amending Subsection 14-6.2(H) of the Land Development Code to Prohibit Animal Production and Slaughterhouses, and Providing for Agricultural Uses; Creating a New Subsection 14-6.3(D)(4) of the Land Development Code to Allow for Agricultural Home Occupation Exceptions; Amending Section 14-8.7 of the Land Development Code to Waive Architectural Design Review of Agricultural Related Structures by the Land Development Director; and Amending Subsection 14-12 of the Land Development Code to Include Definitions for Terms Relating to Urban Agriculture. (John Alejandro) **(Postponed on October 26, 2016)**
  - a) CONSIDERATION OF RESOLUTION NO. 2016-\_\_\_\_. (Mayor Gonzales and Councilor Ives)  
A Resolution Creating the City of Santa Fe Procedures and Guidelines for Urban Agriculture Activities and Uses. (John Alejandro) **(Postponed on October 26, 2016)**



# Agenda

REGULAR MEETING OF  
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CITY COUNCIL CHAMBERS

- 4) **CONSIDERATION OF BILL NO. 2016-37: ADOPTION OF ORDINANCE NO. 2016-\_\_\_. (Councilor Ives)**  
An Ordinance Relating to the City of Santa Fe Telecommunications Facilities in the Public Rights-of-Way Ordinance; Amending Subsection 27-2.1 SFCC 1987 to Establish Legislative Findings; Amending Subsection 27-2.3 SFCC 1987 to Repeal the Definition of "Gross Revenue" and Establish a New Definition for "Gross Charge"; Amending Subsection 27-2.5 to Repeal the Fee Structure and Establish an Infrastructure Maintenance Franchise Fee; and Making Such Other Changes as are Necessary to Carry Out the Intent of this Ordinance. (Marcos Martinez) **(Postponed on October 13, 2016)**
- 5) **CONSIDERATION OF BILL NO. 2016-42: ADOPTION OF ORDINANCE NO. 2016-\_\_\_. (Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Dominguez, Councilor Villarreal, Councilor Rivera and Councilor Trujillo)**  
An Ordinance Amending Subsection 2-1.2 Relating to the Compensation of the Mayor and Establishing an Independent Salary Commission to Set the Mayor's Salary Effective March 19, 2018. (Lynette Trujillo)

## I. ADJOURN

**Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. such items shall be postponed to a subsequent meeting, provided that the date, time and place of such meeting is specified at the time of postponement.**

**NOTE:** New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

**Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.**

SUMMARY INDEX  
SANTA FE CITY COUNCIL MEETING  
Wednesday, November 9, 2016

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APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-4
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – OCTOBER 26, 2016	Approved	4
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<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR RATIFICATION OF LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT IN THE AMOUNT OF \$50,205 – FUNDING TO AID CONSTRUCTION FOR ROADWAY IMPROVEMENTS TO LA CIENEGUITA FROM CAMINO CARLOS REY TO AGUA FRIA STREET; NEW MEXICO DEPARTMENT OF TRANSPORTATION	Approved	4-5
PURSUANT TO RESOLUTION NO. 2016-33, THE SANTA FE FILM AND DIGITAL MEDIA COMMISSION'S SIX MONTH REPORT	Information/discussion	5-8
REQUEST FOR APPROVAL OF CITY OF SANTA FE 2016/2017 RESIDENT SURVEY	Approved [amended]	8-13
UPDATE ON ATTRITION AND VACANCY REPORT AS OF SEPTEMBER 30, 2016	Information/discussion	13-16

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
RATIFICATION OF GRANT AGREEMENTS IN THE TOTAL AMOUNT OF \$700,000 REQUEST FOR RATIFICATION OF SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM GRANT AND BUDGET INCREASE IN THE AMOUNT OF \$500,000 – ENHANCEMENT OF AIR SERVICE; U.S. DEPARTMENT OF TRANSPORTATION	Approved	16-18
REQUEST FOR RATIFICATION OF AIR SERVICE ASSISTANCE PROGRAM GRANT AND BUDGET INCREASE IN THE AMOUNT OF \$200,000 – MARKETING SUPPORT FOR AIR SERVICE DEVELOPMENT; NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION	Approved	16-18
***** END OF CONSENT CALENDAR DISCUSSION *****		
MATTERS FROM THE CITY MANAGER	None	18
MATTERS FROM THE CITY CLERK	None	18
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	19-23
<u>MATTERS FROM THE CITY ATTORNEY</u>		
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MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	24
ACTION WITH RESPECT TO THE APPLICATION BY THE CITY OF SANTA FE FOR PERMIT TO USE AS SUPPLEMENTAL WELL, HU-12-018 AND HU-12-023	Removed from Agenda	24
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	25
PETITIONS FROM THE FLOOR		25-27
APPOINTMENTS	None	27

**ITEM****ACTION****PAGE****PUBLIC HEARINGS**

REQUEST FROM CORDELIA O. ROYBAL ENTERPRISES, LLC, FOR A TRANSFER OF LOCATION OF INTER-LOCAL DISPENSER LICENSE #2791, WITH ON PREMISE CONSUMPTION ONLY AND WITH A PATIO, FROM SANTA FE SOL, 37 FIRE PLACE, SANTA FE, TO MIDTOWN BISTRO, 901 SAN MATEO STREET, SUITES A & B

Approved

28

REQUEST FROM ICONIK COFFEE ROASTERS, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE) WITH ON-PREMISE CONSUMPTION ONLY, AND WITH A PATIO, TO BE LOCATED AT IKONIK COFFEE, 1600 LENA STREET, SUITE A-1 AND 1-2

Postponed to 01/25/17

28

CONSIDERATION OF BILL NO. 2016-36: ADOPTION OF ORDINANCE NO. 2016-41. AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE TO UPDATE LAND USE CATEGORIES, TABLE OF PERMITTED USES TO ADD AGRICULTURAL USES; AMENDING SUBSECTION 14-6.2(H) OF THE LAND DEVELOPMENT CODE TO PROHIBIT ANIMAL PRODUCTION AND SLAUGHTERHOUSES, AND PROVIDING FOR AGRICULTURAL USES; CREATING A NEW SUBSECTION 14-6.3(D)(4) OF THE LAND DEVELOPMENT CODE TO ALLOW FOR AGRICULTURAL HOME OCCUPATION EXCEPTIONS; AMENDING SECTION 14-8.7 OF THE LAND DEVELOPMENT CODE TO WAIVE ARCHITECTURAL DESIGN REVIEW OF AGRICULTURAL RELATED STRUCTURES BY THE LAND DEVELOPMENT DIRECTOR; AND AMENDING SUBSECTION 14-12 OF THE LAND DEVELOPMENT CODE TO INCLUDE DEFINITIONS FOR TERMS RELATING TO URBAN AGRICULTURE

Approved [amended]

29-47

CONSIDERATION OF RESOLUTION NO. 2016-85. A RESOLUTION CREATING THE CITY OF SANTA FE PROCEDURES AND GUIDELINES FOR URBAN AGRICULTURE ACTIVITIES AND USES

Approved [amended]

29-47



<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CONSIDERATION OF BILL NO. 2015-37: ADOPTION OF ORDINANCE NO. 2016-42. AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE	Approved [amended]	47-76
CONSIDERATION OF BILL NO. 2016-42; ADOPTION OF ORDINANCE NO. 2016-43. AN ORDINANCE AMENDING SUBSECTION 2-1.2 RELATING TO THE COMPENSATION OF THE MAYOR AND ESTABLISHING AN INDEPENDENT SALARY COMMISSION TO SET THE MAYOR'S SALARY EFFECTIVE MARCH 19, 2018	Approved	76-77
ADJOURN		77

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
November 9, 2016**

**AFTERNOON SESSION**

**1. CALL TO ORDER AND ROLL CALL**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Gonzales, on Thursday, November 9, 2016, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

**Members Present**

Mayor Javier M. Gonzales  
Councilor Signe I. Lindell, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez  
Councilor Mike Harris  
Councilor Peter N. Ives  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo  
Councilor Renee D. Villarreal

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Brian Snyder, City Manager, said he would like to remove Item 10(g) from the Agenda, and send it back to the Arts Commission for its reconsideration, and come back through the Committee process. He would like to remove Item #13 from the agenda, noting an action will not be necessary coming out of the Executive Session. He would like to postpone Item H(2) on the Evening Agenda to the Governing Body meeting of January 25, 2017.

Councilor Dominguez asked if Item 10(g) from the Afternoon Agenda is postponed until it goes through Committee.

Mr. Snyder said it will be sent back to the Arts Commission for its reconsideration. No action was taken at the Arts Commission, so the Mayor's request is to have it go back to the Arts Commission and have them act on it, prior to it be considered by the Governing Body.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Ives, to approve the agenda, as amended.

**VOTE:** The motion was approved on a voice vote with Mayor Gonzales, and Councilors Dominguez, Harris, Ives, Maestas, Rivera, Trujillo and Villarreal voting in favor of the motion, none voting against and Councilor Lindell absent for the vote.

## **7. APPROVAL OF CONSENT CALENDAR**

Councilor Villarreal asked to be added as a cosponsor of Item 10(e).

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

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

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

## **10. CONSENT CALENDAR**

An Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, November 7, 2016, regarding Item 10(d), is incorporated herewith to these minutes as Exhibit "1."

- a) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 IN THE AMOUNT OF \$82,542.94 – ADDITIONAL PREVENTATIVE MAINTENANCE AND SOFTWARE SERVICES FOR CITY OF SANTA FE CLOUD AND/OR HOSTING SPECIFIC TERMS AND CONDITIONS FOR CITY OF SANTA FE ASSET MANAGEMENT PLAN; AMERESCO, INC. (LeANN VALDEZ)**

- b) REQUEST FOR APPROVAL OF GRANT AWARD AND AGREEMENT IN THE AMOUNT OF \$52,150 – CITY OF SANTA FE EMERGENCY MANAGEMENT DIRECTOR POSITION; U.S. DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT. (DAVID SILVER)
- c) REQUEST FOR RATIFICATION OF LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT IN THE AMOUNT OF \$50,205 – FUNDING TO AID CONSTRUCTION FOR ROADWAY IMPROVEMENTS TO LA CIENEGUITA FROM CAMINO CARLOS REY TO AGUA FRIA STREET; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DAVID CATANACH)
- d) *[Removed for discussion by Councilor Trujillo]*
- e) CONSIDERATION OF RESOLUTION NO. 2016-83 (MAYOR GONZALES, COUNCILOR IVE, AND COUNCILOR LINDELL AND COUNCILOR VILLARREAL. A RESOLUTION IN SUPPORT OF THE GUNS TO GARDENS PROJECT SPONSORED BY NEW MEXICANS TO PREVENT GUN VIOLENCE. (CHIEF Gallagher). Fiscal Impact – \$1,500 for Police Overtime.
- f) CONSIDERATION OF RESOLUTION NO. 2016-84 (COUNCILOR MAESTAS AND COUNCILOR IVE). A RESOLUTION AUTHORIZING AND SUPPORTING THE SUBMITTAL OF THE CITY'S PROJECT APPLICATION TO THE SANTA FE METROPOLITAN PLANNING ORGANIZATION FOR FUNDING UNDER THE FISCAL YEAR 2018/2019 NMDOT ADMINISTERED FUNDS FROM THE TRANSPORTATION ALTERNATIVES PROGRAM. (LEROY PACHECO)
- g) CONSIDERATION OF RESOLUTION NO. 2016-\_\_\_ (MAYOR GONZALES AND COUNCILOR IVE). A RESOLUTION REQUESTING THE CITY MANAGER TO DIRECT STAFF TO DETERMINE THE FEASIBILITY OF AN ART EXHIBIT OF A CURATED EXHIBIT OF REPRODUCTIONS OF SOME OF THE FINEST ART OF THE MUSEO DEL PRADO FROM MADRID. (RANDY RANDALL) ( Removed from the Agenda and returned to the Arts Commission for its decision prior to being considered by the Governing Body )
- h) REQUEST FOR APPROVAL OF CITY OF SANTA FE SCHEDULE FOR 2017 CITY COUNCIL AND COUNCIL COMMITTEE MEETINGS. (YOLANDA Y. VIGIL)
- i) *[Removed for discussion by Councilor Maestas]*
- j) UPDATE ON CERRILLOS ROAD CONSTRUCTION PROJECT. (DAVID QUINTANA) (Informational Only)
- k) *[Removed for discussion by Councilor Maestas]*

- l) *[Removed for discussion by Councilor Maestas]*
- m) **REVENUE ANALYSIS AND FORECAST. (ADAM JOHNSON). (Informational Only)**
- n) **PURSUANT TO RESOLUTION NO. 2016-24, REPORT ON UPCOMING NEW YEAR'S EVE CELEBRATION. (RANDY RANDALL) (Informational Only)**
- o) *[Removed for discussion by Councilor Harris]*

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**END OF CONSENT CALENDAR**  
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**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – OCTOBER 26, 2016**

**MOTION:** Councilor Trujillo moved, seconded by Councilor Ives, to approve the minutes of the Regular City Council Meeting of October 26, 2016, as presented.

**VOTE:** The motion was approved on a voice vote with Mayor Gonzales, and Councilors Dominguez, Harris, Ives, Maestas, Rivera, Trujillo and Villarreal voting in favor of the motion, none voting against and Councilor Lindell absent for the vote.

**9. PRESENTATIONS**

There were no presentations.

**CONSENT CALENDAR DISCUSSION**

- 10(d) **REQUEST FOR RATIFICATION OF LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT IN THE AMOUNT OF \$50,205 – FUNDING TO AID CONSTRUCTION FOR ROADWAY IMPROVEMENTS TO LA CIENEGUITA FROM CAMINO CARLOS REY TO AGUA FRIA STREET; NEW MEXICO DEPARTMENT OF TRANSPORTATION. (DAVID CATANACH)**

**Disclosure:** Councilor Trujillo said, "As always, this is a cooperative agreement with the New Mexico Department of Transportation, and I always state that I do work for the New Mexico DOT, and I used to oversee these LGR funds, I no longer do so, there is no conflict of interest, so I would move for approval."

**MOTION:** Councilor Trujillo 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 Harris, Councilor Ives, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

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

**10(i) PURSUANT TO RESOLUTION NO. 2016-33, THE SANTA FE FILM AND DIGITAL MEDIA COMMISSION'S SIX MONTH REPORT (ALEXANDRA LADD) (Informational Only)**

Councilor Maestas said there is an Economic Development Ordinance which requires a certain return on investment, and he believes those funds were used for the Film Commission. He asked at what point will the Commission start establishing some kind of return on its investment, even if it is qualitative. He said the initial report was more a litany of needs of the Commission, instead of preliminary accomplishments. He realizes it will take time, it's a big body and will get its rhythm. He is really more concerned about the continued of Economic Development funds and at what point will they start focusing on a return on investment.

Alexandra Ladd said the funding originally allocated to the Film Commission, was reallocated to the Film Office which is a joint City/County venture. She doesn't have the institutional memory to tell them what that transfer looks like, but believes it was done through the Tourism Office. So right now, the Film Commission serves as an advisory body to the Film Office. She said the Chair of the Film Commission is in attendance if you have other questions about the function of the Commission.

Councilor Maestas thanked her for her work, saying it's no secret that the film industry is booming. However, in drilling down into the specific policy decision to use Economic Development funds, and the laws surrounding the purpose and the use of the funds, he wants to make sure the Commission looks at the Ordinance with regard to the use of Economic Development funds and to come up a methodology to quantify the rate of return on the investment through this advisory body. He reiterated that the Ordinance requires a quantification of return on investment. He understands the Commission is in its infancy, but he wants a sense of the direction of the Commission and if there will be hard metrics by which the Commission can gauge the progress of the film industry in Santa Fe. He asked her to speak to the forecast for the Commission and its discussions in that regard – where we were when the Commission was formed and where we want to go in terms of an industry.

Deborah Potter, Chair, Film Commission, said in the first sentence of her report she says that the money allocated to the Commission was given to the Film Office without the Commission voting on it. She said right now, the City is not allocating any funds to the Film & Digital Commission. She said in terms of being able to quantify the difference in the availability of jobs and film activity in Santa Fe, the mission of the Commission is to help develop a sustainable film industry in Santa Fe. She said what we have right

now, is a thriving film industry. It probably won't be thriving as much in January, or if the State takes away the subsidy for the film industry. She said, "We're trying to develop careers here in Santa Fe, where people in the film and digital media area can continue living here, and continue working here."

Ms. Potter continued, "We have no money with which to do that. We can't hire anybody. We've done studies on what is needed, a study where the gaps are, those are all in my report. And the next thing we hope to do, and it's in the preliminary stage, is to get together these entities that we have discovered. We have discovered non-profit organizations that want to help fund small films. They don't care if the film is large or small, they just don't want to put a lot of money in it, but they want to help. And we have found distribution areas, people who have avenues for distributing films. So we don't deal with the big major films that the Film Office does. We can't recruit those here; that's the job of the Film Office. And I commend you for helping to start that Film Office, I think it's essential for Santa Fe. So, as to how we can quantify when the film industry grew or did not grow, when we started or didn't start – I hope we can, and I hope we find a way to do that. And I will work with the Film Offices to see if that can be done, because I totally understand your concern. And if we do have your money, we will spend it wisely."

Mayor Gonzales thanked Ms. Potter and the members of the Commission. He said to answer a little of Councilor Maestas' questions. He said this Commission has done in 5 meetings has moved us by leaps and bounds to understanding what Santa Fe can do to grow a true film economy without any resource allocation, as Ms. Potter indicated in her report. Subcommittees on creating capital for film makers, how do we grow the digital media industry in Santa Fe. There are 3 film schools – the Community College, the Santa Fe University of Art & Design, and IAIA – involved in the delivery of film professionals across the spectrum. He said there is a huge opportunity to be able to create the sustainable film industry to grow a true economy that isn't dependent on the incentives, which thankfully are here. He said this is the best thing we have going for us in our City where the State is chipping-in 30¢ for every \$1.00 that is spent. If we don't take advantage today of this being a thriving industry, as Ms. Potter said, to leverage the amount of investment coming in which is expected to be \$150-\$200 million this year, to create real opportunities for young filmmakers, digital media individuals, working members of labor whose employees enjoy continuous work, then we are going to squander a true opportunity.

Mayor Gonzales continued, saying Erik Witt was asked to deliver to the Council some performance metrics from the Film Office, and that would be an appropriate conversation to have with Mr. Witt and Mr. Randall. He said, from Deborah's perspective and the Film Commission, we asked them to help us develop a road map on where we invest so we create this sustainable community. We didn't put dollars in as Deborah indicated, and she didn't come back and ask for money. She took on the charge and said these are people who want to see it grow, they're credentialed individuals, and will begin to provide some preliminary information to the City. At some point, there probably will be a time when we come back and ask the Council to begin to invest in the film economy. We've done so in delivering broadband throughout the City, in expanding the Airport, in expanding the Tourism Santa Fe Brand, and delivering on a great film experience. We're already been putting money into those various aspects. It's not just about the film economy, it's about a broader economy for our economy."

Mayor Gonzales continued, reiterating in Ms. Potter's report these are critical infrastructure issues that she is already asking us to invest in, that we're doing. He said his hope is that we continue to utilize these citizens that are part of the industry, well connected, that can be our voice or recruiters. He said Councilor Maestas' question of how we get a true return on investment. He can we can measure it today based on the film formula. However, he thinks the question should be how we leverage it in ways that the return on investment is broader than just what the production incentive is doing, but it's in the form of filmmakers that are able to thrive here all the way to post-production editors.

Mayor Gonzales continued saying, Ms. Potter has delivered without money or resources, and thanked the staff who have provided support. He said he believes the Film Commission will agree that she allocates a certain amount of time for a whole lot of business and keeps it on track so the members stay motivated to come back, because movie people tend to be very busy. He said making sure they stay available with us is very critical.

Councilor Maestas said there are a lot of governments that play when it comes to supporting and boosting the film industry. It is even better if we can attribute growth in that industry to our investment and support. He would like to establish a true base line, locally, in the City. It's a great platform and builds a foundation for future investment in the industry by the City. There are a lot of opportunities for major change to grow the industry even further, despite all the support that exists today. He asked Ms. Potter if she thinks this Commission can continue without any funding, or is this just an initial effort to provide these in-kind services that can help make this a success.

Ms. Potter said she thinks it would depend on what initiatives they take on. She said currently, the Commission is trying to put together an initiative to create a core film community, to bring the people together, noting that also is in the report and won't cost anything right now. She said if we do other initiatives that cost money, "I will certainly come to you and ask you, and I welcome that request on your part."

Councilor Maestas said it would be good to determine which ones the City realistically can take on, and that way we can all be a part of this plan to identify realistic recommendations from the Commission and start moving on them and make Ms. Potter's job easier, and seek broader support for more investment. He said he sees nothing but good things, and it seems the Commission is off to a really good start. He thanked Ms. Potter for "always being there for Santa Fe, and for coming in tonight and speaking on behalf of the Commission."

Councilor Harris said we know the funds were reallocated, and noted in Ms. Potter's report that the Film Office will be developing a website. He seems that some of the reallocated funds might go to support that effort. He asked if that website is moving forward.

Ms. Potter said, "Oh it is, it's great. And they did incorporate all the things we suggested. I was so happy to see that. And the website is for people who are looking to make a film in Santa Fe. It's up and running and it's great, take a look at it sometime, you'll be very proud, I am. I think it's terrific. Mr. Witt has been very responsive to us, and Mr. Hendry from IFE has been a visitor at every single one of our meetings. So we are very open and cooperative with them."



Mayor Gonzales asked when Mr. Witt will be ready to present to the Council on the request laid out a few weeks back by Councilor Maestas.

Mr. Randall said, "I believe it was sent to the Council, but let me double check it, but it is my recollection that it was. And I'll be glad to resend it if that would be preferred."

Councilor Maestas said he would like that.

Mayor Gonzales asked him to resend it to the entire Governing Body.

Mayor Gonzales thanked Ms. Potter and asked her to convey the thanks of the Governing Body to the Commission for its amazing work.

**10(k) REQUEST FOR APPROVAL OF CITY OF SANTA FE 2016/2017 RESIDENT SURVEY.  
(ADAM JOHNSON)**

*Mayor Gonzales left the meeting briefly and  
asked Councilor Dominguez to preside during his absence*

Councilor Maestas said it's exciting to be getting some real detailed feedback from the community. He said, referring to the Memorandum, page 1, paragraph 2, you have done a lot of research. He said Mr. Johnson is a numbers guy and there are statistics, and we're going with a certain sample size. He asked if there is a certain confidence level that we want, a margin of error, and how large the sample size should be given the size of the City, factoring in the response rate. He asked if Mr. Johnson has thought about the statistical goals for this survey to give us confidence in this survey as being how the community feels about these issues.

Mr. Johnson said there has been other discussion about statistics, confidence in our goals, etc. He said they worked with the National Research Center to increase our response chances by doubling the recommended sample size. He noted the people have never responded to the City in this kind of feedback group, so it is new.

Councilor Maestas asked if we are assuming a 50% response rate.

Mr. Johnson said it is hoped to get 50%, which would be a healthy response rate. However, there is no way we possibly could know what the response rate would be. He said it is statistically random, so whatever responses we get will be statistically valid.

Councilor Maestas, referring to packet page 1, question 5 says, *Please rate each of the following characteristics as they relate to Santa Fe as a whole.* He said there is one questions which is *availability of affordable quality housing.* He said we delved into certain issues, later in the survey where there are multiple parts to the same issue, but he felt we didn't do that for affordable housing. He said, "My recommendation is, we need a series of detailed questions regarding affordable housing."

Councilor Maestas, referring to packet page 5, regarding question 11, said he doesn't see the relevance of asking the public about the quality of services from the federal government, and asked the reason the federal government was included.

Mr. Johnson said it is included because it is part of the stock survey asked nationwide, and another one of those questions that gives us comparable results.

Councilor Maestas said it might be more meaningful to make it more local – Santa Fe County. He said Santa Fe County has imposed GRTs trying to sell services. He said in the last election there was a ballot question about possible purpose for additional GRTs. He said he doesn't see the relevance of including the federal government, but he would recommend it be changed to Santa Fe County. He would just focus on the City itself.

Councilor Villarreal said, "I brought this up about the federal government, but I don't know if it makes sense if the question states State government, because there are State services we access in the City. Federal, I don't think it makes sense. I don't know if County services would confuse people, but I'm okay with that, too."

Councilor Maestas said he is open to "State" as well.

*Councilor Lindell arrived at the meeting*

Mr. Johnson said there might be the opportunity to include both and see what kinds of results we get – leave the federal, and include the State and the County. Perhaps it would tell us the level people can distinguish the different services and give us some interesting feedback. So if that's a change to the survey that this body wants, he can put that into it.

Councilor Maestas said he would suggest that, but he doesn't know how we want to proceed.

Acting Chair Dominguez suggested Councilor Maestas make a motion just to include that. He said, "I would be reluctant to get into the survey too deep, because we could be here all night working on the survey." He said if he recalls correctly, part of the reason the Federal government is in there is because this survey isn't just to compare Santa Fe to Santa Fe, it's to compare Santa Fe to the rest of the country. He said quite frankly, perhaps the Federal government should be more involved, so he thinks that is in the survey to make it more global and not too narrow.

Mr. Johnson said all of our results will be compared to other comparable cities with similar characteristics. Likely those cities will not be in New Mexico, commenting he doesn't know which ones they've chosen, so they wouldn't share county or state as a similarity, so they would be asking the question of City and Fed because they would share only those two. He said we could include the other level and see what other two levels and information it provides to us.

Councilor Maestas said he would hate to get caught in a certain bias toward State government, and we interpret it to think they're directing it to city government, so he thinks it's important to make that distinction.

Councilor Maestas, referring to question #12, said he would specify Santa Fe City government, because there could be a confusion between city/county.

Councilor Maestas, referring to question #15 on packet page 6, said we are lumping a lot of different revenue ideas here. He said it's okay if that's a way to streamline the survey, but this pertains only to new services. He would recommend a separate question on improving existing services. What kinds of investments is the community willing to make to improve existing services. He said they might take preference over taking care of what we have versus establishing new services through new funding sources.

Councilor Maestas said we need questions to gauge support for future bond initiatives. He thinks we still are suffering from a community trust deficit on the 2008 Park Bonds. He wants to know how the community feels about the City seeking another bond initiative. He thinks the survey could give insight in terms of how we're doing on the journey to rebuild the trust that we lost, based on how we implemented the 2008 bonds.

Councilor Maestas said he would like to add the 2¢ Gasoline Tax to see how the community feels about that.

Mr. Johnson said these are excellent observations and excellent things that could be added to the survey. He said the one restraint at this point, is that there are a limited number of custom questions, and we have to be a little careful about the level of complexity of the custom questions. These are the same questions they asked the others taking the survey, with the difference that he customized question 15, the Property Tax and GRTs, because the original question just said tax, and he wanted to make that distinction. He said if we want to add the 2% gasoline tax, we would be asking the question about roads, because that is only thing it can fund. It almost would need to be a stand alone question so it doesn't get confused, because the Property Tax and GRT could be used broadly depending on the enabling Ordinance which legislates its use. If we want a 2% gasoline tax question, it probably needs to be in place of another question.

Acting Chair Dominguez said this survey is intended to be the first stab at getting some broad and general data from the community. And the intent is to give us another opportunity to pare things down a little more when we start to get some of the results from this survey. He isn't necessarily opposed to Councilor Maestas' proposal, but there may be other opportunities to do a poll, and we need to bear in mind there will be other opportunities to pare-down things more, and get more detailed information.

Councilor Maestas asked if this was heard in the Finance Committee.

Acting Chair Dominguez said yes. An email was sent by Adam at the beginning of October. He said Councilor Villarreal did respond to some of the questions, and thanked her.

Councilor Maestas, referring to the infrastructure categories under the question gauging public support for new revenue, the 3 major infrastructure systems where we have the most needs are not included – streets, facilities and storm drainage infrastructure. He thinks that is a gross omission in excluding those.

Acting Chair Dominguez asked if he is speaking of question #15, and Councilor Maestas said yes.

Acting Chair Dominguez said we can take outdoor pool/splash-park.

Councilor Maestas said there is “a quarter of a billion needs in streets,” and that is more important than a splash-park. He recommended that the 3 highest priorities for funding – streets, facilities and storm drainage infrastructure.

**MOTION:** Councilor Maestas moved, seconded by Councilor Villarreal, to approve this request, with the changes as discussed.

**DISCUSSION:** Acting Chair Dominguez asked Mr. Johnson if he captured those changes.

Mr. Johnson said the only thing he didn't capture and we didn't finish the conversation was about the bond question. He thinks we could include it and take something out. The other opportunity would be, once we are in a position where we are planning on doing a bond sale, we could use another survey tool locally, such as the Survey Monkey to gauge support for an upcoming bond issue, and just do that stand-alone with narrow focus and not lump it into here. He said here, we're trying to get an overall temperature on quality of life throughout across all these different topics.

**FRIENDLY AMENDMENT:** Councilor Maestas would like to add gasoline tax, if we're including streets, and it wouldn't be an additional question, it would just add to the question. Mr. Johnson said that is fine.  
**THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION ON DISCUSSION OF THE MOTION AS AMENDED:** Councilor Villarreal said it's interesting that Councilor Maestas brought up the same issues she had, but “we didn't get that far, it was at the end of the night, and I appreciate the changes you did make.”

Councilor Villarreal continued, “On that point for #15, there isn't, unless I'm missing it, but there wasn't any question that actually talked about services for transit, so it's along the same lines as infrastructure, so I'm wondering, Councilor Maestas if we could add that. I was looking at the list of items that would be supported by possible other taxes, and I was curious why animal services is there.”

Mr. Johnson said it is a standard question.

**FRIENDLY AMENDMENT:** Councilor Villarreal asked where we could fit Transit. Mr. Johnson said, "If we wanted to take out animal services, indoor sports complex, outdoor pool/splash-park, and insert. We potentially could take out 3 and add 4, and that would capture Councilor Maestas' suggestions and also Transit." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION ON DISCUSSION OF THE MOTION AS AMENDED:** Councilor Dominguez noted that question #13 does have a transportation system question, but it is lumped with buildings and parks, and the built environment of Santa Fe. He appreciates the amendment because it brings a little more focus on transit, so that's fine.

Councilor Maestas said rating the importance and then asking them whether they want to invest money are two different things, but is glad he pointed that out.

**FRIENDLY AMENDMENT:** Councilor Ives said, as a follow up on question #15, the phraseology and the predicate to the categories identified talks about, '*Support or oppose a property tax or Gross Receipts tax increase for each of the following to fund new facilities or services.*' We appear to have no reference to maintenance. Mr. Johnson said, "We could strike the word 'new' and capture the concept in general. Would that be sufficient." Councilor Ives said he thinks it's worthwhile doing because the problem often is one of maintenance as opposed to finding the new, so thank you. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

**CONTINUATION ON DISCUSSION OF THE MOTION AS AMENDED:** Councilor Rivera asked Mr. Johnson if we may be creating some confusion in including gasoline tax, but it's specific to what it can be used for, and thinks the person taking the survey might support a gasoline tax, but it wouldn't apply to any of the items listed. He said if he were taking the survey, he may have the conflict of supporting a gasoline tax, and then realize it can't be used for anything on the list.

**FRIENDLY AMENDMENT:** Regarding Councilor Rivera's remarks, Mr. Johnson said, "I think what I could do is to indicate the specific allowable taxes next to each category, so the majority would have property tax and then gross receipts tax, and then the road infrastructure would reference all 3, because in theory you could fund that with all 3. You would then know that gasoline tax supports only roads." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Acting Chair Dominguez thanked everyone, noting this is the first step in getting feedback from the community as we start to move into strategic planning and performance based budgeting. He said this will give us more opportunity to dive down. It will be interesting to see what kind of information we get and where we go from there. We can learn what the public really knows about what the City does and doesn't do, and find out about ourselves as well.

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

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

**Against:** None.

**Absent for the vote:** Mayor Gonzales.

*Mayor Pro-Tem Lindell assumed the duties of the chair*

**10(I) UPDATE ON ATTRITION AND VACANCY REPORT AS OF SEPTEMBER 30, 2016.  
(ADAM JOHNSON) (Informational Only)**

Councilor Maestas said Mr. Johnson's cover memo, packet page 2, paragraph 3, basically says at the end of the first quarter we are making inroads in achieving our goal of saving \$4.9 million. He concern is currently we're at \$1.81 million, and it seems we're counting some vacancy savings as a part of that. He asked if it was the base assumption we would make permanent cuts and achieve that on a recurring basis. He said his first issue is he is worried about the tenuous nature of achieving this austerity measure, while relying on vacancy savings. He said his second issue if we can achieve the full \$4.9 million in savings and still have a sense of the services we can continue to provide.

Brian Snyder said, "I would like to take the lead on that. As you will recall, during the budget process, I made a strong push for strategic planning, coupled with the attrition. You will also recall during the budget process last year, we achieved the \$4.9 million in attrition, that's where we got this number. You will also recall that I said it was not sustainable moving forward. So we are \$1.8 million toward that goal. Here again, what we're doing is not sustainable, I firmly believe. But at the same time, we have a vacancy savings built into the budget as well as a vacancy savings that exceeds the vacancy savings still in the budget that we are counting toward the attrition. And the overall budget, approved by Council and what was loaded for the departments has been shorted \$4.9 million, meaning we have more staff, more positions, currently on the payroll than what we had budgeted to pay. So through attrition, as people leave throughout the year for retirement or find another job or whatever the reason is for leaving, we're strategically filling and not filling positions to meet this \$4.9 million."

Mr. Snyder continued, saying, "So, it's a long way of answering your question: are these permanent removals of positions. In some cases maybe yes, these may be reclassified to something that makes more sense in our current City operations. And in some cases, no. And what we're doing is we're waiting for what we talked about, the last item, the strategic planning process which involves City staff, City Council and community input – a 3-pronged approach to come back and ultimately be able to reconfigure City government toward what the requests of all those areas, whether it be the Council and/or the demands of the community so we can retool and shift toward that to make it sustainable long term. This is what I call a bridging strategy in some way. I don't like to use that term because we've tried to move away from that, but this isn't sustainable long term. I firmly believe in a lot of areas we're holding things together,

but this is not sustainable because we're asking staff to maintain the same level of service without having some staff in place."

Councilor Maestas said he knows how difficult this must be for Mr. Snyder. He said coming up with a number in a budget discussion, adopting the budget and then implementing personnel is a whole other story. He realizes this is still a transitional effort and not sustainable. He said, as an elected official he wants to get an emerging sense of the impacts on our services. And if we keep getting savings from long-standing vacancies and cut actual positions that will have a direct impact on services, and we keep mixing that to achieve the goal at the end of the year, how will we get a more stable sense of the impacts on services. And get to the point where we say, "Okay, this is the right size of Santa Fe for our budget and for our realistic services. And I realize we can't get there right now, but how are we going to get there."

Councilor Dominguez continued, saying, it seems we're "cobbling together, crunching numbers, to put ourselves on a trajectory to meet the bridging strategy for this year." He thinks it's time for us to start forecasting further than beyond the end of the fiscal year. He asked Mr. Snyder his thoughts on the light at the end of the tunnel where we can get a sense as to whether we can provide services, or services will degrade....

Mr. Snyder said Councilor Dominguez described everything accurately, because we are cobbling this together until we have a strategic plan that identifies what services can and can't be cut, and we can structure around that. Right now, we're holding things together with the budget being short by \$4.9 million, while trying to maintain the same level of services demanded by the community. The survey is one feedback tool for the community to participate in what services the City provides, how we provide them, what is and is not important to them. Another feedback loop is from Council's perspective and then staff's perspective on how we are providing these services. So when we cobble to pull all those together, he believes we have a mechanism to have a good conversation on services we provide, the cost, the FTEs surrounding those, and what level we are now. If we reduce "here," what is the fiscal impact, what is the impact around FTEs. We can have a serious conversation, and that's where he and staff can come back with real answers on the potential impacts, which can be shared with the Governing Body and the whole community.

Mr. Snyder continued, saying he believes we are moving forward in the right direction, this is a bridging strategy to get us to the end of the strategic planning process. But at the end of the strategic planning process we can have real conversations around what's important in this community and what is the level of service we need to meet in providing what the community demands. And if we can't meet that, we can have the opportunity to offset expenditures by raising revenues, cutting services, or a whole combination of different things. Or we can have a real conversation on what that means, and what it looks and feels like.

Councilor Maestas said we're learning as we go through this process, noting it is more of a journey and ongoing discovery. He said the more experience we have through this, we need to note the impacts to our services, and perhaps develop a recommendation or a sense for where would like to see our City workforce and identify the services we should be providing at the core level, at a certain standard. This is a real experiment we're going through and we should exploit it all we can, and learn from these lessons in

terms of correlations we are getting from services in personnel reductions, and if we can sustain them. Are we getting to the bare bone where it's already digging into our core services.

Councilor Maestas continued, saying he doesn't want to go to the public for strategic planning and think, we are totally in flux and just trying to balance a budget annually. As we go through the target cuts, we need identify lessons learned in terms we can understand. He wants to start to get that picture and benefit from this process.

Mr. Snyder said he believes our 3-pronged approach will get to that. He said part of the reason we're moving forward with strategic planning is his belief that the Councilors, representing the community, should have the opportunity to tell us as staff and him as City Manager, what is important to you, the Governing Body, and services that matter to you, using the 3-pronged approach. He said in some areas, we're barely holding on trying to maintain that level of service that is demanded. So it's getting the data in a lot of different areas, and pulling it together and have the valuable conversation about some of the things you just talked about.

Mr. Snyder continued, saying staff hasn't gotten clear direction from the Council, and this is an opportunity for the Council to lay out priorities, and staff to say how we're delivering those services now. And for the community to say here is what we think the City should be providing in core services. He said for the Council, that conversation starts on December 5, 2016, noting Adam has set up the first Council discussion around that. He said it will be the first of a series of conversations that will be starting heavy after the new year.

Councilor Dominguez thanked Councilor Maestas for his comments, commenting they "are spot on." He said the whole idea of attrition rate/program is risky in many ways, because it all depends on our ability to a strategic plan so we can identify those priorities. The reality is that we don't have the revenue needed to provide the services people are requesting. He we have to face that reality, and that is part of the whole process. He said, secondly, he believes because of his 12 years on the Council, we are at that threshold. He said he actually believes we are beyond that threshold and we are not providing fully effective services to the public. He said in many instances, when digging deeper in the organization, we may not be as efficient as we could be and that costs money. He said we're really pushing the limit, which speaks to the importance of strategic planning, especially if we want to get away from this whole attrition concept and attrition rate. If not, we'll be back her next year with a \$4 million gap to be filled – either through cuts or revenue enhancements. He said, "I'm excited, quite frankly."

Councilor Harris said he appreciates Councilor Maestas' comments, but he also agrees with Mr. Snyder's response. It is his understanding that the 3 tracks will come together – the public, the Governing Body and departmental staff. He thinks that will draw out and identify priorities and weaknesses and will allow us to move forward. He said as Councilor Dominguez said, he is looking forward to December 5<sup>th</sup> and starting our work.

*Mayor Gonzales returned to the meeting*



Mr. Johnson said, "I just want to add a level of confidence and one clarification I think the Council gets, but just for the general public. We are working closely now with the departments to uncover and define what we call our program inventory. Those documents are going to be very very useful to the Governing Body to truly be able to reflect back with the information from the survey and all the programs, and all the offerings as to all the activities of the City. And that's really where this major information-gathering process is going to culminate to being able to work closely to really effectively eliminate the slack in the system permanently that needs to be done, and that we're not just using vacancy savings to continue to achieve this, which has been noticed as unsustainable."

Mr. Johnson continued, "And then, the only other clarification I wanted to make, so everybody is clear, that this is only applied to the services in the General Fund. So there's a vast portion of other services provided by the City that are unaffected, and are not necessarily being talked about here for cuts. So Transit is not part of that, Utilities is not part of that, any of the enterprise funds are not part of that, any of the grant funded Senior Programs are not part of that. So, we're not talking about looking at the entire budget and having to make a lot of cuts. We're talking about a distinct corner of the budget where certain services, general government, a lot of public safety and other things are that we really will have to focus on. So it's not as big of a problem as it might seem, as long as you make the distinction that this is in the General Fund, and that's a very important nuance. That's all I have."

**10(o) RATIFICATION OF GRANT AGREEMENTS IN THE TOTAL AMOUNT OF \$700,000.  
(CAMERON HUMPHRES). (Postponed on October 13, 2016)**

- 1) REQUEST FOR RATIFICATION OF SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM GRANT AND BUDGET INCREASE IN THE AMOUNT OF \$500,000 – ENHANCEMENT OF AIR SERVICE; U.S. DEPARTMENT OF TRANSPORTATION.**
- 2) REQUEST FOR RATIFICATION OF AIR SERVICE ASSISTANCE PROGRAM GRANT AND BUDGET INCREASE IN THE AMOUNT OF \$200,000 – MARKETING SUPPORT FOR AIR SERVICE DEVELOPMENT; NEW MEXICO DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION.**

Councilor Harris said he had questions early on, with regard to the timing and the reason it was necessary for the City Manager to accept this grant, noting we are here to ratify a prior acceptance. He said there was a local match of \$500,000 for federal and \$200,000 for the State. He said his questions had to do with how the Northern New Mexico Air Alliance was to be handled, noting Mr. Brackley is here to speak to the MOU that has been developed that will provide the vehicle to gather and move this money through. He asked Mr. Humphres and Mr. Brackley to provide updates.

Cameron Humphres, Airport Manager, Aviation Division, said this is an important effort to help our service in Santa Fe. We have two grants, one a federal grant for \$500,000 and State grant through the DOT in \$200,000, to help us support and grow demand on the Phoenix flight starting on December 15, 2016. He said as mentioned, there are 50-50 matching requirement for each grant, for a total of \$700,000. He said we are fortunate to have community leaders in and outside of Santa Fe that see the value of the

Santa Fe Municipal Airport, and have come on board to help raise the matching funds. He said the Northern New Mexico Air Alliance has been created, currently a part of the Santa Fe Chamber of Commerce, organized under the Opportunity Fund. It has a 501(c)(3) status.

Mr. Humphres continued, saying the purpose of the Alliance is to try to help collect donations for the matching funds, as well as to support air service and grow Santa Fe Municipal Airport. He said the partners currently are: The Santa Chamber of Commerce, Santa Fe Tourism, Taos Ski Valley, Angel Fire and Santa Fe. We are looking to bring more people into the fold. He said the City is the sponsor of the two grants, and as the sponsor, we're required to manage that grant. He said, through the City Attorney's Office, a Memorandum of Agreement has been drafted which provides a mechanism by which the Northern New Mexico Air Alliance under the Chamber, will be providing the funding support for the matching funds. It then allows the City of Santa Fe to go back to the Federal government and the State DOT to request reimbursements for those expenditures, and then provide that funding back to the Northern New Mexico Air Alliance.

Mr. Humphres continued, saying the MOA is very near completion, noting they met yesterday and it sounds like the Chamber is satisfied and willing to enter into the Agreement. He said, "Of course, that Agreement would be coming before committees and this Council in the very near future."

Councilor Harris asked Mr. Brackley to provide details on the Chamber's point of view and what it intends to bring.

Simon Brackley, Executive Director, Santa Fe Chamber of Commerce, said the Chamber of Commerce is a 501(c)(6) designated organization, noting they also have the Chamber Opportunities Fund which is an existing 501(c)(3), which helps to run the Chamber's Leadership Santa Fe Program, and is devoted to business and education. He said when they spoke with Mr. Humphres and others about the reality of obtaining federal and state fund grants to make this work, the Opportunities Fund stepped up to act as the fiscal agent, temporarily, so we can move this process forward. He said the Alliance is in the process of applying for a full time 501(c)(3) on its own, noting it is anticipated it will take about 6 months to get the IRS designation letter to be able to move forward with the Air Alliance on a permanent basis.

Mr. Brackley continued, saying in the interim, 6 months or so, the Chamber's Opportunities Fund will act as the fiscal agent to make these grants and transactions occur more smoothly and allow our marketing efforts to start off and to continue.

Councilor Harris asked if City staff has been involved in that process, and if any City committees have looked at that – Finance or the Governing Body, and asked the process for that.

Ms. Brennan said, "I know they were working on the MOA last night until 5:00 p.m. or so. I know the Board apparently has approved it, if I'm correct. And we are happy with the form and content. I assume it will come back to you here."

Councilor Harris asked the status of the negotiation between the City as sponsor and American Airlines, so we can understand that.

Mr. Humphres said we are in negotiations with American Airlines regarding minimum revenue guarantees and the marketing plan, noting that is part of the requirement that allows us, or frees up that money from the Federal government. We need to get the MOA in place to establish a relationship between the City and the Northern New Mexico Airlines, but we are in process with them. He would expect that the Northern New Mexico Air Alliance would get an agreement over the next few weeks with American Airlines.

Councilor Harris said he reread the grant and noted we can initiate the service, and there are different timelines to have some of the mechanics in place so reimbursement can occur. He said, "Thank you gentlemen, I think you've done what I asked."

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

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

**For:** Mayor Gonzales, Councilor Maestas, Councilor Rivera, Councilor Trujillo, Councilor Villarreal, Councilor Dominguez, Councilor Harris, Councilor Ives and Councilor Lindell.

**Against:** None.

*Mayor Gonzales resumed his duties as Chair,  
thanking Councilor Dominguez and Mayor Pro-Tem Lindell for presiding in his absence.*

\*\*\*\*\*  
**END OF CONSENT CALENDAR DISCUSSION**  
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#### **11. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

*Mayor Gonzales exercised the prerogative of the Chair  
to move next to Items #14 and #15, and then return to Item #12.*

#### **14. MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

## 15. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of November 9, 2016, are incorporated herewith to these minutes as Exhibit "2."

### **Councilor Maestas**

Councilor Maestas introduced a Resolution calling on the New Mexico Legislature to enact legislation allowing for the creation of Cultural Districts.

### **Councilor Trujillo**

Councilor Trujillo said he had no communications.

### **Councilor Harris**

Councilor Harris introduced a Resolution contributing property and resources to Sant Fe Community Housing Trust for the development of the Soleras Station Low Income Housing Tax Credit Project pursuant to the Affordable Housing Act. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "3."

Councilor Harris noted this is a renewal of the Resolution that was adopted on January 16, 2016. He said a new Resolution is needed to attach to the application which the Housing Trust will be submitting to the NMFA in February.

### **Councilor Lindell**

Councilor Lindell introduced an Ordinance amending Section 6-17, membership of the City Business and Quality of Life Advisory Committee to remove one member of the Governing Body; removing the requirement for Governing Body review of the work of the City Business and Quality of Life Advisory Committee; and amending the membership of the Economic Development Review Subcommittee to add a member of the Governing Body, and remove one nominated member.

Councilor Lindell said there is a new community effort launching tonight at the Hispanic Chamber of Commerce networking event – the Live Local and Prosper Pledge. It has to do with asking people to be aware and to buy locally. She said all 3 Chambers are involved in this, as well as 14 community organizations and the City. She said two years ago Mayor Coss and Representative Brian Egolf had a Shop Off. She said she was thinking that she and Mayor Gonzales might go out for some Holiday shopping. She said she thinks it would be fun to form a City team. She thinks these kinds of events are useful to local businesses. She said it is easy to go on line to purchase something made in China, shipped

to us from elsewhere and the City doesn't prosper from that. She said even purchases from big box stores still supports our local economy, jobs, gross receipts tax. She said we should be aware during the Holiday season and throughout the year that this kind of pledge serves all of us. She would ask everyone to consider getting involved.

Councilor Ives said he has already signed a pledge.

Mayor Gonzales said it is a great program. He said all of us participating on Social Media, can take our picture with the proprietor or at a restaurant a picture of the menu and post those, letting people know we are out there and reminding them of our great establishment, and remind those on our Christmas Card or email list of that before they travel out of the City.

### **Mayor Gonzales**

Mayor Gonzales introduced the following:

1. A Resolution authorizing and approving submission of a completed Application for Financial Assistance and Project Approval, to the New Mexico Finance Authority for automated curbside recycling carts and trucks. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Mayor Gonzales said a lot of people are receiving \$250 citations for not having their handicapped sticker available. He said almost 100% of the time he's listened to complaints from the public about this, they've gone to a Hearing Officer who has denied their request or appeal to have the fee waived or the citation dismissed. He said it will take time to get this Ordinance in place. He is very disappointed that our Parking Division would have a Hearing Officer that would not take account of an individual's presentation of a handicapped placard that they truly need handicapped parking. He understands the administration's need to make sure our policies are adhered-to. He said these are the elderly and/or are disabled on fixed incomes, and the treatment by Parking through this process has been less than courteous and does not exemplify the values of Santa Fe.

Mayor Gonzales continued, saying he is going to ask for the Council's concurrence to begin to develop a process with the Parking Division that stops this practice from happening, and individuals who have gone through the adjudication process and we somehow examine the assessment of the fee and find a more compassionate way to deal with individuals who don't put their handicapped placard on so they don't worry or stress.

Mr. Snyder said it is difficult, and he hasn't met with the people the Mayor has met with. He said unfortunately there are people that gain the system. We deal with a lot of that and our Hearing Officer receives lots of those. That being said, we have to follow the Ordinance that is in place. He said, "But I will commit to working with Noel and Ike on looking at what our Hearing Officer has from a flexibility standpoint, from a looking at discretion standpoint, and see how we can look at some of these cases differently. It does hit home when I hear some of these stories, but at the same time we need to make sure

we're following what we're charged with. So I will commit to looking at the discretion of the Hearing Officer to see what we can do to put something in play to handle these differently until the time period has elapsed for the Ordinance to be heard, and I believe it is probably early January."

Mayor Gonzales said he strongly disagrees that people who are trying to gain the system should drive the policy. There should be mechanisms in place to identify those folks without penalizing people who are living and conducting commerce in our City that forget their placard, especially if they show up and show it was valid. He said, "We'll give you the list of names, their ages, and I'm sure you can see their incomes. This Hearing Officer is absolutely out of control in terms of his or her ability to understand there are real situations where people forget. My anger is beyond being able to communicate it in a composed manner because this is a direct act by the City against individuals that least can afford it. And I really really hope you can find, with the support of Council, a way to change that practice immediately while we work this through. If this continues to go through, more people will be impacted."

2. An Ordinance relating to the City of Santa Fe Uniform Traffic Ordinance; amending Section 12-9-4.5(B)(3) to establish that no deposit shall be required to accompany a request for an administrative hearing of a designated ADA accessible parking space violation for a first time offender.

Mayor Gonzales said he will hold-off introducing his third Resolution at this time, noting he wanted it to be a filmmakers fund that could be accessed for filmmakers. He said Councilor Maestas's point regarding the return on investment and what it means could be thought out across a broader array of investments. He wants to ask BQL and others about develop an investment strategy into the film economy that measures up.

Mayor Gonzales asked everyone to participate in the Veterans' activities on Veterans Day. He said on Friday, the parade and ceremonies start at 10:00 a.m. He said the ceremony of the Santa Fe Veterans Memorial will take place tomorrow afternoon at 2:15 p.m., with a burial of 22 unclaimed veterans at the Santa Fe National Cemetery. He invited the Councilors who want to participate to let him to know so we can arrange seating.

Mayor Gonzales said he asked Councilor Rivera to represent the City in Washington, D.C. on Monday. He said the First Lady issued a challenged which we accepted which was to end veteran homelessness. There will be a meeting at the White House and Councilor Rivera agreed to attend. He said Councilor Rivera has been a champion for the homeless, as well as his father was a community advocate, and a veteran we will miss this year during some of the veterans services. He said he can't think of a more appropriate individual to represent our City and to continue to honor his father's legacy.

### **Councilor Dominguez**

Councilor Dominguez introduced an Ordinance amending Ordinance No. 2016-22 authorizing an amendment to the 2008 *General Obligation (GO) Bond*, to reallocate \$267,040 currently designated for various City park improvements to reconcile projects and repair the Fort Marcy Pedestrian Bridge.

Councilor Dominguez said he would like to sign on as a cosponsor of the curbside recycling Resolution.

Councilor Dominguez said he introduced an Affordable Housing Fee-in-Lieu, and he would like for it to follow the following committee schedule: Finance on 12/05; Public Works on 12/12; and both BQL and City Council on 01/11.

Councilor Dominguez said regarding the zero-tolerance at Parking. He said one of our local radio stations has been playing a commercial about the GCCC, asking for people to visit the website in the radio ad, but it doesn't say where the website is. He has been listening to it for a year, commenting that the ad needs to be more clear in informing the public how to find the website.

### **Councilor Villarreal**

Councilor Villarreal announced a presentation tomorrow night at the Santa Fe Women's Club at 7:00 p.m., by the San Antonio Haven of Hope, a homeless campus, providing integrated service for people experiencing homelessness in San Antonio. They want to show us what works and they have decreased homelessness by 80%. They will be talking about what works, the challenges, and maybe we can apply this model to our City. She said there are workshops on Friday and Saturday if they want to attend, and can get the schedule at the event, noting it is on Face Book.

Councilor Villarreal said on Saturday, the Gun Buy-Back program for the Guns to Gardens Program, will be held at the Police Department on Camino Entrada, 9:00 a.m. to 1:00 p.m.

Mayor Gonzales said guns will be exchanged for gift cards, no questions asked. He said people shouldn't come expecting to buy guns in the parking lots, because the Police will be paying attention. He said, "It would be a huge mistake if you decided to exercise that option."

### **Councilor Ives**

Councilor Ives would like to add Public Works to the schedule for the Ordinance relating to the Santa Fe Uniform Traffic Ordinance. He would join on the Resolution for submission of the application for Financial Assistance. He would join as a cosponsor of Councilor Harris' Resolution.

Councilor Ives introduced a Resolution amending the membership requirements of the Santa Fe Water Conservation Committee so that a resident of Santa Fe County is appointed to the membership; and to clarify term limits of the membership. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "5."

Councilor Ives asked Jesse Guillen to circulate the Resolution to other Councilors.

Councilor Ives asked Mr. Guillen to forward copies of the other bills which were introduced so he can be fully cognizant of their content.

Councilor Ives said earlier today there was a Veterans Ceremony at the Los Alamos National Laboratory, attended by Commander Forray of the U.S.S. Santa Fe and 8 crew members. They will be putting flags out tomorrow at the markers at the National Cemetery and participating in those ceremonies as well as the Veteran's Day Parade. He thanked the Fire Department for hosting the crewmen from the U.S.S. Santa Fe.

**Councilor Rivera**

Councilor Rivera had no communications.

**12. MATTERS FROM THE CITY ATTORNEY.**

**EXECUTIVE SESSION**

**IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §§10-15-1(H)(7) AND (8) NMSA 1978, DISCUSSION REGARDING THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, INCLUDING, WITHOUT LIMITATION, DISCUSSION RELATING TO *IN THE MATTER OF THE APPLICATION BY THE CITY OF SANTA FE FOR PERMIT TO USE AS SUPPLEMENTAL WELL*, HU-23-028 AND HU-12-023; AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE CITY OF SANTA FE, INCLUDING, WITHOUT LIMITATION, DISCUSSION RELATING TO THE GRANTING OF AN EASEMENT FOR UTILITIES ACROSS CERTAIN CITY LAND. (KELLEY BRENNAN)**

**MOTION:** Councilor Rivera moved, seconded by Councilor Ives, that the Governing Body go into Executive Session to discuss the matters listed on the Agenda in accordance with the recommendation of the City Attorney.

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

The Council went into Executive Session at 6:45 p.m.

Mayor Gonzales said the evening session will start at 7:15 p.m.



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

**MOTION:** At 7:25 p.m. Councilor Rivera moved, seconded by Councilor Ives, that the Governing Body come out of Executive Session and stating for the record that the discussion in executive session was limited to the matters noted on the agenda.

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

**For:** Mayor Gonzales, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

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

13. **ACTION WITH RESPECT TO THE APPLICATION BY THE CITY OF SANTA FE FOR PERMIT TO USE AS SUPPLEMENTAL WELL, HU-12-018 AND HU-12-023. (KELLEY BRENNAN)**

This item was removed from the Agenda.

***THE EVENING SESSION WAS ADJOURNED AT APPROXIMATELY 7:25 P.M.***

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:25 p.m. There was the presence of a quorum as follows:

#### **Members Present**

Mayor Javier M. Gonzales  
Councilor Signe I. Lindell, Mayor Pro-Tem  
Councilor Carmichael A. Dominguez  
Councilor Mike Harris  
Councilor Peter N. Ives  
Councilor Joseph M. Maestas  
Councilor Christopher M. Rivera  
Councilor Ronald S. Trujillo  
Councilor Renee Villarreal

#### **Others Attending**

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

### **F. PETITIONS FROM THE FLOOR**

A copy of *Trends in Youth Alcohol Use 2015 YRRS Results for Santa Fe County*, entered for the record by Ramona Flores Lopez, is incorporated herewith to these minutes as Exhibit "6."

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

**David McQuarie, 2997 Calle Cerrado**, said tonight the Mayor said you were going to introduce a new amendment to the City's Parking Ordinance. He asked the Governing Body to please include the Mayor's Committee on Disability, because you know "it affects us." *[inaudible]*. He asked Councilor Dominguez as Chair of the Finance Committee that when you passed the \$990,000 budget for roads overlay there would be an approximate additional charge of \$200,000 mandated to make it accessible. He said there is another one he would like to ask about. He understands they will be doing some work at the Railyard in front of *[inaudible]* and other buildings in the amount of \$300,000. He asked if that is going before "our Plan Review Committee." He said he hopes so. He asked, "Do you as a Committee really want to keep the Disability Committee, because you seem to want to act without it."

**Ramona Flores Lopez, Past Chair, Santa Fe Prevention Alliance**, said Mary Clare Vorhees, the Communications staff person is with her. She said they come before the Governing Body to celebrate the positive results of the most recent Youth Survey and to thank you for your support for creating an environment in Santa Fe where our youth have the ability to make healthier choices as adolescents and as they move into adulthood. She said they have pulled those results from the recent survey and trend data having to do with drinking among underage youth as they have reported since 2005. Ms. Lopez reviewed this information. Please see Exhibit "6" for specifics of this presentation.

**William Bruno** said the Wi-Fi is still turned on in the Council Chambers. He said there is an article in the newspaper that some of the City Councilors were in favor of turning it off, because there are a lot of people here tonight that will be having neurological symptoms.

Mayor Gonzales said Mr. Bruno will be allowed to address the Council when we get to this Item tonight.

Mr. Bruno said this isn't about the bill, it is about turning off the Wi-Fi in the Chamber so disabled people can participate, and asked, "Do you understand that."

Mayor Gonzales said, "Thank you, but we'll address the issue when the matter comes before the Council."

Mr. Bruno asked, "Can we leave and come back."

Mayor Gonzales said yes, absolutely.

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**VERBATIM TRANSCRIPT  
OF THE REQUESTED PORTION OF PETITIONS FROM THE FLOOR, ITEM #F  
CITY COUNCIL MEETING  
November 9, 2016**

*Mayor Gonzales gave each person 2 minutes to speak*

STEFANIE BENINATO: Good evening Councilors and Mayor. Stefanie Beninato. I came into the Mayor's Office about a week ago or so, and asked to have a meeting with the Mayor about recreation, and I was denied a meeting with the Mayor based on the facts that I have lawsuits with the City, none of which.... well I guess the Mayor could agree to settle if he really wanted to, but has yet to do so. However, the rules require only that I don't talk about the lawsuit with the other party, unless a lawyer is present, but that I am able to talk to any official in the Government, including the Mayor, about another matter. And so recreation is [inaudible] that matter. And so I wonder why you keep denying me my [inaudible] constitutional rights to petition the government in the form of having a meeting with you about issues that I am concerned about and that directly affect me. And I would really be happy to meet with you to talk to you about that and about recreation. Thank you very much."

*I certify that this is a true and accurate transcript of the requested portion of Petitions from the Floor, Item #F, City Council Meeting, of November 9, 2016.*

  
Melissia Helberg, Council Stenographer

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Mayor Gonzales said on the final point, he doesn't know if we've listed the next open office hours with the Mayor, but clearly we'll make sure we advertise it, so everyone can, if they want to come in and address issues they are able to.

**G. APPOINTMENTS**

There were no appointments.

## H. PUBLIC HEARINGS

- 1) **REQUEST FROM CORDELIA O. ROYBAL ENTERPRISES, LLC, FOR A TRANSFER OF LOCATION OF INTER-LOCAL DISPENSER LICENSE #2791, WITH ON PREMISE CONSUMPTION ONLY AND WITH A PATIO, FROM SANTA FE SOL, 37 FIRE PLACE, SANTA FE, TO MIDTOWN BISTRO, 901 SAN MATEO STREET, SUITES A & B. (YOLANDA Y. VIGIL)**

A Memorandum dated November 3, 2016, with attachments, prepared by Yolanda Y. Vigil, City Clerk, to Mayor Gonzales & City Councilors, is in the Council packet, noting the location is not within 300 feet of a church or school, and staff recommends the Midtown Bistro be required to comply with all of the City's Ordinances as a condition of doing business in the City. She said there are staff reports in the packet, and it is requested that the patio be fully enclosed as a condition of approval.

### **Public Hearing**

There was no one speaking to this request.

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

**MOTION:** Councilor Trujillo moved, seconded by Councilor Harris, to approve the request from Cordelia O. Roybal Enterprises, LLC, for a transfer of location of Inter-Local Dispenser License #2792, with on-premise consumption only, and with a patio, from Santa Fe Sol, 37 Fire Place, Santa Fe to Midtown Bistro, 901 San Mateo Street, Suites A & B, with all conditions of approval as recommended by staff.

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

- 2) **REQUEST FROM ICONIK COFFEE ROASTERS, LLC, FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE) WITH ON-PREMISE CONSUMPTION ONLY, AND WITH A PATIO, TO BE LOCATED AT IKONIK COFFEE, 1600 LENA STREET, SUITE A-1 AND 1-2. (YOLANDA Y. VIGIL)**

This item is postponed to the Governing Body meeting of January 25, 2016.

- 3) **CONSIDERATION OF BILL NO. 2016-36: ADOPTION OF ORDINANCE NO. 2016-41. (MAYOR GONZALES AND COUNCILOR IVES). AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE TO UPDATE LAND USE CATEGORIES, TABLE OF PERMITTED USES TO ADD AGRICULTURAL USES; AMENDING SUBSECTION 14-6.2(H) OF THE LAND DEVELOPMENT CODE TO PROHIBIT ANIMAL PRODUCTION AND SLAUGHTERHOUSES, AND PROVIDING FOR AGRICULTURAL USES; CREATING A NEW SUBSECTION 14-6.3(D)(4) OF THE LAND DEVELOPMENT CODE TO ALLOW FOR AGRICULTURAL HOME OCCUPATION EXCEPTIONS; AMENDING SECTION 14-8.7 OF THE LAND DEVELOPMENT CODE TO WAIVE ARCHITECTURAL DESIGN REVIEW OF AGRICULTURAL RELATED STRUCTURES BY THE LAND DEVELOPMENT DIRECTOR; AND AMENDING SUBSECTION 14-12 OF THE LAND DEVELOPMENT CODE TO INCLUDE DEFINITIONS FOR TERMS RELATING TO URBAN AGRICULTURE. (JOHN ALEJANDRO) (Postponed on October 26, 2016)**
- a. **CONSIDERATION OF RESOLUTION NO. 2016-85 (MAYOR GONZALES AND COUNCILOR IVES). A RESOLUTION CREATING THE CITY OF SANTA FE PROCEDURES AND GUIDELINES FOR URBAN AGRICULTURE ACTIVITIES AND USES. (JOHN ALEJANDRO) (Postponed on October 26, 2016)**

*Items H(3) and H(3)(a) were combined for purposes of presentation, public hearing and discussion, but were voted upon separately.*

An Amendment Sheet to the Substitute Bill, submitted by Mayor Gonzales, is incorporated herewith to these minutes as Exhibit "7."

A proposed Amendment to Bill No. 2016-36, submitted for the record by Susan Turner, is incorporated herewith to these minutes as Exhibit "8."

John Alejandro said the Ordinance was developed over the last 18-24 months, has been through several committees, and reviewed by several members individually between him and City Councilors. He appreciates the time, comments and the work of the Governing Body. He thanked the public for its feedback and proposed amendments on the Ordinance, as well as their wishes and hopes of what could be included in the Ordinance and their thoughts on the future of agriculture in the City, County and the State. He said according to the Santa Fe Food Policy County, at least 21,000 people in Santa Fe County don't know where their next meal is coming from presenting. And, according to the Santa Fe Public Schools, about 13,000 kids in K-12 public school receive free or reduced cost lunch. He said food security is a top issue for our community, and in his personal opinion, the Urban Agriculture Ordinance serves as a good first step toward addressing many of those problems.

Mr. Alejandro noted the Mayor's amendment was handed out earlier by Jesse Guillen earlier. Mr. Alejandro reviewed the Amendment Sheet. Please see Exhibit "7," for specifics of this presentation.

## Public Hearing

*Mayor Gave each person 2 minutes to speak to this issue*

**Daniel Rock, 26 Backroad, Madrid**, said he's here to speak on behalf of the amendment. He said he is a gardener, not a farmer, but he has chickens and is a bee-keeper. He thinks it's important that before the Ordinance is adopted that we consider some other things involving agriculture in. He said as a bee-keeper is important that we don't allow the use of pesticides, herbicides, insecticides. He said bees are very important and without them, we wouldn't have life. It is important that we protect pollinators whether they are native, or honeybees owned by farmers. Pesticides have disrupted bee colonies, and there has been colony collapse, and now bees are on the endangered species list. It is important we consider certain things in adopting the Ordinance urban agriculture. He said he is a teacher with Santa Fe Public Schools at the Early College Opportunities School, which is a sustainability school, and they are teaching students and the community to be more sustainable, and make sure we consider all things in adopting and Ordinance for Urban Agriculture.

**Mary Schruben, 2119 Rancho Siringo Road**, said for many years, the Food Policy Council has worked hard to ensure we have a policy for safe, healthy, affordable and sustainable food supply. The Council wisely adopted this food plan and we should stick to it. The purpose of the Ordinance is to establish zoning regulations for operating for-profit agriculture activities in the City. It will allow this activity in all residential zones. It will permit this activity in shopping center, industrial and commercial zones without further public comment. The practices included are growing food for human and animal consumption and plant crops for manufacturing and industrial purposes. There is no requirement that any food crop be raised under organic certification, or that residential neighborhoods be protected from commercial agriculture practices. Residents are responsible in backyard gardens for the quality of their own food production, while in community gardens the farmer and the City are jointly responsible and for the conditions in which it is produced. The City will now assume responsibility and liability for the safety of the food grown and offered for sale, and protection of residents from harmful or exploitive agriculture practices. She is concerned this Ordinance opens the door for further commercial invasions of residential areas under the guise of home occupations, and that food production activities will be allowed and permitted throughout the City without adequate monitoring and enforcements. She urges that the City to be aware of applications for permits under this Ordinance in each Council District, noting it is the City's responsibility to protect our health and well being.

**Susan Turner, 2215 Rancho Siringo Road**, said a lot of work has been done on the Ordinance and she feels it can deliver a lot of positives. However, we first need to work on 2 foundational issues at the heart of public safety that have not been addressed. The first is the Ordinance has no language prohibiting the use of chemical pesticides, herbicides, insecticides and fertilizes. There is no language supporting organic. The Farmers Market, SF Community College and the City's community gardens are organic. The City gave out awards, and two markets purchasing organic produced were recognized. She said enforcement is the second foundational issue which needs to be addressed prior to the onset of a City-wide program. It should include training of farmers and regular inspections and regulations and

procedures for violations on many subjects. There is a serious problem. Without a clear enforcement section in the Ordinance, the City relies on a complaint driven system, pitting farmers and neighbors against one other. It isn't a healthy situation, which isn't your intent, but it is the result of a complaint driven system. She encouraged the Governing Body to table the Ordinance, so it can be completely, and the Ordinance can support a successful urban farm program. Ms. Turner submitted an amendment to the Ordinance [Exhibit "8"].

**Mary F. Elsesser, 2215 Rancho Siringo Road**, said she thinks safe food from commercial urban farms begins with education. She said cities across the nation have classes for urban farmers before they are permitted to form. It includes explanation of the Code, labor issues, health and safety information, product liability and procedures for violation. The second line of good management is compliance – monitoring, inspection and recordkeeping. The Ordinance contains no enforcement procedures. The development of the enforcement section continues to be postponed while parties enter into this complex endeavor without clear knowledge of the terms. She asked why the City wouldn't implement enforcement regulations up front. To enforce proper practices after the fact can be almost impossible. Last week the Land Use Department said it can't conduct pro-active inspections, but they can do a strict permitting process. She believes they have to both. She said a commercial farm, like a restaurant, needs to be inspected regularly because it is part of our local food chain. She said, "Please, let's do it right the first time. Let's develop enforcement protocol prior to your vote."

**Mike Straight, CEO, Farm Pod**, thanked Mr. Alejandro and the Council for working hard on the Ordinance. He said they support urban and commercial agriculture so healthy food is available to everyone. He said he is asking for clarification on one item in the proposal. He said they noticed that rooftop greenhouses have been stricken. He asked if that refers to a greenhouse on a roof, or like their product where they have a container with a greenhouse mounted as one unit, and would affect their ability to provide food and do business in Santa Fe.

**Karen Heldmeyer, Neighborhood Network, and former City Councilor**, said one comment has to do with process, which is the same speech she gave about the St. Michaels LINC, but we really don't have a good public process for things that are zoning law changes as opposed to individual projects. She said they are happy that a lot of people worked on this – one-on-one, or in meetings that were not noticed public meetings. She said we need to make the process open so things can be done earlier-on. She said the amendments offered by several Councilors have improved this bill a lot, and she hopes the set-back amendments do as well, but those weren't on the City's website or handed out tonight. She is unsure what those are. She said handing out things might be another move toward transparency. She said they have gotten a lot of comments from different neighborhoods about the kinds of things that could happen with commercial farms in residential neighborhoods. Issues brought up are noise, odors, hours of operation, light pollution, agricultural structures on top of houses which has been resolved, potential marijuana operations which they felt would make neighborhoods more unsafe, use of City water, groundwater contamination and use of agricultural chemicals. Some are addressed in the City's Nuisance Ordinance, but they tend not to be defined. She said Code says you shouldn't have a "noxious" odor, and she asked



what is a noxious odor. She said you can screen how a compost pile looks, but more difficult to screen how it smells. She said there are concerns, because what you get are neighbors complaining, and instead of getting enforcement, you are setting neighbors against neighbors, and often no enforcement from the City. That is the case currently with some uses within the Home Occupation Ordinance, "so think about that."

**Flavio Mullins** is concerned about chemicals and pesticides. He talked about his first hand experience with chemical drips, during his employment with a local pesticide company. He said when the chemicals were applied, a mist would move with the breeze, with only a light breeze for the mist to travel. Once it is sprayed there is no way to control it. He said when you spray only 30-50% stays on the plant and the other 50-70% drifts away or falls to the ground, and we end up drinking, eating and breathing it. He feels the commercial farms need to be organic.

**Shar Jimenez, 19 Mariposa Rd.**, said she is here as a parent and local business owner. She owns and operates an organic skin care salon, so standards of organics is very important to her. She said the Ordinance doesn't stipulate any specific regulations around the use of pesticides, herbicides, and we all know how dangerous that is for our health, the environment, the insects, animals eating the insects and the overall effects on all of us. She said regarding the language concerning creating a nuisance, it seems that without specifying and stipulating regulations around the chemical use, that quickly could become a basic nuisance for the neighbors and for all of us, so "I think I would just ask you to consider that."

**Kristin Dorius, 2329 Cedros Circle**, listed items she didn't see addressed in the Ordinance – soil testing for contamination, reference to certified organic produce, the manure needs to be composted off-site for at least 6 months before being placed in the property and it should be tilled within 24 hours, nuisances not well defined, needs more clear language prohibiting offense noises, vibrations, smoke, dust, odors, glare, light and traffic. She said heavy equipment should be allowed only during installation of the farm. There is no mention of bees or animals, or reference to the property owner having to have clear title of the land and not be in a foreclosure process and there are no enforcement procedures. She said, "If you live in the neighborhood farm, or are purchasing produce from a commercial, urban farm, all of these issues will be critical to the residents."

**Linda Duran, 2505 Siringo Lane**, said there is a lack of community input. It seems neighborhoods and its residents should have a lot more notification and explanation about the potential impact these proposed commercial farms could have on our day-to-day life. She said it is her opinion that lifetime residents and their families that have inhabited Santa Fe for generations with ties to the Santa Fe culture, should be highly considered. She asked the reason the City have outreach advocates for families such as hers, or going door to door and letting them know what your planning to do with our livelihood. She said the City's practices are designed to eliminate the culture of Santa and change it into something it is not, and maybe not suitable for. She said you've opened our urban lands to include commercial farming and what that means. She said many people won't question it because they're too busy working to make a

living in Santa, which is very expensive for the average working citizen to afford. She said our culture is being displaced. She understands some committee meetings aren't open to public comment, and if open, they open for public comment after most of the working class is in bed, and asked, "How inclusive is that." She doesn't want a stinky fish farm, a pot farm or chemicals sprayed into the air, if a commercial farmer decides to open a business on the vacant one acre lot next to her home. She also questions why the issue of water is #14 in the Ordinance, and abandonment is #15 on the Ordinance – last ones listed. She said these issues should be #1 or #2. We don't have sufficient water for the amount of urbanization that is happening in Santa Fe. And #2, by allowing commercial farming in our neighborhoods, will possibly contaminate our water supply which is our lifeline for our families, and is opening our resources to exploitation and abandonment of farms. She said, "What good will our land be to any of us if we have no water. I say that we should abandon the idea of commercial farming business. There is an abundance right, and put it where there is an abundance of water. Santa Fe isn't that place."

**Debra Whitken, 24 Encantada Loop, Eldorado**, said she is in agreement with what others have said thus far and won't reiterate those. She said she is a Clinical Nurse Specialist, with a 25 year clinical practice of critical care and emergency medicine. She currently is self-employed as a consultant to attorneys nationally to assist them to determine breaches in standards of care, pertinent to medical care for bodies of individuals who have then have had problems. She spoke of walking on a trail proximate to a property doing an impressive home agriculture business, and wondered the amount of water being used. She reached out to the Land Use Committee and reported this, to try to get them to investigate whether this was draining our aquifer, but never got word back, although they expressed concern and said they would investigate. She said about 8 months later she was walking by the same property, and witnessed an individual defecating and urinating in that garden. She said she contacted the Health Department, knowing these were food items being provided to the public, to say E.coli is life threatening, and the mortality rate is greater than 75%. She reported it to requisite bodies by email – Noah Berke, John Alejandro, Lisa Martinez – to make sure they knew. They recommending contacting delegates to follow. She said, "So obviously, my concerns are evident."

**Robert Duran, 2505 Siringo Lane**, said his main concern is water. He wonders if the City will have sufficient water for the increase use for commercial farming. He is concerned about the water wells owned by the City will impact the aquifer due to increased pumping of water from the aquifer by the City. It also will impact private well owners in the area. An additional concern is the large parcels of empty land in certain neighborhoods that who impact nearby neighbors if commercial farming is allowed in the neighborhood. He would appreciate the Mayor and Council considering this.

**Stefanie Beninato, P.O. Box 1601, Santa Fe**, said most of her concerns have been set out already. One is how much water these gardens will use, and the distinction between commercial and backyard gardens which is different from being proactive in agriculture. She also is concerned about the use of pesticides, and lack of inspection and enforcement, and the slow response to anything at the garden along the trail. She said if we are going to have this Ordinance we need sufficient training so inspectors can test what they should be testing. She said it is nice to talk about food security. The things

in the ordinance are 10 acre gardens that will supply higher-end restaurant with food to table. It's a good economic development model, but it isn't giving kids food security. She said we need to talk about what is really happening and not put it in this "fairy tale" sort of setting. She when you are selling tomatoes for \$5 a pound, you aren't provide security to the lower class and homeless. She hopes the City will get fees for this, because the City wants to raise fees "all over the place." If this is truly commercial, for-profit and using a lot of non-renewable resources for farm to table produce, she would hope they would pay fees.

**Pam Roy, 41 Arroyo Honda Trail, member of the Food Policy Council**, said she is here as a representative of the Food Policy Council. She commended the Governing Body and Mr. Alejandro, and thanked staff for their work. She appreciates all the things that have been brought, and there are concerns to build on with the Urban Ag. Ordinance. She said it is about food access, creating opportunities. She said the Food Policy Council sees the Urban Agriculture Ordinance as clarifying and providing opportunities for urban agriculture, and it also talks about pro-active ways of using water. There are many ways of keeping water from being overused. She said there are a lot of great processes and a lot of farmers use them as well. She said they see it as a path to small scale food entrepreneurship. It is also value added products that come from farming and it supports the local food system and helps to grow this economy in Santa Fe. It is a productive way to encourage infill. She said the new owners of the Santa Fe Greenhouses are really excited about it and the ways of looking at food and to build it into the existing neighborhood and a pro-active way of using the land already designated for agriculture. She said other cities have done this – Denver, Lexington, KY, and Detroit that used urban gardening as one of its primary ways to build back it's city after 2008.

**Julie Lalumandier** said she is a 25-year Santa Fe resident. She said commercial urban farming is good, but we have to consider homeowners that purchased homes with the understanding that they would always live in a rural density, residential neighborhood. These homeowners have worked hard and paid their utilities and property taxes, and are now faced with the prospect of a commercial, agriculture business next door, with *[inaudible]* possible, spraying of chemicals and farm composting right over their fence line. She said she would urge the City Council to make sure there is a balance in place between neighborhoods and the farms. She said maintaining such a balance requires specific enforcement policy that must include highly trained inspectors. Inspectors need to periodically look at all the operating aspects, litigation systems, composting, test reports for water quality. This isn't inspecting a building where once an inspection has been done we can sign-off on it. She doesn't think we can trust the food to unscheduled and scheduled inspections. She said, "I ask the City to not to approve this amendment to the Land Development Code without clear enforcement spelled out in the Code."

**Debra Burns**, referring to Exhibit A the application, said it is important there be some kind of early notification. She said people can improve the quality of their lives, relate together in a dialogue, if they are given the opportunity to communicate. She said the government needs to encourage neighbors getting along and having notification about what's going on. She said when people feel they are being heard, positively interact better within their own community. She said at the end of the application, it says, *'amendments to these guidelines and policies may be approved by the Land Use Director.'* She said the

government should not take sides. Most of the problems can't be solved and abusers running the system. She said it's important to get enforcement place. We need initial inspection during the first 3 months of the growing season, annual certification and inspection for compliance including a review of violation and complaints. For people to engage in the community and feel they have made a difference, we really want dialogue, deliberation and collaboration, and balance between a food benefit of the commercial agriculture and the our home quality of life. She said, "Please require notification, certifications with inspections, similar to that required from restaurants."

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

Mayor Gonzales asked Mr. Alejandro to answer the several questions that were asked tonight. He said he heard concerns about mass scale, commercial urban farming, versus the intent. He would like him to begin with the ability to regulate pesticides in residential communities on private properties and continue through the rest of the list.

Mr. Alejandro said he appreciates the valuable input from the public. He said pesticide management is coordinated and applied through the City's Parks and Recreation Department through the Integrated Pest Management Office. The pesticides used in parks and the rest of the community are governed by existing City Code in the IPM section that addresses pesticides and applications. He said that Code applies to City-wide applications of pesticides and herbicides and how they are used throughout the community, whether applied on weeds at your home, or spraying your lawn, or using a variety of pesticides and herbicides on a garden for which you are growing for personal consumption. He said when we were crafting this Ordinance, we felt that pesticide manage is a bigger and broader issue that needs to be addressed throughout the community, because there are specific sets of considerations that have to be taken into account that affect urban agriculture as well as utilization throughout the City.

Mayor Gonzales said this issue was brought up repeatedly. He said this question is for Ms. Brennan. He said we have had this conversation with the advocates of the IPM Ordinance and the issue of the management of the weeds in the City and how we control it, as well as the IPM Ordinance, asking all of the above before any type of pesticides or herbicides are used. He said he asked the question about a City-wide ordinance that would address the issue that would take the IPM Ordinance into the private sector or residential homes that would homeowners to have to comply with the IPM Ordinance. He recalls Ms. Brennan saying that the law prevents the City from moving into that area. He asked her to provide clarification.

Ms. Brennan said, "In fact, the IPM Ordinance regulates the City's applications of pesticides on City property. So that includes community-wide applications as on medians or streets, those kinds of things, as well as City facilities. We did view the regulation applying the Ordinance to private property owners, and we feel it weighs a number of issues about controlling things on private property as well as some trade issues."

Mayor Gonzales said his question for the City Attorney's Office, is does the Council have the ability, through policy to implement the IPM Ordinance on private sector property."

Ms. Brennan said, "I do not believe so, Mayor."

Mr. Alejandro said regarding enforcement, the Ordinance develops a new subsection of Chapter 14. Chapter 14, Article 14-11 refers to enforcement within Chapter 14, in which this Ordinance would reside. It talks about enforcement procedures in terms of reported violations to City land, Land Use Inspectors and staff. It establishes remedies for inspected violations, it refers to penalties associated with violations which includes revocation of Certificates of Occupancy, discontinuance of illegal use of land or structures, removal of the legal structures and alterations. It goes on to discuss fines or imprisonment associated with violations of Chapter 14, civil penalties and such. He said although enforcement isn't specified in the Urban Agriculture Ordinance *per se*, it is addressed in Chapter 14, within which this Ordinance resides.

Mr. Alejandro continued, saying the water section in the Substitute Bill does several things. And through amendments proffered and passed at City Council committees, the Ordinance does require that separate meters be utilized for irrigation and commercial industrial zoned areas. Water efficient irrigation systems are required to be installed and used when water from the Municipal Water System is used for irrigation. You have to install drip if you're going to utilize City Water. It also requires that the Land Use Director provide all Urban Farms with the City authored Water Efficient Irrigation Guidelines and low water use landscape literature, such as Landscape Irrigation and Design Standards. So he believes there are some comments that referenced education. He said that document, written and developed by many of the City Water staff and members of the Water Conservation Committee, provides a set of educational information related to water and efficient use of water through design standards, utilizing water efficient technologies.

Mr. Alejandro continued, saying with regard to organic certification, the organic certification and standards are very cumbersome and difficult to apply for as well as certification providers to confirm on a regular, ongoing basis. He said in some instances, the bar is set too high to achieve certain organic standards, that is virtually impossible to do so. He said for advanced farming technologies such as hydroponics, aquaponics in agriculture, the organic standards are really out of reach. He said the issue with those types of certifications is the annual inspection as to whether those organic standards are being adhered to on a regular basis. The USDA doesn't have the bandwidth right now to put inspectors into the field to ensure that farmers growing locally actually are adhering to organic certification standards. There just isn't enough federal funding to do that.

Mr. Alejandro continued, saying he believes that some of the certified organic inspectors are being reduced in number, given budgetary constraints by the USDA. He would foresee in the future a further reduction of USDA staff under the forthcoming administration at the federal level. He said agrees that organics are what the community strive to achieve. And there will need to be an education process by which we provide information to the community who want to do urban farming on their properties, whether residential areas. The intent is education people water use, best practices for compost and growing organic produce, for managing pests, a list of educational programs provided throughout the community such as Master Gardeners, SFCC and so on. There are numerous resources in the community he believes we can coalesce to education and inform the community about how to approach urban farming with best practice standards.

Mayor Gonzales said he heard questions from the public on the issue of process, and asked Mr. Alejandro to describe the number of public hearings or community meetings to get to this point. He also heard concerns about urban gardens in ways that bring commercialization into neighborhoods. The concern is whether a commercial business going in the name of a residential community and beginning to mass produce, how does regulation affect the production of large of large quantity scales of food that could have a detrimental impact to a neighborhood, because it alters the landscape.

Mayor Gonzales continued, saying the only other issue he heard was the issue of HOAs and how existing HOAs would take precedent over the ability to deal with urban farming, in terms of neighborhood protection. He asked Mr. Alejandro to address these issues.

Mr. Alejandro said the use table in the Ordinance dictates the sizes of urban farms allowed in residential, commercial and industrial zoned areas of the City. The Use Tables govern what is allowed in zoned districts. He said the Use Table is scaled in a way that is appropriate for R zoned districts right now. He said urban farms at the ground level withing residential zoned areas are allowed if they are less than 10,000 square feet. If the commercial business wanted to do a 10,000 sq. ft. to 1 acre farm in a residentially zoned area, that isn't allowed by the Use Table. That has to be done in a C zoned or industrial zoned area. We want to protect our residents and ensure they have the ability to do small urban farms in back yards that are appropriate in size and nature for the neighborhood. The Use Table just kind of scales up from there. The Use Table also reflects the nature of permitting. The majority of the Use Table in the current Ordinance reflects special use permits only. That requires people to come into Land Use and provide information on what they are proposing to do, whether than in an R-District or an Industrially zoned district. The information to be provided, is scaled in a way that doesn't overburden residents who want to do 40-50 sq. ft. garden, and raise vegetables and sell them out of their front year on a table or a farm stand.

Mr. Alejandro continued, describing the process of permitting: The applicant comes in with a simple drawing what they propose to do, provide materials associated with that size of garden, Land Use would review it. If they believe it is appropriate in size, nature and use, and doesn't create a health risk or a risk to the public, it would be permitted by Land Use. The individual would have to get a business license to show they intend to sell commercial out of their home.

Mr. Alejandro continued, saying if a commercial-size entity wanted to do a large scale farm of 1 acre in a C zoned district, they would have to come in with very specific blueprints to demonstrate for review by Land Use what they are proposing. He said we want these types of entities to be able to do that, but we want those entities to do that in a way that is safe for the health and wellness of the public. They must adhere to all existing Codes. And if they want to use advanced technology and engineering process, they will have to bring in an engineer's stamped drawings.

Mr. Alejandro continued, saying the point is that the Use Table as well as the rules and regulations within the area must be designed in a way to have levels of the protection in the Ordinance so we're not getting one acre farms being proposed a residential zoned district. At the same time, we are encouraging agriculture production at very small levels as well as very large, advanced farming technique levels.

Mr. Alejandro continued, saying all current City Code is applicable in this Ordinance – building codes, zoning overlays – all of these remain in place and these are specified in the Agriculture Ordinance. So you wouldn't get special dispensation just because you want to grow and sell food from your home. You have to adhere to all existing City Code.

Mr. Alejandro continued, saying the second question by the Mayor related to public hearings. He said this Ordinance has been in drafting for two years, perhaps more, since its inception. It originally was proffered by the Santa Fe Food Policy Council about two years ago when food planning was coming to fruition and being put out into the committee. At the same time one of his City colleagues started developing this Ordinance. It has gone through several iterations because of public involvement of food related stakeholders in the community, such as Earth Care, the Farmers Market, various members of the Food Policy Council which includes Kitchen Angels and variety of other organizations that serve on the Santa Fe Food Policy Council. With regard to public hearings, this Ordinance started at Public Works, then the Planning Commission which allowed for public comment. It then went to the Water Conservation Committee which also included comment. It also went to the Business & Quality of Life Committee which also included public comment. It went to Finance Committee, the Sustainable Santa Fe Commission which included public comment, and to the Public Utilities Committee at the end of September which also included public comment and now to the Council.

Mr. Alejandro continued, saying this bill went to every Committee and was reviewed and discussed and the public had opportunity to weigh-in with their comments. He appreciates all of the public comment that he has had through stakeholders meeting, and the public comment received at these meetings and now at the City Councilor.

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

- Councilor Maestas said he voted against this bill on August 29<sup>th</sup> when it came before Public Works. He said the primary reason was there were no limitations about how municipal water, as an allowable source for this bill. He pushed for more water efficient drip systems, and even encouraged best management practices. He said it will be a new allowable use for our water, and thinks the City has made incredible inroads in bringing our water consumption to historic low levels. He said we are models for the southwest. He still fears this might move that in the wrong direction despite some of his amendments to require drip systems and more water efficient delivery in using municipal water systems.
- Councilor Maestas continued, saying as he heard public comment he was putting an asterisk near some of the issues. What he also heard was guidance and support for soil testing, and providing best management practices for sound soil management. He said we don't know the pre-existing condition of the soil will be at the outset of any kind of urban agricultural endeavor. He is concerned about the lack of that kind of requirement for initial soil testing. He asked what happens if there is an adverse result in a soils test, and asked how that person goes about remediation of the soil and how to maintain adequate soil. He said our per capita, per day use could go in the wrong direction and reverse a long standing trend. He feels we need to mainstream these.

- Councilor Maestas continued, saying there is a very robust state of the practice of urban agriculture throughout the country. He was just looking at some ideal elements to urban agricultural ordinances, some was finding large tracts of City land and do it on a pilot basis using City land and starting urban agriculture in that fashion. Another is to provide incentives, such as a reduction in property taxes. He thinks the state of the practice is out there and part of the perception based on some of the public comments, is we're getting ahead of what is tried in true in the way of urban agriculture. He said establishing our own best management practices as a foundation to provide and require training to first time farmers is very sound. He asked if we have created the right elements to help launch this industry, or are we going to make it an experiment. Some aspects of the ordinance seems we're going to throw the community into this Ordinance and figure it out as we go along.
- Councilor Maestas continued, saying the last issue he has is how do we enforce this as a City institution. We're not very good at the enforcement side. We get enamored with passing laws, and we don't think of the enforcement. And then we go off to something else, to the next new idea. He feels we need to take a step back and take a look at the real enforcement here, particularly of the nuisance law. He said some people like to live in tranquility and don't want to be messed with, but here in America we can't control what our neighbor does unless our government allows them to do a certain thing. In this case, we're going to allow a new land use that could present some issues for neighbors that maybe might take offense to odors or any kind of consequence or impact that may occur. He said each of us experiences the different impacts differently, some may not mind, other may be ultra-sensitive to odors or any kind of disruption to their tranquility of their living space.
- Councilor Maestas continued, saying he would have preferred to see this more on a pilot basis, but realizes it addresses many needs in our community. It's been tried and true in other areas, but the Ordinance perhaps could have benefitted a lot more and integrated a lot more of those management practices that have been established elsewhere to allay a lot of the concerns voiced tonight.
- Councilor Trujillo said his concern is with regard to enforcement. He said we need to put something in place for permits, noting Ms. Martinez just said even with the new employees, she wouldn't have sufficient staff to do the daily permits we have right now. And now we're creating this, which is concern. How can we manage the enforcement, and that's the big thing people are requesting. He knows we're going to get calls about a pile of manure next door to someone that really smells. He asked if we have thoughts in this regard.

Mr. Alejandro said currently City Code is silent on any of these activities in the proposed Ordinance. He said use of water efficient technology, sources of water that can be used, what can go into the compost pile. The Ordinance has a provision that forbids the use of animal or human waste, noting it is specific on these kinds of things. He said right now City allows for all these things to happen. The thing that is governing existing City Code are public nuisance laws. This Ordinance is an attempt to start to develop some rules and regulations to provide the community with some guidance around what can and can't be done, and how to utilize best practices when it



comes to water consumption, for example, and composting, without over-reaching in terms of providing sets of rules and regulations which are so over-burdensome that nobody wants to do urban farming in the community.

Mr. Alejandro continued, saying as a kid he played in Frenchy's Field in the 1970's with his cousins and that was a fully operational farm, with cows. He said agriculture is actually part of our heritage and our culture. We have been an agriculture-based community for 450 years. He said what we're trying to do with this Ordinance is to create an environment where we can go back to those agrarian roots in a very smart and thoughtful way. He said the Ordinance addresses the commercial sale of produce, commenting you can grow whatever you want right now, for personal consumption utilizing whatever techniques you want, and use as much water as you want. It is up to you as to whether you eat it. But when you choose to sell it there have to be rules and regulations in place to provide a very basic and sensible level of protection for our community.

Mr. Alejandro continued, saying he agrees with many of the comments made tonight. He hopes this Ordinance provides a foundation on which the community can begin to thrive. It will certainly need to grow over time as we begin to learn what is working and what is not. However, currently, City Code is silent, and that no longer can be the case.

- Councilor Trujillo said he is encouraged by it. He said there are sections of Yucca in District 4, where you still can see areas which were farmed. He said a comment was made about pitting neighbors against one another. He said he uses the term NIMBY – Not in My Back Yard, but it's okay in someone else's. He said things have to be good for the entire City, and his hope is that neighbors can understand what is happening and won't be pitted against one another. He doesn't want everyone to sit around and sing Kumbaya in harmony, although it would be nice. He has heard this Council talk about growing food for the schools and such, and receiving fresh produce, and thinks this is what the community wants to see, reiterating this will be a learning process with bumps and bruises, as well as a lot of phone calls to him and Councilor Harris and the City Manager. He is encouraged. He said he raised apples with his father and grandfather in Chimayo, with 88 trees. He said they used herbicides and pesticides if necessary, and he understands people not wanting that. He said we'll see how that goes as well.
- Councilor Harris said he is in support of the Ordinance, and thinks the Ordinance goes as far as it needs to go in terms of supporting and encouraging urban agriculture. There are legitimate concerns which he believes will get worked out over time. He said the responsible operators who are drawn to this will adhere to the process that is outlined here, and the regulations and requirements. He isn't overly concerned, saying he doesn't think this will mushroom.
- Councilor Harris continued, saying he thinks those engaged in these activities respond to a higher calling, and that could be the cultural heritage to which Mr. Alejandro refers, which he acknowledges and appreciates. He would like to see more agriculture throughout the City. He said people spoke to food security which is part of a higher call many people feel. He said, as a businessman, he thinks entrepreneurship is a higher calling and the proposed Ordinance supports entrepreneurship.

- Councilor Harris continued, reiterating his support of the Ordinance. He said he was a little surprised that we are rolling back the setbacks. He had proposed 10 feet, noting it originally was proposed at 20 feet. He provided an amendment to 10 feet, noting there are a lot of small lots in District 4, some of which are 55 feet wide. He said if you have 20 feet on either side, you have a narrow stripe in the middle of the back yard. He would the Council, when this comes to a vote, to reconsider the setback requirements, and leave those in place currently in the Ordinance, as opposed to what is proposed by amendment.
- Councilor Lindell has worked a fair amount on this bill. She said farming is hard work, and she really doesn't see this mushrooming. She doesn't see "the doors being beaten down," for people to come in and get permits to do urban agriculture. She said farming is hard work, noting she grew up on a farm. She said when the bill first came to us, she didn't think it was in particularly good shape. She spent a fair amount of time on this with some other Councilors and we have a Substitute Bill here. She said she thinks the bill has some flaws that will have to be worked out, but it's in much better condition than it was previously. It's the kind of bill that is new, a new direction, and we probably should have a commitment to revisit it within 2 years.
- Councilor Dominguez talked about the reasons he is interested in this bill. He said District 3 is really a "food desert," which means there is a high risk of childhood obesity, heart disease and diabetes, which is a cost to the taxpayer. He is interested in the idea of having fresh fruits and vegetables available to the public and families. He said this has a long history and pre-dates Mayor Gonzales and other members of the Council, and is the result of a lack of policy on how to deal with urban agriculture or farms.
- Councilor Dominguez read from an article which published in a local newspaper that speaks to the reason we're here today. That article says, *"the City, rather than seeing this as a problem to fix, should modify its approach, find ways to make urban farming work. Enforcement shouldn't just be about pointing out problems, but about solutions. And this is a step in the right direction to creating those solutions."* He said, as Councilor Lindell said, it's a new bill. We owe it to the public to revisit it often because we don't get it right the first time, although he wishes that was the case. He said he thinks we need to expand the idea of urban agriculture in many ways. He said if you look at the way the land is plotted in District #3, they are long and narrow to the River, because that's what it originally was about – agricultural fields and ways for families to feed themselves and the community.
- Councilor Dominguez continued, saying he isn't suggesting huge urban farms, but believes this approach is the result of lots of work by many members of the community, predating the Mayor and some members of the Council, the public and other organizations. He encourage by hopefully getting this done.
- Councilor Villarreal thanked the public for attending and their thoughtful comments. She said it isn't new to allow urban gardening and farming. It actually exists as Mr. Alejandro stated. She said people do it, but it's for their own consumption. This bill is supposed to allow people to sell what they grow. She said a point was made about commercial farms, but doesn't see these as

commercial farms, noting those usually happen in rural areas. She asked if we need to make a change to the language, because we're talking about urban farming and gardening, and allowing for the sale or produce. She asked Mr. Alejandro to distinguish between a commercial farm versus an urban farm that sells commercially, or if we need a legal description of that.

Mr. Alejandro said commercial farms produce products for sale, regardless of its size.

Ms. Brennan said, "I believe that is the meaning of the term in this Ordinance."

Mr. Alejandro said when people think of commercial farms, they automatically think of a large scale production facility that grows acres of crops. He said in actuality, a commercial farm can be 50 square feet in someone's back yard, because they are growing horticulture related products and selling them at a farm stand out of their home, with a license to do so as a commercial urban farm.

- Councilor Villarreal said she thinks enforcement is always an issue for the City for every single law or policy we put in place. She asked Ms. Martinez what that looks like for her department. We have enforcement procedures in place that are clearly stated in Chapter 14. However, it is the staff that will have to get this done.

Lisa Martinez, Land Use Director, said enforcement is always an issue, more so lately now that we have lots of ordinances coming forward that have bigger and bigger enforcement components. She said in the public testimony, it was mentioned it would be great if we had a program for proactive Code enforcement with, commenting she agrees with that. That would be fantastic. She said at the current staffing levels, the best she can do is to respond to complaints coming in. She said they spend their days investigating those complaints, researching and following-up, and if the problem continues that we issue a notice of violation. She said they work with people to come into compliance. She said this is the part people don't see. This is new, and we will see what happens. She can't see that people will be "beating down our doors," in the first few months to be starting up urban farms. However, we'll just have to see how it goes. If it becomes a large City program, she will be back here to have a discussion about the staffing needs. However, for right now, she wants to start learning the requirements, educating the public about the requirements, how they can do one of these farms, and then we will determine the exact staffing needs in the event we get into a problem with not being able to provide proper enforcement.

Mr. Alejandro said this is an example of an excellent way as to how City staff can work collaboratively across divisions and departments. He is housed in the Public Utilities Department, and his title is Renewable Energy Planner for the City. However, he handles all sustainability related issues for the City. He sits in Land Use. In terms of working hand in hand with Land Use Staff, in developing this Ordinance with people and stakeholders, he sees his role as being the point person in terms of receiving phone calls from you all, as you receive phone calls from the public – in terms of how the Code is interpreted, enforced and applied. He has developed excellent relationships with the Land Use Department inspectors to understand how the Ordinance will impact inspections and enforcement ultimately.

- Councilor Villarreal asked, "In terms of the zoning piece, if a property is not in a commercially zoned area, they will have to go through a special use permit process, and would you describe what that entails."

Ms. Martinez said this is correct. She said as mentioned by Mr. Alejandro, all of the existing Codes and standards, zoning ordinances and requirements for applying for a special use permit, or appearing before various boards for certain approvals, all those same requirements apply. So we're not circumventing any of those with these requirements. She said they spent a lot of time with Legal, working with staff, going through Chapter 14, to make sure we didn't have conflicts with existing provisions. She said she thinks the review was thorough sufficiently that she is hopeful they won't run into any problems. She said they spent quite a bit of time going through this, and believes we are on the right track.

- Councilor Villarreal said rooftop greenhouses aren't allowed, noting the allowance to do a rooftop greenhouse was removed from the Ordinance. She asked how Ms. Martinez would describe what Matt described – having the greenhouse on top of a shipping container. She asked if that would be the same thing we were talking about in terms of rooftop greenhouses.

Mr. Alejandro said Mr. Straight's company, Farm Pot, develops closed-loop Aquaponics systems which are comprised of a shipping container on the ground level with a greenhouse on top of the shipping container roof. He said this is the closed loop Aquaponics system, so the definition of Aquaponics is in the Ordinance and it doesn't refer to rooftop greenhouse in the sense that a greenhouse being put on a permanent structure, such as a home or a building. So Aquaponics as defined are different than rooftop greenhouses as defined.

- Councilor Villarreal said then the example is not a rooftop greenhouse.

Mr. Alejandro said that is correct, because there are different configurations of Aquaponics facilities.

- Councilor Villarreal said, "Some members of the public brought up issues about wanting us to require organic certification. And for those of you that don't know, my background is in planning, and we worked a lot on agricultural issues at the County. And getting a certification for organic is extremely difficult. It's not only expensive, but it's onerous. And there are ways that people actually can grow food healthy and safely without having to get an organic certification. So I'm not in favor of requiring organic, and I think there are ways we can look at those issues. It does fall into this whole issue of pesticides and the use. At the City, right now, if it's not on public property, if it's not our property, we can't control what people do on their private property, in terms of pesticide use. And I think that's unfortunate, but again I keep thinking about this idea of someone actually doing urban farming."
- Councilor Villarreal continued, "And as my colleague said, urban farming, doing this actually for a living and actually selling the produce is extremely tough. It's not only hard work as Councilor Lindell alluded to, but it's also very expensive. And an amateur farmer usually doesn't take this

on. It's not something that somebody that hasn't done farming is going to do in this town. So I think that we're not going to get many people to do it, which disappoints me, because we do have a cultural connection, the land based community, with agriculture. That's what most of our neighborhoods used to be. So I have a hard time with this Ordinance, because I think it actually is very restrictive and there's going to be very few people that actually will try to make it work. And we have very few large parcels of land in this town that we would be able to do even an acre of agriculture, especially if they're not zoned commercial."

- Councilor Villarreal continued, "So I would like to see this move forward. There are some things that I'm still concerned about, regarding soil testing, and I'm wondering if we could add that in. I like the idea about adding language about the manure being composted off site, and I know there are reasons for adding that language, and I don't know if, John, we can add something to this effect somewhere in the Ordinance that is looking at process. I know composting was already a separate issue. It was only allowed in industrial, is that correct, as a primary use."

Mr. Alejandro said composting as a primary use is only allowed within these tables in commercially zoned areas. It may be done in industrial zoned areas as a primary use.

- Councilor Villarreal said she really wants this to work out, noting it already is very restrictive and very few people will do it, "but I believe in allowing for people to make money off growing food, and it's a hard job, so we'll see what happens."
- Councilor Ives said he was reminded of an early hydrographic survey done of the City in the 1900-1910 time frame, showing the River coming through town, noting he is thinking of a map on the east side. It showed tract after tract of land that was dedicated to orchards, growing wheat, growing corn, beans – all the agricultural products that sustained Santa Fe over the course of centuries. As development has occurred we have moved away from that very local family-by-family production of food, to a much more industrialized concept where we are buying food that may have been grown in this country or elsewhere in the world. He thinks we have lost some of our connection to the land, as well as to the food chain as a result of that. He does see this measure as a step in trying to reinvigorate the local production of food in our community and to recapture that opportunity that existed long ago and do it in a way that is intelligent and takes account of the constraints within our society in terms of water use and other such practices.
- Councilor Ives continued, saying he thinks this makes a statement that we believe in the local production of food, as well as food sustainability and resiliency. Those are concepts to which we always need to pay attention and promote in our community. He hopes that we will see greater food production within the City, and thinks there are significant health benefits to that in building a more active community around food, as well as see a greater production of fresh food availability to our kids, in our schools, our households in a very real way. He thinks this measure, at this point, strikes a good balance in terms of trying to promote and allow for greater food production, while ensuring it's done in a way that respects our water resources, impacts on our neighbors. He thinks it is good at this point in time, and he is in favor of it.

- Councilor Rivera said he also would thank everyone for coming out and making sure they were heard tonight. He thanked Mr. Alejandro for his hard work on this. He said it's been a while. He said he agrees with many of his colleagues about some of the concerns they had with regard to enforcement and being a complaint-driven system versus a pro-active system, compost piling, the use of water and herbicides or fertilizers. He shares the excitement of our kids having more access to fresh fruits and vegetables. It's not a perfect document, and he would support Councilor Lindell's request of the Ordinance within 2 years and make whatever changes we need at that point to make it a better Ordinance than it is right now.
- Mayor Gonzales said this is something for which he has been highly motivated to get passed for several reasons, commenting Councilor Trujillo spoke to some of it, and that sparked raw emotion for him. He said the Acequia Llano, Acequia Madre, Acequia Cerro Gordo and Acequia Umbria for hundreds of years have been the lifeline of our community. Some of his earliest memories as a child were of playing with his grandfather along the Acequia Madre, because we lived on Canyon Road, and then going back to his house and my grandpa and my grandmother working in their garden which was used to feed the families. He said the truth is that agriculture has been part of the identity, the cultural fabric of our City for longer than 400 years. He said there are realities that require us to be pro-active in moving forward policy that stands on the side of families. He said tonight, 30% of our kids will go to sleep hungry – this is fact, not estimation. 21% of our Seniors are classified as being persistently hungry. 89% of our households needing food security have incomes of less than \$20,000 annually, or \$384 per week. In our community that we love and celebrate as being inclusive, there clearly are people who are being left behind and locked out.
- Mayor Gonzales continued, saying for many of us the east side of Santa Fe, where the acequias flow, are places that we visit as opposed to places where we can raise our families and continue some of the traditions passed from generation to generation. He thinks this policy is a first step in recommitting to the identity of Santa Fe in terms of food security and agriculture. It sends a strong message to families that we are recognizing hunger is real and solving it with fresh fruit is a far better priority than other means, and the opportunity through this Ordinance, to participate in a sharing economy where people can grow and sell food to increase incomes is critical.
- Mayor Gonzales continued, saying Councilor Dominguez and Councilor Rivera have reminded us over the last several years through their advocacy, that when you think of the Airport Road area and Tierra Contenta and the demographic that lives there, the average income is about \$16,000 a year. He said we see BC rates going up. 100% of the children qualify for free and reduced meals. This gives people a real opportunity to provide fresh food and support their family with additional income. He encouraged his colleagues to allow this first step to take place to allow for review, in two years and to start bringing progressive policies that address social equity to the forefront so our families have the ability to overcome some of the greatest challenges they have.
- Mayor Gonzales continued, saying he doesn't know that we could put this Ordinance on hold long enough to address every issue that is out there. He thinks putting it on hold tonight sets us further back from creating the environment to become a town where food security is a priority. He appreciates what Mr. Alejandro and the community have done over the past 18 months, as well as

the ongoing work we will do in this area to make sure neighborhoods are protected, that families have access to high food quality and we're able to do everything we can to allow for more economic prosperity that go directly into the family households.

**MOTION:** Councilor Ives moved, seconded by Councilor Harris, to adopt Ordinance no. 2016-41, with the addition of a two-year review and status update on the Ordinance, and to move the 20 foot setback back to a 10 foot setback.

**DISCUSSION:** Councilor Maestas said some of the comments from the public were intended to strengthen the law. He said a more broad concern is, if we are silent on soil testing and promoting sound soil management, and silent on assisting urban farmers and building their capacity to be successful farmers, are we assuming any food safety liability by leaving out any critical elements in our own Ordinance. He asked Ms. Brennan to explain what liability, if any, the City would have for food safety.

Ms. Brennan said, "No. I do not believe that would be an issue. Soil and a number of these other items are largely regulated by the State. And I think there are some best practices and some language that has been inserted that addresses the issues that you require compliance with State requirements and those kinds of things. So, I am not concerned about that. Right now, we're not regulating anything.

Councilor Maestas said then it's totally incumbent on the urban farmer to be knowledgeable of all the other existing regulations with regard to unprocessed food and so forth.

Ms. Brennan said, "Yes."

Councilor Maestas said he wanted to make sure it is clear that we are not exposing the City to any unnecessary liability through this Ordinance or through any perhaps apparent omissions.

Councilor Maestas continued, saying in closing he also grew up on a small farm and thinks having that connection to the land is very important. And to give folks the opportunity to do that is a good thing. He said, "I'll end with a more ominous comment. I was a Mayor in 2008 during the recession. And if you remember, the cost of transportation skyrocketed and really raised the price of imported food so much, we were suddenly faced with the fact that if this persists, where will we get our food. He reminded everyone that we could be a heartbeat away from another recession and faced with those same possibilities, being in a rural State with very limited links to transportation. He said this is a contingency measure for our community. There are a lot of other benefits to it, but it provides a safeguard in the event that we're faced with another devastating recession."

**CLARIFICATION:** Ms. Vigil said, "Just for clarification, this includes the Mayor's amendment sheet as well," [Exhibit "7"], and Councilor Ives said yes.

**CLARIFICATION:** Councilor Villarreal said, "Point of clarification, that is not what we approved, part of it, but then we also reduced to...." Councilor Harris said, "If I may, the Substitute Ordinance has the 10 foot setbacks and the other language within it. The proposed amendment, the first 3 items roll that back to 20 feet. So really, the Ordinance as it stands right now, embodies a 10-foot setback. Mayor Gonzales said

then we wouldn't add the amendments I proposed, the first 3. Councilor Ives do you hear that. And Councilor Harris were you the second on that."

**FRIENDLY AMENDMENT:** Mayor Gonzales said, "So it would include on the amendment sheet that I sent, Item #4, #5 and #6. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

**Clarification prior to voting:** Councilor Villarreal said, "Just a point of clarification, this is also [including] Councilor Lindell's two year review." Councilor Ives said, "Yes."

**MOTION:** Councilor Harris moved, seconded by Councilor Ives, to adopt Resolution No. 2016-85.

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

- 4) **CONSIDERATION OF BILL NO. 2015-37: ADOPTION OF ORDINANCE NO. 2016-42 (COUNCILOR IVES) AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE. (MARCOS MARTINEZ) (Postponed on October 13, 2016.)**

A copy of a Memorandum dated November 2, 2016, for the November 9, 2016 Meeting of the Governing Body, with attachments, to the Mayor and City Councilors, from Marcos D. Martinez, Assistant City Attorney, is incorporated herewith to these minutes as Exhibit "9."



A copy of a petition to the Governing Body to vote no on Bill #2016-37, from Katie Singer, is incorporated herewith to these minutes as Exhibit "10."

A copy of a statement for the record by Ronald Dans, in opposition to the Ordinance, entered for the record by Ronald Dans, is incorporated herewith to these minutes as Exhibit "11."

A copy of *Improve the Safety of Santa Fe Residents*, submitted for the record by Dr. David M. Stupin, Ph.D., Physics, dated November 9, 2016. A copy of Dr. Stupin's statement is incorporated herewith to these minutes as Exhibit "12."

A copy of a statement for the record by Julia Whitfield, submitted for the record by Julia Whitfield, is incorporated herewith to these minutes as Exhibit "13."

A copy of *Recommendations for Accommodations*, submitted for the record by Kathairein Greer, is incorporated herewith to these minutes as Exhibit "14."

A copy of a statement for the record by Michael Blanshan, entered for the record by Michael Blanshan, is incorporated herewith to these minutes as Exhibit "15."

A copy of an email to [bearstar@fastmail.fm](mailto:bearstar@fastmail.fm), from [bearstar@fastmail.fm](mailto:bearstar@fastmail.fm), sent by Arthur Firstenberg by email on November 4, 2016, is incorporated herewith to these minutes as Exhibit "16."

A copy of the statement for the record by Arthur Firstenberg, with attachment, dated November 9, 2016, entered for the record by Arthur Firstenberg, is incorporated herewith to these minutes as Exhibit "17."

A copy of a statement for the record by Michael Blanshan, with attached *Recommendations for Accommodations*, submitted for the record by Michael Blanshan, is incorporated herewith to these minutes as Exhibit "18." [STENOGRAPHER'S NOTE: Mr. Blanshan spoke twice]

A copy of the notes for Mitch Buszek's statement for the record, entered by Mitch Buszek, are incorporated herewith to these minutes as Exhibit "19."

Mayor Gonzales said he had promised William Bruno earlier he would have the ability to address the Council regarding the issue of WiFi in the City when the matter was discussed, and said he would give him 2 minutes to just address that issue "if you would like to, sir."

**William Bruno, Ph.D.** said, "I know that in the newspaper it said some of the Councilors are in favor of turning off the WiFi. A number of us here have a problem with WiFi where we will have neurological symptoms, and some of us are disabled. So we feel that it's a reasonable accommodation under the Americans with Disabilities Act to turn off the WiFi, save whatever files you need for this hearing on your computer, and you won't need the internet. If you need to Google something you can probably do that when you get home. So we request you turn off the WiFi."

Mayor Gonzales said, "I know the request was reviewed by the City Manager and the City Attorney regarding compliance with the ADA, and obviously I want to take the request from the public very seriously. I think the City Manager determined that in the order of business tonight, the need to maintain the WiFi presence in the Council Chambers, a decision that was thoughtfully considered, but kept in place. And I think minus any objection to that, we'll proceed."

**Disclosure and Non-Recusal:** Councilor Ives said, for the record, "Some people in our community have alleged that I have a conflict of interest in both sponsoring and voting on Bill No. 2016-37, Ordinance 2016-42, because my wife, Patricia Salazar Ives, defended the City in its litigation with Qwest on the Telecommunications Ordinance that the Bill would amend. In addition, she has represented telecommunications companies in the past and represents some now. These people have suggested that I may benefit financially from my vote because it could result in increased business for my wife, and that I should recuse myself from participating in the discussion and from voting on the Bill. However, I have spoken to my wife and she has stated to me that none of her telecommunications clients do business in the City of Santa Fe or, to her knowledge, have plans to do so. As a result, my vote on Bill 2016-42 will not result in a specific and identifiable prospect of pecuniary gain or loss to family members or to myself, and I will therefore not be recusing myself from participating in the discussion on Bill No. 2016-42 and will vote on the matter."

**Disclosure:** Mayor Gonzales said, "I also want to state for the record prior to the discussion, that I want to disclose that some of my family members own a business that operates one telecommunications tower and one radio tower in the City, and that while I do now have any ownership interest in that business, some requests relating to telecommunications or radio facilities that come before this body may create a conflict of interest requiring me to recuse myself. However, my vote on Item H(4), if it happens this evening in the affirmative will not result in a specific and identifiable prospect of pecuniary gain or loss to family members because the ordinance being amended tonight regulates the use of the public rights of way, and the family business is not a telecommunications provider under the Ordinance and thus is not subject to its provisions. As a result, I will not be recusing myself from participating in the discussions related to Item H(4), and will vote on the matter."

**Correction:** Ms. Vigil said, "Marcos before you start, just for clarification on Councilor Ives' statement for the record, it is Bill 2016-37 and the Ordinance would be 2016-42. Thank you."

Councilor Ives said, "Thank you for that correction."

Marcos Martinez, Assistant City Attorney, presented information from his Memorandum of November 2, 2016 for the November 9, 2016 meeting of the Governing Body, which is in the Committee packet [Exhibit "9"]. Please see Exhibit "9" for specifics of this presentation.

Mr. Martinez said, "You have the Memo we prepared in your packet [Exhibit "9"], but if it is agreeable to the Council, I would like to present an outline of the proposed amendments to the Telecommunications Ordinance, and then stand for any questions you may have."

Mr. Martinez continued, "First I would like to address the purpose of the proposed Ordinance amendments. The purpose of the proposed amendments is to cure certain sections of the Telecommunications Ordinance that the Federal District Court enjoined in December 2013. Those sections included the fee provisions and related definitions in that 2010 Telecommunications Ordinance. These proposed amendments replace those fee provisions and related definitions with a model Ordinance fee provision and related definitions. The Ordinance amendments also delete a provision requiring arbitration with telecommunications providers. In our view, arbitration can be a costly and unsatisfactory method of resolving disputes and overturning an arbitration decision in court is very difficult. Finally, the Ordinance makes the appointment of a Telecommunications Advisory Committee discretionary."

Mr. Martinez continued, "In sum, implementing this fee provision will allow the City to better comply with federal law because federal law mandates that cities not prohibit, or have the effect of prohibiting, telecommunications service. In other words, the City cannot prevent telecommunications providers from using the public rights-of-way. The only thing the City can do is manage the use and charge a reasonable fee which is competitively neutral and non-discriminatory."

Mr. Martinez continued, "Finally, I would like to address some of the provisions of the Ordinance that the City is not changing. Normally, I would not talk about sections of the Code that are not being amended, but I have heard some misinformation on this topic and I think it's important to clarify that Ordinance amendments do not change the existing Land Use Review processes for telecommunication providers, and therefore will not allow for a proliferation of cell tower antennas any more than the current Ordinance already does. On this point I would urge the public to look at Section 27-2.13, entitled Land Use Review. It is worth noting that this section requires an application by the Land Use Department, and a public hearing and review by the Planning Commission. Among other things, the Land Use Review requires construction plans and drawings, and the telecommunication provider has to provide insurance for the term of the franchise. Now, I'll stand for any questions."

Mayor Gonzales asked Mr. Martinez, prior to the public hearing, to quickly readdress what this Ordinance does not do regarding the ability for telecommunication companies to begin to put up wireless towers throughout the City without any type of application process, so we are clear on that.

Mr. Martinez said, "As I noted briefly, there already is a section in the Telecommunications Ordinance called Land Use Review. This section, among others have been challenged, along with the fee provisions when CenturyLink challenged the City's Ordinance. These provisions are intact. They have been in effect since 2010. They require a Land Use Review, which includes respecting zoning districts, maximum height, esthetic requirements, archaeological requirements and other Code compliance. There is an application to the Land Use Department which requires a description of the infrastructure that will be put in, a map, indication of gaps in coverage. There is staff review of the application, public notice and hearing by the Planning Commission. There is a Planning Commission review process."

Mayor Gonzales said, "On that point, Marcos. This does not address what you're talking about."

Mr. Martinez said, "... there is already existing Code, none of this goes away, and none of this is altered or amended. So any rights that any telecommunications provider had, have as of today, to place facilities in the public rights-of-way. It is not enlarged or diminished by these Ordinance amendments. The only thing this Ordinance amendment proposes to do is to implement a fee and related definitions. And, again, it deletes arbitration and makes the Telecommunications Advisory Committee discretionary. So if there are no more preliminary questions before the public speaks, I will wait for further discussion."

Mayor Gonzales said it would be great if Mr. Martinez would take some notes of what the public is bringing up, issues they bring up, and make sure they are addressed, whether or not this Ordinance addresses it. Or if it is in the citing Ordinance in place, we can make sure the public has their questions and concerns addressed.

Councilor Ives said he is interested in one other aspect, in terms of companies that don't use the public rights-of-way, what is the impact on them of these changes.

Mr. Martinez said, "There would be no impact, and in fact the Ordinance would not apply to them because the Ordinance is specifically directed toward the use and occupancy of the public rights-of-way. So if you are a telecommunications provider that has leased land on privately owned land, this Ordinance wouldn't apply to you. There is no franchise fee that would apply to you."

### **Public Hearing**

*Mayor Gonzales gave everyone 2 minutes to speak to the issue*

**Felicia Trujillo, M.D., co-founder of Santa Fe Doctors Warn, 2004 Jemez Road**, expressed appreciation that "you want to take this job and you work hard with the public in hammering out details." She said recently she fought back on the electronic billboards, commenting that the Mayor wants to jazz-up Santa Fe because he is young and that is understandable. She worked for the San Francisco Health Department as a health educator when she met an inspiring City Councilman [City Supervisor] who surprised her in expressing admiration for my home town, Santa Fe. He said Santa Fe had the integrity and courage to keep its identity, instead of selling out to Americanization. One benefit of the election is now everybody knows how the media restricts our information. Dr. Trujillo said she has copies of an ABC news story last year, about how the Los Angeles Board of Supervisors heeded the voices of their firefighters and gave up the proposed income from building 86 antenna that were supposed to be attached to fire houses. The Firefighters Union #1104 ran radio PSAs explaining health damages suffered by firefighters exposed to these antennas within 2 weeks of activation they experienced disorientation, slurred reaction time, vertigo, vital memory loss and attention deficit amid life-threatening emergencies – just what you want in a firefighter. She said the firefighters could point to IAFF 2004 Policy to not allow cell towers or antennas on any of their facilities, noting she has a copy of that. She said Santa Fe makes money by not having antennas everywhere, something famous cities do only in crime-ridden neighborhoods. She said Paris, London, Auckland, Sydney and Edinburgh. She said the name of the Councilman about whom she spoke is known for his courage and integrity – Harvey Milk.

Mayor Gonzales said the electronic billboard Ordinance has been sidelined, and is not part of this conversation tonight. It is on pause to allow neighborhoods to put plans in place. He said people can offer a view on it, but it's not part of tonight's action, nor is it on a pathway to make its way to the Council at this time.

**Ali MacGraw, Tesuque**, said she is a relative newcomer to Santa Fe, having lived 23 years. She said she came to Santa Fe because her house burned to the ground in Malibu in 1993, which isn't an experience to be taken lightly, noting she lost everything. She said 14 years later, a similar fire broke out as the direct result of a cell tower fire. She said she said she moved here, and to her surprise, she learned to love the multi-cultural ancient history of the City, the amazing air, the killer landscape and nature. She said the biggest surprise of all was a community that pulls together and is really concerned about our quality of life, noting she has lived in 2 other cities and didn't have this experience. For many years she has heard about the really serious damages to people and animals of being exposed to cell towers. She has heard this from people for whom this is their life's work, and from people in the Farmer's Market and elsewhere. She said she was flabbergasted when she read the proposition, and learned it would be accompanied with surprise appearances of up to 500 cell towers. She said no matter how charming the designs, the fact remains that this horrendous, health-challenging energy can be coming at any time. She said the proposition at Gonzales School shocked her, because she has children and grandchildren. She said, "The idea that we could wake up with these things all over the City, those eyesores which could destroy this ravishing, increasingly unique place to live, makes me want to join the hundreds of names on this petition which says no, not without citizens' contribution."

**Bill Fishbein, 1110 Barcelona Lane**, said he is informed on the issue and is confused about this Ordinance, because it appears the only issue is the fee, and the residents have absolutely no right to object to any telecommunications equipment in their neighborhoods. He said he had 3 thoughts when he saw the Ordinance – No, no and no. He thinks we can all agree this is ridiculous, it's the law, but it's ridiculous that no right to object to a cell phone tower or towers being placed in a neighborhood, reducing the value of their property and showering them with radiation. He said the only thing to be negotiated is the fee, so he suggests the Council go deep in this and select a fee so high that the telecommunications companies absolutely will refuse to buy this deal. If we can't protect ourselves, our health and our neighbors because our rights have been taken away and we've been given a gag order. You have the power to stop this by raising that fee so high that it would just be absolutely impossible for these communications companies to put those towers up.

**Ronald Dans, 200 Sunny Slope St., on behalf of the Coalition Santa Fe Alliance for Public Health and Safety**, read a statement into the record, in opposition to the request on the basis of esthetics. Please see Exhibit "11," for specifics of Mr. Dans' statement.

**Janet Boyer, 815 Rio Vista**, said she is a 33 year resident of Santa Fe, and she is very concerned about this situation and consider these things to be very ugly. She hates for our City being known for this kind of ugliness being imposed on all of us. She said she would cede the balance of her time to Dr. Bruno. Responding to the Mayors question if she wanted to enter a statement for the record, she said no, and she is asking the Governing Body to deny the proposed Ordinance.

**William Bruno, Ph.D., 2357 Botulph Road**, used the overhead to show examples of cell towers, their heights, and camouflage, but didn't enter the photos for the record. He said the Broadband Network of New Mexico is holding on by interstate transport and broadband, and do business under the name of Mobiliti. Mobiliti has a habit of putting up towers that are 70-120 feet tall in residential neighborhoods, while most companies put up towers of 35 feet. He said some companies try to make them to look better. He thinks it's important to regulate these things carefully. He sent information to the Governing Body on the model ordinance this one is based on, and would "think the Councilors would be smart enough to ask the City Attorney about which model ordinance they used. It appears the model ordinance was written in 1999, and written so municipalities in Illinois could comply with the State law, but was repealed 5 years later." He said municipalities are only allowed to charge a percentage of gross to the retail companies. He said many other cities charge \$1,500 to \$4,000 a year per pole, 90 or more poles per year. There is no such charge in this Ordinance, and the only charge goes to the retailer, which means all our phone bills will increase, which means companies like Mobiliti won't pay anything regardless of the number of poles they put up because it is not a retailer.

**Dr. David Stupin, Ph.D., 51 Vista Redondo, Tesuque, retired from Los Alamos National Laboratory**, said he is here to speak for himself and not the Laboratory. He said he is speaking about improving the safety of Santa Fe residents. Dr. Stupin read a statement into the record. Please see Exhibit "12," for specifics of this presentation. Using the overhead, Dr. Stupin showed the photograph of a cell antenna on a lamp post which is on fire, noting this happens about 5-6 times in the U.S. each year.

**Fred King, 815 Rio Vista**, said he is here to ask a question: You and the Councilors, is this your vision for a new Santa Fe.

**Azlan White** said she lives off West Alameda, said she recognizes some of the people tonight, because a few years ago she worked with a group "of us" researching and studying the telecommunications law in 2013, and she wants to honor "all of you for all the time you spend in your roles and how complicated this issue is." She said she found it to be very complicated due to the research she's done. She said Santa Fe and its people really care a lot about esthetics and the adobe lifestyle. This is something we all talk about – what it's like to live in historic adobe buildings. There are very strict laws and codes about what can be done so we preserve the feeling in the historic codes of the adobe sense of Santa Fe. She thinks this bill could be very destructive to the general energy we all feel, as a healing energy in Santa Fe, and the benefits those adobe buildings can offer. She said if she was able to put food coloring from all of her research onto the energy emitted by these devices, "It would be really ugly colors

splashing out all the time." She said she has done a lot of research on this and offered her research as a resource for questions, because it is a complicated issue. Her biggest concern is to make that group that meets the Council discretionary instead of required. As a complicated issue, it is important to have the resources of those who have spent so much of our time researching and we really care about people and the City, so there can be a committee of people that understand and can spend a lot of time researching and supporting you in revising this bill so it can support the safety of the people, the esthetics and atmosphere of our adobe town we've cultivated over hundreds of years. One signature on a very bad bill with a bunch of electronics could ruin all that. She wants to bring attention to your role as protective of these very unusual, very sensitive people that live in the City and the potential damage on many levels that a lot of extra wiring could do. She asked the Council to pay a lot of attention to this issue, noting there are a lot of complicated little things that go on with this bill that need a lot of attention than has been offered in the recent past.

**Julia Whitfield, 903 W. Alameda #753, speaking on behalf of the Coalition Santa Fe Alliance for public health and safety,** read a statement into the record in opposition to the Ordinance. Please see Exhibit "13," for specifics of this presentation.

**Kathairein Greer, lives in Senior Housing behind the Indian School, noting she is speaking on behalf of Alliance.** She has a social security income that is quite a bit less than what you said about the poor people of Santa Fe. She has multiple chemical sensitivity and electro hypersensitivity. She has been here for 3 hours and 10 minutes "sitting in this WiFi" which is a shocking and cruel thing to do to her." She doesn't go to public libraries, or doctors offices. She said, "Now I can't even think straight. You lose your orientation, you lose your vocabulary, you lose everything including almost your whole soul." She said you people are talking about things that are very important and she is impressed with their sincerity. She said they should take care of the people who are being pushed down. With electrosensitivity people, we can hardly go to the grocery store, and if so, it is the big thing of the week. She said the Access Board has written some very nice ways to be courteous and have common sense toward your citizenry with these diseases, which is huge, but we're hiding because we can't leave our house. She said this is good information on how to treat people like her when you come into a public place to make a public statement. Also, there are ways to connect your iPads to the Ethernet, so you won't have to use WiFi. She said this kind of stuff is a form of serious disability. She said you talk about 400 years past, but you won't have 400 years future if you go overboard with this. You won't have bees for the gardens you're talking about. You should look at Magda Havis who has very carefully discovered that there is a kind of diabetes that is caused by this microwave energy. She said if you want to take care of your people, you're going to have to look at this at a deeper level. Ms. Greer submitted a packet of information for the record ["14"]

**Michael Blanshan, P.O. Box 31460, speaking on behalf of the Alliance,** read from a prepared statement in opposition to the Ordinance, speaking about the lack of insurance and major liability of the City. Please see Exhibit "15," for specifics of Mr. Blanshan's statement.

**Monica Steinhoff, 719 Galisteo St.,** said she wants to address the conflict of interest. She said by the capital there are tons of fruit trees, and fruit falls on the ground, and suggested there be a committee to pick up that fruit. She said she is married to a lawyer and she has talked with him about the conflict of interest, "and what you have said does not quite free you from that, there's a lot more to it. She is a member of the Santa Fe Alliance for Public Health and Safety. She said you are not exonerated totally by saying what you said, because there is much more to it. She said it was interesting hearing about the gardens, noting she gardens and grew up on a farm in New Mexico. She said we can talk about pesticides, commenting tobacco was considered normal and healthy and everything. It will take a lot of time before we can talk about the electromagnetic frequency, because it's much more subtle, and we don't think about the unconstitutionality. She said she appreciates the work that you do, "but this is way beyond your jurisdiction." She said you talked about all the inspections you do. She said someone should inspect, for example, Agua Fria Nursery which is across from the cell tower. The plants grow bigger, and they should be asked how much more water does it take. She said they have a property on South Capitol with an ornamental pear tree. The pears are black inside. There are pictures of Aspens at the ski basin where they turn black instead of orange. She said a tree fell on her car when she moved into the area. She talked about the AT&T cell tower by the Plaza which has far too many antennas, and imagine what it would do to the City if that cell tower fell. She said it could fall because it has much too much on it, so this enough to tell you to have a sleepless night like she has a lot. Ms. Steinhoff entered an email for the record which was sent to the City Councilors ["16"].

**Janice Simmons, 4452 Paseo del Sol, lives by Capital High,** said one day she woke up and saw this really ugly tree from nowhere, and it was a cell phone disguised as a Christmas tree or something. She said she can't imagine anything to be uglier than that particular tower, and that was voted on and that was a mistake, but it's the South side so nobody cares. If it was on South Capital we would hear about it. She said it is getting on her nerves that this proposal will infiltrate, especially areas not considered esthetically beautiful, such as the South side. She said "we represent Santa Fe in the way of having a Super Walmart down the street, cell phone towers everywhere, and wherever." She wants people to consider that this proposal would be a mistake, and we will wake up and see a lot of things we don't want to see here, and which are not good for the children or the schools. She said there are "a million" schools there, and lots of children everywhere, and that radiation just keeps piling up, piling up and piling up, and it's going to get to a point where we are going to really regret making decisions like this. She probably could live with the Christmas tree a little longer, but she can't live with this proposal, and it makes her want to move out of Santa Fe. It's going to be out of our hands, and she thinks we are taking power from the people who live here. She owns a house, and to wake up and see this stuff and not being able to say anything.... she said people are screaming bloody murder in the country about gun rights, don't take them away. She said you are taking away my right to have a safe neighborhood without these towers everywhere, and she doesn't like that. She said, "Those are my rights. And we all have the same rights."

**Consuelo Luz Arostegui, 207 Montoya St.,** said she finds this situation outrageous and an abrogation of her rights. She said everything she wanted to say has been said already, and she would like to cede her two minutes to Dr. Bruno, because he has information to share.



**Dr. William Bruno** said there have been two newspaper articles, and websites, and there was discussion on-line which said we are "all dumb, so many stupid people in Santa Fe believe that this could be harmful." He said he replied by saying he got his Ph.D. in Theoretical Physics from Berkeley, and his papers have been cited more than 2,000 times, and asked "what have you got." He said he didn't reply, commenting maybe he is really smart. He said regarding Mobiliti, the company that wants to do business here, they were fined in Baltimore for digging up the sidewalk without a permit. He said, "It isn't only in New Mexico where they have this deceptive name, Broadband Network of New Mexico, on-line it goes by Illinois Utility Pole Authority. In California it is the California Utility Pole Authority. There is an on-line trade group magazine that ask why they would pick a name like that as a consultant, Steve Bloom, of Teles Venture Associates, who assists local governments in negotiations with telecom companies." He said the only reason he can think of, is they're trying to slip something past somebody. He said the City would do well to hire a consultant like that, because they would get a lot more return. He said in cities like San Antonio, the companies pay thousands of dollars per pole, per year.

**Jim McClure, 1210 Luisa St., Suite 12A**, said his point has already been covered, so he will cede his time to Azlan White.

**Azlan White [spoke previously]**, said she wants everyone to have her telephone number and email address, if you would like it. She said, "I would love to be on the Committee for one thing, and if any of you have questions."

Mayor Gonzales asked Ms. White if she would rather provide her contact information off television, rather than stating it now for the broader audience, commenting, "We'll gladly take it."

Ms. White said, "Okay, and I do want to state my history, I work for [inaudible] and I run a 501(C)(3) called Global Resources, which is GR. So I care about people. I've been watching this cell tower thing and I just want to say it's not just politicians that [inaudible] activists do, because I hold town hall meetings and then AT&T gave me a Face [inaudible], and I was against their cell towers. But I would invite you to drive around the cell towers we have and notice the quality right around them, because I really notice that things get run down. I probably wouldn't hang out in that energy for too long and things might get run down. So I would ask you to look at the area right around the cell towers we already have and see if you can notice a little bit of a run-down feeling right around the cell towers."

**Kevin Kopriva, 1907 Hopi Road**, said if we could get a company to come in and give us a bunch of money to set up a bunch of towers that would flood us with smoke, nobody would deny that is dangerous. He asked if we have some real smoking deniers here. Microwave energy is dangerous for children, and he is here because he is worried that "you guys are going to sell us out." He thinks most of us are worried that you are going to sell us out of this. He said don't sell us out, these things are dangerous and there is plenty of evidence. He said there are a few people in this room who could bury you in evidence, so there's no problem with evidence. He asked, "Are you going to sell us out or not. That's what I want to know. It's simple. Some people say it's complicated, but it's not. You either sell us out or you protect us. I think your job is to protect us. You look pretty sincere, so protect us, don't sell us out."

**Virginia Miller, 125 Calle Don Jose**, said she has been concerned about this for a long time – the Telecommunications Act of 1996, where health issues were forbidden to be talked about in relationship to cell towers. However, they did explicitly affirm a City's right to its zoning authority, and that's where you have your power to protect residents and property owners and people in our City. She said San Francisco prohibited the distributed antenna system, and you could do the same. She just learned that there are people lobbying in Washington to stop the 5G cell phone technology that was supposed to be nation-wide which requires distributed antenna systems. She said hopefully their vote can help stop it. She said meanwhile, you can support us in your zoning authority. She said we care a lot about cell phone towers in Santa Fe because visitors like to come here because it's not like a lot of other places. She said she worries about it a lot, because she has grandchildren and great grandchildren. She also is concerned about the x-rays and gamma rays that are part of the magnetic spectrum, which do harm the human body. She said, "So, will you just stop all of this and not continue harming ourselves and our planet. Please."

**Kathleen Prlich, R.N., 435 Luisa Place**, said she is a licenced Nurse in New Mexico, and a licensed attorney in Washington D.C., and the State of Pennsylvania. Ms. Prlich said, with respect to the City Attorney, regarding the ADA accommodation and not turning off the WiFi here, a lot of times there is something called the letter of the law and something called the spirit of the law. She said she isn't chemically sensitive or electromagnetically sensitive. However, she has seen untold human suffering and sometimes, out of compassion, we do for the least of our brethren what we can. She said as a nurse, she is sure people have heard about EKGs, and EEGs, which are common, ordinary tests we use to test the electromagnetics of the brain and the heart. In the event electricity wasn't part of our bodies, we wouldn't have these standardized tests that conventional medical doctors use for information. She respects ancillary medical treatment, and that there are energy fields, and the Chinese have had much to say on that for thousands of years. She said for those who have a narrow scope of understanding of the human body in health, she would say there are two standard tests utilized frequently. She is concerned about the health implications, about WiFi that confuses the electrical system, about WiFi that burns the cells and you can't send and receive messages. She said many people suffer, but you don't see them because they can't participate in ordinary human life. She said, as an attorney, she is concerned that we need to have a lot of discussion regarding this matter, an informed discussion. She wouldn't want the due process of citizens to be violated, because people need to know what they're really dealing with, not with what she would call a façade of what they're dealing with. She would want representation to tell the community, and certainly a lot very intelligent people are very capable of handling the research with so many people that have offered to help you. She said, "I guess the gentleman put it best when he said don't sell us out."

**Marjorie Young, 2302 W. Alameda**, said she read a story in *The New Yorker* quite a long time ago, 20-30 years ago. There was an elementary school which had an empty lot next to it. The City of Santa Barbara erected a cell phone tower next to the school. Not too long after a while, people began to get sick. A teacher got cancer, another teacher got cancer, and then a kid got cancer. And Santa Barbara wrote the State Capitol in Sacramento to complain, and they sent their physicists on a Sunday to check out the area. And they came back and said there are no EMFs here, there's no problem, you don't have to worry about it. However, the people of Santa Barbara, an affluent City, went out and purchased their own equipment, and they tested during the week when kids were in school. And they found that the EMFs

were very high. She doesn't know the end of the story, but it shows that there are years of tradition of governmental groups trying to keep this away from the population. She said many years have passed, and "I hope you're very different."

**Lola Moonfrog, P.O. Box 8019, Santa Fe**, said she has lived in Santa Fe since 1981, and in New Mexico since 1970. She came to a village where she was taught how to thresh frijoles, so she has a thrill of respect for the earlier conversation. She said there is a smokescreen about EMFs, just like with tobacco, and said, "I ask you do everything you can to prevent the proliferation of the technology." She understands people want it, and if they don't have it their kids will be deprived of an education. She has had half dozen friends to show up with brain tumors. She lost a good friend in March who was an upstanding citizen in this community who had WiFi in his house, which she would turn off, with permission, when she went to visit. She said his brain tumor was exactly in the place where he held his cell phone for 28 years. Her sister-in-law, who lives in Vermont, had metastatic cancer which occurred right where she holds her cell phone. She said she realizes many people don't have this, it's hidden and you might not know it. She said she doesn't know how many people have lost their short term memory and have gotten scattered. It's a real thing, so she wants to say people are paying attention, people in and out of public spaces, out of churches, out of synagogues, out of school. She said, "And I just ask you to find out what you can do, whether it's the feasibility thing, or calling for more fees, or just outright saying we're taking a risk, we're going to say no to this. I thank you for your attention, and I hope none of you suffer in this way."

**Arthur Firstenberg, 247 Barela St.**, read a prepared statement into the record, in opposition to the proposed legislation. Please see Exhibit 17 for the full text of Mr. Firstenberg's statement.

**Viola Montoya, 30 Piedras Negres**, said she is a life long resident, and her family has been here for 15,000 years, noting this was verified by a DNA test with National Geographic. She said this gives her a very loyal feeling. She feels she has no choice but to stand up and speak out. She said last month she attended an International World Congress, hosted by the Global Foundation for Integrated Medicine, in Santa Fe, "right next door," noting Mayor Gonzales was in attendance to welcome the group. She said there were luminaries, scientists, doctors, Ph.D.'s from all over the world in attendance, and they spoke about the silent killers. These are people who are the forefront of doing research and have found, just like tobacco, just like lead paint, and other silent killers, that we are being bombarded with silent killers. And we're not thinking long term, we're thinking short term gain which is a big mistake. She said, "In this book, it's called The RF Elephant in the room. It talks about the research that has been done. This book is about a woman, Martha Hubbard, M.D., professor of neurology at Harvard Medical School, with pediatrics. The article says, '*In 2013, the Harvard autism expert, Martha Hubbard, published an article indicating that the very same biological changes happening in autism, happen with electromagnetic field exposure....*'" She said it goes on to say autism affects 1 in 50 school age children, which was 1 in 1,500 in the 1990s. She said if it continues to grow at this rate, it could be 1 in 2 children by the year 2032. They have rated this directly to EMS. She said she isn't sensitive to EMFs, noting it is a controversial thing, we haven't done the research, and we don't need to be making long term decisions without the research. She said, yes there are *[inaudible]*, and that's not why I was here. The other day she was on Cerrillos Road and first she

saw the mountains, and looked over and saw this tower and thought what is happening here. She said, "We've got to stop it. I don't stop it from sensitivity, but others do." And she wouldn't tell someone who has cancer that she isn't going to do the research to help them or the necessary things they need to have good health. She said what repulses her more than how bad we look and is that we haven't done the research. What repulses her is that people don't have a choice. But in the proposition which she hasn't read, it's repulsive to think that a company like that could come in and have that kind of power.

**John McPhee, 2212 Sol y Luz Loop**, said they had a letter to comply with the telecommunications act on the basis of esthetics. He said we have that argument for the City. This is considered one of the most beautiful cities in the United States. His family visited from Eastern New Mexico recently, and they were shocked to find none of the other cities had done the work that we have done to protect Santa Fe. They went to Carlsbad and the only historical building left was his great grandfather's office, and he thought Santa Fe is different. He said he and his wife were in the gallery business, noting many of us depend directly or indirectly on the tourist business. He said we have the basis to reject the Ordinance strictly on esthetic needs. As a regulatory expert, he is befuddled by the continuing debate. All the research has been done, there have been 6,000 studies. The Russians came to Kirtland Air Force Base in 1952 to tell us and warn us about it. We laughed at them because ionizing radiation was not considered to be dangerous. The Russians have a whole national committee on protection from non-ionizing radiation, that's how seriously they take it. They came to us for 3 years and said they didn't necessarily care about us as a nation, but we were killing our children. They tried to give us 50 years of research, we rejected it because of liability, because we already knew it was a danger. He said the initiation of cell phones in Sweden parallels now an epidemic of thyroid cancer, and you're going to see it everywhere. There is only a matter of 1-2 years before there are so many cases. Last week the Canadian Health Minister said your wireless devices are harmless, and in 2 hours he was reprimanded by his own parliamentary subcommittee that said this contradicts the report done by the Canadian Parliament only 6 months ago.

**Jonathan Crews, 228 Spruce St.**, asked, "How many of you own microwave ovens in your home. So, if you do, the next time you cook something, just take note of what it does. I would like to concede the rest of my time to Michael Blanchen.

**Michael Blanchen, P.O. Box 31460, Santa Fe, speaking on behalf of the Santa Fe Alliance for Public Health and Safety, [spoke previously]**. Mr. Blanchen said the City Manager's Office chose not to turn off the WiFi for City Council meetings, and we did make it clear that this discriminates against with EHS – Electromagnetic Hypersensitivity. He said the Access Board, the federal agency devoted to developing guidelines for compliance for the Americans With Disabilities Act, has made specific recommendations for accommodating people with the recognized disability known as EHS, and submitted it for the record. Mr. Blanchen read a statement into the record. Please see Exhibit "18," for specifics of this statement.

**Mitch Buszek, 662 Alta Vista, D19**, thanked everyone who agreed to meet with him and listen to his side of the story – Councilor Trujillo, Councilor Harris, Councilor Lindell, Councilor Dominguez, Councilor Villarreal, Councilor Ives and Councilor Rivera – each of whom gave him a half hour and said that was a significant investment of time. He said he has a request for Councilor Dominguez. He said in looking through the "old dusty files," he found a Memo Councilor Dominguez and others signed, requesting the FCC to look into health impacts and to revise the Federal Law. He would like Councilor Dominguez to consider re-introducing the Memo to see if we can pass that message up once again, and thanked him for doing that. He has an issue with Chapter 14, saying as he understands it, the City Attorney's Office said we have language and zoning restrictions that are effective as it relates to telecommunications. And he wants to bring to his attention the reason he doesn't think that is totally accurate. He said the provisions of Section 27-2 shall supercede the provisions of Section 16-6.2 for telecommunications facilities in the public rights-of-way. After Chapter 27 was amended in 2010, Chapter 14-6.2 was all amended to exempt towers and antennas located in the City's public rights-of-way. Chapter 14 requires a separate application for each antenna or tower site. Chapter 27 requires only an application for the franchise. He said, "The new Chapter 27 does not require a sign to be posted at each site notifying neighbors of the application. And after the franchise is approved, the map of proposed sites can be changed without further notification to anybody except the Land Use Director. And in Historic Districts, Chapter 14 requires approval of every site by the H-Board, applying Historic Guidelines contained in Section 14. Chapter 27 supercedes this. It does not allow the H-Board to apply its own guidelines. Telecommunication facilities located within the Historic Districts shall be reviewed by the Historic Design Review Board for compliance with this subsection."

Mr. Buszek asked for two more minutes to finish.

Mayor Gonzales gave him 45 seconds to finish, commenting the Council still has to move into its discussion and has another item on the agenda after this one.

Mr. Buszek said we are asking that the Advisory Committee is appointed by the Mayor, and that they put together a telecommunication plan, so we ensure that we have the siting plan. If the City approves those, we ask that you reinstate Chapter 14, so that it isn't preempted by Chapter 27. That would allow notice and a hearing for each site. He thinks there needs to be an amendment to address the issue of liability insurance required of telecommunications. One thing not addressed in the Ordinance or the amendment, is the proof of compliance with FCC exposure limits. He encourages the City to explore ordinances from other cities, with help from the Advisory Committee.

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

Mayor Gonzales asked Marcos Martinez to talk about the concerns expressed, commenting he has some confusion as to what we are considering tonight. It seemed that a large portion of the conversation, the consideration was about cell towers, heights, participation in neighborhoods without a public process. He wants to understand his responses to those concerns. He said someone spoke about 500 new cell towers that would be deployed throughout the City. He said, "I just want to understand what the City Attorney's Office is proposing versus the public comment made tonight."

Mr. Martinez said, "The City Attorney's Office is proposing that the City Council reimplement a fee provision. As I previously stated, this Ordinance amendment does not affect the Land Review Process as it exists in Code now. So it's difficult for me to address the prospect or specter of 500 new cell phone towers coming into town under this change, because it wouldn't affect that."

Mayor Gonzales asked, "Does it allow for one new cell tower to come in. Does it allow for towers to come into the City for more Wi-Fi without the public participating in that."

Mr. Martinez said, "This Ordinance amendment does not change how cell phone towers would apply for a franchise and be sited in the City. So this Ordinance change doesn't change what is currently going on."

Mayor Gonzales asked if the answer then is no to his question. He said what he hear continuously is that this Ordinance was creating a pathway for cell towers to start moving in throughout the City.

Mr. Martinez said, "The answer to the question is it doesn't create a pathway any more than the pathway that already exists."

Mayor Gonzales said that is prior to this Ordinance, and Mr. Martinez said yes.

Mayor Gonzales asked, "If people are interested in affecting the placement or the delivery of more cell towers into the community, is that pathway through the other Telecommunications Ordinance that is on the books, the one you referenced earlier that addresses the issue of the Land Use Code in siting."

Ms. Brennan said, "I will say that I think Marcos's point is that this Ordinance proposes amendments to an existing Ordinance. The amendments address a very limited universe of things, the main item being fee. All the other provisions of the Ordinance were enacted in 2010, and are now in effect, and were largely supported by the Court. The fee provision of this Ordinance was struck by the Court which is why we need to replace it. So this is the fee."

Mayor Gonzales said, "I will rephrase the question. To address the concerns brought up by an overwhelming majority of the public tonight, are these amendments that are being considered as the way to address the issue, or is through the Ordinance, the overall Ordinance that this is amending."

Ms. Brennan said, "The overall Ordinance that this is amending."

Mayor Gonzales said, "For what is being considered tonight, the amendments, if the Council wanted to be responsive tonight to public testimony tonight regarding the concerns over cell towers and their presence in the community, this consideration tonight does not do that. It would have to be the bigger Ordinance this amends that would address that issue."

Ms. Brennan said, "That's correct, Mayor."

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

- Councilor Dominguez thanked the members of the public for coming out and speaking to this, noting this isn't the first time he has been a part of these kinds of conversations. He said he thanked them then, and thanks them now. He said these conversations with the public make our City interesting and great.
- Councilor Dominguez continued, saying what he heard mostly were health and esthetics, noting the bill doesn't speak to either of these. There also was a discussion about money. He said the Memorandum talks about charging a reasonable fee. He said how we define reasonable is part of the question, because there is an insinuation that "you are lying to us or not telling the entire truth in relation to how it pertains to a GRT and a tax on retail.
- Councilor Dominguez continued, saying there was an idea that we could make the fee so large it would prohibit the kind of use that he doesn't think anyone wants. He doesn't think anyone is in favor of harming people purposely, but there are guidelines and frameworks we have to take into consideration. He asked staff to talk a little about that and the idea that we are mandated to charge a reasonable fee.

Mr. Martinez said we aren't mandated under federal law to charge a reasonable fee, although there is an anti-donation question that would arise if we attempted to charge no fee. In other words, if we let a telecom provider use the public rights-of-way, in a way the City would be providing a subsidy to that private entity allowing it to use a public resource without paying for it, whereas we charge other entities rent.

Mr. Martinez said "The reasonableness of the fee was one of the key questions in the prior litigation. The Court changed the previous fee and the fee structure as being a massive increase in costs to them and therefore effectively prohibiting telecommunications services.

- Councilor Dominguez said then we did have a fee that was high, and we thought that. He said City staff and this Governing Body as well spent a lot of time and energy. He asked, "The courts basically came back and said what."?

Mr. Martinez said, "They said the fee was prohibitively high, and effectively prohibited telecommunication services and therefore it was invalid and that is the reason the fee was struck."

- Councilor Dominguez asked if it was the Court of Appeals or First Judicial District Court.

Mr. Martinez said it was the Federal District Court of New Mexico.

- Councilor Dominguez asked about the difference between a franchise fee and the idea that it's a GRT on retail.

Mr. Martinez said this is another question that Qwest challenged the City on. They alleged that the franchise fee was, in fact, a disguised tax. They made that claim in State Court and the City prevailed. The Court held that the franchise fee is not a disguised tax, it is a franchise fee under New Mexico law, and that basically settled that question. Ultimately, Qwest appealed that to the Court of Appeals and as part of the global settlement they withdrew the appeal, meaning it didn't continue to the Court of Appeals. They left the question of a fee versus a tax and agreed not to challenge the franchise fee as a tax in the future again.

- Councilor Dominguez said it is fair to say that the City has done things like try to regulate by having a large franchise fee. He asked what happens if we don't comply and we don't follow the law that has been handed down to us.

Mr. Martinez said the telecommunications provider would seek an injunction against the City. They would request equitable funding of the Telecommunications Act, and they would be granted, basically, the right to occupy the Public Rights of way.

- Councilor Dominguez said there is not a desire not to comply with federal law, but that aside, where does the money come from if this happens, Kelley. We have insurance, so is it like a General Fund thing.

Ms. Brennan said, "We were fortunate, and in an unfortunate way, I would say, to have a civil rights claim in our lawsuit, and thus it triggered some insurance coverage, so we had some insurance assistance. But eventually, that was dropped because that claim was dismissed and it was funded, in fact, out of our general revenue."

- Councilor Dominguez said if we don't comply with the law, is there some fee we would have to pay.

Ms. Brennan said, "I think the litigation can be very expensive over time. We litigated this case for several years. I think that, one of the things I've heard, is we cannot prohibit or effectively prohibit. So we can't say outright you cannot do this in the City and we can't do things that effectively accomplish the same purpose such as setting a very high or setting standards that no one can meet. That would be effective prohibition, so we're trying to avoid that. We're trying to avoid the massive increase test that we failed in the last case, and we've done computations around this number. And as Marcos points out, the other issue of course is that we need to charge for the use of public facilities in order not to violate the anti-donation clause of the Constitution.

- Councilor Dominguez said, "So ultimately, what you're saying, is by not complying, we would probably get sued and our General Fund will have to pay for the litigation on that, for the services that someone would provide us to defend us I guess."

Ms. Brennan said yes.



- Councilor Villarreal said most of her questions were just asked by Councilor Dominguez. She said the question mentioned for which she didn't get an answer is, "I wanted to understand what Julia brought up about leases – the difference between lease fees versus franchise fees. If you could explain that, and what happened to the use of the lease option."

Mr. Martinez said, "In 1998, after the passage of the 1996 Telecommunications Act, the City enacted a lease scheme. Qwest at the time also challenged the leasing scheme in Federal Court, and you are aware the leasing scheme was overturned. Part of the basis of that was the massive fee increase that the leasing scheme imposed on Qwest, nonetheless, the Court was fairly clear that the leasing scheme could not survive. And they explicitly severed and enjoined both sections of the Code and the Tenth Circuit upheld that as well."

- Councilor Villarreal said, "You got the fee restriction question. There was a question about what is our zoning authority power for this particular issue, or around telecommunications."

Mr. Martinez said, "The Telecommunications Act created the tension between localities and the federal government's regulation of telecommunications. The 1996 Act, the purpose of it was to promote increased competition and delivery of telecommunications throughout the United States. At the same, they tried in a couple of areas to preserve some local zoning authority, but the local zoning authority was always circumscribed by that general federal law. So while the City can take esthetics into consideration as Kelley pointed out, those esthetic considerations cannot have the effect of prohibiting telecommunications services."

- Councilor Villarreal said, "So essentially, I think what I'm hearing on all sides is that our federal telecommunications act really is... it trumps a lot of what we think we can do locally, and that's the most frustrating part, and I'm sure for all of you too. And I guess what I'm just always curious about is maybe if we look at that side as a community or all of you that are very active. But have you ever thought about the federal side of things – changing the federal law versus a lot of what we can't necessarily change here. Our hands are tied in a lot of cases. It's frustrating, and I'm sure it's frustrating for our legal staff too. I'm going to yield the floor right now for further comments."
- Councilor Harris said we definitely have limitations, given federal statute. He is clear that whatever happens we should not make the proposed committee optional. He said there's enough to talk about here now, and as talked about in years past, and probably will be talked about years in the future. He thinks it would be appropriate and necessary to really make sure we establish that committee.
- Councilor Harris said he has a lot of questions about this. He asked if there has been a discussion with our carrier, Gallagher, about this issue. He is curious if we have any kind of exclusions in our policy that really basically expose the City to some liability. He asked if the City Attorney's office has had any discussions with our carrier on this.

Ms. Brennan said, "I can say, to the best of my knowledge, no, in that direct sense of the question. I think that we, as I recall, through the application process require some standard insurances. I'm not sure we could ask providers to insure against the health risk, when we are told we cannot consider health risk, as was suggested by a gentleman this evening. Again, establishing a high limit of insurance on a potential risk that has been defined by the regulator as not existing, would be, I think, be effectively prohibitive. I understand what you're saying, and I think we, as a matter of course, typically require insurance. As I said, I believe we were intending to handle that through the application process. We certainly could look at that."

- Councilor Harris asked her if she answered No, to his question if there has been any discussion with Gallagher about this situation, noting this is a national firm covering municipalities throughout the country. He would think they might have some insight on this.

Ms. Brennan said, "We can make an inquiry, but I can't speak to that in the context of anything I've looked at recently, or say that someone hasn't done it. We can certainly look into it, and make that inquiry."

- Councilor Harris said he thinks that would be important. He asked about the FCC exposure limits, saying we often look at how to quantify things. So much of what we're discussing are subjective considerations, commenting he always like to quantify it if possible. He asked if she can to speak to whether there are FCC exposure limits.

Ms. Brennan said yes.

Mr. Martinez said, "Yes, to answer that question."

- Councilor Harris asked what are those limits.

Mr. Martinez said, "I don't know what they are off the top of my head. There are numerous regulations dealing with the exposure limits for radio-frequency emissions. Those exposure limits depend on the type of device and all of its engineering specifications, and whether it's fixed or mobile, whether it can be moved easily or not. So there are different exposure limits that are defined here."

- Councilor Harris would think when they have the discussion with Gallagher, if it provides some level of coverage on situations like this, they would tie that to the municipality's compliance with FCC exposure limits. That is another thing about which he thinks we should have some understanding.

Ms. Brennan said, "I think it is in the background memo, and there is some discussion of it in the letter from the FCC that we received in response to passage of the last Ordinance when the Resolution was passed. The FCC relies upon a panel of scientists and medical experts from the American National Standard Institute [ANSI], and the Institute of Electrical and Electronics Engineers [IEEE], for its expertise in the development of safety standards, recommendations and

guidelines for exposure to radio-frequency and microwave energy. And I believe, based on my understanding, I tend to look at the World Health Organization, which amalgamates a lot of this information and has an RF project that, while standards among nationalities are somewhat different, in the United States the standard they have adopted is considered to be relatively conservative in terms of how the risk is evaluated."

- Councilor Harris asked, "Conservative in the sense that...."

Ms. Brennan said, "Meaning they leave, in their view, plenty of room for error."

- Councilor Harris said, "Relatively low bars..."

Ms. Brennan said, "Well, now I think we're confusing..."

- Councilor Harris said then low bar isn't the correct characterization. He said, "In Mr. Martinez's Memo and in his answer in the scenario if we didn't adopt the ordinance, and he doesn't have all of the language, Mr. Martinez talks about an injunction that would allow the providers to install. Wouldn't our Chapter 14 regulations have authority as to what they could install. They would still have authority, wouldn't they."

Ms. Brennan said, "Facilities in the public rights of way are specifically excluded under the Chapter 14 Telecommunications provisions which govern facilities on private land or City-owned land, other than public rights of way, like parks. So that exclusion kicks the regulation back to Chapter 27 which does have a number of processes and standards that are land use related, so it has its own categories with coverage. And those are existing in the ordinance now."

- Councilor Harris said those are existing now, and under the scenario Mr. Martinez described, those requirements would still be in place.

Ms. Brennan said, "Correct."

- Councilor Harris said he thinks there are a lot of issues here. As we all know, the whole health issue is not allowed to be a criteria. He thinks that it's going to be argued for a long time to come. It would be great if it was settled, but he thinks we need to be a little bit more specific on exposure limits. He said he thinks esthetics are an issue that needs to be considered. He said we've talked about our overlay for the Historic District, and he thinks we would find it very difficult to have any towers there. He thinks we would end up with the towers that would provide as good a coverage as possible, which he thinks would be found mostly in District 4 and District 3.
- Councilor Harris continued, saying regarding esthetics, we've seen loopholes, we've seen some on top of light standards, and we really don't know how many towers we potentially are looking at. There are a lot of questions regarding the esthetics that bothers him.

Ms. Brennan said, "I can say that the public rights-of-way may not be the most attractive part of the City when it comes to esthetic considerations being already loaded with poles and electrical facilities and things like that. What I would say is, as I recall, the existing standards create, for instance, a preference for collocating, so you would be required to use an existing pole before you put in a new one. It requires Planning Commission and Historic Board approval for certain installations in numbers and groups, and to have height requirements. It favors low visual impact, and all these decisions would be viewed in much the same way as the Planning Commission or the H-Board, or staff and administrative to approve things as they come."

- Mayor Gonzales said our rules require us, prior to 11:30 p.m., to suspend the rules. He said we have one more item tonight after this bill. There is only this meeting in November, and one meeting in December where we have a full agenda already. He ask for a motion to suspend the rules.

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**MOTION:** Councilor Ives moved, seconded by Councilor Trujillo, to suspend the rules to continue the meeting past 12:00 midnight.

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

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- Councilor Maestas thanked everyone for staying so long and providing their very passionate, insightful comments regarding this legislation. He wants to focus on the immediacy of this issue. He said it is incumbent on the Governing Body not to obstruct any kind of request for these interstate carriers to provide these services in our public rights-of way. We have the opportunity to impose a fee. He asked if we have any pending applications on which we would like to assess a fee.

Mr. Martinez said, "As several members of the public have noted, Broadband Network of New Mexico has approached the City and completed an application with the City requesting a franchise. This Ordinance doesn't grant a franchise to Broadband Network of New Mexico, it just creates the fee. So the next step would be for Broadband Network of New Mexico to have a specific Ordinance granting them a franchise."

- Councilor Maestas asked does this Ordinance have retroactive impact on existing facilities in the right-of-way, and Mr. Martinez said, "No."
- Councilor Maestas said then just from this point forward, and Mr. Martinez said, "No."
- Councilor Maestas asked the situation of existing infrastructure in the right-of-way – are they using our right-of-way for free. What is their disposition in terms of their status.

Mr. Martinez said, "I guess the most prominent example is Qwest CenturyLink, the entity that sued the City twice. They have a grandfathered franchise that is basically a continuation of the 1975 franchise between Mountain Bell and the City, and as part of the settlement, they basically are continuing under that franchise until 2020."

Ms. Brennan said, "And there is a general requirement in the existing Ordinance, that if you are in the right-of-way, you are required to have a franchise. So if there was someone there without a franchise, they definitely are required to get one. And there may be others. I think we would like to do a survey and get a better sense of that."

- Councilor Maestas said then if there is grandfathered infrastructure that already exists in the right-of-way, they're not subject to the fee provision. So if anyone tries to augment that physical infrastructure, a new provider, but use Qwest, are we at the mercy of Qwest approving that provider to augment their physical infrastructure in our right-of-way.

Mr. Martinez said, "I think, if you're asking whether we would allow someone to build off Qwest's infrastructure, we would require a franchise for any extension they make from Qwest's infrastructure. And in almost all instances, as I understand it, they will be connecting to Qwest, at least in their central office."

- Councilor Maestas asked if Qwest has any discretion to say no, we're not going to allow you to use our existing physical infrastructure, you'll have to find a new location, a new pole.

Mr. Martinez said, "Qwest is required, under I forget what section of the Telecommunications Act, to lease its space to other providers."

- Councilor Maestas said, "But a new location can be considered. Right."

Mr. Martinez said, "Yes. Or if a new entity wants to lay parallel lines to the Qwest lines, they could obtain a franchise from the City and do so."

- Councilor Maestas asked, as a local government, if we have a new provider and they can't find a viable location to install their infrastructure on existing infrastructure and they propose a new location, we as a community can rebut that. We can say, wait a second, here's a viable location using existing infrastructure in the right-of-way, as opposed to a new location. He asked, "Is that within our realm of authority?"

Mr. Martinez said, "The application process through the Land Use Department in some ways contemplates the question you are asking. One of the questions is that applicant claim that there is a gap in coverage. And so they have to basically demonstrate that there is some kind of gap in coverage that this new infrastructure would basically alleviate. So, it's not a means to again, deny or prohibit telecommunication services in the City of Santa Fe, but it is a way of looking at whether this is really necessary or not to have a new tower here or not. Because, as Kelley pointed out, we do favor collocations."

- Councilor Maestas said he saw something in the Telecommunication Act that in these instances, the National Environmental Policy Act [NEPA] applies to these installations. Obviously, it's a privately funded, probably a venture, but is that one of the conditions that's imposed on a proprietary company, a telecom company, that they have to follow the federal National Environmental Policy Act, or not.

Ms. Brennan said, "I don't believe so. I believe that it would be triggered like Section 106 which regulates historic by an infusion of federal funds of a certain type."

Mr. Martinez said, "Alternatively if they were passing through federal lands or needing an easement, if there is some kind of federally owned or managed land, that would trigger a NEPA analysis."

- Councilor Maestas asked if the City can require them to disclose their RF emissions – any new applicants – if they want to locate in our public right-of-way. Is that something we can compel them to provide as a condition to the application.

Mr. Martinez said, "I would have to look into that question. It may be possible to request it as part of the application process. I know there are some cities in California that were trying to acquire exposure information by cell phone providers, and I know that those regulations were challenged, and I just haven't followed up on what the outcome of all these legal challenges were, as to whether there was compelled speech or not under the First Amendment."

Ms. Brennan said, "I could add to that, that we have asked for a certification of FCC compliance, just as a safety measure for ourselves."

- Councilor Maestas asked, "If their emissions are within those regulated limits...."

Ms. Brennan said, "Yes. If they are compliant with the FCC standards applicable to the installation."

- Councilor Maestas understands we are focusing on the fee, but we're getting a lot of feedback that is going to force us to take a more holistic view at our entire regulatory framework, what limited regulatory framework we have, in accommodating infrastructure in a public right-of-way for telecommunication services.
- Councilor Maestas continued, saying we don't have a methodology to assess the fee, commenting we mentioned fair market value. He asked Mr. Martinez, in his opinion, if we can assess the fee without designating it in the Ordinance, or do we have a method to calculate it, noting it will depend on every installation. He asked if we have a distinct methodology and fee structure here we intend to charge.

Mr. Martinez said, "No. We looked at the list of telecommunication services that are colored by the model ordinance, and asked a consultant we have to estimate the impact on Qwest if we imposed this fee structure on Qwest. Because we knew that the increase that Qwest had alleged had been prohibited, we wanted to stay under that increased amount. And with the information we gained in that lawsuit about what services were offered, and how they would be covered by this Ordinance, we knew we were under the threshold of a massive increase as Qwest had alleged. So we basically worked backward to make sure the fee would not increase the massive increase argument Qwest previously made against the City."

Mr. Martinez continued, "You are correct in stating that for each telecom provider, the amount of revenue will be different."

Ms. Brennan said, "The fee will be the same."

- Councilor Maestas said there is an audit component for the providers that would be paying the fee and asked if we have a mechanism to audit Qwest in terms of gauging their expenses, because the fee structure is based on their snapshot of business income. And it sets parameters in terms of what we can charge in the fee. He asked if we could get the authority to audit Qwest as we go forward to revisit the fee.

Ms. Brennan said, "And Marcos can answer this, we do have an audit, right. The new audit, right, is more robust and was actually a matter of contention in the lawsuit on which we prevailed. We extended the State of Limitations for 6 years instead of 3 or 2 which they had argued for. I can't tell you how many thousands and thousands of pages of data we looked at regarding the extremely complex pricing methodologies of telecommunications companies. And our consultant was a specialist in this. And we, in fact modeled this with him to come to this formula. So in terms of looking at a site and charging a value for a site, in fact that was sort of the lease scheme separate appraisal scenario that the Court overturned in 2002, in the 1998 iteration of the Ordinance."

- Councilor Lindell said she heard someone ask tonight, and she discussed this earlier with someone. She said on Ordinance page 14, it talks about fees on retailers, and that was brought up tonight. She asked Mr. Martinez to address this briefly.

Mr. Martinez said, "Yes. The City's concern over the resale process is basically a response to one of the allegations that Qwest made that when they resold their telecommunications service to another entity, and that entity had to pay a telecommunications franchise fee as well, that there was, in effect, a double taxation. So the purpose of this retailer provision is to try to capture the entity that actually is providing the service to the end user within the City. So, there is a lot of language that attempts to not do, or effect a double taxation on someone that is reselling its services to someone else.

Mr. Martinez continued, "There was talk tonight that Mobilite or Broadband Network of New Mexico is going to be reselling to Spring. We require entities that are reselling their services to give us a list of the contracts with whom they are reselling their services, and those entities then have to get a franchise with the City. We're just trying to ensure that everyone is paying for their use and occupancy of the rights-of-way."

- Councilor Ives said he too would like to thank everyone that has come down tonight as well as participating in the discussion of these issues over the last number of weeks. He said it is clear to everyone on the Governing Body, and hopes it's clear to everyone in the audience or watching on TV, that the issue and the importance of electromagnetic radiation is a significant one. He would assert that no one on the Governing Body has any intent but to ensure the health and safety of the citizens of Santa Fe. He said we've talked a lot about those issues. However, as he stated, his intent in bring the measure forward was to address the fee provision and to try to insure that companies that might be using the public rights-of-way are required to pay for their use of City property which, in his estimation, is fair, reasonable and dictated under the law to avoid anti-donation provision issues of people using public property without compensation to the agency with jurisdiction of that property.
- Councilor Ives continued, saying there are those who will continue to disagree with that expressed intent of his. He said you have heard a cogent and clear statement of that by the City Attorney's Office, and he hopes people can understand and accept that is the intent and effect of this measure. He said the issues beyond this fee are of significance to all of us. He said he will sponsor a Resolution at the next meeting directing the City Manager to review our Land Use and other Codes to evaluate if we are exercising all of our rights as a City over the location, esthetics and other factors associated with the construction and siting of telecommunications facilities in the City. And in that Resolution take on more directly the issue of what powers the City has to exercise dominion and control over these facilities in the City. He agrees that is a significant issue, and as you've heard tonight, it is one which in many ways the City's hands are tied by federal law, which prohibits us from prohibiting folks from being able to provide such services and from considering the health effects in the decisions we make, assuming they are in compliance with the safety requirements under federal law.
- Councilor Ives continued, saying he thinks this is a reasonable way to address the issue that many people have raised, and the law is continuing in its development in all facets relating to this and many other issues. He thinks conducting that type of review makes sense and it would behoove us to do that to make sure we're doing all we can in that regard. He assured people that nobody is trying to get away with anything or "hop in bed," with the various companies in terms of services. He said it's a very complex area of the law, which requires a great many balancing acts. He said he takes his hat off to Kelly, Marcos and the City Attorney's staff who have been walking those fine lines for many many years and worked to bring this measure forward to correct what was rejected by the Court the last time we looked at this Ordinance. So it behooves us to solve that problem, which is what this measure is designed to do, focusing on fees. He said we can have a broader discussion on whether we are doing the most we can to ensure we have the greatest impact on such facilities across the City. He said you have heard the testimony that says we do exercise



many means to have impact on that, but "happy to look at that to try and make sure we actually are doing the most that we can."

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-42.

**DISCUSSION:** Mayor Gonzales said the focus here was to develop a fee that met whatever guidance the Court provided. He said in some of the existing case law, or the act itself, when discussing rights of way and the use of rights of way by telecommunication companies, the question is does the City have the ability to identify and to limit the amount of telecommunication towers in City rights-of-way. So if we determine through a public process there would be a possibility of limiting it, or under federal law do the telecommunications companies have the right to place a tower on any right-of-way, we're just trying to figure out how to make sure they pay the public money for it.

Ms. Brennan said, "I'll take a stab at this and let Marcos make any necessary additions. I think what you are suggesting conceivably would be deemed to be effectively prohibited, because it would not have any relationship to the ability to provide telecommunications services. If we said 6 and someone actually needed 10 to provide services, they could say we were effectively prohibiting it by setting a random number. However, we do have these approval processes and standards that can be used rationally to regulate within our zoning power."

Mayor Gonzales said, if we said 6, and the telecom industry said the demand is 12, then we would have to provide 12 towers. He asked, "Couldn't the other 6 have to come in the form of them identifying private property that would require them to go through the Telecommunications Ordinance that would address the issue. Because if we're just focused on public rights-of-way and earning a fee, how far can we go in limiting and regulating height and location when it comes to public rights-of-way, as if we were a private property owner."

Ms. Brennan said, "We do. In fact those are the kinds of regulations that are embodied in the existing Ordinance. In other words, height is limited. For instance, towers like a lot of power, or a guide tower would not be permitted under our Ordinance in the rights-of-way, that's already included. So we will be talking about monopoles, and monopoles would be limited to a certain height. But before someone could even erect a monopole, they would be required to locate on another kind of pole, or a traffic light or a light pole or something like that. That's a collocation requirement and it's embodied in federal law. And if they needed to construct a new pole, they would have to show that they needed it. And it would be limited as to height, and they would be required to mask it in some way. So all of those things are potential tools the City has to meet the standard without wandering into effective prohibition territory."

Mayor Gonzales said it seems to him if we follow Ms. Brennan's train of thought that the federal telecommunications law would give the telecommunications industry the power of eminent domain, in theory, to be able to push towers into the public sphere on rights-of-way regardless of the City's Ordinance that address the issue of esthetics placement. If we said we are going to ban them altogether, and then arguing the prohibition. But if we were pro-active in setting placement and going further restrictive than it would be in the private sector.

Ms. Brennan said, "It's a very fine line, and in fact it's something we've tried to block in the controls that are in the existing Ordinance. And it may help if we make an information presentation to you about what those are."

Mayor Gonzales said maybe Councilor Ives' Resolution could be broad enough to address that issue. He thinks we're talking not so much about the broader City here, we're talking about the City's rights-of-way, the fiduciary responsibility. He said we have both to make sure we earn a fee, but also don't expose the City to any unnecessary liability for not being compliant with the Federal Telecommunications law. However, to basically, in effect to say we have this Ordinance so you can basically pick of rights-of-way and where you want to place them is the fear he is sensing from the public in many respects tonight, that you've just opened a pathway to putting lots of monopoles in rights-of-way all over the City, and there's hundreds of miles of rights-of-way throughout the City.

Ms. Brennan said, "In fact, in some respects that's exactly what the federal government is doing, because the federal government is oriented now to facilitating by band and access for a number of reasons, and has poured a certain amount of money into it in order to connect communities that have not been connected before as the world changes. And that is their stated goal. And it includes the security goal of course. And just as has happened with the telegraph and the telephone, the rights-of-way are ways that companies, to expand quickly, don't have to deal individually with individual property owners. So it was seen as a way of facilitating communications."

Mayor Gonzales said he agrees with Ms. Brennan about an informational session, noting a lot has happened since 2010. He said being able to demonstrate the will of the public we represent through more regulatory oversight of the public rights-of-way that address the issue of esthetics. He said the impact on the health is something to consider.

Councilor Trujillo said the statement was made by Ms. Brennan that telecommunications can be parallel to another pole – collocated is what she said earlier.

Mayor Gonzales said there would be a requirement to collate.

Councilor Trujillo asked what happened if a telecommunication facility was to come down Cerrillos in our right of way, but they put one of the poles on Santa Fe Indian school property. He asked if we would still be able to get the franchise fee because it is on Indian School property.

Ms. Brennan said, "No. The franchise fee is only for the public rights-of-way, so facilities in the public rights-of-way."

Mayor Gonzales said there are only a certain amount of carriers you can put on a monopole, and he believes the concern is finding sites in public rights of way. So if you max out on one pole, do they automatically get to put up another pole if there is a demand that exists.

Councilor Trujillo said it's now on sovereign property.

Ms. Brennan said, "It would be a private installation and would be regulated under the Land Use Code.

Mayor Gonzales said it wouldn't be on the Indian School property.

Ms. Brennan said, "On Indian School property, there is a sovereignty issue."

Councilor Trujillo said that is the question he had. He thanked the public for coming this evening. He said, like Councilor Dominguez said, we went through this in 2006. And the one person who I can always say doesn't deviate from it is Mr. Firstenberg. He said, "I do have a lot of respect for you sir, because it doesn't matter what District it's in." He said when they were putting one in at Baillo's in his District, hardly anyone showed up to discuss it, but Mr. Firstenberg was there. He reiterated he has a lot of respect for him because he's always stuck with this. He said we may not always agree, but he respects him. It doesn't matter if it's in District #1, #2, #3 or #4, he has been consistent and "my hat's off to you on that."

Councilor Trujillo continued, saying like with everything in this community it is future and that's unfortunate. He said people want their 4G and 5G phones. He said we use our computers here in the Council Chambers. He said there are a lot of ifs still out there with cell phones. He said he has a phone with [inaudible], so I'm going to see what that is in 20 years.

**FRIENDLY AMENDMENT:** Councilor Harris said he would like to propose some modifications to the Ordinance in the last paragraph in the last section dealing with the appointment of a Telecommunications Advisory Committee. He proposes it read as follows: *The Mayor shall solicit and appoint, with the advice and consent of the City Council, a committee of no less than 5 and no more than 9 individuals with appropriate expertise who shall advise, consult and work with City staff and the public, in order to develop telecommunications protocol and present such protocol to the Governing Body for its review and approval and to make recommendations to the Governing Body regarding amendments to Section 27-2, in order to facilitate implementation of the approved protocol.* He doesn't know what the Santa Fe Complex is so he proposes to strike that. Councilor Ives said he would love to have the assessment done internally and then have a discussion with everybody, and not just limiting it to members of an advisory group. He wants to see how many people are interested in weighing-in on those issues, so he is inclined to follow the pathway of asking for that review and then bringing that forward for a broad public discussion and possibly doing a public listening session so we can invite the entire community in to talk about those issues, and maybe we get back to the position of reinstituting the Commission. But he wants to have the broader discussion before going back to that structure. So I would say it's not that it's not friendly, but it is that is not the right time, given where he hopes we can go with this. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Councilor Harris said he won't belabor the point, and thinks there are reasons to put it in place now, but we'll put it to a vote.

**MOTION TO AMEND:** Councilor Harris moved, seconded by Councilor Villarreal, to amend the last paragraph in the last section dealing with the appointment of a Telecommunications Advisory Committee. He proposes it read as follows: *The Mayor shall solicit and appoint, with the advice and consent of the City Council, a committee of no less than 5 and no more than 9 individuals with appropriate expertise who shall*

*advise, consult and work with City staff and the public, in order to develop telecommunications protocol and present such protocol to the Governing Body for its review and approval and to make recommendations to the Governing Body regarding amendments to Section 27-2, in order to facilitate implementation of the approved protocol.'*

**DISCUSSION ON MOTION TO AMEND:** Mayor Gonzales said he understands Councilor Ives wasn't opposed to the amendment, but it is an issue of timing and when it's brought to the forefront. The amendment is about making sure that there is a Telecommunications Advisory Committee to advise the Council and staff on how to address these issues.

Councilor Dominguez said when it kicks off is dependent on the conversations we have with the public and the information we gather.

Councilor Harris said that is correct. He said what he heard from Councilor Ives regarding the proposed Resolution was the next meeting and we were moving quickly on that. He thinks it will be on a faster track than the formation of the Committee. He believes we have heard strong voices tonight, and we've heard them in the past, and will hear them again the future. He thinks we need to make the commitment to have the Advisory Committee, and he doesn't think it will get in the way of what Councilor Ives and the Mayor are proposing which he thinks is appropriate. He said we can deal with esthetics and other safety concerns and thinks we should be doing that, and he would like more detail about what Chapter 27 allows or requires by way of those considerations.

Councilor Dominguez said it might be just as simple as, instead of going through the whole motion, amend the motion to accept Councilor Harris' language with another piece that says "it's enacted at the appropriate time."

**COUNCILOR HARRIS WITHDREW HIS AMENDMENT in support of Councilor Dominguez's amendment.**

**FRIENDLY AMENDMENT:** Councilor Harris proposed adding language to the last section that says the Committee will be appointed at the appropriate time. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Maestas said he was not comfortable with all of the language trying to constitute the Advisory Committee right now by mentioning protocols. He was going to suggest changing the language from "may" to "shall," and let the Advisory Committee determine its scope and let it constitute itself.

Mayor Gonzales said that was done, and it is "shall."

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

Mayor Gonzales thanked the public for spending time with us tonight, "and we look forward to this continued conversation with everything as we move forward."

- 5) **CONSIDERATION OF BILL NO. 2016-42; ADOPTION OF ORDINANCE NO. 2016-43 (COUNCILOR IVES, COUNCILOR LINDELL, COUNCILOR MAESTAS, COUNCILOR DOMINGUEZ, COUNCILOR VILLARREAL, COUNCILOR RIVERA AND COUNCILOR TRUJILLO). AN ORDINANCE AMENDING SUBSECTION 2-1.2 RELATING TO THE COMPENSATION OF THE MAYOR AND ESTABLISHING AN INDEPENDENT SALARY COMMISSION TO SET THE MAYOR'S SALARY EFFECTIVE MARCH 19, 2018. (LYNETTE TRUJILLO)**

Mayor Gonzales said the information in the packet is self-explanatory, and moved to the public hearing.

#### **Public Hearing**

There was no one speaking to this request.

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

Councilor Villarreal said there was an amendment from staff to delete the "League of Women Voters," because they can't participate in this capacity, but in-lieu-of, it added "a community organization." She doesn't understand what that means, because it could be anything.

Mayor Gonzales asked how "community organization," came to be in the Ordinance.

Councilor Ives said the League expressed the desire not to be specifically named, because they are a broadly-based community organization within the City that tracks many municipal significant issues. The language was simply meant to identify the type and class or organization that the League is.

Mayor Gonzales said, then so a member of the League could be appoint, and appointed under the auspice of "community organization."

Councilor Ives said, "It's certainly possible."

Councilor Villarreal asked if it could be another community organization member, asking if we know which ones.

Mayor Gonzales said it could be any community organization as long as it's non-profit.

Councilor Villarreal said it doesn't say "non-profit."

Jesse Guillen, Legislative Liaison, said using "community organization," leaves it sufficiently broad so there are a lot of options as to who could be appointed.

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to adopt Ordinance No. 2016-43 as presented.

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

**For:** Mayor Gonzales, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

\*\*\*\*\*

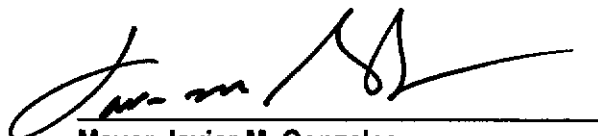
**END OF PUBLIC HEARINGS**

\*\*\*\*\*

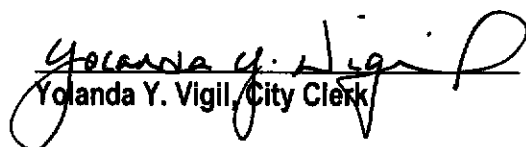
**I. ADJOURN**

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 12:05 a.m.


**Approved by:**

  
Mayor Javier M. Gonzales

**ATTESTED TO:**

  
Yolanda Y. Vigil, City Clerk

Respectfully submitted:

  
Melessia Helberg, Council Stenographer

**ITEM #10(d)**

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, NOVEMBER 7, 2016**

**ITEM 6**

REQUEST FOR APPROVAL OF A COOPERATIVE AGREEMENT WITH NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) FOR LOCAL GOVERNMENT ROAD FUND FOR LA CIENEGUITA RESURFACING IN THE AMOUNT OF \$50,250 (**DAVID CATANACH**)

**PUBLIC WORKS COMMITTEE ACTION:** Approved

**FUNDING SOURCE:** 32392.572500

**SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON IVES			
COUNCILOR MAESTAS	Excused		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		
COUNCILOR VILLARREAL	X		

*Exhibit "1"*





**CITY COUNCIL MEETING OF**  
**November 9, 2016**  
**BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION**  
**BY MEMBERS OF THE GOVERNING BODY**

<b>Mayor Javier Gonzales</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	AN ORDINANCE RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING SECTION 12-9-4.5 B(3) TO ESTABLISH THAT NO DEPOSIT SHALL BE REQUIRED TO ACCOMPANY A REQUEST FOR AN ADMINISTRATIVE HEARING OF A DESIGNATED ADA ACCESSIBLE PARKING SPACE VIOLATION FOR A FIRST TIME OFFENDER.	Public Works Committee - 12/12/16 Public Safety Committee - 12/20/26 City Council (request to publish) - 1/11/17 Finance Committee - 1/17/17 City Council (public hearing) - 2/8/17
Lindell Villarreal Harris Maestas Rivera Trujillo Dominguez Ives	A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR AUTOMATED CURBSIDE RECYCLING CARTS AND TRUCKS.	Finance Committee - 11/14/16 Public Utilities Committee - 12/7/16 City Council - 12/14/16
<b>Councilor Carmichael Dominguez</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	AN ORDINANCE AMENDING ORDINANCE NO. 2016-22 AUTHORIZING AN AMENDMENT TO THE 2008 GENERAL OBLIGATION (GO) BOND TO REALLOCATE \$267,040 CURRENTLY DESIGNATED FOR VARIOUS CITY PARK IMPROVEMENTS TO RECONCILE PROJECTS AND REPAIR THE FORT MARCY PEDESTRIAN BRIDGE.	Public Works Committee - 12/12/16 City Council (request to publish) - 12/14/16 Finance Committee - 1/3/17 City Council (public hearing) - 1/11/17

*Exhibit "B"*

<b>Councilor Mike Harris</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
Ives	A RESOLUTION CONTRIBUTING PROPERTY AND RESOURCES TO SANTA FE COMMUNITY HOUSING TRUST FOR THE DEVELOPMENT OF THE SOLERAS STATION LOW INCOME HOUSING TAX CREDIT PROJECT PURSUANT TO THE AFFORDABLE HOUSING ACT.	Public Works Committee - 12/12/16 City Business Quality of Life Committee - 12/14/16 Community Development Commission - TBD Finance Committee - 1/3/17 City Council - 1/11/17
<b>Councilor Peter Ives</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	A RESOLUTION AMENDING THE MEMBERSHIP REQUIREMENTS OF THE SANTA FE WATER CONSERVATION COMMITTEE SO THAT A RESIDENT OF SANTA FE COUNTY IS APPOINTED TO THE MEMBERSHIP; AND TO CLARIFY TERM LIMITS OF THE MEMBERSHIP.	Water Conservation Committee - 11/15/16 Finance Committee - 12/5/16 Public Utilities Committee - 12/7/16 City Council - 12/14/16
<b>Councilor Signe Lindell</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
Harris	AN ORDINANCE AMENDING SECTION 6-17, MEMBERSHIP OF THE CITY BUSINESS AND QUALITY OF LIFE ADVISORY COMMITTEE TO REMOVE ONE MEMBER OF THE GOVERNING BODY; REMOVING THE REQUIREMENT FOR GOVERNING BODY REVIEW OF THE WORK OF THE CITY BUSINESS AND QUALITY OF LIFE ADVISORY COMMITTEE; AND AMENDING THE MEMBERSHIP OF THE ECONOMIC DEVELOPMENT REVIEW SUBCOMMITTEE TO ADD A MEMBER OF THE GOVERNING BODY, AND REMOVE ONE NOMINATED MEMBER.	Economic Development Review Subcommittee - TBA City Business Quality of Life Committee - 12/14/16 City Council (request to publish) - 12/14/16 Finance Committee - 1/3/17 City Council (public hearing) - 1/11/17
<b>Councilor Joseph Maestas</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	A RESOLUTION CALLING ON THE NEW MEXICO LEGISLATURE TO ENACT LEGISLATION ALLOWING FOR THE CREATION OF CULTURAL DISTRICTS.	Arts Commission - TBD Finance Committee - 12/5/16 City Business Quality of Life Committee - 12/14/16 City Council 12/14/16

<b>Councilor Chris Rivera</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Ron Trujillo</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Renee Villarreal</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>

Introduced legislation will be posted on the City Attorney's website, under legislative services ([www.santafenm.gov/legislative\\_services](http://www.santafenm.gov/legislative_services)). If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, (505) 955-6518, [jbg Guillen@santafenm.gov](mailto:jbg Guillen@santafenm.gov) or Rebecca Seligman at (505) 955-6501, [rxseligman@santafenm.gov](mailto:rxseligman@santafenm.gov).

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION 2016-\_\_

3 INTRODUCED BY:

4  
5 Councilor Mike Harris

6 Councilor Peter N. Ives

7  
8  
9  
10 A RESOLUTION

11 CONTRIBUTING PROPERTY AND RESOURCES TO SANTA FE COMMUNITY  
12 HOUSING TRUST FOR THE DEVELOPMENT OF THE SOLERAS STATION LOW  
13 INCOME HOUSING TAX CREDIT PROJECT PURSUANT TO THE AFFORDABLE  
14 HOUSING ACT.

15  
16 WHEREAS, it is the intent of the parties that the contribution from the City of Santa Fe to  
17 the Soleras Station Low Income Housing Tax Credit ("The Project") meet the requirements of the  
18 Affordable Housing Act and Rules Section 5.4; and

19 WHEREAS, the City of Santa Fe certifies to the Mortgage Finance Authority ("MFA") that  
20 the Santa Fe Community Housing Trust ("Housing Trust") is a qualified grantee in accordance with  
21 the requirements of the Affordable Housing Act and Rules, Section 5.4; and

22 WHEREAS, the proposed donation conforms to the City of Santa Fe Strategic Housing Plan  
23 "Affordable Housing Element" adopted in conformance to the Affordable Housing Act; and

24 WHEREAS, the City's Housing Needs Analysis, updated in 2016, demonstrate a housing  
25 shortage of at least 2400 units, affordable to households earning below 80%, and Soleras Station will

1 serve renter households earning less than 80% of median income; and

2       **WHEREAS**, this Project is consistent with the Strategic Housing Plan lawfully adopted by  
3 Ordinance No. 2007-23 pursuant to the express statutory authority conferred upon municipalities to  
4 enact a housing code pursuant to Section 3-1 7-6A(8) NMSA 1978; to enact ordinances pursuant to its  
5 police power, Section 3-17-1 B NMSA 1978; to provide for affordable housing pursuant to  
6 subsections E and F of Art. 9, §14, of the N.M. Constitution and the Affordable Housing Act (§§ 10  
7 6-27-1 through 6-27-8 NMSA 1978) and in particular to provide a portion of the cost of financing  
8 and/or authorizing housing assistance grants for the purpose of affordable housing pursuant to Section  
9 6-27-5 NMSA 1978 (2007), and pursuant to any and all such other authority as may be applicable  
10 including but not limited to the city's recognized authority to protect the general welfare of its  
11 citizens; and

12       **WHEREAS**, it is the policy of the City of Santa Fe to provide incentives and encourage  
13 proposals that support the production, acquisition and redevelopment of rental housing in mixed  
14 income developments; and

15       **WHEREAS**, the City accepted the donation of a 4.5 acre parcel of land from Pulte Homes  
16 along with additional cash, goods and services, proffered in compliance with that certain Santa Fe  
17 Home Program Agreement dated January 13, 2016, (Item #16-0041 and attached hereto; and

18       **WHEREAS**, the City will also provide additional donation of City development fee/water  
19 waivers and other valuable incentives to the Project; and

20       **WHEREAS**, the above referenced donations will be contributed to the Santa Fe Community  
21 Housing Trust for the Project without debt or interest pursuant to the terms of a land use regulatory  
22 agreement; and

23       **WHEREAS**, the Project will meet the City goals for creating housing that avoids common  
24 illness triggers, uses less energy, and saves on utility and maintenance costs, while using eco-friendly

1 materials and strategies pursuant to the design of the Soleras Station as a Pilot Multifamily Project by  
2 the WELL Build Institute for creation of a national healthy multifamily residential building  
3 certification process by the United States Green Building Coalition (USGBC) and in the project's  
4 LEED building certification; and

5 **WHEREAS**, major partners in the development of the Project now include the City of Santa  
6 Fe, The Housing Trust; the New Mexico Coalition to End Homelessness and Pulte Homes, of which  
7 only the Housing Trust will have any ownership interest in the Project after the development is  
8 completed; and

9 **WHEREAS**, the City will provide 10% of the development costs for a competitive LIHTC  
10 application for the Project by the Housing Trust as a direct grant to the Project subject to the terms of  
11 a land use regulatory agreement requiring and affordability period of 45 years running concurrently  
12 with requirements imposed by the New Mexico Mortgage Finance Authority; and

13 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
14 **CITY OF SANTA FE** that a substantial contribution to the Project with cash and measures to lower  
15 development costs of the property by waiving building permit fees, providing water rights to the  
16 Project, reducing the cost of extending the utility lines and meter charges for a total of approximately  
17 \$2 million. The donation shall be granted subject to the terms of a land use regulatory agreement  
18 specifying the requirement for consistency with the Low Income Housing Tax Credit program  
19 requirements serving targeted low income clientele.

20 **BE IT FURTHER RESOLVED** that the Governing Body of the City of Santa Fe supports  
21 The Housing Trust's LIHTC application for the Project.

22 **BE IT FURTHER RESOLVED** that the Governing Body on behalf of the City has given a  
23 deed to the Housing Trust. The proper instrument was conveyed and filed with Santa Fe County to  
24 convey the subject premises.

25 **BE IT FURTHER RESOLVED** that the Governing Body of the City of Santa Fe hereby

1 directs the City Clerk to record an executed copy of this resolution with the Santa Fe County Clerk.

2 PASSED, APPROVED and ADOPTED, \_\_\_\_\_ day of \_\_\_\_\_, 2016.

3  
4 \_\_\_\_\_  
5 JAVIER M. GONZALES, MAYOR

6 ATTEST:

7  
8 \_\_\_\_\_  
9 YOLANDA Y. VIGIL, CITY CLERK

10 APPROVED AS TO FORM:

11  
12 \_\_\_\_\_  
13 KELLEY A. BRENNAN, CITY ATTORNEY

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2016-\_\_

3 INTRODUCED BY:

4  
5 Mayor Javier M. Gonzales

6 Councilor Signe I. Lindell

Councilor Renee D. Villarreal

7 Councilor Mike Harris

Councilor Joseph M. Maestas

8 Councilor Christopher M. Rivera

Councilor Ronald S. Trujillo

9 Councilor Carmichael A. Dominguez Councilor Peter N. Ives

10 A RESOLUTION

11 AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION  
12 FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO  
13 FINANCE AUTHORITY FOR AUTOMATED CURBSIDE RECYCLING CARTS AND  
14 TRUCKS.

15  
16 WHEREAS, the City of Santa Fe ("Governmental Unit") is a qualified entity under the New  
17 Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 ("Act"), and the City  
18 of Santa Fe City Council ("Governing Body") is authorized to borrow funds and/or issue bonds for  
19 financing of public projects for benefit of the Governmental Unit; and

20 WHEREAS, the New Mexico Finance Authority ("Authority") has instituted a program for  
21 financing of projects from the public project revolving fund created under the Act and has developed  
22 an application procedure whereby the Governing Body may submit an application ("Application")  
23 for financial assistance from the Authority for public projects; and

24 WHEREAS, the Governing Body intends to undertake the acquisition, construction and  
25 improvement of automated curbside recycling carts and trucks ("Project") for the benefit of the



1 Governmental Unit and its citizens; and

2       **WHEREAS**, the application prescribed by the Authority has been completed and submitted  
3 to the Governing Body and this resolution approving submission of the completed Application to the  
4 Authority for its consideration and review is required as part of the Application.

5       **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
6 **CITY OF SANTA FE:**

7       **Section 1.** That all action (no consistent with the provision hereof) heretofore taken by the  
8 Governing Body and the officers and employees thereof directed toward the Application and the  
9 Project, be and the same is hereby ratified, approved and confirmed.

10       **Section 2.** That the completed Application submitted to the Governing Body, be and the  
11 same is hereby approved and confirmed.

12       **Section 3.** That the officers and employees of the Governing Body are hereby directed and  
13 requested to submit the completed Application to the Authority for its review, and are further  
14 authorized to take such other action as may be requested by the Authority in its consideration and  
15 review of the Application and to further proceed with arrangements for financing the Project.

16       **Section 4.** All acts and resolutions in conflict with this resolution are hereby rescinded,  
17 annulled and repealed.

18       **Section 5.** This resolution shall take effect immediately upon its adoption.

19       PASSED, APPROVED, and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

20  
21  
22 \_\_\_\_\_  
23 JAVIER M. GONZALES, MAYOR  
24  
25

1 ATTEST:

2

3

4 \_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

6

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8 \_\_\_\_\_  
KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/2016 Resolutions/NMFA Curbside Recycling*

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2016-\_\_

3 INTRODUCED BY:

4  
5 Councilor Peter N. Ives  
6  
7  
8  
9

10 A RESOLUTION

11 AMENDING THE MEMBERSHIP REQUIREMENTS OF THE SANTA FE WATER  
12 CONSERVATION COMMITTEE SO THAT A RESIDENT OF SANTA FE COUNTY IS  
13 APPOINTED TO THE MEMBERSHIP; AND TO CLARIFY TERM LIMITS OF THE  
14 MEMBERSHIP.  
15

16 WHEREAS, the Water Conservation Committee was established by Resolution No. 2002-25  
17 and amended by Resolution No. 2008-40 and Resolution No. 2016-31; and

18 WHEREAS, the Water Conservation Committee is charged with promoting water  
19 conservation, developing conservation proposals, and advising the City of Santa Fe on water  
20 conservation activities; and

21 WHEREAS, it is the desire of the Governing Body to include a resident of Santa Fe County  
22 on the Water Conservation Committee; and

23 WHEREAS, the current language provides for ten members of the committee, yet provides  
24 term limits for only eight members.

25 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE

1 **CITY OF SANTA FE** that Resolution No. 2016-31 is hereby amended as follows:

2 **NAME:** The Committee shall be called the Santa Fe Water Conservation Committee  
3 (SFWCC).

4 **PURPOSE:** To promote water conservation, develop water conservation proposals and  
5 advise City government.

6 **DUTIES AND RESPONSIBILITIES:**

- 7 1. The SFWCC is charged with promoting water conservation, developing water  
8 conservation proposals and advising City government on water conservation  
9 activities;
- 10 2. Identifying ways to reach out to groups of all ages to educate them on additional  
11 ways to conserve water, discussing water conservation programs, their costs and  
12 benefits and methods of administration;
- 13 3. Examining building code provisions, construction practices and land use policies and  
14 their effect on water use;
- 15 4. Propose changes in code, practice and policy that will promote further water  
16 conservation; and
- 17 5. When time permits, the SFWCC shall be given the opportunity to discuss and make  
18 recommendations on water conservation programs being undertaken by the City, so  
19 long as that consideration does not delay implementation of any program.

20 **MEMBERSHIP:** The Committee shall be appointed by the Mayor and consist of ten  
21 members, not including the chair. The membership shall be balanced with no more than two persons  
22 per group. The membership shall include persons with the following kinds of expertise: (1)  
23 landscaping water conservation practices; (2) building construction practices; (3) creating and/or  
24 implementing education programs; (4) familiarity with land use policies; (5) familiarity with  
25 hydrology, engineering or other forms of water-related technical expertise; (6) water quality and

1 water harvesting/water reuse and (7) the perspectives of other constituency groups that are an  
2 important part of a comprehensive discussion and strategy on water conservation. These other  
3 constituencies include homeowners, business owners, youth, and state government. The selection of  
4 committee members shall be accomplished so as to reflect the diversity of the  
5 Santa Fe community. One member of the committee shall be a resident of Santa Fe County residing  
6 outside the municipal boundaries of the City of Santa Fe.

7 **TERMS:** ~~[Commencing upon the effective date of this resolution, the five members who~~  
8 ~~have served the longest uninterrupted terms shall be appointed to a one year term, and the three~~  
9 ~~existing members who have served the shortest uninterrupted terms shall be appointed to a two year~~  
10 ~~term. Subsequent terms shall be for two years to maintain staggering of terms.]~~ Members of the  
11 committee shall serve staggered two year terms, such that half the committee shall be appointed or  
12 reappointed every year. Members may serve no more than two consecutive terms, but may be  
13 reappointed following a minimum one year hiatus. After three unexcused absences per term year, a  
14 commission member shall be automatically removed from the committee and notified thereof by the  
15 chairperson.

16 **OFFICERS:** The Mayor shall appoint the chair. The chair shall be a City Councilor and the  
17 vice chair shall be designated by the chair in accordance with Article 8 of Resolution 2009-20.

18 **MEETINGS:** The Committee shall meet on an as needed basis to complete its assigned  
19 duties.

20 **STAFF LIAISON:** The staff liaison shall be from the Water Division.

21 **TIME:** The Committee shall serve until terminated by the Governing Body.

22 PASSED, APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

23  
24 \_\_\_\_\_  
25 JAVIER M. GONZALES, MAYOR

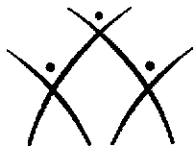
1 ATTEST:

2  
3 \_\_\_\_\_  
4 YOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

6  
7 \_\_\_\_\_  
8 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2016/Water Conservation Committee County Member*

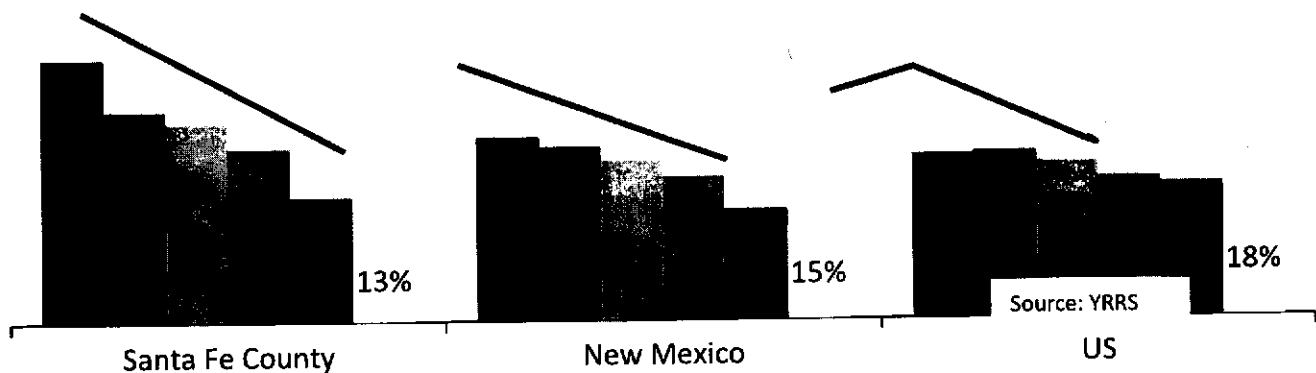


SANTA FE  
PREVENTION  
ALLIANCE

## Trends in Youth Alcohol Use 2015 YRRS Results for Santa Fe County

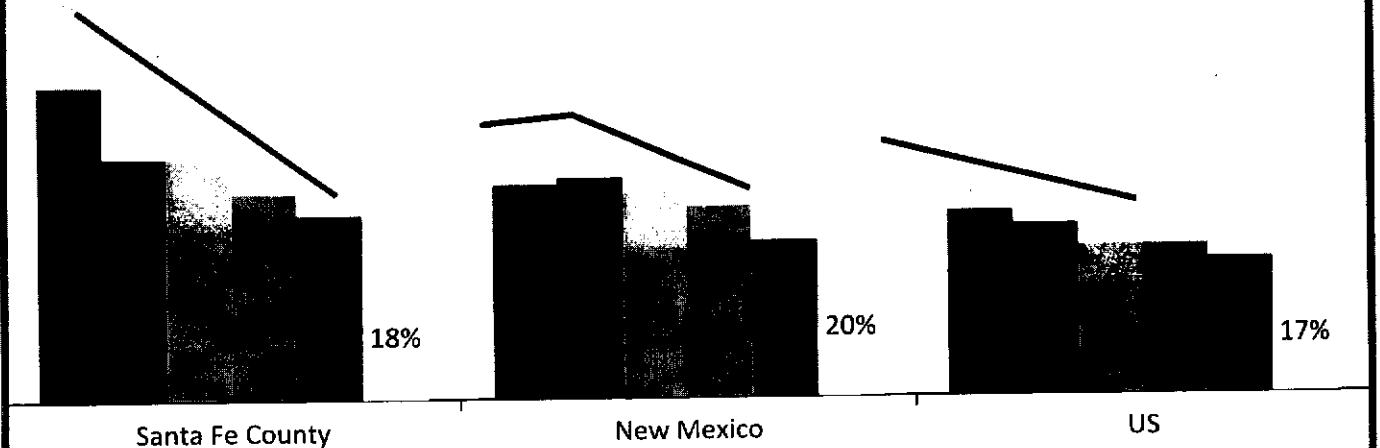
### Reported Binge Drinking in Past 30 days Among High School Students, 2005-2015

■ 2005 ■ 2007 ■ 2009 ■ 2011 ■ 2013 2015



### Trends in Reported First Drink Before the Age of 13 Years Old, 2005-2015

■ 2005 ■ 2007 ■ 2009 ■ 2011 ■ 2013 2015



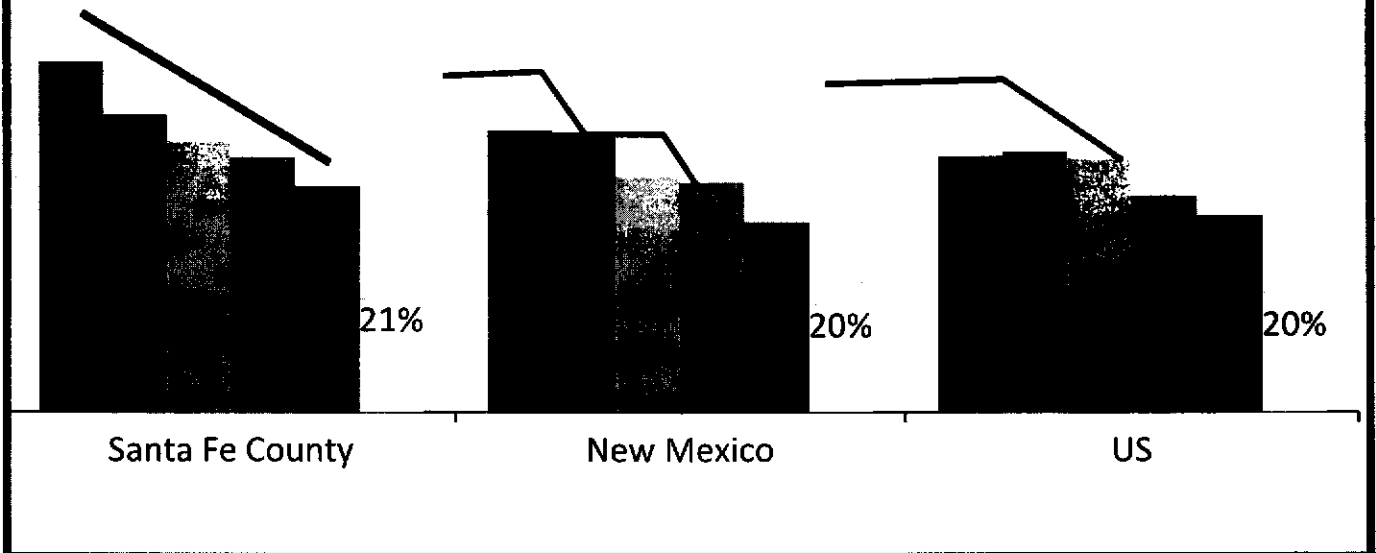
[www.SantaFePreventionAlliance.com](http://www.SantaFePreventionAlliance.com)

**OUR VISION:** Santa Fe County where no one drinks alcohol before the age of 21,  
where adults model low risk use, no one drives while impaired and no one abuses drugs.



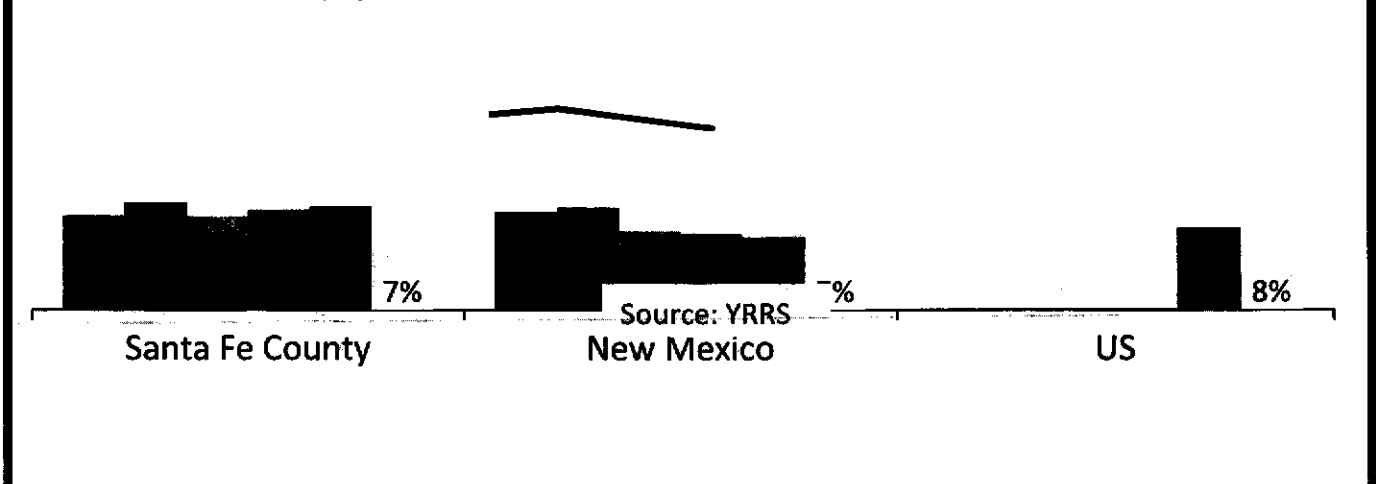
### Trends in Reported Riding with a Drinking Driver Among High School Students, 2005-2013

■ 2005 ■ 2007 ■ 2009 ■ 2011 ■ 2013 205



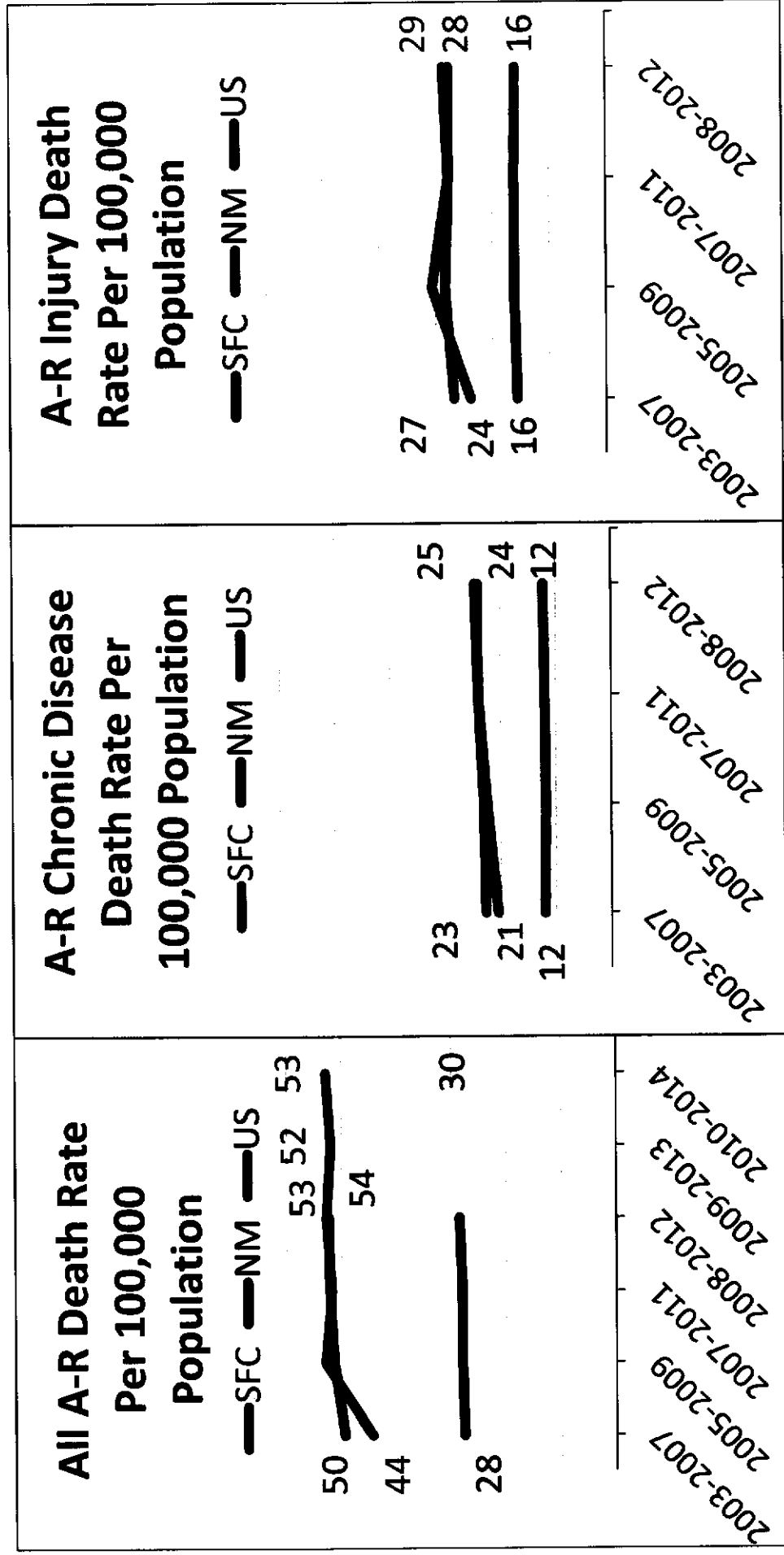
### Reported Drinking and Driving in Past 30 Days Among High School Students, 2005-2013

■ 2005 ■ 2007 ■ 2009 ■ 2011 ■ 2013  
2015





# Alcohol-Related (A-R) Death Rates Over Time, Santa Fe County Compared to NM and US



**CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO BILL NO. 2016-36  
Urban Agriculture (Substitute)**

---

**Mayor and Members of the City Council:**

**I propose the following amendment(s) to Bill No. 2016-36:**

1. On page 4, line 25, after "thereof" *insert* "and setback a minimum of twenty (20) feet from the property line"
2. On page 6, lines 4-5 *delete* "comply with the applicable *setback* requirements" and *insert* in lieu thereof "be *setback* a minimum of twenty (20) feet from the property line"
3. On page 6, line 8 after "of" *delete* "ten (10)" and *insert* in lieu thereof "twenty (20)"
- ✓ 4. On page 6, lines 17-18 after "Subsection 14-8.4(E)(2)" *insert* consistent with its adjudicated, licensed, or permitted use"
- ✓ 5. On page 6, *delete* line 19 in its entirety
- ✓ 6. On page 13, line 20 *delete* "less than" and *insert* in lieu thereof "that is greater than one thousand (1000) square feet, but no greater than"

Respectfully submitted,

\_\_\_\_\_  
Javier M. Gonzales, Mayor

ADOPTED: \_\_\_\_\_

NOT ADOPTED: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

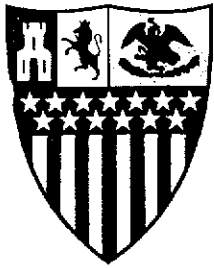
*Exhibit 17*

## **Purposed Amendment to Bill NO. 2016-36**

**Amendment for Certified Organic: Page 3, (6) All urban farms are required to be Certified Organic.**

- (a) All urban farms must be Certified Organic, or in the process of becoming Certified Organic, by the New Mexico Department of Agriculture, New Mexico State University Extension Service.**
- (b) All urban farms in the process of becoming certified organic must report to the Land Use Department, every six months, in writing, on their progress towards certification.**

*Exhibit "8"*



# City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909  
www.santafenm.gov

Javier M. Gonzales, Mayor

## Councilors:

Signe I. Lindell, Mayor Pro Tem, Dist. 1  
Renee Villarreal, Dist. 1  
Peter N. Ives, Dist. 2  
Joseph M. Maestas, Dist. 2  
Carmichael A. Dominguez, Dist. 3  
Chris Rivera, Dist. 3  
Ronald S. Trujillo, Dist. 4  
Mike Harris, Dist. 4

To: Mayor and City Councilors

From: Marcos D. Martínez *MDM*  
Assistant City Attorney

Via: Kelley Brennan *KRB*  
City Attorney

Re: Bill No. 2016-37: an Ordinance Amending Santa Fe City Code Chapter 27  
Telecommunications Services (Chapter 27)

Date: November 2, 2016 for the November 9, 2016 Meeting  
of the Governing Body

## Background

Bill No. 2016-37 proposes amendments to Section 27.2 of Santa Fe City Code (SFCC) Chapter 27 regulating telecommunications facilities in the public rights of way (PROW). The proposed amendments replace provisions struck in December 2013 by U.S. District Court Judge Brack in *Qwest Corporation v. City of Santa Fe* (the Federal Case). The Court in the Federal Case ordered "...that Sections 27-2.3 (defining "Gross Revenue") and 27-2.5(A) of [Chapter 27] are hereby declared to be preempted by Section 253 of the Telecommunications Act of 1996, 47 U.S.C. § 253..." (Section 253) and permanently enjoined the City from enforcing the stricken provisions.

The City appealed Judge Brack's decision in the Federal Case to the U.S. Court of Appeals for the Tenth District. Qwest appealed to the New Mexico Court of Appeals a judgment in favor of the City in a parallel case in the First Judicial District Court (the State Case). Qwest and the City settled their disputes by agreement on June 24, 2015 and on August 12, 2015 the City's appeal from Judge Brack's decision in the Federal Case was dismissed by U.S. District

*Exhibit '9'*

Court of Appeals in accordance with that agreement. The 2013 Order and Judgment in the State Case was also dismissed pursuant to the agreement on July 30, 2015.

Previously, on February 8, 2013 Judge Brack found that certain non-fee provisions of Chapter 27 did not violate Section 253. These non-fee provisions include: *"...required reporting by line of business; the right to audit the provider with at least thirty days' notice; a six-year retention period for records and accounts; reimbursement of the City's auditing costs if underpayment exceeding five percent of franchise fees is discovered; and the use of 'trenchless' technology to the extent feasible."* See, Findings of Fact and Conclusions of Law, Document 484, ¶ 34 in the Federal Case, CV 10-0617 RB/KBM.

As noted above, the proposed amendments contained in Bill No. 2016-37 (the Bill) are intended to replace the provisions struck by the Court in the Federal Case. We understand that a number of questions and concerns relating to the Bill have been raised by some members of the public, and will attempt to address those questions and concerns in this memorandum. In order to do so, we will first address the history of Chapter 27.

## History

In 1996, the United States Congress passed the Federal Telecommunications Act (the Act or TCA). The stated purpose of the Act was to *"promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."*

In addition to dismantling the states' longstanding practice of granting and maintaining local exchange monopolies, the Act imposed two important limitations on local governments.

First, Section 253 prevents the City from regulating telecommunications in any way that actually or effectively prohibits the provision of telecommunications services:

No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

However, the City may charge a reasonable fee for the use of the public rights-of-way:

Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

47 U.S.C. 253(c). (emphasis added)

Second, 47 U.S.C. § 332(c)(7) (Section 332) provides:

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

**(B) Limitations**

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) *shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*

(ii) A State or local government or instrumentality thereof *shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time* after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) *No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.*

47 U.S.C.A. § 332 (West)

Although we are focusing on Section 253, it is important to bear in mind that Section 332 imposes obligations on the City to: 1) permit wireless services specifically; 2) act within a reasonable time after a request; and 3) impose no regulation on wireless service based on environmental or health effects. Both Sections 253 and 332 have enforcement provisions as well.

Prior to the Act, cities in New Mexico generally negotiated a single franchise agreement with the incumbent telephone company. Our franchise with Mountain Bell was executed in 1975 with a 25-year term. In 1998, realizing that a new model would be needed to address changes initiated by the Act, the City enacted a new Chapter 27 requiring telecommunications providers to lease sites for their facilities in the PROW. Qwest challenged this leasing approach in Federal Court. The Court summarized the provisions of the 1998 enactment as follows:

Among these new rules are a requirement that telecommunications owners must register with the City and apply for a lease if they desire to install new

telecommunications facilities, or maintain existing ones within the City's rights-of-way. *See* §§ 27-2 and 27-3 SFCC 1987.

The ordinance also provides for the City to charge cost-based registration fees and application fees. *See id.* §§ 27-2.4 and 27-5.2. The exact amount of such fees, however, has not yet been determined by the City. As part of the application process, the ordinance further requires a lease applicant to provide certain information to the City, including an appraisal of the "fair market rental value" of the right-of-way issued by a third-party appraiser approved by the City. *See id.* § 27-3.3. The parties disagree about the extent to which the requested information is relevant to the usage of the City's rights-of-way.

The ordinance requires the City to hold a hearing on a lease application within sixty (60) days, but permits the City to exercise its discretion in granting or denying a lease. *See id.* § 27-3.4. If a lease is granted, the ordinance requires, among other things, that the lessee pay an appraisal-based rental fee for its use of the City's right-of-way and dedicate all conduit laid upon the City's property to the City.

*Qwest Corp. v. City of Santa Fe, New Mexico*, 224 F. Supp. 2d 1305, 1309 (D.N.M. 2002).

The Court in that case invalidated the entire leasing scheme because it violated federal law:

Thus, there are provisions of the ordinance which can be severed in this instance, but the provisions which must be severed to survive federal preemption include not only the registration requirement in Section 27-2.3(E), but also the entire leasing scheme.

*Qwest Corp. v. City of Santa Fe, New Mexico*, 224 F. Supp. 2d 1305, 1332, (D.N.M. 2002)(Emphasis supplied.)

Although the City did not repeal Chapter 27 after that decision, it was nevertheless without effect, having been invalidated by the Court. Subsequently, in approximately 2009 the City was approached by representatives of a number of entities who expressed interest in locating telecommunications facilities in the PROW. As a result of those inquiries, the City in 2010 repealed the 1998 enactment of Chapter 27 and adopted a new Chapter 27 in its place.

The Federal Case was the result of the 2010 enactment. Qwest challenged the new Chapter 27, alleging that it would result in a "massive increase" in fees, effectively prohibiting telecommunications services. As noted above, Qwest prevailed and the Court struck the fee and related provisions of Chapter 27.

Now the City must replace those parts of Chapter 27 struck in 2014 by the Court in the Federal Case. Failure to do so may result in further litigation or in requiring the City to access to the PROW to telecommunications providers without payment of a fee.

## **The Bill**

The amendments proposed in the Bill provide a new fee provision with new definitions of "gross charges", "telecommunications", "service address" and related terms that are necessary to implement the fee provision. The City is relying on a model ordinance as the basis for these definitions and the fee provision. In addition, the fee was set at an amount to avoid in the future the "massive increase" that Qwest alleged and prevailed on in both the 1998 and 2010 litigation. Additionally, the amendments remove the arbitration provision, as experience indicates that arbitration can be a costly and unsatisfactory method of resolving these kinds of disputes.

## **Consequences of Not Enacting the Bill**

Some people have suggested that the City adopt again the leasing scheme that the City enacted in 1998. However, as noted above, that has been invalidated by the Federal Court. In addition, even if the City could adopt a leasing scheme, there would be no way to meet the Section 332 reasonable time standard due to the requirements of the municipal leasing statute, NMSA 1978, § 3-54-1.

On November 18, 2009, the FCC issued a declaratory ruling defining "reasonable time" under Section 332. The ruling expressly stated that 90 days was a presumptively reasonable period for action by a municipality on an application for co-location, i.e., a location shared with an existing utility. The presumptively reasonable time for a new location is 150 days. These presumptions are rebuttable. The time is particularly important for applicants for a franchise, because under Section 232 they have only 30 days after a municipality's action or failure to act to appeal and it is difficult to determine when a "failure to act" occurs without a fixed time from the date of application like that established by the FCC. The FCC ruling also provides for the applicant and municipality to enter into a cooperation agreement to extend the time for review and approval, presumably where warranted by the nature and scope of the application.

We have considered the time constraints embedded in Section 332 in providing for public notice and hearing on the installation of proposed telecommunications facilities in the PROW. Chapter 27 establishes a three-step process: 1) requiring a provider to obtain franchise approval from the Governing Body, 2) plan approval from the Commission, and 3) permits from the Land Use and Public Works Departments. For facilities proposed to be sited in the Historic Districts, HPD staff will make recommendations to the Commission based on the standards set out in the Bill and on any guidelines adopted by the HDRB. We believe this is sufficient given that facilities likely to be proposed for siting in the ROW are clearly distinguishable from single-site freestanding towers mounted with large antennas in that they are likely to be relatively small in scale and susceptible to concealment or other methods to reduce visual impact. In addition, the Ordinance requires all facilities to be undergrounded except where undergrounding is infeasible.

While not all telecommunications services under the Ordinance are "personal wireless services" triggering the time limitations upon application, we can discern no sound basis



for discriminating between wireline (fiber optic, cable, etc.) and wireless (cellular, dispatch, etc.) applicants in establishing procedures for obtaining a franchise and building out a network, and thus have provided for a process that treats all applicants equally.

The consequence of not enacting the amendments proposed in the Bill would be to permit telecommunications providers to use and occupy the PROW without paying for such use. This is a real possibility because by law the City cannot prohibit or effectively prohibit telecommunications services. Without a fee provision, telecommunications providers would be receiving a windfall because the City still has to allow such use: "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

## **Health**

Section 232 specifically prohibits state and local governments from regulating the placement, construction and modification of personal wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions *to the extent that the facilities comply with applicable FCC emissions regulations*.

The FCC has established Maximum Permissible Exposure limits for the general public and for occupational exposure to RF emissions. If a personal wireless facility complies with these standards, a municipality may not deny the application on the grounds that RF emissions are unsafe. If the facility does not comply with FCC standards, the municipality may deny the application on that basis.

The FCC relies upon a panel of scientists and medical experts from the American National Standards Institute (ANSI) and the Institute of Electrical and Electronics Engineers (IEEE) for its expertise in the development of safety standards, recommendations and guidelines for exposure to RF and microwave energy.

In 2010 the Governing Body adopted Resolution No. 2010-8 urging the federal government to "reassess the health impacts of [RF] emissions" and seeking and supporting legislation giving local governments greater flexibility in the placement of wireless communications facilities. The matter was referred to the FCC, which responded by letter dated July 12, 2010. Copies of Resolution 2010-8 and the FCC letter are attached for your information.

## **Conclusion**

The Bill is one way the City can participate in assuring broadband access to its citizens, while protecting property values, community aesthetic standards, and receiving reasonable compensation for the use of the City's ROW.

Staff recommends that the Governing Body adopt the Bill in the form presented.

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2010-8

3 INTRODUCED BY:

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5 Rosemary Rios  
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A RESOLUTION

11 URGING THE U.S. CONGRESS, THE PRESIDENT AND EXECUTIVE BRANCH  
12 MEMBERS TO REQUIRE THE FEDERAL COMMUNICATIONS COMMISSION TO  
13 REASSESS THE HEALTH IMPACTS OF RADIO FREQUENCY EMISSIONS; AND TO  
14 ACTIVELY SEEK AND SUPPORT FEDERAL LEGISLATION THAT WOULD GIVE  
15 LOCAL GOVERNMENTS GREATER FLEXIBILITY WITH REGARD TO THE  
16 PLACEMENT OF WIRELESS COMMUNICATIONS FACILITIES.

18 WHEREAS, 47 U.S.C. § 332(c)(7)(B) governs the siting of wireless communications  
19 facilities and grants limited local zoning authority with regard to wireless siting zoning  
20 considerations and prohibits local jurisdictions from regulating the placement, construction, and  
21 modification of such facilities on the basis of environmental effects of radio frequency emissions  
22 to the extent that such facilities comply with the regulations of the Federal Communications  
23 Commissions concerning such emissions; and

24 WHEREAS, there is an ongoing debate within the scientific community and among  
25 governing bodies throughout the world regarding how thoroughly the long-term health effects of


1 low-frequency electromagnetic and radio frequency emissions are understood including questions  
2 raised regarding how well the existing regulations established by the Federal Communications  
3 Commission protect more vulnerable populations such as school-aged children, and how well  
4 they protect against the cumulative effect of radio frequency emissions on people who live or  
5 work in close proximity to multiple cellular facilities; and

6 **WHEREAS**, the Governing Body desires to expressly communicate to the President and  
7 U.S. Congress and the Federal Communications Commission the urgent need to further study the  
8 effects of radio frequency emissions of wireless communications facilities and to preserve the local  
9 control over siting of these facilities.

10 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
11 **CITY OF SANTA FE** that the Governing Body urges the U.S. Congress, the President and  
12 executive branch members to: (1) urge that the federal government engage in a comprehensive  
13 study of the effects of wireless facilities radio frequency emissions to assess the health impacts of  
14 these emissions; and (2) actively seek and support federal legislation that would give local  
15 governments greater flexibility to regulate the placement of wireless communications facilities  
16 given the unique aesthetic and safety issues that said facilities raise and to regulate such facilities  
17 in favor of less intrusive and more efficient technologies.

18 **AND BE IT FURTHER RESOLVED** that the City Clerk is directed to send a copy of  
19 this resolution to President Obama, New Mexico's Congressional Delegation, the Federal  
20 Communications Commission members and the Wireless Telecommunications Bureau.

21 **PASSED, APPROVED, and ADOPTED** this 10<sup>th</sup> day of February, 2010.

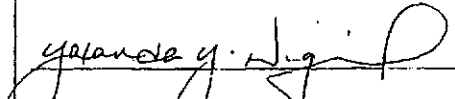
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24 **DAVID COSS, MAYOR**

1 ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

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GENO ZAMORA, CITY ATTORNEY

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Ip/ca/jpmb/2010 res/telecommunications act



Federal Communications Commission  
Washington, D.C. 20554

JUL 20 2010

CITY ATTORNEY'S OFFICE  
SANTA FE, NM

July 12, 2010



Ms. Yolanda Y. Vigil  
City Clerk  
City of Santa Fe, New Mexico  
200 Lincoln Avenue  
P.O. Box 909  
Santa Fe, NM 87504-0909

Dear Ms. Vigil:

Thank you for your letter from the office of Mayor David Coss, dated February 16, 2010, accompanied by a copy of the City of Santa Fe Resolution 2010-8: "Urging the U.S. Congress, the President and Executive Branch members to require the Federal Communications Commission to reassess the health impacts of radio frequency emissions; and to actively seek and support federal legislation that would give local governments greater flexibility with regard to the placement of wireless communications facilities." Your letter was forwarded to the Federal Communications Commission (FCC) by the White House.

The FCC has no authority to change the provisions of the Telecommunications Act of 1996, which places a limited restriction on the ability of local governments to establish limits for human exposure to radio frequency (RF) energy that are more restrictive than those established by the FCC. Changes in federal law are within the purview of the Congress. We note however that Congress preserved for local governments considerable flexibility to regulate the placement of wireless facilities in response to aesthetic and to other safety concerns.

The policy of the FCC with respect to environmental RF emissions was developed to ensure that FCC regulated transmitters do not expose the public or workers to levels of RF energy that are considered by organizations expert on human health and safety to be potentially harmful. Since the FCC is not a health and safety agency itself, we must defer to other organizations and agencies with respect to the biological research necessary to assess the health impact of RF emissions and to determine what levels are safe.

In 1996, the Commission adopted its current guidelines for human exposure to RF energy based on recommendations from the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and other federal health and safety agencies. These recommendations, in turn, derived from guidelines issued in the United States by the Institute of Electrical and Electronics Engineers, Inc. (IEEE), and the National Council on Radiation Protection and Measurements (NCRP). The IEEE and NCRP had commissioned highly experienced and knowledgeable scientists and engineers

to evaluate published scientific studies, including studies of the health status of persons exposed to RF radiation, to establish safe levels for human exposure to RF energy.

Since 1996, the FCC in cooperation with federal health and safety agencies has continually monitored international exposure standards development and biological effects research that could impact FCC policy or exposure limits for RF energy. In the intervening years there have been new international exposure limits created and revisions have been made to the existing standards, but these changes have been slight and are not practically significant with respect to exposure from environmental sources such as wireless base stations.

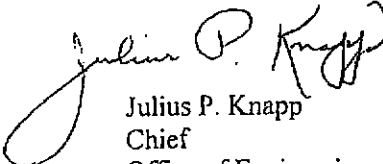
We recognize the controversy based on reported non-thermal biological effects of RF energy and understand the concerns of the City of Santa Fe. However, this so-called "microwave debate" existed long before the 1996 adoption of updated limits by the FCC and was considered by the EPA at that time in its recommendations to the FCC to use the NCRP criteria. The NCRP carefully reviewed the non-thermal biological effects research and set conservative safety factors for public exposure as a consequence. The FCC relies upon the opinions of expert health and safety agencies and organizations, and has not received any suggestion that changes are necessary. It appears that recent research in this area has not been considered adequate to revise the bases for international exposure limits.

We also recognize that some countries have set precautionary exposure limits below those necessary to protect against known adverse effects. These limits have generally been set at levels rarely exceeded in the general environment and applied only to wireless transmitters that can easily meet the limits, and thus have little impact on actual environmental exposure levels, which as a practical matter tend to be far below the established international limits.

In summary, we believe that our RF safety program has maintained a position of continuing reassessment of the health impact of RF emissions and that the steps we have taken fully safeguard the public from any harmful biological effect that has been scientifically established while appropriately encouraging the introduction of new and innovative wireless broadband technologies to the benefit of consumers and businesses. Nevertheless, we remain committed to maintaining vigilance in this important area of concern.

I appreciate your interest in this matter.

Sincerely,



Julius P. Knapp  
Chief  
Office of Engineering and Technology

1 CITY OF SANTA FE NEW MEXICO

2 BILL NO. 2015-37

3 INTRODUCED BY:

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5 Councilor Peter N. Ives

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10 AN ORDINANCE

11 RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN  
12 THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC  
13 1987 TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC  
14 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW  
15 DEFINITION FOR "GROSS CHARGE"; AMENDING SUBSECTION 27-2.5 TO REPEAL  
16 THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE  
17 FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO  
18 CARRY OUT THE INTENT OF THIS ORDINANCE.

19  
20 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

21 Section 1. Subsection 27-2.3 SFCC 1987 (being Ord. #2010-14, §5, as amended) is  
22 amended to ordain, repeal and amend the following definitions:

23 Bad Debt means any portion of a debt that is related to a sale of telecommunications at retail,  
24 for which gross charges are not otherwise deductible or excludable, that has become worthless or  
25 uncollectible as determined under applicable federal income tax standards.

1        Department means the department of public works.

2        Gross charge means the amount paid to a telecommunications retailer for the act or privilege  
3 of originating or receiving telecommunications in the city, and for all services rendered in connection  
4 therewith, including cash, credits, services, and property of every kind or nature, and shall be  
5 determined without any deduction on account of the cost of such telecommunications, the cost of the  
6 materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the  
7 amount thereof shall be included only as and when paid. "Gross charge" for private line service shall  
8 include charges imposed at each channel point within the city, charges for the channel mileage  
9 between each channel point within the city, and charges for that portion of the interstate inter-office  
10 channel provided within the city. "Gross charge" shall not include:

11            A. Any amounts added to a purchaser's bill because of a charge made under:

12                    (1) the fee imposed by this chapter;

13                    (2) additional charges added to a purchaser's bill under § 63-9D-8, 63-  
14 9F-12, or 63-9H-6, NMSA 1978;

15                    (3) the tax imposed by the Telecommunications Excise Tax Act;

16                    (4) the tax imposed by section 4251 of the Internal Revenue Code;

17            B. Charges for a sent collect telecommunication received outside of the city;

18            C. Charges for leased time on equipment or charges for the storage of data or  
19 information or subsequent retrieval or the processing of data or information intended to  
20 change its form or content. This definition applies, but is not limited to, the use of calculators,  
21 computers, data processing equipment, tabulating equipment, accounting equipment or voice  
22 mail systems, and also includes the usage of computers under a time-sharing agreement;

23            D. Charges for customer equipment, including equipment that is leased or rented  
24 by the customer from any source, but only if the charges are disaggregated and separately  
25 identified from other charges;



1           E. Charges for telecommunications and all services and equipment provided in  
2           connection therewith between a parent corporation and its wholly owned subsidiaries or  
3           between wholly owned subsidiaries, but only to the extent that the charges between the parent  
4           corporation and the wholly owned subsidiaries or between the wholly owned subsidiaries  
5           represent an expense allocation among the entities and not the generation of profit other than  
6           a regulatory required profit for the corporation rendering the telecommunications and related  
7           services;

8           F. Bad debts; provided, however, if any portion of a debt deemed to be bad is  
9           subsequently paid, the retailer shall report and pay the infrastructure maintenance franchise  
10          fee on that portion of the debt during the reporting period in which the payment is made;

11          G. Charges paid by inserting coins in coin-operated telecommunications  
12          devices; or

13          H. Charges for telecommunications and all services and equipment provided to  
14          the city.

15          In addition, retailer access charges, right of access charges, charges for use of intercompany facilities,  
16          and all telecommunications resold in the subsequent provision and used as a component of, or  
17          integrated into, end-to-end telecommunications service shall not be included in gross charges as sales  
18          for resale. Gross charges include charges for telecommunications and all services and equipment  
19          provided to any governmental entity other than the city.

20          ~~[Gross revenue means:~~

21          ~~A. Includes the following types of provider revenues derived from the provision of~~  
22          ~~telecommunications services to customers within the city served from telecommunication facilities~~  
23          ~~located in the public rights-of-way;~~

24          ~~(1) --- Recurring, nonrecurring and usage charges paid by customers for~~  
25          ~~telecommunications or other services provided through use of the telecommunications~~

1 network;

2 ~~(2) — Revenues received from access fees, interconnection fees, or any other fees~~  
3 ~~relating to or arising out of the use of the telecommunications network (including the~~  
4 ~~facilities and equipment of such network) by any person providing commercial mobile radio~~  
5 ~~service, cellular, personal communications service, or other communications service;~~

6 ~~(3) — Interlata (local access transit area) toll revenue;~~

7 ~~(4) — Intralata toll revenue;~~

8 ~~(5) — Equipment lease and sale revenue not to include revenue from the sale or~~  
9 ~~lease of equipment that is readily available in the consumer retail market;~~

10 ~~(6) — Installation and service fees;~~

11 ~~(7) — Data transport or network charges;~~

12 ~~(8) — Any amounts collected by a provider from its customers denominated as~~  
13 ~~reimbursement for expenses of construction, equipment and related expenses paid by~~  
14 ~~provider for the benefit of its customers; or~~

15 ~~(9) — Payments received by a provider from any federal or state agency or other~~  
16 ~~carriers pursuant to any universal service fund requirement.~~

17 ~~B. — Excludes the following types of revenue derived from the provision of~~  
18 ~~telecommunications services to customers within the city limits:~~

19 ~~(1) — Proceeds from the sale of bonds, mortgages, or other evidence of~~  
20 ~~indebtedness, securities or stocks;~~

21 ~~(2) — Bad debt write offs and customer credits;~~

22 ~~(3) — Revenue from direct advertising;~~

23 ~~(4) — Any amounts collected by a provider from its customers that are required to~~  
24 ~~be remitted to a federal or state agency as part of a universal service fund or other~~  
25 ~~government program;~~

1                   (5) ~~Amounts collected for taxes, fees or surcharges and paid to the federal, state~~  
2                   ~~or local governments;~~

3                   (6) ~~Any franchise fee or tax; or~~

4                   (7) ~~Revenue from the sale or lease of equipment that is readily available in the~~  
5                   ~~consumer retail market.~~

6                   (8) ~~Revenue from the provision of internet access services as defined in the~~  
7                   ~~Federal Internet Tax Freedom Act, 47 U.S.C. § 151, but only to the extent prohibited by law.~~

8                   C. ~~Gross revenue as set forth above shall be interpreted consistent with FCC regulations~~  
9                   ~~and rulings, and any relevant decision by a federal court and to the fullest extent allowed by~~  
10                  ~~applicable law. Any change in federal law subsequent to the effective date of a franchise shall not~~  
11                  ~~affect the definition of gross revenues unless the change specifically preempts one of the components~~  
12                  ~~of the definition. Gross revenue shall be measured and monitored periodically by the city. As~~  
13                  ~~telecommunications services continue to advance and evolve, the definition of gross revenues will be~~  
14                  ~~read based on the intent reflected in the above list. When a bundling of services is offered by a~~  
15                  ~~provider that includes services included in gross revenues or excluded from gross revenues there will~~  
16                  ~~be a pro rata allocation between franchise fees based services and nonfranchise fee categories based~~  
17                  ~~on the provider's product usage rate.]~~

18                  Public Right of Way has the meaning of § 3-1-2(M) NMSA 1978.

19                  Sale of Telecommunications at Retail means the transmitting, supplying, or furnishing of  
20                  telecommunications and all services rendered in connection therewith for consideration, other than  
21                  between a parent corporation and its wholly owned subsidiaries or between wholly owned  
22                  subsidiaries, but only when the infrastructure maintenance franchise fee imposed by this chapter  
23                  previously has been paid to a retailer and the gross charge made by one such corporation to another  
24                  such corporation is not greater than the gross charge paid to the retailer for use or consumption and  
25                  not for resale.

1        Service Address means the location of telecommunications equipment from which  
2 telecommunications services are originated or at which telecommunications services are received. If  
3 this location is not a defined location, as in the case of wireless telecommunications, paging systems,  
4 maritime systems, air-to-ground systems and the like, "service address" shall mean the location of the  
5 customer's primary use of the telecommunications equipment as defined by the location in the City  
6 where bills are sent.

7        Telecommunications {means:

8            ~~A. All transmissions between or among points specified by the user of~~  
9 ~~information of the user's choosing (whether voice, video, or data), without change in the form~~  
10 ~~or content of the information as sent and received, where such transmissions are~~  
11 ~~accomplished by means of a telecommunications network.~~

12           ~~B. Telecommunications shall not include the following services:~~

13                ~~(1) Cable services as defined in Title 47, Chapter 5, Subchapter V-A of~~  
14 ~~the United States Code, as amended (47 USC § 521 et seq.); or~~

15                ~~(2) Telecommunications services provided and used by a public utility~~  
16 ~~as that term is defined at § 62-3-3(G) NMSA 1978, or successor statute, for (i) the utility's~~  
17 ~~internal system communication needs; and (ii) provided directly or indirectly to its customers;~~  
18 ~~including but not limited to electronic meter reading, load control demand side management,~~  
19 ~~power quality monitoring, and other activities related to the delivery of electricity or natural~~  
20 ~~gas or water], in addition to the usual and popular meaning, includes, but is not limited to,~~  
21 ~~messages or information transmitted through use of local, toll, and wide area telephone~~  
22 ~~service, channel services, telegraph services, teletypewriter service, computer exchange~~  
23 ~~services, private line services, specialized mobile radio services, or any other transmission of~~  
24 ~~messages or information by electronic or similar means, between or among points by wire,~~  
25 ~~cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context~~

1 clearly requires otherwise, "telecommunications" shall include wireless telecommunications  
2 as hereinafter defined. The definition of "telecommunications" shall not include (a) value  
3 added services in which computer processing applications are used to act on the form,  
4 content, code and protocol of the information for purposes other than transmission; (b) the  
5 purchase of telecommunications or telecommunications services by a retailer for use as a  
6 component part of a service provided to the ultimate retail consumer who originates or  
7 terminates the end-to-end communications; or (c) the provision of cable services through a  
8 cable system as defined in the Cable Communications Policy Act of 1984 (47 U.S.C.A.  
9 sections 521 and following), as now or hereafter amended, or through an open video system  
10 as defined in the rules of the Federal Communications Commission (47 C.F.R. 76.1550 and  
11 following), as now or hereafter amended, or the provision of other video programming  
12 services equivalent to services provided through a cable system, or the provision of "direct-  
13 to-home satellite services" within the meaning of section 602 of the Federal  
14 Telecommunications Act of 1996 (Public Law Number 104-104), as now or hereafter  
15 amended.

16 *Telecommunications Provider means:*

- 17 A. any telecommunications retailer;  
18 B. any telecommunications reseller that is not a telecommunications retailer; or  
19 C. any person that is not a telecommunications retailer or telecommunications  
20 reseller that installs, owns, operates or controls equipment in the public way that is used or  
21 designed to be used to transmit telecommunications in any form.

22 *Telecommunications Retailer or retailer or carrier means and includes every person engaged*  
23 *in the business of making sales of telecommunications at retail as defined in this chapter.*

24 *Wireless Telecommunications includes cellular mobile telephone services, personal wireless*  
25 *services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law Number*

1 104-104), as now or hereafter amended, including all commercial mobile radio services and paging  
2 services.

3       Section 2.       Subsection 27-2.4 SFCC 1987 (being Ord. #2010-14, §7, as amended) is  
4 amended to read:

5       27-2.4 Application for Franchise.

6       A.     *Application Required.* Any person with [a] telecommunications [facility]  
7 infrastructure in the city's public rights-of-way as of July 5, 2010 or who proposes to construct a  
8 telecommunications [facility] infrastructure in the city's public rights-of-way shall submit an  
9 application to the director. The application, in a form prescribed by the director and as may be  
10 modified by the director from time to time, shall expansively describe the applicant's current or  
11 proposed use of the public rights-of-way.

12       B.     *Authority of Director.* The director shall have the duty to review applications  
13 submitted under this section. The director shall review the application and shall notify the applicant  
14 within ten (10) business days of receipt of the application on whether or not the application has been  
15 accepted as complete or rejected. If the application has been rejected, a new application shall be  
16 required. The director shall negotiate the terms of franchises (to the extent not prescribed in this  
17 section) for adoption by the governing body. The director shall administer and enforce compliance  
18 with respect to all franchises granted under this section except as specifically delegated to the land  
19 use director as set forth in subsection 27-2.13 SFCC 1987.

20       C.     *Governing Body Action.* All franchises granted under this section shall be adopted by  
21 ordinance [~~following a public hearing~~] and shall incorporate by reference all applicable provisions of  
22 this section. The city shall apply any modifications or amendments to this section in a manner that  
23 does not unreasonably discriminate against any provider subject to this section. [~~The act of granting,~~  
24 ~~amending, denying, or terminating a franchise is a legislative function within the sound discretion of~~  
25 ~~the governing body.~~] Prior to proceeding with a termination of a franchise granted by the governing

body, the city shall comply with the alternative dispute resolution provisions of this section. Any person who is denied a franchise or whose franchise is terminated shall petition the governing body for reconsideration before seeking judicial remedies. The governing body shall have thirty (30) days from the date of the petition to reconsider such denial or termination.

D. *Franchise Granted.* Subject to compliance with this section and other applicable requirements of city code, a franchise granted under this section shall authorize an applicant to use public rights-of-way to provide telecommunications services.

Section 3. Subsection 27-2.5 SFCC 1987 (being Ord. #2010-14, §7, as amended) is amended to read:

**27-2.5 ~~[Compensation and Charges]~~ Fees; Audit.**

~~[A. Fees and Charges.~~

~~(1) Franchise fee. As partial compensation for the use of the public rights of way, each telecommunications services provider shall be subject to an annual fee of three percent (3%) of the provider's gross revenue or for providers with telecommunications networks and/or facilities in the public rights of way that do not provide telecommunications services within the city three percent (3%) of that portion of the provider's gross revenue attributable to the provider's telecommunications networks and/or facilities within the city and not limited to revenues derived from the provision of telecommunications services within the city.~~

~~(2) Franchise filing fee. Each applicant shall submit a nonrefundable application filing fee for each franchise request. The filing fee shall initially be two thousand five hundred dollars (\$2,500), and may be adjusted annually by resolution of the governing body. Additional land use review fees shall apply as set forth in subsection 27-2.13G, SFCC 1987.~~

~~(3) Non-monetary consideration. Upon mutual agreement between the city and provider, a provider may pay up to one percent (1%) of the annual fee in the form of non-~~

1 monetary consideration, including, without limitation, network capacity, conduit, equipment,  
2 or other infrastructure or services for use by the city for the purposes specified below. This  
3 non-monetary consideration shall be negotiated with each provider taking into account the  
4 unique characteristics of each provider's services and network. Said consideration shall be  
5 valued in a fair manner based on the provider's actual costs, including make-ready costs,  
6 maintenance, and repair charges, labor and material costs, plus ten percent (10%) as  
7 reimbursement for supervision and general and administrative costs. Further, any non-  
8 monetary consideration furnished to the city shall be for the city's public and noncommercial  
9 purposes. Use by the city under subsection 27-2.5B(7)(a) SFCC 1987 below, shall be  
10 included in the calculation of non-monetary consideration pursuant to this paragraph along  
11 with any other use of provider facilities by the city.

12 (4) ~~Permit, inspection, and review/location charges. Each provider shall pay all~~  
13 ~~permit and inspection charges related to a provider's construction in the public rights-of-way,~~  
14 ~~as assessed by the director in accordance with city requirements including, without limitation,~~  
15 ~~Section 23-2 SFCC 1987.~~

16 ~~B. Payment of Franchise Fee.~~

17 (1) ~~Commencing the calendar quarter following the calendar quarter any public~~  
18 ~~rights-of-way franchise becomes effective, payment of the franchise fees and other fees due~~  
19 ~~hereunder are required to be made within forty-five (45) days after the end of each calendar~~  
20 ~~quarter. The fee shall be based on gross revenues received by the provider for the preceding~~  
21 ~~quarter. Such payment shall be made through an electronic deposit process as established by~~  
22 ~~the city treasurer.~~

23 (2) ~~In the event that a fee payment is not received by the city on or before the~~  
24 ~~due date set forth in this subsection or in a franchise, or the fee owed is not fully paid, the~~  
25 ~~provider subject to the fee shall be charged a penalty of:~~



1                   (a) ~~Two percent (2%) per quarter to a maximum of ten percent (10%);~~

2                   and

3                   (b) ~~Interest on the outstanding amount owed from the due date at an~~  
4                   ~~interest rate equal to two percent (2%) above the rate for three-month federal treasury~~  
5                   ~~bills at the most recent United States treasury department sale of such treasury bills~~  
6                   ~~occurring prior to the due date of the franchise fee payment.~~

7                   (3) ~~The provider shall furnish to the city with each payment of compensation~~  
8                   ~~required by this section a detailed written statement showing the amount of gross revenue~~  
9                   ~~received by the provider within the city limit or attributable to its telecommunications~~  
10                  ~~facilities within the city limit, broken out by provider's line of business for the period covered~~  
11                  ~~by the payment. The city treasurer shall within a reasonable time after submission determine~~  
12                  ~~the basis and accuracy of the amounts reported. Where the amount paid by the provider is less~~  
13                  ~~than ninety-five percent (95%) of the amount actually due, the provider shall also compensate~~  
14                  ~~the city for the city's costs in discovering and recovering the underpayment. However, neither~~  
15                  ~~payment of the fee nor failure to make such investigation shall estop the city in any way or~~  
16                  ~~prevent subsequent investigation, collection, or return of any amount properly due.~~

17                  (4) ~~In the event that it is claimed by the city that the amount of the fee paid for~~  
18                  ~~any calendar year is insufficient, or in the event that the provider claims that the amount is~~  
19                  ~~excessive, and the parties cannot agree, the city and the provider shall follow the dispute~~  
20                  ~~resolution provisions of this section.~~

21                  (5) ~~In the event that the fee or portion thereof set forth in any franchise is~~  
22                  ~~declared illegal, unconstitutional, or void for any reason by any court or proper authority, the~~  
23                  ~~provider shall be contractually bound to pay the city an amount equal to the reasonable use of~~  
24                  ~~the city's public rights of way. This section, however, shall not constitute a waiver of any~~  
25                  ~~claim the provider may assert against the city.~~

1           ~~(6) — Acceptance by the city of any payment due under a franchise shall not be~~  
2           ~~deemed to be a waiver by the city of any breach of the franchise occurring prior thereto, nor~~  
3           ~~shall the acceptance by the city of any such payments preclude the city from later establishing~~  
4           ~~that a larger amount was actually due under the franchise, or from collecting any balance due~~  
5           ~~to the city.~~

6           ~~(7) — In consideration of the rights and privileges granted by any franchise, the~~  
7           ~~following apply:~~

8                   ~~(a) — The city shall have and provider shall grant to it the right and~~  
9                   ~~privilege at the city's expense to suspend and maintain wires and necessary control~~  
10                  ~~boxes on poles placed by the provider in the public right of way if space therein is~~  
11                  ~~available, which the city may require for fire, police, emergency, or other municipal~~  
12                  ~~purposes. All such wires shall be placed in mutually agreed upon locations on the~~  
13                  ~~poles or in the conduits so as not to interfere with the service of the provider and shall~~  
14                  ~~not pose a danger to the provider's facilities, customers, or customer's property.~~  
15                  ~~However, nothing in the franchise shall limit the provider's right to reserve conduit~~  
16                  ~~space and/or pole space which in its sole discretion it retains for purposes of assuring~~  
17                  ~~its ability to provide future services or the safety or servicing of its facilities.~~

18                   ~~(b) — City agrees, in consideration of the establishment of the service and~~  
19                  ~~furnishing of the facilities described in subsection 27-2-5B(7)(a) SFCC 1987, to hold~~  
20                  ~~the provider free and harmless from all claims or liability for damage which may~~  
21                  ~~arise out of the city's operation of such wires and control boxes. In no event shall the~~  
22                  ~~city be required to pay any pole attachment fees in connection with the exercise of~~  
23                  ~~the city's rights under this subsection; however, the fair market value of the city's use~~  
24                  ~~of provider's wires or control boxes without recurring costs shall be included as part~~  
25                  ~~of non-monetary consideration paid by the provider as further provided for in~~

1 subsection 27-2.5A(3)-SFGC-1987.

2 ~~(8) To facilitate the city's annual budget process, on or before the 1st of~~  
3 ~~November and each succeeding 1st of November thereafter during the term of any franchise~~  
4 ~~granted under this section, the provider will provide the city with an estimate of the gross~~  
5 ~~revenue and resultant fee for the following calendar year. Nothing herein shall preclude the~~  
6 ~~provider and the city from agreeing to a revised payment schedule.~~

7 ~~C. City's Right to Audit.~~

8 ~~(1) Providers shall keep complete and accurate books of accounts and records of~~  
9 ~~their business and operations pursuant to any franchise granted hereunder in accordance with~~  
10 ~~generally accepted accounting principles. If required by the FCC, providers shall use the~~  
11 ~~system of accounts and the forms of books, accounts, records, and memoranda prescribed by~~  
12 ~~the FCC in 47 CFR or its successor, and as may be further described herein. The director may~~  
13 ~~require the keeping of additional records or accounts which are reasonably necessary for~~  
14 ~~purposes of identifying, accounting for, and reporting gross revenue and uncollectibles for~~  
15 ~~purposes of any franchise. Providers shall keep their books of account and records in such a~~  
16 ~~way that identification of revenues by type of service within the city is available.~~

17 ~~(2) Upon reasonable prior notice by the city of not less than thirty (30) days, or~~  
18 ~~such other time as may be agreed upon by the city and the provider, the city shall have the~~  
19 ~~right to review or audit the provider's books and records in accordance with regularly~~  
20 ~~accepted accounting and audit standards regarding any amounts which may be owed under a~~  
21 ~~franchise. This right includes the right to review and audit all books and records of revenue~~  
22 ~~not included in the calculation of the fee paid. The city shall give written notice to the~~  
23 ~~provider of any additional amount claimed to be due to the city as a result of the city's review.~~  
24 ~~If the provider disputes the additional amount allegedly due to the city, if any, the dispute~~  
25 ~~shall be determined according to the dispute resolution provisions of this section.~~

1           (3) ~~— In the event of an audit, the provider shall provide city specific books,~~  
2 ~~records, contracts, account codes, documents, and papers for its operations within the city.~~

3           (4) ~~— All such books, records, and accounts of the provider shall be retained by the~~  
4 ~~provider for a period of six (6) years, in accordance with § 37-1-3 NMSA 1978, or its~~  
5 ~~successor. The provider shall make such records as are necessary for the city to complete its~~  
6 ~~audit and be available for inspection by the city upon thirty (30) days notice from the city.~~

7           (5) ~~— All audits will take place on provider premises within the city of Santa Fe or~~  
8 ~~provider will pay the reasonable, documented costs required for the auditor to go to provider's~~  
9 ~~offices. The city's auditors may review all directly relevant materials and may make copies of~~  
10 ~~any materials with the approval of the provider. Such approval will not be unreasonably~~  
11 ~~withheld.~~

12           (6) ~~— In addition to paying all fees owed plus interest, in the event that the city~~  
13 ~~reviews the provider's franchise fee payments, and finds that the provider has underpaid the~~  
14 ~~fee owed for any year in an amount exceeding five percent (5%) of the franchise fees actually~~  
15 ~~paid, the provider shall pay the reasonable cost of the city's review and underpayment~~  
16 ~~recovery costs.~~

17           (7) ~~— The city will maintain confidentiality of information provided by providers~~  
18 ~~to the maximum extent permitted by law when providers have notified the city of the~~  
19 ~~confidential nature of specifically identified information reasonably marked by the provider~~  
20 ~~as "Confidential." The city will maintain the confidentiality of this information to the~~  
21 ~~maximum extent permitted by law.]~~

22           A.     Infrastructure Maintenance Franchise Fee.

23           (1)     Pursuant to the authority granted by section § 3-42-1 NMSA 1978 and 47  
24 U.S.C. 253(c), there is hereby imposed an infrastructure maintenance franchise fee upon  
25 telecommunications retailers at the rate of two percent (2%) of all gross charges charged by

1        telecommunications retailers to a service address in the city for telecommunications  
2        originating or received in the city.

3                (2)        The fee imposed by this chapter shall not be imposed in any circumstances in  
4        which the imposition of the fee would violate the Constitution or statutes of the United States.

5        Section 4.        A new Subsection 27-2.6 SFCC 1987 is ordained to read:

6        27-2.6 [NEW MATERIAL]    Collection of Additional Charge by Retailers.

7                A.        Any retailer making or effectuating a sale of telecommunications at retail shall pay  
8        the infrastructure maintenance franchise fee to the department as provided by 27-2.5 of this chapter.  
9        The fee shall constitute a debt owed by the retailer to the city.

10              B.        The retailer shall charge each customer an additional charge in an amount equal to  
11        the infrastructure maintenance franchise fee attributed to the customer's service address in the city.  
12        This additional charge to customers shall, when collected, be stated as a distance item on the bill to  
13        each customer separate and apart from the retailer's gross charges to its customers for  
14        telecommunications.

15              C.        Each retailer may retain two percent (2%) of the additional charges it collects under  
16        this chapter to reimburse itself for expenses incurred in connection with accounting for and remitting  
17        the fee to the department.

18        \* Editor's Note -- Renumber the existing Subsection 27-2.6 as Subsection 27-2.7, renumber the  
19        existing Subsection 27-2.7 as Subsection 27-2.8, renumber the existing Subsection 27-2.8 as  
20        Subsection 27-2.9, and renumber the existing Subsection 27-2.9 as Subsection 27-2.10.

21        Section 5.        A new Subsection 27-2.11 SFCC 1987 is ordained to read:

22        27-2.11 [NEW MATERIAL]    Filing Returns and Payments by Retailers.

23              A.        On or before the last day of each calendar month, every retailer required to pay the  
24        infrastructure maintenance franchise fee imposed by this chapter shall file with the department a  
25        remittance return and shall pay the fee attributable to gross charges for the preceding calendar month.

1 The return shall be filed on a form prescribed by the director, and shall contain such information as  
2 the director may reasonably require.

3 B. No later than February 28th of each year, every telecommunications retailer shall  
4 provide to the department a report of an audit performed by an independent certified public  
5 accountant attesting to the amount of the infrastructure maintenance franchise fees paid to the  
6 department for the preceding calendar year, and that such amount complies with the requirements of  
7 this chapter.

8 \* Editor's Note – Renumber the existing Subsection 27-2.11 as Subsection 27-2.17.

9 Section 6. A new Subsection 27-2.12 SFCC 1987 is ordained to read:

10 27-2.12 [NEW MATERIAL] Registration of Providers and Resellers.

11 A. Every telecommunications provider within the meaning of this chapter shall register  
12 with the department within 90days after the effective date of the ordinance authorizing a franchise  
13 with that provider, on a form to be provided by the department, the name and address of every  
14 telecommunications reseller or other telecommunications provider with whom the registering  
15 telecommunications provider has a contractual relationship to provide telecommunications services or  
16 to make available telecommunications facilities in the public way. The telecommunications provider  
17 shall have a continuing duty to file with the department a revised registration forms within 45days  
18 after the date of occurrence of any changes in the information provided on the form, including the  
19 creation or termination of a contractual relationship described herein.

20 \* Editor's Note – Renumber the existing Subsection 27-2.12 as Subsection 27-2.18.

21 Section 7. A new Subsection 27-2.13 SFCC 1987 is ordained to read:

22 27-2.13 [NEW MATERIAL] Resales.

23 Whenever amounts are claimed to be excluded from gross charges as sales for resale under  
24 Section 27-2.3(H), the reseller shall furnish to the telecommunications provider the reseller's resale  
25 information. The telecommunications provider shall retain the resale information with its books and

1 records.

2 \* Editor's Note – Renumber the existing Subsection 27-2.13 as Subsection 27-2.19.

3 Section 8. A new Subsection 27-2.14 SFCC 1987 is ordained to read:

4 27-2.14 [NEW MATERIAL] Maintaining Books and Records.

5 Every retailer required to pay the fee imposed by this chapter, and every other  
6 telecommunications provider claiming an exclusion from gross charges as sales for resale under  
7 Section 27-2.9, shall keep accurate books and records of its business or activity, including original  
8 source documents and books of entry denoting the transactions that gave rise, or may have given rise,  
9 to any liability or exemption. All such books and records shall, at all times during business hours of  
10 the day, be subject to and available for inspection by the department.

11 \* Editor's Note – Renumber the existing Subsection 27-2.14 as Subsection 27-2.20.

12 Section 9. Subsection 27-2.15 SFCC 1987 is hereby repealed, and a new Subsection  
13 27-2.15 is ordained to read:

14 27-2.15 [NEW MATERIAL] Application of Other Revenue Provisions.

15 The infrastructure maintenance franchise fee imposed by this chapter is imposed in additional  
16 to all taxes, fees and other revenue measures imposed by the city, the state of New Mexico or any  
17 other political subdivision of the state; provided, however, that no fee or other compensation in  
18 additional to the infrastructure maintenance franchise fee provided in this chapter shall be required for  
19 the use of the public way by telecommunications carrier.

20 \* Editor's Note – Renumber the existing Subsection 27-2.10 as Subsection 27-2.16.

21 Section 10. Subsection 27-2.11 SFCC 1987 (being Ord. #2010-14 §13, as amended) is  
22 hereby amended to read:

23 ~~[27-2.11]~~ 27-2.17 [Violations and] Penalties; Remedies.

24 ~~[Action by the city to impose fines and other penalties under this section shall be initiated~~  
25 ~~only after dispute resolution provisions of this section have concluded. All impositions of fines shall~~

1 be stayed for up to ninety (90) days during the period of good faith activity under the dispute  
2 resolution provisions.

3 A. ~~Failure of a provider to abide by the requirements of Section 27-2.7 SFCC 1987,~~  
4 ~~regarding the public rights of way: five hundred dollars (\$500.) per day for each day such violation~~  
5 ~~occurs on a per location basis, to a maximum of five thousand dollars (\$5,000.) per day for all~~  
6 ~~violations within a radius of one thousand feet (1,000').~~

7 B. ~~Failure of a provider to abide by the requirements of subsection 27-2.5 SFCC 1987,~~  
8 ~~regarding compensation for use of the public rights of way, and the city's right to perform audits: one~~  
9 ~~hundred dollars (\$100.) per day for each day such violation occurs.]~~

10 A. Any telecommunications retailer who fails to pay the infrastructure maintenance  
11 franchise fee as provided by this chapter shall be subject to a fine of not less than \$100 for each day  
12 that the failure to pay continues. Each day that the retailer's failure to pay continues shall constitute a  
13 separate and distinct violation and offense under this chapter. Any retailer who becomes subject to  
14 this fine may be enjoined from doing business in the city until the retailer has paid all sums due and  
15 owing under this chapter.

16 B. Any telecommunications provider who otherwise violates this chapter shall be  
17 subject to a fine of not less than \$100 for each offense. Each day the violation continues shall  
18 constitute a separate offense.

19 C. *Default and Termination of Franchise:*

20 (1) The provider agrees that an event of default shall include but shall not be  
21 limited to any of the following acts or failure to act by the provider:

22 (a) Failure to obtain any applicable permits from the city pursuant to this  
23 section or the franchise.

24 (b) Failure to comply with the assignment of or transfer of control  
25 provisions of this section or the franchise.



1 (c) Failure to supply any mutually agreed-upon non-monetary  
2 consideration.

3 (d) Failure to supply or maintain bonds as may be required by the city to  
4 assure the proper completion of any construction performed.

5 (e) Failure to make any of the payments set forth in this section or as  
6 required in any franchise.

7 (f) Failure to pay any permit fees, or failure to comply with any rules,  
8 regulations, orders, approvals or directives of the city as set forth in this section or  
9 any franchise.

10 (g) Failure to comply with any federal, state or local laws upon  
11 enforcement.

12 (h) Failure to submit maps, operational data, reports, insurance  
13 certificates or other required documents.

14 (i) Failure to use any of the telecommunications facilities in the public  
15 rights-of-way to transmit, receive, distribute, provide or offer telecommunications  
16 services for a period of six (6) consecutive months, excepting facilities maintained  
17 for spare capacity and/or future use.

18 (2) Upon the occurrence of an event of default, in accordance with the  
19 procedures provided for in this section or any franchise, the city may take any of the  
20 following actions so long as the city does not also take action to impose penalties for the  
21 same conduct under another ordinance or regulation:

22 (a) Require the provider to take such actions as the city deems  
23 appropriate that are consistent with provider's duties under its franchise; or

24 (b) Seek money damages from the provider as compensation for such  
25 event of default; or

1 (c) Accelerate the expiration of the term of any franchise by decreasing  
2 the term of the franchise. The extent of such acceleration shall be determined by the  
3 city and may include any period of time, but not less than six (6) months, provided  
4 that at least six (6) months remain under the franchise; or

5 (d) As a last measure only, terminate the franchise and the city may  
6 require the provider at its sole cost to remove all of its facilities and reasonably  
7 restore all rights-of-way to their existing conditions within one hundred eighty (180)  
8 days after termination or the city may assume ownership of the facilities consistent  
9 with paragraph C(4)(f) below.

10 (3) The city shall exercise the rights set forth in this subsection in accordance  
11 with the following procedures:

12 (a) The director shall notify the provider, in writing, of an alleged event  
13 of default. This written notice shall set forth with reasonable specificity the facts the  
14 city believes are the basis for declaring that an event of default has occurred. The  
15 provider shall within thirty (30) calendar days of the date the notice is postmarked, or  
16 such additional time as the director may specify in the notice, cure the alleged event  
17 of default, or in writing present for review by the director a reasonable time frame  
18 and method to cure the event of default. The provider, in lieu of the cure of the event  
19 of default as set forth herein, may in writing present facts and arguments as to why  
20 the provider disagrees that an event of default has occurred.

21 (b) If the provider presents a written response that challenges whether an  
22 event of default has occurred, the director shall within ten (10) days review the  
23 submitted materials and determine again whether an event of default has occurred. If  
24 the director reaffirms that an event of default has occurred, the provider shall be  
25 notified in writing of this decision and shall, within thirty (30) calendar days, cure the

1           alleged event of default. The period to cure is tolled in the event one (i) party  
2           demands mediation until such time as mediation is completed.

3           (c)     If the provider fails to cure the event of default so declared pursuant  
4           to this section within the time permitted by the director, the director shall prepare a  
5           written report to the governing body and recommend action to be taken. If the  
6           governing body, after consideration of this report and hearing, agrees that an event of  
7           default has occurred, it may order an appropriate remedy as set forth herein.

8           (4)     In addition to the rights under this section, the city, upon any termination,  
9           may, at its sole discretion, direct the provider to remove, at the provider's sole cost and  
10          expense, any or all of its facilities from all public rights-of-way within the city, subject to the  
11          following:

12           (a)     The city may determine that removal of facilities is not necessary;

13           (b)     In removing any part of the facilities, the provider shall refill and  
14           compact, at its own expense, any excavation that shall be made by it and shall leave  
15           all public rights-of-way in as good a condition as that prevailing prior to the  
16           provider's removal of the facilities;

17           (c)     The city shall have the right to inspect and approve the conditions of  
18           public rights-of-way after removal has occurred;

19           (d)     The removal shall commence within thirty (30) days of an order to  
20           remove being issued by the director at the discretion of the governing body and shall  
21           be completed within one hundred eighty (180) days of the termination;

22           (e)     The provider shall be responsible for all necessary removals of the  
23           facilities and maintenance of the street area in the same manner and degree as if the  
24           facilities were in active use, and the provider shall retain all liability associated with  
25           such removals.

1 (f) As an alternative to removal, the provider may, subject to the city's  
2 approval, abandon its facilities in place and transfer ownership of the installed  
3 facilities to the city. Nothing herein shall cause the city to incur any costs related to  
4 the removal of the provider's facilities or the transfer of ownership of said facilities to  
5 the city.

6 D. *Dispute Resolution Provision.*

7 (1) Following the notice set out in subsection 27-2.11C(3) SFCC 1987, above or  
8 in the event of any other dispute arising from or relating to the franchise or breach thereof,  
9 and if the dispute cannot be settled through negotiations, the following process will be  
10 followed during which any of the above remedies and penalties may be imposed.

11 (2) All disputes will be mediated [~~before resorting to arbitration~~] prior to  
12 litigation. The costs of such mediation will be equally split. The place of the mediation  
13 session shall be in Santa Fe, New Mexico. The city and the provider will select a mediator or  
14 mediators by mutual agreement and, in cooperation with the mediator(s), shall determine all  
15 necessary rules and procedures for the mediation. The city and the provider will fully  
16 cooperate in the mediation activities. All mediation communications shall be confidential, not  
17 subject to disclosure and shall not be used as evidence in any arbitration, judicial, or  
18 administrative proceeding, as set forth in the Mediation Procedures Act, Chapter 11 NMSA  
19 (2007 Supp.) or as subsequently amended.

20 ~~[(3) Following the mediation session any unresolved claims shall be submitted to~~  
21 ~~arbitration pursuant to the New Mexico Uniform Arbitration Act, Section 44-7A-1, et seq.,~~  
22 ~~NMSA 1978 or as subsequently amended.~~

23 ~~(a) The city and provider shall first attempt to select an arbitrator~~  
24 ~~acceptable to both parties. If they are unable to mutually agree upon an acceptable~~  
25 ~~arbitrator within thirty (30) days from the date of the original written claim in~~

1 arbitration, then the Chief Judge of the First Judicial District Court shall appoint an  
2 arbitrator.

3 ~~(b) — The city and the provider shall retain the right to object to the~~  
4 ~~arbitrator selected by said Chief Judge. If a party objects to the arbitrator, it shall~~  
5 ~~request that the court appoint another arbitrator.~~

6 ~~(c) — The arbitrator shall hear the arbitration as soon as is practicable.~~

7 ~~(d) — The arbitrator's expenses shall be paid equally by each side. Each~~  
8 ~~party shall bear his or her own attorneys' fees, costs and expenses unless otherwise~~  
9 ~~determined by the arbitrator.~~

10 ~~(e) — The place of the arbitration shall be Santa Fe, New Mexico.~~

11 ~~(f) — After a party receives notice of the arbitration award, and upon~~  
12 ~~motion to the court, the court shall issue a confirming order unless the award is~~  
13 ~~modified, corrected, or vacated.~~

14 ~~(g) — In the event a party fails to proceed with arbitration of arbitrable~~  
15 ~~claims, unsuccessfully challenges the arbitrator's award, or fails to comply with the~~  
16 ~~arbitrator's award, the other party is entitled to costs of suit including reasonable~~  
17 ~~attorney's fee for having to compel arbitration or defend or enforce the award.~~

18 ~~(h) — Nothing in this subsection shall prohibit a party from challenging the~~  
19 ~~legality of a ruling or decision of an arbitrator in any court of competent jurisdiction.]~~

20 E. *Remedies and Penalties Not Exclusive.* Subject to the provisions of subsection 27-  
21 2.11, all remedies and penalties granted pursuant to this section and franchise are cumulative and not  
22 exclusive, and the recovery or enforcement by one (1) available remedy or imposition of any penalty  
23 is not a bar to recovery or enforcement by any other such remedy or imposition of any other penalty.  
24 The city shall not, however, pursue duplicative remedies or penalties against provider for violations  
25 of other city ordinances or regulations arising from the same conduct. The city reserves the right to

1 enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies  
2 available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any  
3 term, condition, or obligation imposed upon the provider by or pursuant to this section or any  
4 franchise. A specific waiver of a particular breach of any term, condition, or obligation imposed upon  
5 the provider by or pursuant to this section or franchise shall not be a waiver of any other or  
6 subsequent or future breach of the same or of any other term, condition, or obligation, or a waiver of  
7 the term, condition, or obligation itself.

8 \* Editor's Note -- Renumber the existing Subsection 27-2.17 as Subsection 27-2.22.

9 Section 11. Subsection 27-2.16 SFCC 1987 (being Ord. #2010-14, §18 as amended) is  
10 amended to read:

11 ~~[27-2.16]~~27-2.21 Appointment of Telecommunications Advisory Committee.

12 The mayor ~~[shall]~~ may solicit and appoint, with the advice and consent of the city council, a  
13 committee of ~~[no less than five (5) and no more than nine (9)]~~ individuals who shall advise, consult  
14 and work with city staff, including without limitation, the economic development division, the Santa  
15 Fe Complex, a local nonprofit; and the public ~~[in order to develop a telecommunications master plan  
16 and present such master plan to the governing body for its review and approval and to make  
17 recommendations to the governing body regarding amendments to Section 27-2 SFCC 1987 in order  
18 to facilitate implementation of the approved master plan].~~

19  
20 APPROVED AS TO FORM:

21   
22  
23 KELLEY A. BRENNAN, CITY ATTORNEY

24  
25 M/Legislation/Bills 2015/Telecommunications

## 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 RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987 TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE"; AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE.

Sponsor(s): Councilor Ives

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Marcos Martinez Date: 8/19/16 Phone: 955-6502

Reviewed by City Attorney: Kelly A. Brunner Date: 8/24/16  
(Signature)

Reviewed by Finance Director: [Signature] Date: 8-25-2016  
(Signature)

### Section B. Summary

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

This bill allows the City to impose a franchise fee and to receive revenue for the Telecom provider's use and occupancy of the PROW.

### 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 _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
Total:	\$ 0			\$ 0			

\* 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:

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

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

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



3. Expenditure/Revenue Narrative:

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

An amendment to the telecommunications Ordinance (Chapter 27) will allow the City to collect franchise fees on telecommunications service providers. Without the amendment, the City has no ability to collect franchise fees, which are permissible under state and federal law.

=====

Section D.      General Narrative

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

None identified.

2. Consequences of Not Enacting This Bill/Resolution:

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

Yes. Under 47 U.S.C § 253(a), the City cannot impose barriers to entry for telecommunication service providers. This means that the City may have to allow telecom providers into the PROW, but without the Ordinance Amendment, the City would not receive compensation for the use and occupancy of the PROW. 47 U.S.C § 253(c), and NMSA 1978, § 3-42-1 allow the City to impose a franchise fee on a competitively neutral and nondiscriminatory basis. This bill allows the City to impose a franchise fee and to receive revenue for the Telecom provider's use and occupancy of the PROW.

3. Technical Issues:

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

None identified.

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.

By adopting this bill, the City would be permitted to collected franchise fees from telecommunication service providers that are legally allowed to access the PROW. If not adopted, these service providers would still be able to access the PROW, but the City would not receive any franchise fees for this right.

**ACTION SHEET**  
**PUBLIC UTILITIES COMMITTEE MEETING OF 9/7/16**

**ISSUE NO. 19**

Request for approval of Bill No. 2016-\_\_\_\_\_. An ordinance relating to the City of Santa Fe Telecommunications Facilities In The Public Right-of-Way Ordinance; amending subsection 27-2.1 SFCC 1987 to establish legislative findings; amending subsection 27-2.3 SFCC 1987 to repeal the definition of "gross revenue" and establish a new definition for "gross charge"; amending subsection 27-2.5 to repeal the fee structure and establish an infrastructure maintenance franchise fee; and making such other changes as are necessary to carry out the intent of this ordinance. (Marcos Martinez) (Councilor Ives)

Public Utilities Committee – 9/7/2016  
 Public Works Committee – 9/12/2016  
 City Council – 9/14/2016 (Request to Publish)  
 Finance Committee – 9/19/2016  
 City Council – 10/13/2016

**PUBLIC UTILITIES COMMITTEE ACTION:** PUC recommended postponing to 10/5/2016 PUC meeting.

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR MAESTAS	X		
COUNCILOR TRUJILLO	X		
COUNCILOR LINDELL	X		
COUNCILOR VILLARREAL	X		

19. REQUEST FOR APPROVAL OF BILL NO. 2016- \_\_\_\_\_. AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE," AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR IVES). (MARCOS MARTINEZ) Committee Review: Public Utilities Committee - 09/07/16; Public Works Committee - 09/12/16; City Council (Request to Publish) - 09/14/16; Finance Committee - 09/19/16; and City Council (Public Hearing) - 10/13/16.

Councilor Maestas said Marcos Martinez, Assistant Attorney, is not in attendance, the bill sponsor is not in attendance, and this is quite a complex piece of Legislation. He said Public Works will consider this, and this Committee might want to consider moving this forward to Public Works without recommendation.

Chair Rivera said we will have the ability to hear this at our October meeting prior to it going to the Governing Body, if we choose to postpone it until the next meeting.

**MOTION:** Councilor Maestas moved, seconded by Councilor Villarreal, to postpone this item to the Public Utilities Committee meeting of October 5, 2016.

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

**MATTERS FROM THE PUBLIC**

None

**MATTERS FROM THE CITY ATTORNEY**

None

**ITEMS FROM STAFF**

None

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, SEPTEMBER 12, 2016**

**ITEM 13**

REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987 TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE"; AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR IVES) (MARCOS MARTINEZ)

**PUBLIC WORKS COMMITTEE ACTION:** Approved

**FUNDING SOURCE:**

**SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON IVES	Excused		
COUNCILOR MAESTAS	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		
COUNCILOR VILLARREAL	X		

Councilor Maestas deferred to Mr. Catanach on this one. He just envisioned a higher level upgrade that would call for complete reconstruction and would not see this road being there for five more years. He was just a little leery of all that construction traffic. If it cracks, it won't look good. It has been this way for a long time and he thought it would be better to wait until after construction.

Mr. Pino said that same method has been out there since Caja del Rio and with the construction Mr. Catanach described, it will make a total difference. It will be a good surface there. It will get improved life and present a much better look for the airport.

Mr. Catanach agreed. The City has had a great success with that process where we don't put in curb and gutter. He mentioned several others that were done that way. He understood the concern with heavy construction but didn't think that will be a huge percentage.

Councilor Maestas said okay. In the future, he asked Mr. Pino to indicate the ranking of these projects. We did rank them but it would be good to know now where they rank.

Councilor Villarreal couldn't find an estimate sheet for the Gonzales Road improvement.

Mr. Catanach said he noticed that and could provide it. That is a very small project.

**Councilor Maestas moved to approve the request. Councilor Rivers seconded the motion.**

Councilor Maestas said he forwarded concerns about some streets. DeVargas Heights was one. He asked Mr. Catanach to look back on those complaints and see if some of those could be worked in.

Mr. Catanach said with the money available right now, they could do that rehab work. It does make a difference to preserve our roads.

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

- 13. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987 TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987 TO REPEAL THE DEFINITION OF "GROSS REVENUE" AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE"; AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR IVE) (MARCOS MARTÍNEZ)**

**Committee Review:**

Public Utilities Committee (Scheduled)  
City Council (Request to publish)

09/07/16  
09/14/16

Finance Committee (Scheduled)  
Council (Public hearing)

09/19/16  
10/13/16

Ms. Brennan said this is some of the related follow-up on the court order with the Qwest case where the Judge struck certain portions of the ordinance including the fee provision. We corrected the fee portion and definitions and arrived at the ordinance by a reliable group which is a safe approach. It is remedial from a few years ago and has been on the "to do list" for a while.

Councilor Villarreal was trying to figure out why they stuck out.

Councilor Maestas asked Ms. Brennan if this is a charge to be imposed going forward only but not going back.

Ms. Brennan agreed. There are a limited number, including Qwest. We entered into an agreement for those transecting the city. They understood they had to agree with the ordinance and followed along with the litigation. We had some inquiries and some projects were moved forward toward franchise and there are no retroactive fees.

Councilor Maestas was concerned that every time a telecom entity comes up that the City can't preempt the FCC or State rules.

Ms. Brennan explained that franchise fees are different but very like a tax. It was an issue that Qwest alleged in the court. But this is really about franchises in the Right-Of-Way which is more like a rent or lease. It is a special category.

Councilor Maestas asked if it is separate for each franchise.

Ms. Brennan agreed. It is enacted by ordinance and in a standard form.

Councilor Maestas recalled that a task force and the Municipal League were the drivers. He asked if there is any future opportunity to go even further.

Ms. Brennan said there is opportunity for the state to impose a tax on it, but right now, we can impose franchise fee for use in the Right-Of-Way. It will capture the usage in a gross charge.

Councilor Maestas asked then if it is legally defensible.

Ms. Brennan agreed that it is. Qwest offered to support the state regulation for all telecom companies because they see other companies with cell towers who are not paying any franchise fees.

Councilor Maestas asked if this can be enforced. The audit is the basis for our fee. We had problems with Lodgers Tax.

Ms. Brennan felt comfortable with it. It is easy to extract that information. She said she was on the witness stand for two hours. So she believed it is legally defensible and it helps that we are on a model

form.

Councilor Maestas asked if there is any requirement of disclosure where it is broken out.

Ms. Brennan said it is broken out by federal requirement on the bill. For Qwest, there were about 10 items.

Councilor Maestas asked if she had any idea on how much the City can generate.

Ms. Brennan thought it will be 2-3 times what is collected now and it might be more.

**Councilor Villarreal moved to approve the request. Councilor Maestas seconded the motion and it passed by unanimous voice vote.**

**14. REQUEST FOR APPROVAL OF A RESOLUTION CALLING FOR THE UPDATE OF THE COMMUNITY ECONOMIC DEVELOPMENT PLAN AND RELEVANT SECTIONS OF CITY CODE IN ORDER TO ESTABLISH PROGRAM PRIORITIES, GOALS AND METRICS (COUNCILOR MAESTAS) (FABIAN TRUJILLO)**

**Committee Review:**

Economic Development Review Board (Scheduled)	09/06/16
City Business and Quality of Life Committee (Scheduled)	09/14/16
Finance Committee (Scheduled)	09/19/16
Council (Scheduled)	09/28/16

Councilor Villarreal said the resolution answered her question on timing. She was worried about the time frame for implementation. She asked if it will be next year.

Mr. Trujillo agreed. The strategy was approved in 2008. The SWOT analysis said no later than July 1. The ordinance language is within 135 days and then the scoping process is developed with the Governing Body and a full Economic Development Plan in the next fiscal year and present a budget for all of it with a mini implementation strategy.

Councilor Villarreal asked if the 135 days was worked out by staff.

Mr. Trujillo said they will do that now but the interim update is by July 1. The update of the code section on how it is funded will be reviewed and the update for scoping and visioning within 135 days. The full plan and budget and the process to approve is for next fiscal year. This will be done by March 15 right after the budget session but the strategy takes longer so it will be by July 1 or sooner.

Councilor Villarreal asked about the time line for hiring.

Mr. Trujillo was not sure what it would be for a manager. That is a City Manager question. But this plan has not been updated in 12 years (2004). There was a stakeholder update in 2008 and CRQL did some in

- a) **BILL NO. 2016-37. AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO REPEAL THE DEFINITION OF "GROSS REVENUE," AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR IVE). (MARCOS MARTINEZ).**

**MOTION:** Councilor Dominguez moved, seconded by Councilor Maestas, to approve the request to publish notice of a public hearing on October 13, 2016.

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

**For:** Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

- b) **BILL NO. 2016-38. AN ORDINANCE AMENDING SECTION 7-4.2 SFCC 1987, RESIDENTIAL GREEN BUILDING CODE BY REPEALING EXHIBIT A TO CHAPTER VII SFCC 1987; ADDING A REQUIREMENTS SECTION; AND AMENDING SECTION 14-8.2(D) BEST MANAGEMENT PRACTICES FOR GRADING BEFORE AND DURING CONSTRUCTION (COUNCILOR IVE, COUNCILOR DOMINGUEZ AND COUNCILOR VILLARREAL). (KATHERINE MORTIMER)**

Councilor Dominguez said, regarding 11(b) and 11(e), he spoke with the Mayor and would respectfully request that the Public Hearing on 11(b) be postponed to the Governing Body meeting of October 26, 2016. He won't be here on October 13<sup>th</sup>, and wants to be here for the debate on both items.

**MOTION:** Councilor Dominguez moved, seconded by Councilor Maestas, to approve Item 11(b), and postpone the public hearing to October 26, 2016.

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

**For:** Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Maestas, Councilor Rivera, Councilor Trujillo and Councilor Villarreal.

**Against:** None.

- c) **BILL NO. 2016-39. AN ORDINANCE REPEALING ORDINANCE NO. 2016-15 ADOPTING A MUNICIPAL GROSS RECEIPTS TAX (COUNCILOR DOMINGUEZ). (MARCOS MARTINEZ).**



<p align="center"><b>ACTION SHEET</b>  <b>ITEM FROM FINANCE COMMITTEE MEETING OF 09/19/16</b>  <b>FOR CITY COUNCIL MEETING OF</b></p>
---

**ISSUE:**

29. Request for Approval of an Ordinance Relating to the City of Santa Fe Telecommunications Facilities in the Public Rights-of-Way Ordinance; Amending Subsection 27-2.1 SFCC 1987 to Establish Legislative Findings; Amending Subsection 27-2.3 SFCC 1987 to Repeal the Definition of "Gross Revenue" and Establish a New Definition for "Gross Charge"; Amending Subsection 27-2.5 to Repeal the Fee Structure and Establish an Infrastructure Maintenance Franchise Fee; and Making such Other Changes as are Necessary to Carry Out the Intent of this Ordinance. (Councilor Ives) (Marcos Martinez)

**Committee Review:**

Public Utilities Committee (postponed)	09/07/16
Public Works Committee (approved)	09/12/16
City Council (request to publish)	09/14/16
Public Utilities Committee (approved)	10/07/16
City Council (public hearing)	10/13/16

Fiscal Impact – No

**FINANCE COMMITTEE ACTION:**

Approved as discussion item.

**FUNDING SOURCE:**

**SPECIAL CONDITIONS OR AMENDMENTS**

**STAFF FOLLOW-UP:**

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR VILLARREAL	X		
COUNCILOR IVES	X		
COUNCILOR LINDELL	X		
COUNCILOR HARRIS	X		
CHAIRPERSON DOMINGUEZ			

Mr. Trujillo said he would get a working committee together to meet and identify stakeholders, with some outdoor visioning sessions like what was done with the Southwest Planning Initiative." The way he was reading the Resolution is that a full community engagement process with all the different types of reports that come with this would be done in 2017, which would be something similar to what we did with it with the Angelou Plan where we touched more than 200 people. They would solicit an RFP and they would listen to what the Contractor wanted to do and how they wanted to go through the engagement process, which could involve surveys, depending on the group.

Chair Dominguez said in the interim there will be as many sessions with stakeholders as possible, and asked if we will need to spend money to do that. Or is it just going to be Fabian knocking on doors. This is part of the concern – staff already is doing more with less. He said, "And so you need to justify that with me. I want to make sure there is not a part of our community that will be shortchanged because there is a sense of urgency, more so for some than others."

Mr. Trujillo said it will have to be done internally because we don't have a budget for it, and we didn't look at engaging a contractor. They were looking "at just myself and Ross and Alex and just convening, getting a working committee from the outside to help us with that. And there's some people from the CBQL have volunteered to be part of that process in the last meeting. If that's what we're willing to do, we can go through that process."

**MOTION:** Councilor Ives moved, seconded by Councilor Villarreal, to approve this request with the proposed amendment.

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

**For:** Councilor Lindell, Councilor Harris, Councilor Ives and Councilor Villarreal.

**Against:** None.

**Explaining her vote:** Councilor Lindell said, "I'll vote yes to move it on to Council. I think there's more work to be done on this. I'm just not convinced that we have the human power to complete what we're being asked to do in the timeframe that we're being asked to do it. I think it's a very sizable project and I think that our Economic Development Department is certainly not at full capacity and this is asking an awful lot, but I'm fine to see it move on."

29. **REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO ESTABLISH LEGISLATIVE FINDINGS; AMENDING SUBSECTION 27-2.3 SFCC 1987, TO REPEAL THE DEFINITION OF "GROSS REVENUE," AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE**

(COUNCILOR IVES). (MARCOS MARTINEZ) Committee Review: Public Utilities Committee (postponed) 09/07/16; Public Works Committee (approved) 09/12/16; City Council (request to publish) 09/14/16; Public Utilities Committee (approved) 09/07/16; and City Council (public hearing) 10/13/16. Fiscal Impact – No.

Chair Dominguez said he pulled this to see if the other members of the Committee have concerns about this item.

Councilor Villarreal asked Marcos Martinez to talk about the intent of the Ordinance, and what it is changing specifically, and the legal ramifications for the change.

Marcos Martinez, Assistant City Attorney, said, "I would be happy to give an overview of the impetus behind these amendments. Basically, the City enacted a Telecommunications Ordinance in 2010. That Ordinance was challenged by the incumbent telecommunications provider, Qwest, now CenturyLink, and after years of litigation, certain parts of that Ordinance were struck down by a Federal Judge. Ultimately, the City ended up settling with CenturyLink, after it appealed the decision. The settlement was, I think, fair and reasonable. But the parts of the Ordinance never were cured after the Federal Judge had enjoined and struck those elements of the Ordinance. So the purpose of this amendment is to basically fill in the gaps that were struck by the Federal Court, and that is, in essence creating a new fee provision and some new definitions we think will comply with State and federal law."

Mr. Martinez continued, "The gist of this Ordinance is to have a new definition of gross charge, and have a fair, reasonable, non-discriminatory gross charge that the City may charge any telecommunications provider that comes and seeks to do business in the City of Santa Fe. We found this gross charge definition from a model Ordinance, so we think it should pass constitutional muster. And, if you have other specific questions, I would try to address them. I guess one other point I would like, before I stand for questions, is more specifically I was prompted to bring these amendments forward because we have a new telecommunications provider, called Broadband Network of New Mexico. They want to get a telecommunication franchise with the City, and we want to be able to charge them for their use and occupancy of the rights-of-way. And this Ordinance will allow us to impose a fee on them."

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

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

**5. REQUEST FOR APPROVAL OF ON-CALL AGREEMENT IN THE AMOUNT OF \$992,466.77 – 2016/2017 PAVEMENT RESURFACING PROJECTS FOR STREETS AND MAINTENANCE DIVISION; GM EMULSION, LLC. (DAVID CATANACH)**

Councilor Ives said this is on-call here, but the packet identifies specific streets and amounts, and asked if it because the base contract was an on-call agreement.

**ACTION SHEET**  
**PUBLIC UTILITIES COMMITTEE MEETING OF 10/5/16**

**ISSUE NO. 13**

Request for approval of Bill No. 2016-\_\_\_\_\_. An ordinance relating to the City of Santa Fe Telecommunications Facilities In The Public Right-of-Way Ordinance; amending subsection 27-2.1 SFCC 1987 to establish legislative findings; amending subsection 27-2.3 SFCC 1987 to repeal the definition of "gross revenue" and establish a new definition for "gross charge"; amending subsection 27-2.5 to repeal the fee structure and establish an infrastructure maintenance franchise fee; and making such other changes as are necessary to carry out the intent of this ordinance. (Marcos Martinez) (Councilor Ives)

Public Utilities Committee – 9/7/2016 (postponed)  
 Public Works Committee – 9/12/2016 (approved)  
 City Council – 9/14/2016 (Request to Publish) (approved)  
 Finance Committee – 9/19/2016 (approved)  
 Public Utilities Committee – 10/5/2016  
 City Council – 10/13/2016 (Public Hearing)

**PUBLIC UTILITIES COMMITTEE ACTION: Approved to forward to 10/13/2016 City Council.**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR RIVERA, CHAIR	Excused		
COUNCILOR MAESTAS	X		
COUNCILOR TRUJILLO	X		
COUNCILOR LINDELL	Excused		
COUNCILOR VILLARREAL	X		

13. **BILL NO. 2016-37. AN ORDINANCE RELATING TO THE CITY OF SANTA FE TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY ORDINANCE; AMENDING SUBSECTION 27-2.1 SFCC 1987, TO REPEAL THE DEFINITION OF "GROSS REVENUE," AND ESTABLISH A NEW DEFINITION FOR "GROSS CHARGE;" AMENDING SUBSECTION 27-2.5 TO REPEAL THE FEE STRUCTURE AND ESTABLISH AN INFRASTRUCTURE MAINTENANCE FRANCHISE FEE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE (COUNCILOR IVE). (MARCOS MARTINEZ) Committee Review: Public Utilities Committee - 09/07/16 (postponed); Public Works Committee - 09/12/16; City Council - 09/14/16 (Request to Publish) (approved); Finance Committee - 09/19/16; Public Utilities Committee - 10/05/16; and City Council (Public Hearing) - 10/13/16.**

Marcos Martinez, Assistant City Attorney, said, "You have the Ordinance in your packet. The purpose of this Ordinance is to basically address certain provisions of the Telecommunications Ordinance that were struck by Federal Court in 2012. That means that the City has been operating with an incomplete Ordinance without a fee provision, primarily. The City has been approached by a few telecommunications service providers who are interested in obtaining a franchise from the City. And in order for the City to be able to receive compensation for their use and occupancy of the rights-of-way, we wanted to cure those provisions of Code that had been struck by the Federal Courts. This amendment basically provides new definitions and provides a new fee provision. That is the primary focus of it. There are some minor cleanups in other areas, but other than that, I think I would stand for any questions you might have."

Responding to Acting Chair Maestas, Councilor Villarreal said her questions were answered prior to the meeting, noting a lot of it was concerns from community members that really were fighting the 2010 amendments. "And so they were mixing up things that happened in 2010 and we're looking at a current Ordinance change and revision, so I'm happy with the responses."

Acting Chair Maestas said two years ago, we had a legislative agenda item asking the Legislature to change the statutes to allow local governments to impose a Telecom GRT, and asked Mr. Martinez to comment.

Mr. Martinez said, "I believe that one of the proposals, at least that was out there, was there be a State-wide Telecommunications Tax that would then apportion monies to individual municipalities, similar to the way the State GRT works, potentially with a local option in it. The idea there was to have a uniform telecommunications tax essentially, without each municipality having to negotiate each one of these franchise agreements piecemeal, and to provide uniformity across the State. I think that was introduced, if I recall correctly, in 2011. I don't know if it's been reintroduced, but I will be happy to talk to you off-line about the pros and cons of that approach as well."

Acting Chair Maestas asked if what we are considering doing today would eliminate that option in the future.

Mr. Martinez said, "No, it would not."

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

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

14. **REQUEST FOR APPROVAL OF BILL NO. 2016-\_\_\_\_. AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE TO UPDATE LAND USE CATEGORIES, TABLE OF PERMITTED USES TO ADD AGRICULTURAL USES; AMENDING SUBSECTION 14-6.2(H) OF THE LAND DEVELOPMENT CODE TO PROHIBIT ANIMAL PRODUCTION AND SLAUGHTERHOUSES, AND PROVIDING FOR AGRICULTURAL USES; CREATING A NEW SUBSECTION 14-6.3(D)(4) OF THE LAND DEVELOPMENT CODE TO ALLOW FOR AGRICULTURAL HOME OCCUPATION EXCEPTIONS; AMENDING SECTION 14-8.7 OF THE LAND DEVELOPMENT CODE TO WAIVE ARCHITECTURAL DESIGN REVIEW OF AGRICULTURAL RELATED STRUCTURES BY THE LAND DEVELOPMENT DIRECTOR; AND AMENDING SUBSECTION 14-12 OF THE LAND DEVELOPMENT CODE TO INCLUDE DEFINITIONS FOR TERMS RELATING TO URBAN AGRICULTURE. (MAYOR GONZALES AND COUNCILOR IVES). (JOHN ALEJANDRO)**

**Committee Review:** Public Works Committee - 08/29/16 (approved); City Council (Request to Publish) - 08/31/2016 (approved); Planning Commission - 09/08/16 (approved); Water Conservation Committee - 09/13/16; City Business & Quality of Life Committee - 09/14/16 (approved); Finance Committee - 09/19/16 (approved) Sustainable Santa Fe Commission - 09/21/16; Public Utilities Committee - 10/05/16; and City Council (Public Hearing) - 10/26/16.

A copy of a proposed amendment sheet to the Ordinance, submitted by Councilor Maestas, is incorporated herewith to these amendments as Exhibit "3."

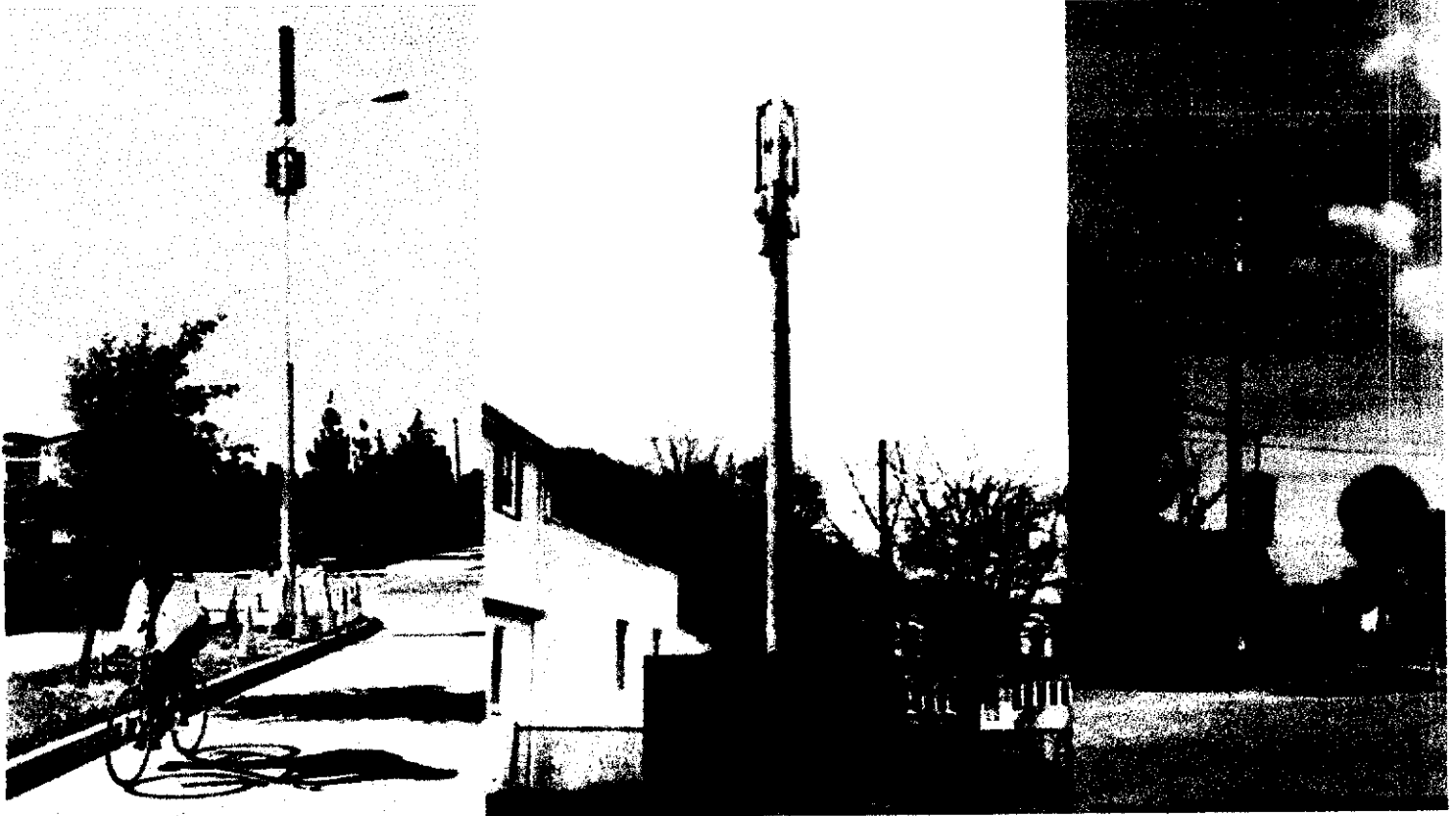
John Alejandro, Renewable Energy Planner, Public Utilities Department presented a brief summary of the bill and a review of the proposed amendments. Please see the Ordinance in the Committee packet and Exhibit "3," for specifics of this presentation.

Mr. Alejandro noted Councilor Lindell's amendments are in the packet and Councilor Maestas amendments have been handed out [Exhibit "3"]. He noted Councilor Villarreal worked with Councilor Lindell on the proposed amendments in the packet.

*The Committee commented and asked questions as follows:*

- ◆ Councilor Villarreal asked, regarding cooked food, what doesn't work for composting and if he has a definition for that. She said she understands it is okay to put cooked meat in compost.

Mr. Alejandro said cooked food by definition is broad. It primarily refers to any food that is cooked which would include vegetables, meat, pasta and such. He said best practice as recommended by entities, such as Master Gardeners, NMSU Agriculture, dictates that compost should only consist



**Katie Singer**  
Santa Fe, NM

**201**  
Supporters

Santa Fe City Council has scheduled an October 26, 2016, public hearing and vote on a bill amending our telecom ordinance's fee structure. This revision would finalize the practical elimination of our zoning rights regarding antenna placement on the public rights of way in front of our homes, businesses, and schools. Corporations could then erect antennas in these areas without prior notification, without public input, and leave residents with no recourse or appeal process.

We hereby petition Santa Fe City Council members to vote 'no' on this proposed bill (No. 2016-37) amending our Telecommunications Facilities Ordinance (City Code section 27-2). Instead, we petition City Council members to create a means for input from all stakeholders to draft a new revision that preserves zoning rights by requiring public hearings and neighborhood notification and a permit for each new antenna, as required for other new structures in Santa Fe.

Further, until our Telecommunications Facilities Ordinance is revised to respect residents' democratic process, the City must not allow or erect any new antennas, on the public right of way, regardless of whether they are concealed in new signs or other structures.

**This petition will be delivered to:**

*Exhibit "10"*

First Name	Last Name	City	State	Postal Code	Country	Signed On
Nikolas	Alley	Santa Fe	New Mexico	87508	United States	10/13/2016
Keith	Anderson	Santa Fe	New Mexico	87505	United States	10/13/2016
Sat Bachan	Anthony	Santa Fe	New Mexico	87502	United States	10/12/2016
Cristina	Apodaca	Santa Fe	New Mexico	87505	United States	10/14/2016
Karen	Armijo	Santa Fe	New Mexico	87506	United States	11/5/2016
Michael	Armstrong	Santa Fe	New Mexico	87505	United States	10/13/2016
Judi	Ashe	Santa Fe	New Mexico	87505	United States	10/13/2016
Jennifer	Bain	Santa Fe	New Mexico	87507	United States	10/14/2016
carol	bartelt	Santa Fe	New Mexico	87505	United States	10/13/2016
Jane	Barthelemy	Santa Fe	New Mexico	87501	United States	10/18/2016
Julie	Berman	Santa Fe	New Mexico	87505	United States	10/13/2016
Maria	Bernardez	Santa Fe	New Mexico	87501	United States	11/6/2016
Sally	BLakemore	Santa Fe	New Mexico	87507	United States	10/12/2016
Howard	Bleicher	Santa Fe	New Mexico	87507	United States	11/7/2016
Joyce	Bogosian	Santa Fe	New Mexico	87505	United States	10/14/2016
Vicki	Bohannon	Santa fe	New Mexico	87507	United States	10/13/2016
JoAnne	boren	Santa Fe	New Mexico	87508	United States	11/6/2016
Elisa	Boyles	Santa Fe	New Mexico	87501	United States	11/6/2016
Susan	Breckenridge	Santa Fe	New Mexico	87501	United States	10/18/2016
Nodia	Brent-Lux	Santa Fe	New Mexico	87505	United States	10/13/2016
William	Bruno, Ph.D.	Santa Fe	New Mexico	87505	United States	10/13/2016
Jamie	Brunson	Lamy	New Mexico	87540	United States	10/14/2016
Anthony	Buchen	Santa Fe	New Mexico	87501	United States	10/13/2016
Richard	Buckley	Santa Fe	New Mexico	87505	United States	10/12/2016
Jay	Bunker	Santa Fe	New Mexico	87506	United States	10/15/2016
Jackie	Caballero	Santa Fe	New Mexico	87505	United States	10/14/2016
Kristy	Cash	Santa Fe	New Mexico	87508	United States	10/14/2016
Annie	Chew	Santa Fe	New Mexico	87501	United States	10/12/2016
Camille	Coates	Santa Fe	New Mexico	87501	United States	10/18/2016
Fred	Coen	Santa Fe	New Mexico	87505	United States	10/12/2016
LARRY	COHEN	Santa Fe	New Mexico	87505	United States	10/13/2016
Chris	Collins	Santa Fe	New Mexico	87501	United States	10/14/2016
bari	conover	Santa Fe	New Mexico	87508	United States	11/5/2016
Dr. Charlotte	Cooke	Santa Fe	New Mexico	87508	United States	10/19/2016
Catherine	Copeland	Santa Fe	New Mexico	87505	United States	10/18/2016
Kati	Coppler	Santa Fe	New Mexico	87505	United States	10/13/2016
Jayne	Cotten	Santa Fe	New Mexico	87505	United States	10/12/2016
Laura	Cowan	Santa Fe	New Mexico	87505	United States	10/13/2016
Peggy	Creelman	Santa Fe	New Mexico	87501	United States	10/17/2016
Jonathan	Crews	Santa Fe	New Mexico	87501	United States	10/18/2016
christine	dames	san anselmo	California	94960	United States	11/8/2016
Nobel	Davis	Santa Fe	New Mexico	87505	United States	11/6/2016
Sharon	Dozar	Santa Fe	New Mexico	87508	United States	10/18/2016
Bernhard	Draiscol	Santa Fe	New Mexico	87507	United States	10/13/2016
Mary Ellen	Ellen	Santa Fe	New Mexico	87505	United States	11/7/2016
Erica	Elliott	Santa Fe	New Mexico	87507	United States	10/26/2016
Reverie	Escobedo	Santa Fe	New Mexico	87505	United States	10/20/2016
Steven	Farber	Santa Fe	New Mexico	87504	United States	10/27/2016
Christine	Fasano	Berkeley	California	94707	United States	11/5/2016
Patrick	Finnegan	Santa Fe	New Mexico	87505	United States	10/13/2016
james	fortune	Santa Fe	New Mexico	87505	United States	10/13/2016
sherry	gage	Santa Fe	New Mexico	87505	United States	10/14/2016
Paul	Gamaat	Santa Fe	New Mexico	87508	United States	10/25/2016
Leah	Gibbons	Santa Fe	New Mexico	87501	United States	10/20/2016
Betsy	Gits	Santa Fe	New Mexico	87505	United States	10/17/2016
Marvin	Godner	Santa Fe	New Mexico	87505	United States	10/13/2016
Michael	Golden	Santa Fe	New Mexico	87505	United States	10/13/2016



Jade	Gordon	Santa Fe	New Mexico	87505 United States	10/14/2016
Sarah	Grace	Santa Fe	New Mexico	87507 United States	10/18/2016
Terry	Greenfield	Santa Fe	New Mexico	87501 United States	11/6/2016
Kathairein	Greer	Santa Fe	New Mexico	87505 United States	10/12/2016
jaimé	gubelmann	Santa Fe	New Mexico	87505 United States	10/14/2016
Kerry	Halasz	Santa Fe	New Mexico	87508 United States	10/20/2016
Ron	Hale	Santa Fe	New Mexico	87502 United States	10/26/2016
Christina	Hall-Strauss	Santa Fe	New Mexico	87505 United States	10/13/2016
Ann	Harvey	Santa Fe	New Mexico	87505 United States	10/18/2016
Anna	Hastings	Santa Fe	New Mexico	87505 United States	10/13/2016
Marie M	Healey	Santa Fe	New Mexico	87507 United States	10/21/2016
Dana	Hees	Santa Fe	New Mexico	87505 United States	10/13/2016
Peter	Heindl	Pretoria		2 South Africa	11/8/2016
Jacquelyn	Helin	Santa Fe	New Mexico	87505 United States	10/13/2016
Judi	Hendricks	Santa Fe	New Mexico	87501 United States	10/13/2016
Alexis	Higginbotham	Santa Fe	New Mexico	87508 United States	10/18/2016
Wendy	Higgins	Santa Fe	New Mexico	87508 United States	11/7/2016
Linda	Hinckley	Santa Fe	New Mexico	87507 United States	10/13/2016
Ursula	Hofer	Santa Fe	New Mexico	87505 United States	10/13/2016
Roxane	Hopper	Santa Fe	New Mexico	87501 United States	10/14/2016
Dina	Jaeger	Falls Village Ct	Connecticut	6031 United States	11/9/2016
Diana	James	Santa Fe	New Mexico	87505 United States	11/6/2016
John	Jennings	Santa Fe	New Mexico	87505 United States	10/12/2016
Reshma	Kamal	Santa Fe	New Mexico	87502 United States	10/19/2016
Jan	Kapustinsky	Santa Fe	New Mexico	87505 United States	10/17/2016
Patricia	Kean	Santa Fe	New Mexico	87501 United States	10/12/2016
Pamela	Kelly	Santa Fe	New Mexico	87501 United States	10/14/2016
Joanna	Kennedy	Santa Fe	New Mexico	87501 United States	10/18/2016
Florence	Kess	Santa Fe	New Mexico	87505 United States	11/8/2016
Philip	Kessler	Santa Fe	New Mexico	87501 United States	10/19/2016
Gary	Kilpatric	Santa Fe	New Mexico	87505 United States	10/13/2016
Carla	Kountoupes	Santa Fe	New Mexico	87501 United States	11/6/2016
Chelsea	Kowalkowski	Green Bay	Wisconsin	54313 United States	10/19/2016
Anna	Krylova	Santa Fe	New Mexico	87501 United States	10/12/2016
owen	kunkle	Santa Fe	New Mexico	87505 United States	10/12/2016
Drew	Lamprich	Santa Fe	New Mexico	87508 United States	11/6/2016
Gail	Larsen	Santa Fe	New Mexico	87507 United States	11/7/2016
Katherine	Latimer	Santa Fe	New Mexico	87505 United States	10/13/2016
Glenna M.	Lawrence	Santa Fe	New Mexico	87505 United States	10/13/2016
barbara	lenssen	santa fe	New Mexico	87505 United States	10/13/2016
HenrY	Lewis	Santa Fe	New Mexico	87505 United States	10/13/2016
gioacchino	ligresti	Santa Fe	New Mexico	87505 United States	11/6/2016
Ross	Lockridge	Los Cerrillos	New Mexico	87010 United States	11/5/2016
lannie	loeks	Santa Fe	New Mexico	87506 United States	10/12/2016
Maria Cristina	Lopez	Santa Fe	New Mexico	87501 United States	10/30/2016
Catherine	Louisell	Rowe	New Mexico	87562 United States	10/13/2016
Ellen	Lowenburg	Santa Fe	New Mexico	87505 United States	10/18/2016
Elaine	Lucero	Santa Fe	New Mexico	87505 United States	10/13/2016
Consuelo	Luz Arostegui	Santa Fe	New Mexico	87501 United States	10/20/2016
Diane	MacInnes	Santa Fe	New Mexico	87505 United States	10/14/2016
Nicole	Martel	Santa Fe	New Mexico	87505 United States	10/26/2016
Rebecca	May	Austin	Texas	78703 United States	10/12/2016
Alexandra	Mazares	Santa Fe	New Mexico	87505 United States	10/13/2016
cristina	mccandless	Santa Fe	New Mexico	87501 United States	10/12/2016
Robert	McCormick	Santa Fe	New Mexico	87507 United States	11/8/2016
Lisa	McEneaney	Santa Fe	New Mexico	87505 United States	10/20/2016
Christina	McGrady	Santa Fe	New Mexico	87508 United States	11/5/2016
Lynne	McMahan	Santa Fe	New Mexico	87505 United States	10/17/2016

John	McPhee	Santa Fe	New Mexico	87505 United States	10/12/2016
John	Meade	Santa Fe	New Mexico	87505 United States	10/13/2016
Marijane	Mercer	Santa Fe	New Mexico	87505 United States	10/18/2016
wilma	miles	Cape Town		South Africa	11/5/2016
Betsy	Millard	Santa Fe	New Mexico	87505 United States	10/12/2016
Timothy	Mobley	Gunnison	Colorado	81230 United States	11/8/2016
Michael	Monroney	Santa Fe	New Mexico	87505 United States	11/7/2016
Leah	Morton	Tesuque	New Mexico	87574 United States	10/12/2016
Carol	Muhl	Santa Fe	New Mexico	87505 United States	10/12/2016
Deanna	Munson	Beaverton	Oregon	97005-1075 United States	11/8/2016
Jonas	Nahoum	Santa Fe	New Mexico	87505 United States	10/17/2016
Jan	Nelson	Santa Fe	New Mexico	87508 United States	10/13/2016
Elise	Noble	Santa Fe	New Mexico	87505 United States	10/13/2016
Aku	Oppenheimer	Santa Fe	New Mexico	87505 United States	10/15/2016
Louise	Pape	Santa Fe	New Mexico	87507 United States	10/14/2016
Stephanie	Pasanen	Santa Fe	New Mexico	87502 United States	10/20/2016
Jeraldine	Peterson-Mark	Santa Fe	New Mexico	87501 United States	10/14/2016
Becky	Phillips	Santa Fe	New Mexico	87508 United States	10/13/2016
William	Powell	Santa Fe	New Mexico	87505 United States	10/13/2016
Brooke	Pyeatt	Santa Fe	New Mexico	87505 United States	11/8/2016
Hannah	Quinn DOM	santa fe	New Mexico	87954 United States	11/8/2016
Lucy	Ranney	Santa Fe	New Mexico	87505 United States	10/13/2016
amina	re	Santa Fe	New Mexico	87505 United States	10/14/2016
Martha	Reagan	Santa Fe	New Mexico	87505 United States	10/13/2016
Kathie	Redmond	Santa Fe	New Mexico	87505 United States	10/12/2016
Martha	Reich	Santa Fe	New Mexico	87507 United States	11/5/2016
Deborah	Resnick	San Antonio	Texas	78240 United States	10/20/2016
sarah	richardson	Santa Fe	New Mexico	87505 United States	10/12/2016
Ginny	Riker	Santa Fe	New Mexico	87505 United States	11/7/2016
Susan	Robinson	Santa Fe	New Mexico	87501 United States	10/28/2016
Claudia	Sanchez	Santa Fe	New Mexico	87508 United States	10/19/2016
Karen A	Sanchez	Santa Fe	New Mexico	87504 United States	10/21/2016
Michaelene	Sargent	Santa Fe	New Mexico	87505-4703 United States	10/20/2016
liinda	seese	Santa Fe	New Mexico	87502 United States	10/20/2016
Serena	Shelley	Santa Fe	New Mexico	87501 United States	10/13/2016
Karen	Shepherd	Santa Fe	New Mexico	87505 United States	10/13/2016
Denise	Shreeve	Santa Fe	New Mexico	87506 United States	10/18/2016
Susan	Simison	Santa Fe	New Mexico	87507 United States	10/12/2016
Robert	Simison	Santa Fe	New Mexico	87507 United States	10/12/2016
janice	simmons	santa fe	New Mexico	87507 United States	10/27/2016
Paul	Simons	Santa Fe	New Mexico	87501 United States	10/19/2016
Katie	Singer	Santa Fe	New Mexico	87502 United States	10/12/2016
Kathy	Sipowicz	Santa Fe	New Mexico	87501 United States	10/13/2016
Mary	Sloane	Santa Fe	New Mexico	87505 United States	10/14/2016
Keely	Stahl	Fort Lauderdale	Florida	33316 United States	10/14/2016
Daryl	Stanton	Santa Fe	New Mexico	87504 United States	10/13/2016
Debra	Stark	Santa Fe	New Mexico	87506 United States	10/27/2016
Pamela	Steinberg	Worcester	Massachusetts	1602 United States	11/9/2016
Dale	Stewart	Santa Fe	New Mexico	87505 United States	10/13/2016
Audrey	Storbeck	Santa Fe	New Mexico	87505 United States	11/6/2016
Kurt	Stritzl	Santa Fe	New Mexico	87508 United States	10/14/2016
Ellen	Stroman	Santa Fe	New Mexico	87508 United States	10/16/2016
David	Stupin	Santa Fe	New Mexico	87506-9471 United States	10/12/2016
E Dow	Suhre	Santa Fe	New Mexico	87505 United States	10/13/2016
susan	sullivan	Santa Fe	New Mexico	87505 United States	11/8/2016
Renate	Suloway	Santa Fe	New Mexico	87505 United States	10/18/2016
betsy	sultan	Santa Fe	New Mexico	87505 United States	10/20/2016
susan	swartzberg	Santa Fe	New Mexico	87505 United States	10/13/2016

Kirsten	Szykitka	Santa Fe	New Mexico	87505 United States	10/13/2016
Sharon	Tolleson	Santa Fe	New Mexico	87505 United States	10/13/2016
David	Tolleson	Santa Fe	New Mexico	87506 United States	10/14/2016
Clara de la	Torre	Santa Fe	New Mexico	87501 United States	11/6/2016
Jennipher	Trujillo	Santa Fe	New Mexico	87505 United States	10/12/2016
Felicia N	Trujillo, ND	SANTA FE	New Mexico	87592 United States	11/6/2016
Susan	Turner	Santa Fe	New Mexico	87505 United States	10/13/2016
Mary	Versace	Santa Fe	New Mexico	87505 United States	10/13/2016
Zenia	victor	Santa Fe	New Mexico	87508 United States	10/13/2016
Carolyn	Vogel	Santa Fe	New Mexico	87505 United States	10/13/2016
Gabrielle	Wagner	Santa Fe	New Mexico	87506 United States	10/26/2016
susan	waterman	Santa Fe	New Mexico	87507 United States	10/13/2016
Susan	Waters	Santa Fe	New Mexico	87506 United States	10/15/2016
Melanie	West	Santa Fe	New Mexico	87508 United States	10/13/2016
jo	whaley	Santa Fe	New Mexico	87508 United States	10/13/2016
marie	white	Santa Fe	New Mexico	87505 United States	10/12/2016
Linda	Wie	Santa Fe	New Mexico	87505 United States	10/16/2016
Mark	Wingard	Santa Fe	New Mexico	87505 United States	10/18/2016
Frieda	Wirick	Santa Fe	New Mexico	87505 United States	10/13/2016
Denise	Womack-Avila	Santa Fe	New Mexico	87507 United States	11/6/2016
Biamca	Yturalde	Santa Fe	New Mexico	87505 United States	10/27/2016
Elizabeth	Zeiler	Santa Fe	New Mexico	87501 United States	10/18/2016
nina	zelevansky	Santa Fe	New Mexico	87502 United States	10/26/2016
patricia	ziegler	Santa Fe	New Mexico	87505 United States	11/8/2016
Margaret(Peggy)	ZONE	Santa Fe	New Mexico	87505 United States	10/16/2016
Jack	Zwerner	Santa Fe	New Mexico	87508 United States	10/13/2016

- Mayor Gonzales and Santa Fe City Councilors

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[Read the letter](#)

Letter to  
Mayor Gonzales and Santa Fe City Councilors

Santa Feans for Local Authority Over New Antennas

[OK](#)

**Katie Singer** started this petition with a single signature, and now has 201 supporters. Start a petition today to change something you care about.

[Start a petition](#)

## Updates

Keep your supporters engaged with a news update. Every update you post will be sent as a separate email to signers of your petition.

[Post an update](#)

1. 4 hours ago  
200 supporters

### Delete this update

Are you sure?

[Delete](#)[Cancel](#)

2. 4 weeks ago  
Katie Singer started this petition

## Supporters

Top comments

---

I'm signing this because I am currently facing a serious, potentially life-threatening condition caused by my close proximity to a cell-phone tower on the roof of a building next door, putting me less than 20 feet from it when I was sleeping. This is a critical health hazard, one I have researched in my capacity as a Geobiologist, and one that is like a runaway train in this city. It has to be looked at with much more civic responsibility on the part of those making decisions before they simply start collecting the checks being handed out for letting these things proliferate in residential, hospital or school zones.

**Diana James, Santa Fe, NM**

3 days ago

1

[Delete](#)

My name is \_\_\_\_\_ and I am speaking on behalf of the coalition Santa Fe Alliance for Public Health and Safety...

**2. Cities do not have to give free reign to the telecoms.**

The city of San Francisco went to court and defended their ordinance and the regulation of distributed antenna systems on aesthetic grounds. A city does not have to relinquish its jurisdiction over zoning, rights of way, and how we want Santa Fe to look and feel.

The opinion in T-Mobile West LLC v. City and County of San Francisco was issued on September 15, 2016.

San Francisco's Wireless Ordinance requires applicants to obtain a site-specific wireless facility permit from the city before installing any wireless facility in the public right-of-way. (T-Mobile West, 208 Cal.Rptr.3d 248 (Cal.App. 2016), at 253). The applicant is required to give notice to the public for each site. "Any person" can protest the tentative approval of any site application, and if anyone protests, there must be a public hearing. (at 256).

San Francisco's ordinance applies only to wireless facilities and not to "telephone corporations installing facilities on utility poles other than wireless facilities." (at 255).

The Court of Appeal ruled that the city may approve or deny permits on aesthetic grounds (at 253) and that its Wireless Ordinance is consistent with the city's right to "control[] the particular location and manner in which public utility facilities are constructed in the streets." (at 265).

## Improve the Safety of Santa Fe Residents

Dr. David M. Stupin, Ph.D. in physics

Presented to the Santa Fe City Council

November 9, 2016

I am Dr. David M. Stupin. I have a Ph.D. in physics, and I worked at Los Alamos National Laboratory for 23 years. I am retired, and today I speak for myself, not the Laboratory.

The ordinance changes proposed by the City Council in Bill No. 2016-37 regarding Telecommunications Facilities allow providers to install cell antennas on street lamps and power poles without engineering input, City review or oversight.

An engineer at PNM said that lamp poles are designed to support only (1) a light and (2) a power line to power the light. Any additional weight or wind resistance is very likely to overload lamp poles. He said that the impact of the weight and wind resistance of the antennas on each light and power pole needs to be evaluated to prevent falling and fires.

I care about weight and wind resistance because the multimillion dollar Malibu Fire in 2007 was started by a strong wind that blew down three Southern California Edison power poles to which cell antennas were attached. The Malibu Times reported that it burned 3,800 acres, 36 vehicles and 14 structures (homes), and damaged 19 other structures and injured three firefighters.

Edison admitted that one of the failed power poles was overloaded with telecommunications equipment. Edison paid a \$37 million fine.

The 2011 Las Conchas wildfire in the Jemez Mountains started when a tree fell into a power line in a high wind. Fanned by high winds, the fire burned 43,000 acres of forest in one day. That is about 1 acre/second.

In Santa Fe we have similar winds. Our City is bordered on the north and east by forests. Many Santa Fe homes are built in these forests.

In a high wind, if a cell tower fell over causing a fire in these forests, the fire could spread very quickly around the city and burn homes. Furthermore, in a dry season, dry foliage in yards in town could be flammable.

*Exhibit "12"*

Cell antennas do burn and fall. I attach 3 lists of cell antenna fires and collapses with a web address for more information. Typically 4 antennas burn and 12 antennas fall each year.

A model exists for the City regulation of cell antennas. In 2012, the City of Calabassas, CA, passed an ordinance\* with health and safety restrictions for antennas. This ordinance has not been challenged in a court of law and can serve as a model for your ordinance.

Your approval to change Bill 2016-37 will improve the safety of Santa Fe residents.

I ask you to not leave Santa Fe open to a tragic fire or injuries from a hurried vote.

+ Wildfire is possible

+ A proven model exists for your modified ordinance to improve the safety of Santa Fe residents

\*<http://www.cityofcalabassas.com/pdf/agendas/council/2012/042512/item6-attachment-a.pdf>





## Approximately 4 Burning Cell Towers per Year: 1 Cell Tower Fire Every 3 months

Six Burning Cell Towers Reported on Web 2013-2014

Total of 13 Burning Cell Towers Total Found from Web Search

date	location	note	Web page
4/14/2006	Temple Hills, prince george county md		<a href="http://www.washingtonpost.com/wp-dyn/content/article/2006/04/14/AR2006041400981.html">http://www.washingtonpost.com/wp-dyn/content/article/2006/04/14/AR2006041400981.html</a>
7/4/2007	Howell NJ or MI		<a href="http://blog.mlive.com/annarbornnews/2007/07/updated_cell_phone_tower_fire.html">http://blog.mlive.com/annarbornnews/2007/07/updated_cell_phone_tower_fire.html</a>
10/21/2007	Malibu, CA	3 towers crash burn	<a href="http://www.malibutimes.com/news/article_3d62067a-2175-11e3-86b6-001a4bcf887a.html">http://www.malibutimes.com/news/article_3d62067a-2175-11e3-86b6-001a4bcf887a.html</a>
1/24/2009	Wellesley, MA	see video	<a href="http://www.youtube.com/watch?v=0cT5cXuyYY&amp;NR=1">http://www.youtube.com/watch?v=0cT5cXuyYY&amp;NR=1</a>
5/10/2010	Madison, WI		<a href="http://stopthecap.com/2010/05/20/water-tower-fire-wipes-out-wimax-and-cell-phone-service-on-madison-wisconsins-west-side/">http://stopthecap.com/2010/05/20/water-tower-fire-wipes-out-wimax-and-cell-phone-service-on-madison-wisconsins-west-side/</a>
5/10/2010	Madison, WI		<a href="http://www.ajc.com/news/news/local/cell-phone-tower-to-be-taken-down-following-fire/nQPC6/">http://www.ajc.com/news/news/local/cell-phone-tower-to-be-taken-down-following-fire/nQPC6/</a>
1/13/2011	Rancho Cucamonga, CA		<a href="http://dailybulletin.mycapture.com/mycapture/enlarge.asp?image=33602303&amp;event=1151611&amp;CategoryID=34298">http://dailybulletin.mycapture.com/mycapture/enlarge.asp?image=33602303&amp;event=1151611&amp;CategoryID=34298</a>
1/21/2011	Poulsbo, WA		<a href="http://www.northkitsapherald.com/news/124300644.html">http://www.northkitsapherald.com/news/124300644.html</a>
1/22/2011	Wall, Tinton Falls and Neptune, NJ.		<a href="http://ireport.cnn.com/docs/DOC-543602">http://ireport.cnn.com/docs/DOC-543602</a>
1/22/2011	Wall, Tinton Falls and Neptune, NJ.	interesting video at	<a href="http://www.youtube.com/watch?v=y_NKvWrazg">http://www.youtube.com/watch?v=y_NKvWrazg</a>
12/2/2011	Lilburn GA	Fire	<a href="http://www.cbs46.com/story/16175764/cell-phone-tower-on-fire-in-lilburn">http://www.cbs46.com/story/16175764/cell-phone-tower-on-fire-in-lilburn</a>
12/2/2011	Lilburn GA		<a href="http://www.ajc.com/news/news/local/cell-phone-tower-to-be-taken-down-following-fire/nQPC6/">http://www.ajc.com/news/news/local/cell-phone-tower-to-be-taken-down-following-fire/nQPC6/</a>
5/16/2013	New Jersey		<a href="https://www.google.com/search?sourceid=chrome-psyapi2&amp;ion=1&amp;espv=2&amp;ie=UTF-8&amp;q=cell%20tower%20fire%20nj">https://www.google.com/search?sourceid=chrome-psyapi2&amp;ion=1&amp;espv=2&amp;ie=UTF-8&amp;q=cell%20tower%20fire%20nj</a>
6/21/2013	Levittown ?	burning tower photo	<a href="http://levittownnow.com/2013/06/21/nearby-cell-tower-on-fire-may-collapse/">http://levittownnow.com/2013/06/21/nearby-cell-tower-on-fire-may-collapse/</a>
7/8/2013	West Salem, OR		<a href="http://archive.statesmanjournal.com/VideoNetwork/2534345110001/Ospreys-cause-fire-in-West-Salem-cell-tower">http://archive.statesmanjournal.com/VideoNetwork/2534345110001/Ospreys-cause-fire-in-West-Salem-cell-tower</a>
8/21/2013	sanford FL	Fire--dismantled	<a href="http://www.wftv.com/news/news/local/cell-phone-tower-catches-fire-seminole-co/nZX69/">http://www.wftv.com/news/news/local/cell-phone-tower-catches-fire-seminole-co/nZX69/</a>
1/6/2014	Brownsville TX		<a href="http://www.rcrwireless.com/celltowernews/2014/01/10/cell-tower-catches-fire-crown-castle-operates-as-reit/">http://www.rcrwireless.com/celltowernews/2014/01/10/cell-tower-catches-fire-crown-castle-operates-as-reit/</a>
1/6/2014	Brownsville TX		<a href="http://www.brownsvilleherald.com/news/local/article_dfc15d14-7754-11e3-b856-0019bb30f31a.html">http://www.brownsvilleherald.com/news/local/article_dfc15d14-7754-11e3-b856-0019bb30f31a.html</a>
2/4/2014	Las Vegas NV	Fire	<a href="http://www.lasvegassun.com/news/2013/feb/04/cell-tower-fire-closes-us-95-exit-ramp-jones-boulevard/">http://www.lasvegassun.com/news/2013/feb/04/cell-tower-fire-closes-us-95-exit-ramp-jones-boulevard/</a>
total cell tower fires			19

19 6 fires in 2013 and 2014 (18 months) = about 1 cell tower fire every 3 months

Compiled by David Stupin 6/24/2014 Stupin32Orders@Gmail.com Send me your updates.

# Almost 1 Cell Tower Collapse per Month in Recent Years, plus Hurricane Sandy

25 Cell Collapses total Found in Web Search 2003-2014 plus Hurricane Sandy. 16 collapses in last 18 months. Almost 1 per month.

event no.

date	location	notes	Web site
5/10/2003	Peoria, IL		http://www.intl.gob.ar/cirsoc/pdf/antenas/TowerFailuresCausesandCures.pdf
11/2/2003	Alascom, AK	crushes fire chief's car	http://www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle
10/21/2007	Malibu, CA	3 towers burn	http://www.malibutimes.com/news/article_3062067a-2175-11e3-86b6-001a4bcf887a.html
3/18/2008	La Merida, CA		http://www.intl.gob.ar/cirsoc/pdf/antenas/TowerFailuresCausesandCures.pdf
1/24/2009	Wellesley MA	welding fire	http://www.metrowestdailynews.com/article/20090124/News/301249964
1/24/2009	Wellesley MA	see video	http://www.youtube.com/watch?v=0cT5cXuyYY&NR=1
11/10/2009	Torrance CA	Fire	http://www.randommadnessinterrance.net/2009/11/cell-phone-collapse.html
12/14/2009	Tulsa, OK		http://www.intl.gob.ar/cirsoc/pdf/antenas/TowerFailuresCausesandCures.pdf
2/18/2011	Clinton PA		http://www.lehighvalleylive.com/hunterdon-county/express-times/index.ssf/2011/02/high_winds_likely_cause_in_cel.html
4/4/2011	Ballard County, Ky		http://www.kfvs12.com/story/14380276/afternoon-update-cell-tower-2-homes-collapse-in-ballard-county
10/31/2012		Associated Press	<b>Hurricane Sandy takes out 25 percent of cell towers in US</b>
10/31/2012			http://gadgets.ndtv.com/telecom/news/hurricane-sandy-takes-out-25-percent-of-cell-towers-in-us-286624
3/6/2013	South St Louis MO		http://southcity.fox2now.com/news/news/123681-cell-tower-collapse-could-have-been-prevented
3/19/2013	Laredo, TX	1 killed	https://www.osha.gov/doc/topics/communication/tower/index.html
5/16/2013		Fire + lean	http://www.nbcnewyork.com/news/local/Cell-Tower-Lean-New-Jersey-Police-Monmouth-County-207722061.html
5/28/2013	Copiah County, MS		http://www.msnewsnow.com/story/22439997/2-killed-in-cell-phone-tower-fall
7/8/2013	Bensalem. PA	welding fire	http://www.nbcphiladelphia.com/news/local/Cell-Phone-Tower-on-Fire-in-Bucks-County-212489511.html
7/8/2013	Bensalem. PA	welding fire	http://www.myfoxphilly.com/story/22659415/fire-causes-cell-pho
7/20/2013	San Ramon CA		http://emfsafetynetwork.org/cell-tower-collapses-near-san-ramon-california/
10/1/2013	near Willow, AK		http://www.adn.com/2013/11/4/3176538/willow-cell-tower-collapses-as.html
10/20/2013	jefferson county MO	leaning tower	http://www.ksdk.com/story/news/2013/10/30/jefferson-county-leaning-cell-phone-tower/3318551/
10/25/2013	Alascom, AK		http://www.adn.com/2013/11/4/3176538/willow-cell-tower-collapses-as.html
1/13/2014	Chewelah, Wash		http://www.spokesman.com/stories/2014/jan/13/in-brief-cell-tower-near-ski-resort-collapses-in/
2/2/2014	Clarksburg, West Virginia	2 towers-3 killed	http://www.dailymail.co.uk/news/article-2550553/Firefighter-two-contractors-dead-two-cell-phone-towers-collapse-maintenance.html
3/14/2014	North Adams, MA	wind	http://www.masslive.com/news/index.ssf/2014/03/heavy_wind_and_rain_causes_col.html
3/26/2014	Blaine, Kansas	2 towers -2 killed	http://www.wibw.com/home/headlines/Two-Kansas-Towers-Reported-Down-Possible-Injuries-252266221.html?hpt=us_bn9
5/10/2014	HUDSONVILLE, Mich		http://www.wzzm13.com/story/news/local/grandville/2014/05/09/report-cell-tower-collapses-in-ottawa-col/8906223/
total cell tower collapse		25	
total collapses in 2013-2014			16 = 12.8 collapses/year (plus Hurricane Sandy) in recent years 2013-2014

Compiled by David Stupin 6/24/2014 Stupin32Orders@Gmail.com Send me your updates.

10.6666666667

look for towers snapping off at base

## Cell Tower Fires and Collapsing Towers

The first list is from SafeSchoolSPG.org, the second from David Stupin and the third from Walter Cooper.

### Fires

- Cell phone tower near Virginia Heritage High School catches fire—— Now it is leaning. X over. <http://wtkr.com/2015/06/16/cell-phone-tower-near-heritage-high-school-catches-fire/>
- School Football Field Cell phone tower catches fire in Grandview, Ohio. X

Sept 13, 2014 Cell tower fire at Thurston High sends up smoky plume.

- <http://www.kval.com/news/local/Cell-tower-fire-near-Thurston-High-sends-up-smoky-plume-275018241.html>
- Cell tower at Risk of Falling after Fire Atlanta Georgia. <http://www.wsbtv.com/videos/news/emergency-crews-worry-cell-tower-may-fall-after/vFQDs/>
- Pennsylvania Fire results in Collapse Fears: Collapse Zone created at base and they vacated the buildings: <http://www.nbcphiladelphia.com/news/breaking/Cell-Phone-Tower-Fire-Collapse-Bucks-County-212501221.html>
- Cell tower fire closes Rockbridge Road, evacuates day care. <http://www.gwinnettdailyreport.com/news/2011/dec/02/fire-closes-rockbridge-road/>
- New Jersey Cell Tower Fire: [http://www.nj.com/monmouth/index.ssf/2013/05/cell\\_tower\\_fire\\_knocks\\_out\\_main\\_middletown\\_police\\_communications.html](http://www.nj.com/monmouth/index.ssf/2013/05/cell_tower_fire_knocks_out_main_middletown_police_communications.html)
- Explosion near cell tower likely caused by propane leak, Iowa <http://www.lemarssentinel.com/story/1641878.html>
- Cell phone tower to be taken down following fire, Georgia: <http://www.ajc.com/news/news/local/cell-phone-tower-to-be-taken-down-following-fire/nQPC6/>
- Cell phone tower catches fire near U.S. 95 Las Vegas <http://www.fox5vegas.com/story/20959950/cell-phone-tower-catches-fire-near-us-95>
- Maryland Cell Tower Destroyed by Fire <http://www.firehouse.com/news/10500668/maryland-cell-tower-destroyed-by-fire>
- Cell tower catches fire, nearby buildings evacuated, San Bernardino County, California <http://www.dailybulletin.com/20110113/cell-tower-catches-fire-nearby-buildings-evacuated>
- Kansas City Cell Tower Fire closes Interstate 435 <https://screen.yahoo.com/raw-video-cell-tower-fire-213100571.html>
- Osprey nest, electrical problem sparked Poulsbo cell tower fire Washington State <http://www.northkitsapherald.com/news/124300644.html>
- Cell Tower Collapse
  - A cell tower, damaged by fire, has been taken down after it hung precariously over Highway 305. Washington State. <http://www.kitsapsun.com/news/2011/jun/20/highway-305-blocked-after-cell-phone-tower-starts/>

- OSHA Investigating Fatal Cell Tower Collapse in Harrison County West Virginia  
2014: <http://www.wvntv.com/story/24608973/osha-investigating-fatal-cell-tower-collapse-in-harrison-county>
- Names released in fatal cell tower collapse. <http://www.wvva.com/story/24611430/2014/02/26/wvva-cell-tower>
- Burning Cell Tower at Risk of Falling in Seminole County, Oregon  
<http://www.news965.com/news/news/local/cell-phone-tower-burning-could-fall/nZYBg/>
- Oswego, New York Cellular Tower Crushes Chief's Vehicle  
<http://www.firehouse.com/news/10530195/oswego-new-york-cellular-tower-crushes-chiefs-vehicle>
- Tower collapse: Heavy wind and rain blamed for downing 'major communications' equipment in Berkshires, knocking out police, fire radio service, Massachusetts [http://www.masslive.com/news/index.ssf/2014/03/heavy\\_wind\\_and\\_rain\\_causes\\_cbf.html](http://www.masslive.com/news/index.ssf/2014/03/heavy_wind_and_rain_causes_cbf.html)

### **Worker Deaths and Accidents:**

- Cell Tower Climber Falls 153 Feet, Dies on Impact, Minnesota <http://www.northlandsnewscenter.com/home/Cell-Tower-Climber-Falls-153-Dies-on-Impact-160464075.html>
- Tulsa Fire Department Rescues Worker From Top Of Cell Phone Tower <http://www.worldnow.com/story/23301861/tulsa-fire-department-rescues-worker-from-top-of-cell-phone-tower>
- Worker who fell 65 feet from cell tower dies: Arizona: [http://azstarnet.com/news/local/crime/worker-who-fell-65-feet-from-cell-tower-dies/article\\_c0932089-a4e0-5c14-9ce4-bb2cd8be86c1.html](http://azstarnet.com/news/local/crime/worker-who-fell-65-feet-from-cell-tower-dies/article_c0932089-a4e0-5c14-9ce4-bb2cd8be86c1.html)
- Worker hurt in 80-ft. fall from cell tower in Marcy New York. [http://www.syracuse.com/news/index.ssf/2011/12/worker\\_hurt\\_in\\_80-ft\\_fall\\_from.html](http://www.syracuse.com/news/index.ssf/2011/12/worker_hurt_in_80-ft_fall_from.html)
- Cell phone towers collapse in West Virginia, killing 3. <http://www.foxnews.com/us/2014/02/02/cell-phone-towers-collapse-in-west-virginia-killing-3/>
- A Deadly Surge in Tower Climber Accidents <http://projects.propublica.org/graphics/cell-tower-accidents>
- Fatal bandwidth: 6 cell tower deaths in 5 weeks: Indiana, Nebraska, Georgia. <http://fortune.com/2008/05/28/fatal-bandwidth-6-cell-tower-deaths-in-5-weeks/>
- Burleson fire dept. rescues man from cell tower, Texas  
<http://www.wfaa.com/news/local/Burleson-fire-dept-rescues-man-from-cell-tower-126770898.html>
- Gaithersburg Maryland: Trapped Worker is rescued after freezing.  
<http://www.nbcwashington.com/news/local/Crews-Work-to-Rescue-Man-From-Cell-Phone-Tower-188069201.html>
- Texas: Six Hour Rescue for Tower Worker  
<http://www.statter911.com/2011/08/05/more-than-six-hour-rescue-to-get-man-from-760-foot-level-of-tower-firefighters-in-burleson-texas-tell-their-story/>
- Spokane fire department rescues dangling cell tower worker, Spokane Washington.  
<http://www.komonews.com/news/local/Fire-department-rescues-dangling-cell-tower-worker-184691911.html>

*Julia Whitfield*

My name is \_\_\_\_\_ and I am speaking on behalf of the coalition Santa Fe Alliance for Public Health and Safety...

### 3. The existing ordinance is sufficient.

The city was not legally required to write an ordinance providing for franchise licenses and fees.

According to the City Attorney, the purpose of this bill is purely financial. The city wants to collect a franchise fee, equal to a percentage of a company's income, from any towers or antennas that are built on city property. To gain this income the city is proposing to disregard property owners' rights and relinquish oversight for zoning. There is another way to collect income from public property: through leases. Prior to 2010, the city used to make telecom companies sign leases to put antennas on public property. It could do so again. One location, one application, one lease.

~~To give a little history, after a Qwest lawsuit in 2000, the court ruled that the per-site lease fees made the city's lease fee structure cost prohibitive for telecoms.~~

In 2010 the city voted ~~5-4~~ to replace then-existing chapter 27, requiring site-specific leases, with a new chapter 27 which replaced leases with franchises. The old chapter 27 was still one site, one application, and all antennas had to comply with chapter 14 zoning regs. The new chapter 27 was one application, one franchise for as many antennas as can fit in the streets, with exemption from chapter 14. However, that ordinance was challenged, went to court, and the ruling was that the wording needed to be changed. Now that the city has the wording corrected, our city councilors are voting on this revised ordinance.

~~However, as Arthur has clearly shown, it is not a franchise fee at all. The recipient of the franchise license is not a retailer, and therefore 2% of retail sales means nothing for that franchisee and the city will have no legal basis to charge that operator a single cent. This ordinance leaves some giant loopholes,~~

The first version of the Chapter 27 ordinance prior to any wording about franchises was sufficient. As opposed to the city's 2010-to-the-present-day decision to switch from lease fees to franchise fees, we would argue that it is far more in the city's interest to charge lease fees. Those fees would just need to be adjusted so as not to again be ruled cost prohibitive by a court.

~~The original version of Chapter 27 along with Chapter 14 would provide the city with revenue through lease fees for any antennas or infrastructure installed, and it would also allow the city to retain its oversight over the installation of antennas and towers in historic districts.~~

The city is not required to pass this revised ordinance. The original ordinances were sufficient and we feel the city has gone down the wrong path in considering franchise licenses and fees.

# Recommendations for Accommodations

☆ [www.access-board.gov/research/completed-research/indoor-environmental-quality/recommendations-for-accommodations](http://www.access-board.gov/research/completed-research/indoor-environmental-quality/recommendations-for-accommodations)

People with chemical and/or electromagnetic sensitivities can experience debilitating reactions from exposure to extremely low levels of common chemicals such as pesticides, cleaning products, fragrances, and remodeling activities, and from electromagnetic fields emitted by computers, cell phones, and other electrical equipment.

The severity of sensitivities varies among people with chemical and/or electromagnetic sensitivities. Some people can enter certain buildings with minor accommodations while others may be so severely impacted that they are unable to enter these same spaces without debilitating reactions. Furthermore individual tolerances to specific exposures can vary greatly from one individual to the next. Meanwhile some exposures, such as the application of certain pesticides or extensive remodeling, for example, may be devastating to all chemically sensitive people and make a building or facility inaccessible for a substantial period of time.

According to the Americans with Disabilities Act (ADA) and other disability laws, public and commercial buildings are required to provide reasonable accommodations for those disabled by chemical and/or electromagnetic sensitivities. These accommodations are best achieved on a case-by-case basis.

Reasonable accommodations for a chemically sensitive and/or electromagnetically sensitive individual can include providing a space or meeting area that addresses one or more of the Cleaner Air criteria, upon request, such as

- Remove fragrance-emitting devices (FEDS)
- Delay or postpone indoor or outdoor pesticide applications, carpet cleaning, or other cleaning or remodeling until after the meeting
- Provide room or meeting area near exterior door or with window(s) that can be opened
- Require cell phones and computers be turned off
- Provide incandescent lighting in lieu of fluorescent lighting
- Provide at least one nonsmoking, fragrance-free person per shift to provide services (e.g. nurse, police officer, security guard, clerk )

For individuals who are unable to use or meet in a building or facility, or who are too severely impacted by chemical and/or electromagnetic exposures to use a designated Cleaner Air Room, accommodations may include:

- Meet an individual at the door or outside to conduct business
- Allow a person to wait outside or in car until appointment
- Provide a means, such as a phone, intercom, bell, or buzzer to summon staff to an outside door for assistance
- Permit business to be conducted by phone, fax, mail, or e-mail rather than in person
- Allow participation in a meeting by speakerphone

# How to Connect an iPad to Ethernet

www.gottabemobile.com

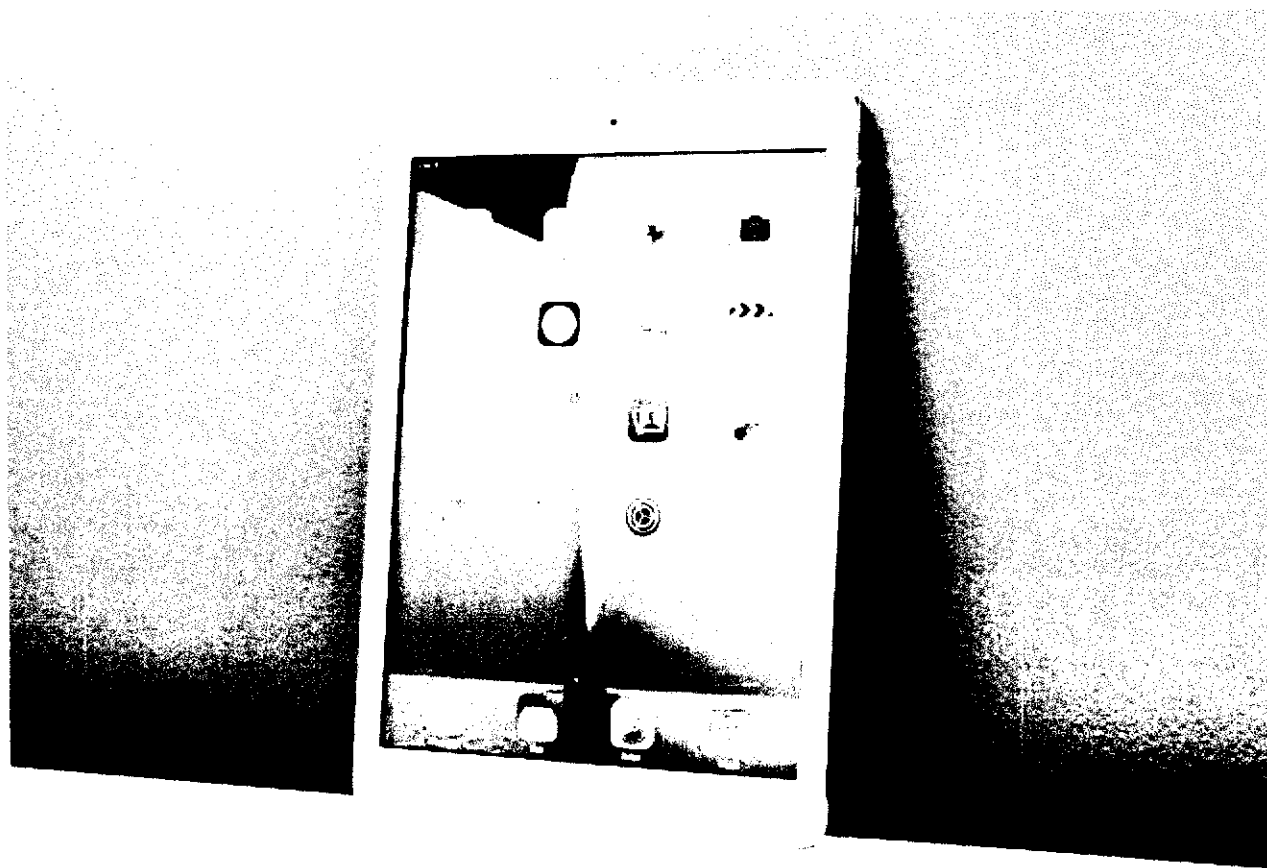
Craig Lloyd08/28/2014

A wireless connection is fine for most tasks you do on your iPad, but there are some things that would just be way better with a solid hard-wired ethernet connection. Here's how to connect your iPad to ethernet in order to get the best internet connection.

Unfortunately, iPads don't have an ethernet port, so you may think that you're out of luck, but you'd be sorely mistaken. By gathering up a few iPad and Mac accessories, you can connect your iPad to your internet router via ethernet in order to get a solid internet connection.

Granted, you probably won't want to do this all the time, but if you're at home and want to stream something on your iPad without buffering and lag, connecting it to an ethernet connection can be a great way to make sure that the content you're viewing streams efficiently and quickly.

However, it's important to note that this setup isn't exactly clean and simple. You'll actually need three accessories in order to get it to work, but if you're willing to deal with a slightly messy setup, you're iPad will be able to obtain an internet connection that's probably better than your wireless connection.



## Things You'll Need

As aforementioned, this "hack" doesn't just require one simple tool, but rather three accessories that you'll need to purchase if you don't already have them. Here's what you'll need:

### Advertisement

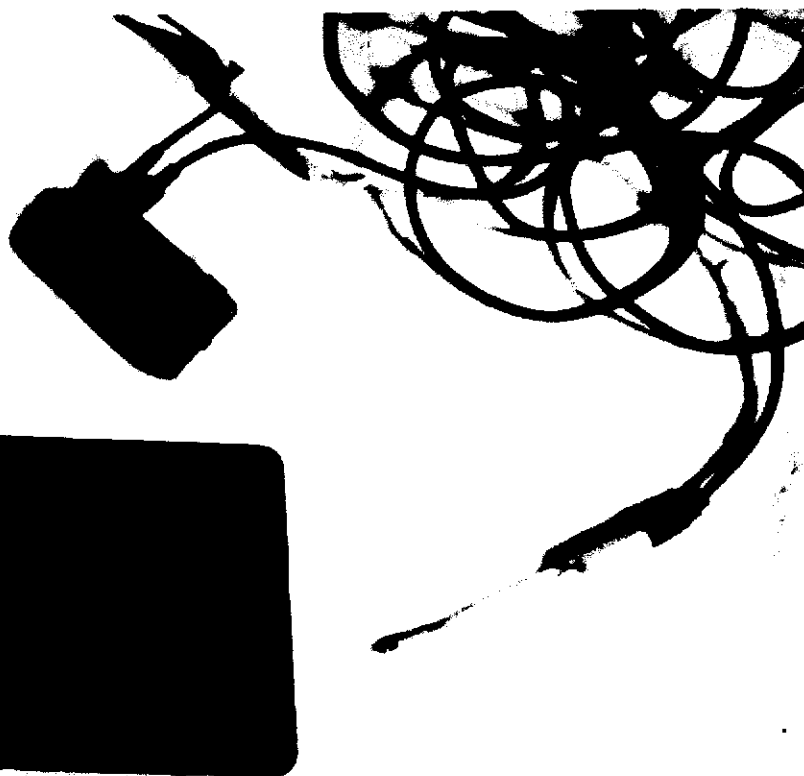
- Lightning to USB Camera Adapter – Buy

- USB Ethernet Adapter – Buy
- Powered USB Hub – Buy (It can be any cheap hub, though. Just make sure it's powered.)
- Ethernet Cable – Buy
- An iPad – Buy

The reason you need a powered USB hub is because the USB Ethernet adapter requires more power than the Lightning to USB adapter cable can provide, so if you don't have the powered USB hub, you end up getting a popup saying the device cannot power the adapter.

## Setting It Up

While this is quite a list of things you'll need, setting it all up takes less than 30 seconds. I've embedded a video below that details the steps needed and demonstrates the hack, but here's a step-by-step guide on connecting your iPad to ethernet:



1. First off, disable WiFi on your iPad, as well as cellular data if it's an LTE model.
2. Plug one end of the ethernet cable into a free port on your router, and the other end into the ethernet port on the USB Ethernet Adapter.
3. Connect the USB end of the adapter to any of the USB ports on the USB hub.
4. Connect the USB cable that came with your USB hub to the hub. The cable should have a smaller connector on one end and the port for it should be on the back of the hub.
5. Connect the power cable for the USB hub to the hub and plug the other end into a wall outlet.
6. Connect the USB end of the Lightning to USB Adapter to the other end of the USB cable that came with your USB hub.
7. Lastly, plug the Lightning end of the adapter into your iPad.

## Advertisement

You might have to give your iPad a few seconds to recognize everything, but after that, you can launch Safari and begin surfing the web.

From there, you can launch the streaming app of your choice, be it YouTube, Netflix, Hulu Plus, etc. You should get a much better internet connection than you would if you were just using a WiFi connection.

Furthermore, you can download an app called Speedtest that can see how fast your internet connection is on your iPad.



## iPhone Accessories

Browse all ▾

### Lightning to USB Camera Adapter

\$29.00

★★★★★



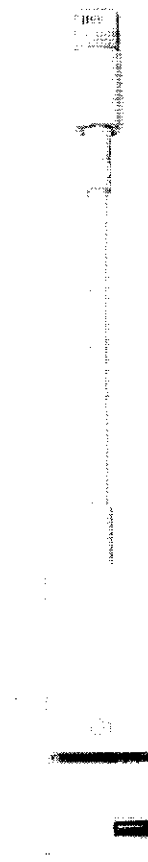
**Pickup:**  
Check availability



**Delivery:**  
In Stock  
Free Shipping

[Get delivery dates](#)

Get help buying. Chat now.



## Product Information



### Overview

With the Lightning to USB Camera Adapter, it's easy to download photos and videos from your digital camera to your iPad or iPhone with Lightning support so you can view them on the gorgeous Retina display and share them with family and friends.

After you connect the Lightning to USB Camera Adapter, your iPad or iPhone automatically opens the Photos app, which lets you choose which photos and videos to import, then organizes them into albums. When you sync iPad or iPhone to your PC or Mac, the photos and videos on your iPad or iPhone are added to your computer's photo library.

The Lightning to USB Camera Adapter supports standard photo formats, including JPEG and RAW, along with SD and HD video formats, including H.264 and MPEG-4. Requires iOS 9.2 or later.

# Lightning to USB Camera Adapter

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• [www.apple.com/shop/product/MD821AM/A/lightning-to-usb-camera-adapter](http://www.apple.com/shop/product/MD821AM/A/lightning-to-usb-camera-adapter)

## • Overview

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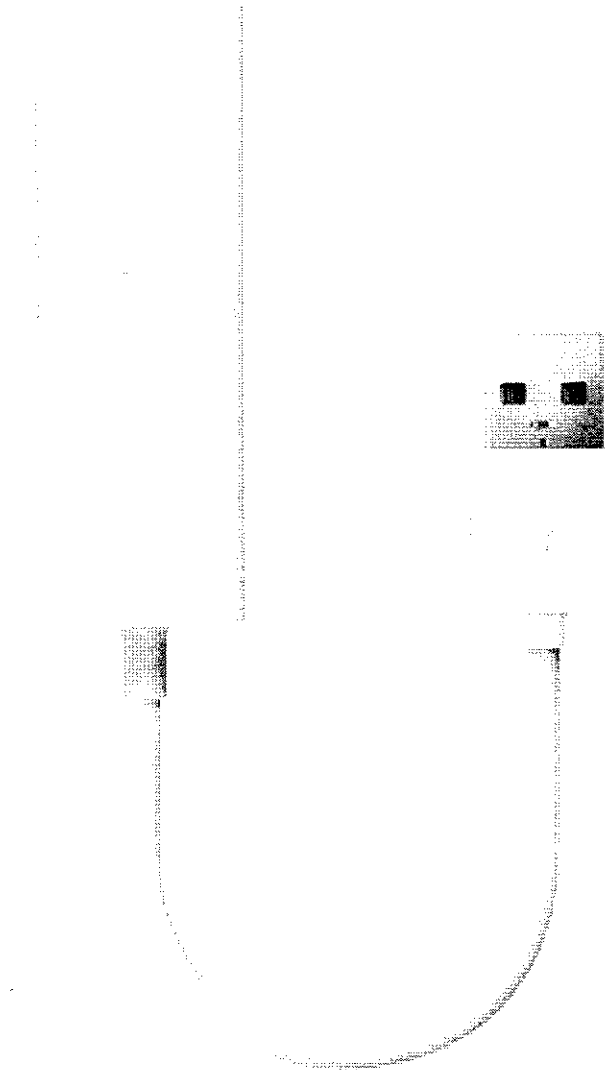
The Lightning to USB Camera Adapter supports standard photo formats, including JPEG and RAW, along with SD and HD video formats, including H.264 and MPEG-4. Requires iOS 9.2 or later.

# Apple USB Ethernet Adapter

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• [www.apple.com/shop/product/MC704LL/A/apple-usb-ethernet-adapter](http://www.apple.com/shop/product/MC704LL/A/apple-usb-ethernet-adapter)

• \$29.00



## • Overview

Easily connect your Mac computer to an Ethernet network with the Apple USB Ethernet Adapter. Small and light, it connects to the USB 2.0 port of your Mac and provides an RJ-45 connector that supports 10/100BASE-T performance.

## System Requirements

Mac OS X v.10.4.8 or later

Mac computer with available USB 2.0 port

Electronics > Computers & Accessories > Computer Accessories & Peripherals > Computer Cable Adapters > USB-to-USB Adapters



Roll over image to zoom in

AmazonBasics 7 Port USB 2.0 Hub with 5V/4A Power Adapter

by AmazonBasics  
6,272 customer reviews  
830 answered questions

Price: \$18.99 & FREE Shipping on orders over \$49. Details  
Try Fast, Free Shipping

In Stock.  
Want it Friday, Nov. 11? Order within 23 hrs 45 mins and choose One-Day Shipping at checkout. Details  
Ships from and sold by Amazon.com in easy-to-open packaging. Gift-wrap available.

Style: 7-Port USB 2.0


4-Port USB 2.0 \$6.49	4-Port USB 3.0 \$16.99
7-Port USB 2.0 \$18.99	7-Port USB 3.0 \$29.95
10-Port USB 2.0 \$21.99	10-Port USB 3.0 \$39.37

- Package includes: 1 USB 2.0 7 Port Hub / 1 5V/4A Power Adapter / 1 USB 2.0 Cable (3 feet) / 1 Owner's Manual
- Installs with Plug-and-Play ease
- Complies with USB specification version 2.0; backward compatible with USB 1.1
- Two high current (1.2 amps per port) USB fast charging ports. NOTE: This is not intended to charge tablets/iPads.
- Data transfer speeds of up to 480Mbps. Refer to the user manual below before use.

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California residents: [Click here](#) for Proposition 65 warning.

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Ship to:  
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Add to List

Have one to sell? Sell on Amazon



New Charger way --Power strip with USB

HAVIT USB Smart Power Strip/PowerPort Strip, with 174

~~\$39.99~~ \$16.99

Ad feedback

Frequently Bought Together



Total price: \$30.77

Add all three to Cart

Add all three to List

My name is \_\_\_\_\_ and I am speaking on behalf of the coalition Santa Fe Alliance for Public Health and Safety...

**4. There is a major insurance and liability issue which has been overlooked. (Michael)**

It is the duty of city officials to ensure that actions are not taken which will unnecessarily expose the city to financial liability. If this revised ordinance provides for franchise licenses for distributed antenna systems on public rights of way and one day lead to lawsuits for health damages, who will bear the liability?

*one of the world's largest insurers,*  
Lloyd's of London is renowned for insuring nearly anything. However, one of Lloyd's underwriting groups, Stirling, foresees such risk that they no longer insure smart phones, smart meters, cell towers, or wireless-emitting devices, in other words, ALL wireless radiation emitting devices.

You see, Lloyd's has learned from the mistakes of the past. They were hit very hard by asbestos litigation in the 90s and have learned to ~~be more forward thinking~~ *reward issues themselves.* They can't afford to rely solely upon government assurances of safety.

The first successful lawsuit in the tobacco industry paved the way for many thousands more lawsuits. Those lawsuits are costing the tobacco industry many billions of dollars.

*exposure*  
There is currently an injury-due-to-electromagnetic-radiation case in Canada which could potentially pave the way for countless future lawsuits. Regardless of whether that case is won or lost, it is only a matter of time before the first case is won. If the plaintiff in that case wins she could easily be awarded many millions of dollars.

The following example hits much closer to home. An informal poll was taken amongst residents living in close proximity to the antenna installation at 1402 Agua Fria Street. Of the nearly 60 respondents, nearly all gave testimony regarding a decline in health. I personally happen to know that some of those individuals ~~around that Agua Fria tower~~ have been speaking with attorneys. In the case of a class action lawsuit, a successful suit could result in a settlement of many tens of millions of dollars.

( The liability terminology in this ordinance ranges from weak to non-existent. )

-- In the 2010 ordinance the City holds the franchisees harmless from liability (i.e. the city is liable for any claims arising from operation of the facilities). Peter Ives' amendments removed that clause. This revised ordinance has just one sentence saying that a franchise can be terminated for failure to produce any insurance certificates that are required. However, nowhere in the bill does it actually require insurance certificates. This is an inconsistency. --

*personal injury*  
The City of Santa Fe should ensure that it does not bear the liability for future lawsuits for cellular antennas on the public rights of way. ~~Additionally,~~ the city should ensure that any telecom provider carry a liability insurance that covers lawsuits for damages to health. The city should even stipulate the amount of insurance coverage required of the telecoms for these inevitable lawsuits. That amount should be no less than \$10 million, and the city should retain the right to increase those coverage requirements for telecoms as the trend in litigation becomes more ~~evident~~ *apparent.*

H-4

From: bearstar@fastmail.fm  
Subject: Public hearing Wednesday; Councilor Peter Ives' conflict of interest  
Date: November 4, 2016 at 6:31 PM  
To: bearstar@fastmail.fm

---

To my Email List, the Media, and City Councilors,

City Councilor Peter Ives is the sponsor of the telecommunications franchise bill that will be before the Council on November 9.

PUBLIC HEARING  
WEDNESDAY, NOVEMBER 9, 7 PM  
CITY HALL, COUNCIL CHAMBERS

Last week one of our endorsers alerted me to the fact that Councilor Ives' wife, Patricia Salazar Ives, is a telecommunications attorney. I verified that this is true, and that she has represented Qwest, T-Mobile, and various other telecom companies, and the City of Santa Fe, in telecommunications matters. The bill Councilor Ives is sponsoring would result in a great proliferation of telecom facilities in the streets of Santa Fe. I emailed him asking: Doesn't he stand to benefit financially because this will result in more business for his wife? And doesn't he have a conflict of interest because his wife has represented some of the companies that will be applying for franchises if his bill passes? He did not give me a satisfactory answer.

In fact, Patricia Salazar Ives represented the City in the recent litigation involving Qwest, and the bill Councilor Ives is sponsoring would implement the settlement his wife negotiated between the City and Qwest.

The Santa Fe City Code defines a conflict of interest as the prospect of pecuniary gain, requires a public official to disclose that conflict during a public meeting, and prohibits a public official from performing any official act in a matter in which he has a conflict of interest. Councilor Ives introduced this bill during the May 10, 2016 City Council meeting without disclosing his potential conflict. If he does have a conflict of interest, this bill was not legally introduced.

This franchise ordinance would not only allow uncontrolled proliferation of telecommunications facilities in the public rights-of-way, it would also allow the City to charge telecom companies a franchise fee equal to 2 percent of their gross income. Last week Councilor Maestas introduced another bill asking the State of New Mexico to authorize cities to impose a gross receipts tax on telecom facilities in the public rights-of-way. Under current New Mexico law such a tax could not be imposed without authorization by the voters in an election.

It is clear that the purpose of awarding franchises is to generate revenue for the city at the expense a livable environment. And it is also clear that the purpose of these two bills together is to bypass the voters and allow the City to enact a new tax by simple vote of the City Council.

I ask everyone to show up for the public hearing this Wednesday at 7 pm and express your opinion.

**\*\*\* Apparently in retaliation for my activities in opposition to this bill, the City Clerk has been instructed that for the first time in eight years, electrically sensitive people will not have their disability accommodated and the WiFi will NOT be turned off in Council Chambers. Since at least 2009, and as recently as October 13, 2016, the WiFi has been turned off upon request for public hearings involving telecommunications facilities. Everyone who requires the WiFi to be off in order to attend the public hearing this Wednesday should call the City Clerk at 955-6521.**

Arthur Firstenberg

*Exhibit "16"*

Testimony, November 9, 2016  
City Council

Last night I read the entire 52-page packet you were given, including what Kelley Brennan and Marcos Martinez told you in committees. I was appalled. Either Ms. Brennan and Mr. Martinez have not read this bill, or they ~~repeatedly lied to you~~ <sup>are not telling you the truth -</sup> they ~~told~~ <sup>tell</sup> you the City is going to collect a franchise fee from the companies that use our streets. This bill does nothing of the kind. The so-called franchise fee is not a franchise fee at all. It's an illegal gross receipts tax that is going to be added to every city resident's <sup>tele -</sup> phone bill. The companies that are awarded franchises aren't going to pay the city anything. Mr. Martinez told you, AND I QUOTE, "I was prompted to bring these amendments forward because we have a new telecommunications provider, called Broadband Network of New Mexico. They want to get a telecommunications franchise with the City, and we want to be able to charge them for their use and occupancy of the rights-of-way. And this Ordinance will allow us to impose a fee on them." END QUOTE. Mayor ~~pro tem~~, City Councilors, I suggest you go and read this bill. This bill imposes a tax on all retail sales of telecom services in Santa Fe and it requires retailers to collect the tax from consumers. The tax has nothing to do with the rights-of-way. Broadband Network of New Mexico is wholesaler, a vendor, that installs and operates antennas and towers for Sprint. This bill will not allow the City to collect a nickel from them. They are calling this tax a "franchise fee" when it is actually a gross receipts tax. And under New Mexico law, as you know, cities cannot impose a gross receipts tax unless it is approved by majority vote in an election. This bill is a fraud and it will be thrown out in court if it is challenged.

*Exhibit "17"*

Santa Fe Alliance for Public Health and Safety  
c/o P. O. Box 6216  
Santa Fe, NM 87502

To: Mayor and City Councilors

From: Michael Blanshan, William J. Bruno, Mitch Buszek, Arthur Firstenberg, Kathleen M. Prlich, RN, John McPhee, and Monika Steinhoff

Re: **REBUTTAL TO CITY ATTORNEY'S MEMORANDUM** on Bill No. 2016-37; an Ordinance Amending Santa Fe City Code Chapter 27, Telecommunication Services.

Date: November 7, 2016 for the November 9, 2016 Meeting of the Governing Body

### INTRODUCTION

The Santa Fe Alliance for Public Health and Safety, representing 133 medical practitioners and other endorsers of a campaign to keep Santa Fe livable, hereby responds to Assistant City Attorney Marcos Martinez's memorandum of November 2, 2016.

The purpose of this response is to point out misstatements of fact and law in Mr. Martinez's memorandum and to urge you to come to different conclusions. Although telecommunications companies would like every city to give them carte blanche to build distributed antenna systems ("DAS") in the public rights-of-way, many cities are resisting, and even passing ordinances prohibiting them. Why not Santa Fe?

#### **I. SAN FRANCISCO'S ORDINANCE PROHIBITING DAS SYSTEMS WAS UPHELD BY THE CALIFORNIA COURT OF APPEAL.**

We urge you to rewrite Chapter 27 so that antennas and towers in the public rights-of-way must comply with Chapter 14 and companies must submit applications on a site-by-site basis as they have always done. Contrary to Mr. Martinez's assertions, there is nothing illegal or discriminatory about this. San Francisco passed just such an ordinance in 2011, and that ordinance was recently upheld by the California Court of Appeal. The opinion in *T-Mobile West LLC v. City and County of San Francisco* was issued on September 15, 2016.

San Francisco's Wireless Ordinance requires applicants to obtain a site-specific wireless facility permit from the city before installing any wireless facility in the public right-of-way. (*T-Mobile West*, 208 Cal.Rptr.3d 248 (Cal.App. 2016), at 253). The applicant is required to give notice to the public for each site. "Any person" can protest the tentative approval of any site application, and if anyone protests, there must be a public hearing. (at 256). San Francisco's ordinance applies only to wireless facilities and not to "telephone corporations installing facilities on utility poles other than wireless facilities." (at 255). The Court of Appeal ruled that the city may approve or deny permits on aesthetic grounds (at 253) and that its Wireless



Ordinance is consistent with the city's right to "control[] the particular location and manner in which public utility facilities are constructed in the streets." (at 265).

## **II. THE 2002 COURT DECISION IN *QWEST V. SANTA FE* SAID THAT LEASING DOES NOT VIOLATE FEDERAL LAW.**

By selectively quoting from *Qwest Corp. v. City of Santa Fe*, 224 F.Supp.2d 1305 (D.N.M. 2002), Mr. Martinez gives the impression that the court struck down leasing as a method of regulating the public rights-of-way. But the court said exactly the opposite:

Qwest has *not* shown that the requirements of registering under Section 27-2.1 of the City's ordinance and obtaining a lease under Section 27-3.2 of the ordinance in and of themselves have a prohibitory effect that is preempted by Section 253(a) of the federal statute as a matter of law.

224 F.Supp.2d at 1322 (emphasis added). In fact, the court upheld all of Santa Fe's leasing scheme except the fee structure (at 1325) and certain provisions that the court found too vague. (at 1324). It struck down the leasing scheme only because it was "inextricably intertwined" with the fee structure and the vague language. (at 1331-32).

The New Mexico Court of Appeals agreed:

The district court ruled that section 27-2.1 and section 27-3.2 of the Ordinance were not *per se* prohibitive because they simply require telecommunications providers to register with the city and obtain a lease for the use of rights-of-way. We agree with the district court.

*Qwest Corp. v. City of Santa Fe*, 380 F.3d 1258, 1269 (10th Cir. 2004).

## **III. REQUIRING FRANCHISES DOES VIOLATE FEDERAL LAW.**

Mr. Martinez's asserts that franchises are required because a leasing scheme would violate Section 332. The court in *T-Mobile West* said just the opposite:

Requiring a local franchise... has the immediate effect of prohibiting the telephone corporations' use of the public right-of-way, whereas local regulation on a site-by-site basis does not have the same impact.

*T-Mobile West* [at p. 14]. The issue in *T-Mobile West* was possible preemption by state law. But the argument is the same with regard to federal law. Denying *any* franchise would have the effect of prohibiting service, whereas denying a particular site would not. The bill before you on November 9 will therefore not survive scrutiny under Sections 253 and 332. The City would have to approve every franchise application and would not have *any* control over its rights-of-way.

#### **IV. THE TELECOMMUNICATIONS ACT ITSELF DISCRIMINATES BETWEEN WIRELINE AND WIRELESS SERVICE.**

While Mr. Martinez says he can “discern no sound basis for discriminating between wireline (fiber optic, cable, etc.) and wireless (cellular, dispatch, etc.) applicants,” the Telecommunications Act itself provides the basis. Section 704 of the Act applies to “personal wireless service facilities” only, and *not* to any wireline services. Section 704 of the Act imposes specific restrictions on local governments that apply *only* to wireless facilities and that demand local regulations that are specific to wireless facilities.

The California Court of Appeal could find no basis on which to strike down San Francisco’s ordinance merely because the city “has singled out wireless equipment.” *T-Mobile West* [at p. 22].

#### **V. THIS BILL DOES NOT IMPOSE ANY FEE ON FRANCHISEES.**

Mr. Martinez’s memo gives the impression that companies that build and maintain infrastructure will pay a franchise fee. He states: “The consequence of not enacting the amendments proposed in the Bill would be to permit telecommunications providers to use and occupy the PROW without paying for such use... Without a fee provision, telecommunications providers would be receiving a windfall because the City still has to allow such use.”

But contrary to Mr. Martinez’s statement, Bill No. 2016-37, as written, imposes *no* fee on telecommunications providers that occupy the public rights-of-way. Section 27-2.5(A) imposes a “telecommunications infrastructure franchise fee” *on retailers only*. Although it is called a “franchise fee,” it is not actually a franchise fee at all, but a tax on all telecommunications retailers in Santa Fe. The companies that own and operate the infrastructure don’t have to pay the city anything. A company like Broadband Network of New Mexico (see below), which is a wholesaler selling only to Sprint, will “use and occupy the PROW without paying for such use.” It will come in, dig up all of Santa Fe’s streets, build and operate hundreds of towers and antenna sites, and not pay Santa Fe a cent.

#### **VI. FURTHER MISSTATEMENTS BY MR. MARTINEZ**

**1. Mr. Martinez states: “Section 253 imposes obligations on the City to... impose no regulation on wireless service based on environmental or health effects.”**

First, it is Section 332, not Section 253, that refers to environmental effects.

Second, Section 332 actually prohibits such regulation only “to the extent that such facilities comply with the [Federal Communications Commission’s] regulations concerning such emissions.” For years we have been requesting that the City amend its telecommunications ordinance to require proof of compliance with the FCC’s exposure limits, and the City has not done so. This has now become urgent, because exposure levels increase exponentially with proximity to an antenna. If you are one hundred times closer, exposure is ten thousand times more. DAS antennas will be on the street right where people walk and they will be outside

people's bedroom windows. The likelihood of exceeding the FCC's exposure limits is much greater than for distant towers. It is up to cities to require measurements because the FCC does not routinely check sites for compliance.

**2. Mr. Martinez states: "[E]ven if the City could adopt a leasing scheme, there would be no way to meet the Section 332 reasonable time standard due to the requirements of the municipal leasing statute, NMSA 1978, § 3-54-1."**

The opposite is true. It is easy to comply with the reasonable time standard in evaluating an application for a single site. It is much harder to comply when evaluating an application for one or two *hundred* sites. NMSA 1978, § 3-54-1 contains no time requirements for a lease application that we can see, and Mr. Martinez cites none.

**3. Mr. Martinez states: "HPD staff will make recommendations to the Commission based on the standards set out in the Bill and on any guidelines adopted by the HDRB."**

The bill says no such thing. Section 27-2.19(C)(5) of the bill (Existing Section 27-2.13(C)(5)) states: "Telecommunications facilities located within the historic districts shall be reviewed by the historic districts review board *for compliance with this subsection*" (emphasis added). The bill has no provision for HPD *staff* to recommend anything, and does not even allow the historic design review board to require compliance with historic preservation guidelines.

**4. Mr. Martinez states: "The FCC relies upon a panel of scientists and medical experts from the American National Standards Institute (ANSI) and the Institute of Electrical and Electronics Engineers (IEEE)."**

This piece of propaganda cannot go unanswered. ANSI and IEEE are engineering societies that have *no* medical experts.

## **VII. BROADBAND NETWORK OF NEW MEXICO IS NEITHER.**

On September 19, 2016, Mr. Martinez told the Finance Committee:

I was prompted to bring these amendments forward because we have a new telecommunications provider, called Broadband Network of New Mexico. They want to get a telecommunication franchise with the City, and we want to be able to charge them for their use and occupancy of the rights-of-way.

Broadband Network of New Mexico is actually neither a network nor is it "of New Mexico." It is a name used by a company called Mobilitie, which is based in Newport Beach, California and which builds and operates DAS systems on behalf of major cell phone providers. For example, Sprint has contracted with Mobilitie to build 70,000 DAS antennas in cities across the country. *The Wall Street Journal* reported on June 7, 2016 that Mobilitie is running into resistance from cities, which may be why it is now resorting to operating under aliases like Broadband Network of New Mexico and Illinois Utility Pole Authority. Mobilitie is also using its franchises to build

poles 70 to 120 feet tall in public rights-of-way and calling them “utility poles.”

(<http://www.tellusventure.com/blog/tag/mobilitie>)

(<http://www.steelinair.com/Blog/2016/04/tale-of-two-small-cell-proposals-crown-castle-vs-mobilitie.html>)

## CONCLUSION

We recommend the City reject Bill No. 2016-37. The City should rework Chapter 27 to protect homeowners and residents. It should repeal the exemptions from Chapter 14 and replace franchises with site specific applications and leases, using language and a fee structure that will comply with the rulings in *Qwest Corp. v. City of Santa Fe*, 224 F.Supp.2d 1305 (D.N.M. 2002) and *Qwest Corp. v. City of Santa Fe*, (CV 10-00617, Findings of Fact and Conclusions of Law, Dec. 2, 2013 (D.N.M. 2013)).

My name is \_\_\_\_\_ and I am speaking on behalf of the coalition Santa Fe Alliance for Public Health and Safety...

**9. The City Manager's office has chosen not to turn off the Wifi for city council meetings, though we've made it clear that this clearly discriminates against those with EHS, electromagnetic hypersensitivity.** ~~XXXXXXXXXX~~

The Access Board, the Federal agency devoted to developing guidelines for compliance with the Americans with Disabilities Act, has made specific recommendations for accommodating people with the recognized disability known as EHS.  
**(Submit document.)**

How can this kind of informed federal agency determination be so casually dismissed by our city officials?

We made it clear to the city that there are many individuals in our coalition who have EHS. We explained that many of them would not be able to attend this meeting if the Wifi were not shut off. Or worse, that the issue tonight is important enough that they feel they must attend, and that they will be injured by their attendance.

For the past 7 years the city council meetings have either provided wired connections for the councilors to use their computers or they used hard copy materials. However, the city manager's office recently changed that policy.

We spoke with the executive administrative assistant in the city manager's office today.

Here is a portion of the conversation:

Michael: "In the past councilors were on computers and you had wired connections."

Assistant: "Yes, but we no longer use wired connections. We've gone wireless. The councilors are all on iPads."

Michael: "Have you looked into the possibility of using wired connections for the iPads?"

Assistant: "I'll have to talk with our IT department."

Michael: "You do know that an iPad can use a wired connection, yes?"

Assistant: "I know. But we are going with wireless now."

--- end of conversation ---

In only 5 minutes we were able to do a simple online search and find the complete instructions and accessories required for an iPad to use a wired connection for connectivity. I would like to submit for the record these easy-to-find documents detailing how a wired connection for an iPad is established and what accessories would be required.

**(Submit documents.)**

This issue is an illustration of how warped our view of things has become. We don't want to be inconvenienced. We will sacrifice justice and the right of an individual to contribute at a public meeting in exchange for personal convenience. A wheelchair ramp is far more inconvenient and costly than cords and adapters in special situations. Remember, the Americans with Disabilities Act does not give priority to one disability over another.

# Recommendations for Accommodations

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☆ [www.access-board.gov/research/completed-research/indoor-environmental-quality/recommendations-for-accommodations](http://www.access-board.gov/research/completed-research/indoor-environmental-quality/recommendations-for-accommodations)

People with chemical and/or electromagnetic sensitivities can experience debilitating reactions from exposure to extremely low levels of common chemicals such as pesticides, cleaning products, fragrances, and remodeling activities, and from electromagnetic fields emitted by computers, cell phones, and other electrical equipment.

The severity of sensitivities varies among people with chemical and/or electromagnetic sensitivities. Some people can enter certain buildings with minor accommodations while others may be so severely impacted that they are unable to enter these same spaces without debilitating reactions. Furthermore individual tolerances to specific exposures can vary greatly from one individual to the next. Meanwhile some exposures, such as the application of certain pesticides or extensive remodeling, for example, may be devastating to all chemically sensitive people and make a building or facility inaccessible for a substantial period of time.

According to the Americans with Disabilities Act (ADA) and other disability laws, public and commercial buildings are required to provide reasonable accommodations for those disabled by chemical and/or electromagnetic sensitivities. These accommodations are best achieved on a case-by-case basis.

Reasonable accommodations for a chemically sensitive and/or electromagnetically sensitive individual can include providing a space or meeting area that addresses one or more of the Cleaner Air criteria, upon request, such as

- Remove fragrance-emitting devices (FEDS)
- Delay or postpone indoor or outdoor pesticide applications, carpet cleaning, or other cleaning or remodeling until after the meeting
- Provide room or meeting area near exterior door or with window(s) that can be opened
- Require cell phones and computers be turned off
- Provide incandescent lighting in lieu of fluorescent lighting
- Provide at least one nonsmoking, fragrance-free person per shift to provide services (e.g. nurse, police officer, security guard, clerk )

For individuals who are unable to use or meet in a building or facility, or who are too severely impacted by chemical and/or electromagnetic exposures to use a designated Cleaner Air Room, accommodations may include:

- Meet an individual at the door or outside to conduct business
- Allow a person to wait outside or in car until appointment
- Provide a means, such as a phone, intercom, bell, or buzzer to summon staff to an outside door for assistance
- Permit business to be conducted by phone, fax, mail, or e-mail rather than in person
- Allow participation in a meeting by speakerphone

# How to Connect an iPad to Ethernet

[www.gottabemobile.com](http://www.gottabemobile.com)

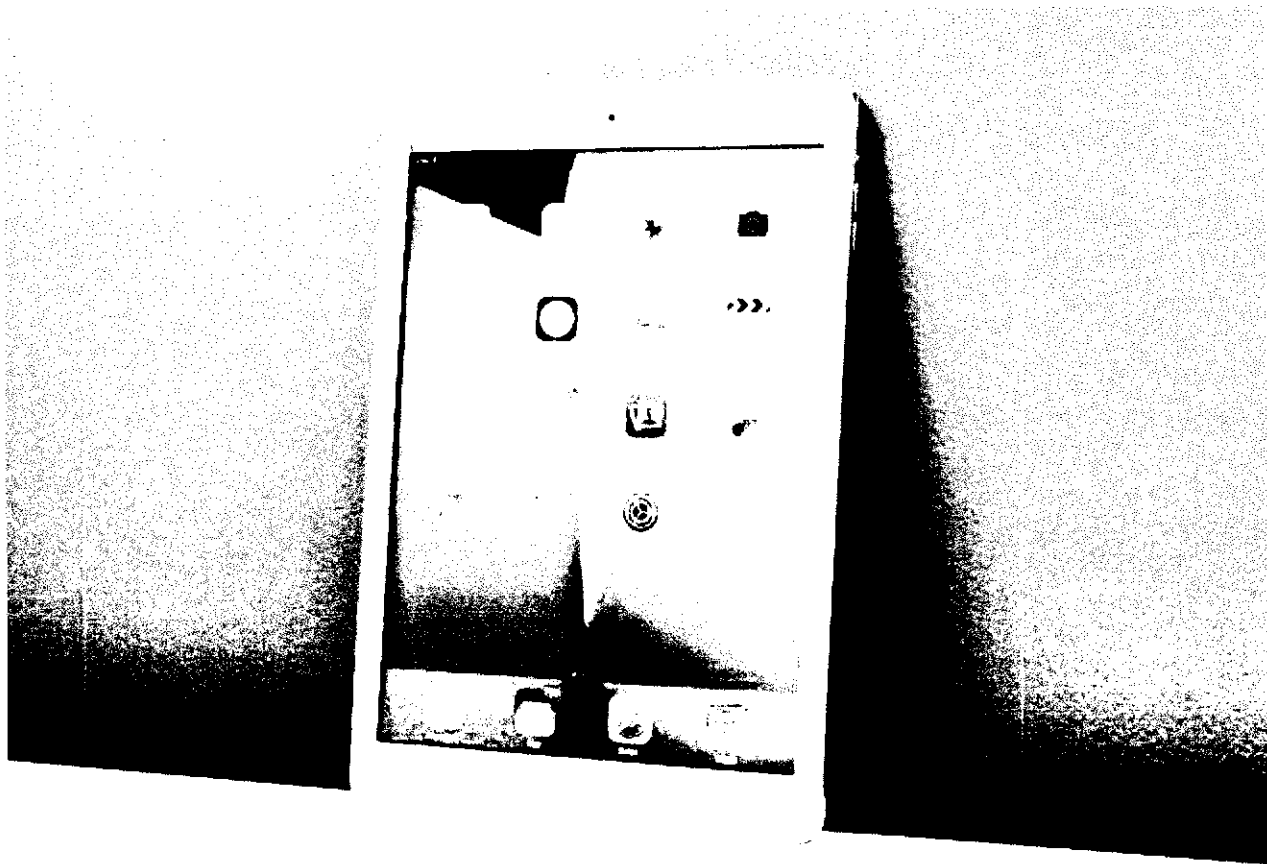
Craig Lloyd 08/28/2014

A wireless connection is fine for most tasks you do on your iPad, but there are some things that would just be way better with a solid hard-wired ethernet connection. Here's how to connect your iPad to ethernet in order to get the best internet connection.

Unfortunately, iPads don't have an ethernet port, so you may think that you're out of luck, but you'd be sorely mistaken. By gathering up a few iPad and Mac accessories, you can connect your iPad to your internet router via ethernet in order to get a solid internet connection.

Granted, you probably won't want to do this all the time, but if you're at home and want to stream something on your iPad without buffering and lag, connecting it to an ethernet connection can be a great way to make sure that the content you're viewing streams efficiently and quickly.

However, it's important to note that this setup isn't exactly clean and simple. You'll actually need three accessories in order to get it to work, but if you're willing to deal with a slightly messy setup, you're iPad will be able to obtain an internet connection that's probably better than your wireless connection.



## Things You'll Need

As aforementioned, this "hack" doesn't just require one simple tool, but rather three accessories that you'll need to purchase if you don't already have them. Here's what you'll need:

### Advertisement

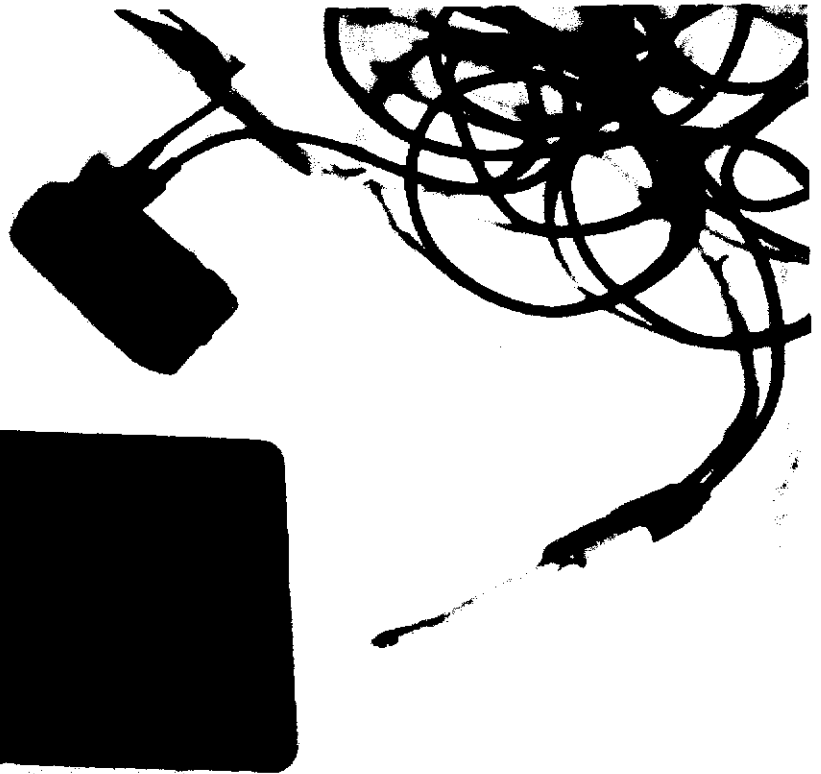
- Lightning to USB Camera Adapter – Buy

- USB Ethernet Adapter – Buy
- Powered USB Hub – Buy (It can be any cheap hub, though. Just make sure it's powered.)
- Ethernet Cable – Buy
- An iPad – Buy

The reason you need a powered USB hub is because the USB Ethernet adapter requires more power than the Lightning to USB adapter cable can provide, so if you don't have the powered USB hub, you end up getting a popup saying the device cannot power the adapter.

## Setting It Up

While this is quite a list of things you'll need, setting it all up takes less than 30 seconds. I've embedded a video below that details the steps needed and demonstrates the hack, but here's a step-by-step guide on connecting your iPad to ethernet:



1. First off, disable WiFi on your iPad, as well as cellular data if it's an LTE model.
2. Plug one end of the ethernet cable into a free port on your router, and the other end into the ethernet port on the USB Ethernet Adapter.
3. Connect the USB end of the adapter to any of the USB ports on the USB hub.
4. Connect the USB cable that came with your USB hub to the hub. The cable should have a smaller connector on one end and the port for it should be on the back of the hub.
5. Connect the power cable for the USB hub to the hub and plug the other end into a wall outlet.
6. Connect the USB end of the Lightning to USB Adapter to the other end of the USB cable that came with your USB hub.
7. Lastly, plug the Lightning end of the adapter into your iPad.

## Advertisement

You might have to give your iPad a few seconds to recognize everything, but after that, you can launch Safari and begin surfing the web.

From there, you can launch the streaming app of your choice, be it YouTube, Netflix, Hulu Plus, etc. You should get a much better internet connection than you would if you were just using a WiFi connection.

Furthermore, you can download an app called Speedtest that can see how fast your internet connection is on your iPad.



iPhone Accessories

Browse all ▾

Lightning to USB  
Camera Adapter

\$29.00

★★★★★



**Pickup:**  
Check availability



**Delivery:**  
In Stock  
Free Shipping

[Get delivery dates](#)

Get help buying. Chat now.



Product Information



Overview

With the Lightning to USB Camera Adapter, it's easy to download photos and videos from your digital camera to your iPad or iPhone with Lightning support so you can view them on the gorgeous Retina display and share them with family and friends.

After you connect the Lightning to USB Camera Adapter, your iPad or iPhone automatically opens the Photos app, which lets you choose which photos and videos to import, then organizes them into albums. When you sync iPad or iPhone to your PC or Mac, the photos and videos on your iPad or iPhone are added to your computer's photo library.

The Lightning to USB Camera Adapter supports standard photo formats, including JPEG and RAW, along with SD and HD video formats, including H.264 and MPEG-4. Requires iOS 9.2 or later.

# Lightning to USB Camera Adapter

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• [www.apple.com/shop/product/MD821AM/A/lightning-to-usb-camera-adapter](http://www.apple.com/shop/product/MD821AM/A/lightning-to-usb-camera-adapter)

## • Overview

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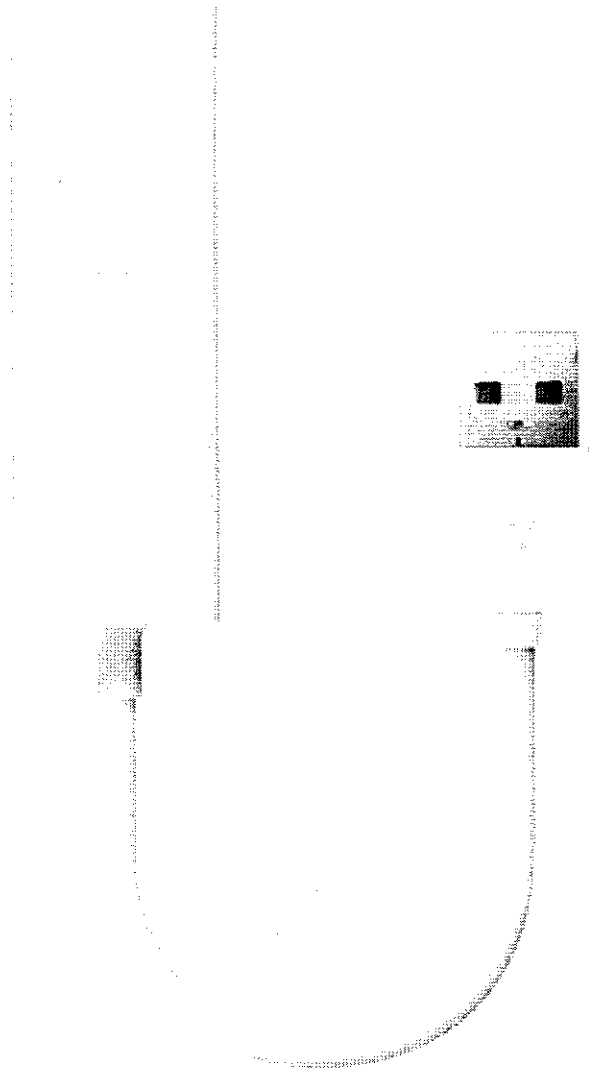
The Lightning to USB Camera Adapter supports standard photo formats, including JPEG and RAW, along with SD and HD video formats, including H.264 and MPEG-4. Requires iOS 9.2 or later.

# Apple USB Ethernet Adapter

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• [www.apple.com/shop/product/MC704LL/A/apple-usb-ethernet-adapter](http://www.apple.com/shop/product/MC704LL/A/apple-usb-ethernet-adapter)

• \$29.00



## • Overview

Easily connect your Mac computer to an Ethernet network with the Apple USB Ethernet Adapter. Small and light, it connects to the USB 2.0 port of your Mac and provides an RJ-45 connector that supports 10/100BASE-T performance.

## System Requirements

Mac OS X v.10.4.8 or later

Mac computer with available USB 2.0 port

Electronics > Computers & Accessories > Computer Accessories & Peripherals > Computer Cable Adapters > USB-to-USB Adapters



AmazonBasics 7 Port USB 2.0 Hub with 5V/4A Power Adapter  
by AmazonBasics


6,272 customer reviews  
830 answered questions  
Price: \$18.99 & FREE Shipping on orders over \$49. Details  
Try Fast, Free Shipping

In Stock.  
Want it Friday, Nov. 11? Order within 23 hrs 45 mins and choose One-Day Shipping at checkout. Details  
Ships from and sold by Amazon.com in easy-to-open packaging. Gift-wrap available.

Style: 7-Port USB 2.0	
4-Port USB 2.0	4-Port USB 3.0
\$6.49	\$16.99
7-Port USB 2.0	7-Port USB 3.0
\$18.99	\$29.95
10-Port USB 2.0	10-Port USB 3.0
\$21.99	\$39.37

- Package includes: 1 USB 2.0 7 Port Hub / 1 5V/4A Power Adapter / 1 USB 2.0 Cable (3 feet) / 1 Owner's Manual
- Installs with Plug-and-Play ease
- Complies with USB specification version 2.0; backward compatible with USB 1.1
- Two high current (1.2 amps per port) USB fast charging ports. NOTE: This is not intended to charge tablets/iPads.
- Data transfer speeds of up to 480Mbps. Refer to the user manual below before use.

Compare with similar items  
New (1) from \$18.99 & FREE shipping on orders over \$49.00. Details  
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Frequently Bought Together



Total price: \$30.77  
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Mitch Buszger

Advisory Committee

Telecom Plan

To insure we have a siting plan that the city approves

Reinstate Ch 14 as not exempt by Ch 27

Wish New Ord

To allow notice, hearing for each site, lease fee for each site

Liability insurance required of telecoms

Proof of compliance with FCC exposure limits

Explore ordinances from other cities (e.g. San Francisco, Chattanooga)

Require aesthetic considerations

Explore possibilities other than antennas for high speed access to internet

Public disclosure of who wrote amendment to Ch 27

How many antennas are we looking at?

#

City shown antenna site?

Jeff Allen & HKS

Exhibit "19"