City of Santa Fe

Agenda

REGULAR MEETING OF
THE GOVERNING BODY
FEBRUARY 14, 2018
CITY COUNCIL CHAMBERS

CITY CLERK'S OFFICE
DATE 2/9/18 TIME 3:55 PM
SERVED BY Melissa Byers
RECEIVED BY

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: Regular City Council Meeting – January 31, 2018
9. PRESENTATIONS
10. CONSENT CALENDAR

    a) Request for Approval of RFP #18/08/P – Lease Operating Agreement for Food and Beverage Service Facility at Marty Sanchez Links de Santa Fe; El Sabor. (Jennifer Romero)

    b) Request for Approval of Amendment No. 4 to Professional Services Agreement in the Amount of $175,292.95, Increasing the Total Compensation to $1,159,204.23, Plus Gross Receipts Tax and Extending the Term of the Agreement through June 30, 2018 for Security Services at the Santa Fe Municipal Parking Faculties, Libraries, Community Convention Center, City Hall, Municipal Court, Santa Fe Trails, Santa Fe Regional Airport, and Genoveva Chavez Community Center; G4S Secure Solutions (USA) Inc. (David Silver)

    c) Request for Approval of 2017 State Homeland Security Grant Program Sub-Grant Agreement in the Total Amount of $176,675.00; State of New Mexico Department of Homeland Security & Emergency Management. (David Silver)

        1) Request for Approval of Budget Amendment

d) Request for Approval of Procurement Using NM State Price Agreement #70-000-16-00014AJ in the Total Amount of $109,729.25 for Portable Radios for the Fire Department; Motorola Solutions Inc. (Jan Snyder)

e) Request for Approval of Energy, Minerals, Natural Resources Department Grant Award and In-Kind Contribution in the Total Amount of $101,825.47 for Hiring Five Full-Time Temporary Employees to Perform Green Waste Pick-Up, Door to Door Wildfire Public Education and to Serve as a Wildland Firefighting Force; Youth Conservation Corps Commission. (Greg Gallegos).

1) Request for Approval of Budget Amendment

f) Request for Approval of Amended and Restated Deed of Conservation Easement for the Santa Fe Railyard Development Between the City of Santa Fe ("Grantor") and the Santa Fe Conservation Trust ("Grantee"). (Robert Siqueiros)

g) Request for Approval of New Lease Agreement for Airspace Rights for Outdoor Seating and Food Service Over a Portion of the Lincoln Avenue Right of Way Containing Approximately 540 Square Feet Adjoining the Easterly Boundary of 101 W. San Francisco Street by Ortega Plaza Building LLC. (Matthew O'Reilly)

h) Request for Approval to Use Cooperative Educational Services Procurement for a Professional Services Agreement in the Amount of $42,854.32, Excluding NMGRT, for Construction Observation on CIP #454A Rail Trail Extension Project from Alta Vista to Pen Road; Souder Miller & Associates. (Leroy Pacheco)

i) CONSIDERATION OF RESOLUTION NO. 2017-___: (Councilor Rivera, Councilor Ives, Councilor Dominguez, Councilor Harris and Councilor Villarreal)
A Resolution to Amend the Contracts of the City Manager and the City Attorney to Provide for a Thirty-Day Holdover Period at the Conclusion of Their Terms Consistent with the Term Provision of the City Clerk, to Provide for a Smooth and Stable Transition Following the March 6, 2018 Municipal Election; and Approving Thirty-Day Extensions to the Contracts of the City Manager, City Attorney and City Clerk. (Jesse Guillen)

11. MATTERS FROM THE CITY MANAGER

12. MATTERS FROM THE CITY ATTORNEY

13. MATTERS FROM THE CITY CLERK

14. 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

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

- Mayor's Youth Advisory Board
- Santa Fe City and County Food Policy Advisory Council
- City Historian
- Arts Commission

H. PUBLIC HEARINGS:

1) CONSIDERATION OF BILL NO. 2018-1: ADOPTION OF ORDINANCE NO. 2018-___. (Councilor Rivera and Councilor Maestas)
An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance; Amending Section 12-1-5.1 Regarding the Definition for "Autocycle"; Amending Section 12-1-67 Regarding the Definition of a "School Bus"; Amending Section 12-6-7.4 Regarding the Operation of Vehicles on Approach of Emergency Vehicles; Amending Section 12-7-9.2 Regarding Operation of Off-Highway Vehicles on Streets or Highways; Amending Section 12-7-9.9 Regarding Off-Highway Vehicle Safety Requirements; and Amending Section 12-10-1.44 Regarding Special Restrictions on Lamps. (Jesse Guillen)

2) **Case No. 2017-91.** Appeal of William L. Harper, Alma Waldo, Russell Waldo, and the Las Brisas de Santa Fe Condominium Association from the September 5, 2017, Decision of the Board of Adjustment to Grant a Request by the Museum of New Mexico Foundation for a Variance From City Code Section 14-8.4(J)(3) (Buffer for Nonresidential Development Abutting Residential). (Rick Word) **(Postponed to March 14, 2018)**

3) CONSIDERATION OF BILL NO. 2017-31: ADOPTION OF ORDINANCE NO. 2018-___. (Mayor Gonzales and Councilor Harris)
An Ordinance Repealing Section 2-22 SFCC 1987 Internal Audit Department in its Entirety; and Amending Section 6-5 SFCC 1987 to Charge the Audit Committee with the Management of an Independent Audit Contract to Perform the Functions Currently Performed by the Internal Auditor. (Kelley Brennan) **(Withdrawn)**

a) CONSIDERATION OF RESOLUTION NO. 2018-___. (Mayor Gonzales and Councilor Harris)
A Resolution Directing the City Manager to Develop a Plan to Outsource the Functions Currently Performed by the Internal Audit Department in Accordance with Said Recommendation Within 60 Days of the Adoption of this Resolution. (Kelley Brennan) **(Withdrawn)**

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
February 14, 2018

ITEM	ACTION	PAGE #
AFTERNOON SESSION		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-3
APPROVAL OF MINUTES: REGULAR MEETING OF JANUARY 31, 2018	Approved	3
PRESENTATIONS	None	3
CONSENT CALENDAR DISCUSSION		
REQUEST FOR APPROVAL OF RFP #18/08/P – LEASE OPERATING AGREEMENT FOR FOOD AND BEVERAGE SERVICE FACILITY AT MARTY SANCHEZ LINKS DE SANTA FE; EL SABOR	Denied with direction	4-19
REQUEST FOR APPROVAL OF AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT FOR THE SANTA FE RAILYARD DEVELOPMENT BETWEEN THE CITY OF SANTA FE ("GRANTOR") AND THE SANTA FE CONSERVATION TRUST ("GRANTEE")	Approved	19-23
REQUEST FOR APPROVAL TO USE COOPERATIVE EDUCATIONAL SERVICES PROCUREMENT FOR A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF $42,854.32, EXCLUDING NMGRT, FOR CONSTRUCTION OBSERVATION ON CIP #454A RAIL TRAIL EXTENSION PROJECT FROM ALTA VISTA TO PEN ROAD; SOUDER MILLER & ASSOCIATES	Postponed to 02/28/18 w/direction	24-35

ITEM	ACTION	PAGE #
TEMPORARY MOVE TO EVENING AGENDA		
PETITIONS FROM THE FLOOR		36-38
RETURN TO THE AFTERNOON AGENDA		
CONSENT AGENDA		
CONSIDERATION OF RESOLUTION NO. 2017-10. A RESOLUTION TO AMEND THE CONTRACTS OF THE CITY MANAGER AND THE CITY ATTORNEY TO PROVIDE FOR A THIRTY-DAY HOLDOVER PERIOD AT THE CONCLUSION OF THEIR TERMS CONSISTENT WITH THE TERM PROVISION OF THE CITY CLERK, TO PROVIDE FOR A SMOOTH AND STABLE TRANSITION FOLLOWING THE MARCH 6, 2018 MUNICIPAL ELECTION; AND APPROVING THIRTY-DAY EXTENSIONS TO THE CONTRACTS OF THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK	Approved	38-42
********** END OF CONSENT CALENDAR DISCUSSION **********		
MATTERS FROM THE CITY MANAGER	None	42
MATTERS FROM THE CITY ATTORNEY		
VOTE TO RECONSIDER ACTION ON ITEM 10(a) UNDER CONSENT AT THE MEETING OF 02/28/18	Approved postponement	42-48
MATTERS FROM THE CITY CLERK	Information/discussion	48
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	48-51
EVENING SESSION		
CALL TO ORDER AND ROLL CALL	Quorum	52

ITEM	ACTION	PAGE #
APPOINTMENTS		
Mayor's Youth Advisory Board	Approved	52-53
Santa Fe City and County Food Policy Advisory Council	Approved	53
City Historian	Approved	53
Arts Commission	Approved	53
PUBLIC HEARINGS		
CONSIDERATION OF BILL NO. 2018-1; ADOPTION OF ORDINANCE NO. 2018-7. AN ORDINANCE RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING SECTION 12-1-5.1 REGARDING THE DEFINITION FOR "AUTOCYCLE;" AMENDING SECTION 12-1-67 REGARDING THE DEFINITION OF A "SCHOOL BUS;" AMENDING SECTION 12-6-7.4 REGARDING THE OPERATION OF VEHICLES ON APPROACH OF EMERGENCY VEHICLES ON STREETS OR HIGHWAYS; AMENDING SECTION 12-7.9.9 REGARDING OFF-HIGHWAY VEHICLE SAFETY REQUIREMENTS; AND AMENDING SECTION 12-10-1.44 REGARDING SPECIAL RESTRICTIONS ON LAMPS	Approved	54
CASE #2017-91. APPEAL OF WILLIAM L. HARPER, ALMA WALDO, RUSSELL WALDO, AND THE LAS BRISAS DE SANTA FE CONDOMINIUM ASSOCIATION FROM THE SEPTEMBER 5, 2017 DECISION OF THE BOARD OF ADJUSTMENT TO GRANT A REQUEST BY THE MUSEUM OF NEW MEXICO FOUNDATION FOR A VARIANCE FROM CITY CODE SECTION 14-8.4(J)(3) (BUFFER FOR NONRESIDENTIAL DEVELOPMENT ABUTTING RESIDENTIAL	Postponed to 03/14/18	54

ITEM	ACTION	PAGE #
CONSIDERATION OF BILL NO. 2017-31; ADOPTION OF ORDINANCE NO. 2018- ___ . AN ORDINANCE REPEALING SECTION 2-22 SFCC 1987, INTERNAL AUDIT DEPARTMENT IN ITS ENTIRETY; AND AMENDING SECTION 6-5 SFCC 1987 TO CHARGE THE AUDIT COMMITTEE WITH THE MANAGEMENT OF AN INDEPENDENT AUDIT CONTRACT TO PERFORM THE FUNCTIONS CURRENTLY PERFORMED BY THE INTERNAL AUDITOR	Withdrawn	55
CONSIDERATION OF RESOLUTION NO. 2018- ___. A RESOLUTION DIRECTING THE CITY MANAGER TO DEVELOP A PLAN T O OUTSOURCE THE FUNCTIONS CURRENTLY PERFORMED BY THE INTERNAL AUDIT DEPARTMENT IN ACCORDANCE WITH SAID RECOMMENDATION WITHIN 60 DAYS OF THE ADOPTION OF THIS RESOLUTION	Withdrawn	55
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END OF PUBLIC HEARINGS		
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ADJOURN		55

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 14, 2018

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 Pro-Tem Lindell, on Wednesday, February 14, 2018, 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
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

Members Excused
Mayor Javier M. Gonzales
Councilor Ronald S. Trujillo
Councilor Renee D. Villarreal

Others Attending
Brian K. Snyder, City Manager
Marcus Martinez, Assistant City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Maestas and Councilor Rivera.

Against: None.

10. CONSENT CALENDAR

a) ***[Removed for discussion by Councilor Maestas and Councilor Harris]***

b) **REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF $175,292.95, INCREASING THE TOTAL COMPENSATION TO $1,159,204.23, PLUS GROSS RECEIPTS TAX AND EXTENDING THE TERM OF THE AGREEMENT THROUGH JUNE 30, 2018, FOR SECURITY SERVICES AT THE SANTA FE MUNICIPAL PARKING FACILITIES, LIBRARIES, COMMUNITY CONVENTION CENTER, CITY HALL, MUNICIPAL COURT, SANTA FE TRAILS, SANTA FE REGIONAL AIRPORT AND GENOVEVA CHAVEZ COMMUNITY CENTER; G4S SECURE SOLUTIONS (USA) INC. (DAVID SILVER)**

c) **REQUEST FOR APPROVAL OF 2017 STATE HOMELAND SECURITY GRANT PROGRAM SUB-GRANT AGREEMENT IN THE TOTAL AMOUNT OF $176,675; STATE OF NEW MEXICO DEPARTMENT OF HOMELAND SECURITY & EMERGENCY MANAGEMENT. (DAVID SILVER)**

1) **REQUEST FOR APPROVAL OF BUDGET AMENDMENT.**

d) **REQUEST FOR APPROVAL OF PROCUREMENT USING NM STATE PRICE AGREEMENT #70-000-16-00014AJ IN THE TOTAL AMOUNT OF $109,7209.25 FOR PORTABLE RADIOS FOR THE FIRE DEPARTMENT; MOTOROLA SOLUTIONS, INC. (JAN SNYDER)**

e) **REQUEST FOR APPROVAL OF ENERGY, MINERALS, NATURAL RESOURCES DEPARTMENT GRANT AWARD AND IN-KIND CONTRIBUTION IN THE TOTAL AMOUNT OF 101,825.4, FOR HIRING FIVE FULL-TIME TEMPORARY EMPLOYEES TO PERFORM GREEN WASTE PICK-UP, DOOR TO DOOR WILDFIRE PUBLIC EDUCATION AND TO SERVE AS A WILDLAND FIREFIGHTING FORCE; YOUTH CONSERVATION CORPS COMMISSION. (GREG GALLEGOS)**
   1) **REQUEST FOR ADJUSTMENT OF BUDGET AMENDMENT.**

f) ***[Removed for discussion by Councilor Harris and Councilor Dominguez]***

g) **REQUEST FOR APPROVAL OF NEW LEASE AGREEMENT FOR AIRSPACE RIGHTS FOR OUTDOOR SEATING AND FOOD SERVICE OVER A PORTION OF THE LINCOLN AVENUE RIGHT OF WAY CONTAINING APPROXIMATELY 450 SQUARE FEET ADJOINING THE EASTERLY BOUNDARY OF 101 W. SAN FRANCISCO STREET BY ORTEGA PLAZA BUILDING LLC. (MATTHEW O'REILLY)**

h) ***[Removed for discussion by Councilor Maestas and Councilor Harris]***

i) ***[Removed for discussion by Councilor Maestas and Councilor Harris]***

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END OF CONSENT CALENDAR

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8. APPROVAL OF MINUTES: REGULAR MEETING OF JANUARY 31, 2018

MOTION: Councilor Maestas moved, seconded by Councilor Harris, to approve the minutes of the Regular City Council Meeting of January 31, 2018, as presented.

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.

9. PRESENTATIONS

There were no presentations.

10. CONSENT CALENDAR DISCUSSION

10(a) REQUEST FOR APPROVAL OF RFP #18/08/P – LEASE OPERATING AGREEMENT FOR FOOD AND BEVERAGE SERVICE FACILITY AT MARTY SANCHEZ LINKS DE SANTA FE; EL SABOR. (JENNIFER ROMERO)

Councilor Maestas said he pulled this because of a news article regarding the winning proposal. He said the article raised concerns with regard to how a winning bidder can submit a proposal that is almost verbatim from the proposal submitted by the incumbent contractor 4 years ago. He is concerned how anyone could get their hands on an old proposal and be able to resubmit it for that same contract, and have staff not recognize that it was almost a complete duplicate. He asked Ms. Romero to comment.

Jennifer Romero, MRC Manager, said as she said in Finance, it was brought to their attention that the proposal submitted 4 years ago by the Links was very similar to the one submitted by the selected vendor, El Sabor. She understands that the information on bids is public, and her office didn't have a copy of the one submitted 4 years ago, noting those are kept in purchasing. However, it is her understanding the individual assisting the current vendor was also the same individual that assisted the selected vendor in regard to preparing the proposal.

Councilor Maestas said he normally wouldn't expect her to go over the selection committee deliberations, but our process has been called into question. He asked if there has been consideration to start over on this bid since the process has been called into question – were their internal discussions to that effect.

Ms. Romero said they did follow City procurement throughout this process, based on the proposals that were submitted in the process. However, they submitted to issue a second RFP, and it is her understanding that the decision was reversed, noting she is referring the question to the City Manager and Adam Johnson, Finance Director.

Councilor Maestas asked Mr. Johnson the rationale for changing the course of action in this matter, commenting he was encouraged that we were going to reissue the RFP. He asked the reason the decision was reversed, and if everyone involved notified of the change in the course of action.

Adam Johnson, Director, Finance Director, said with respect to the duplicate proposal and the information used again for the most recent proposal for the competitor. He said, while unfortunate, there is nothing in the procurement manual that gives us a mechanism to say that put it out of compliance and would cause us to re-RFP. He said as the result of the initial conversation and presentation for the award, which is the same information that is in your packet, a decision was made, based on a protest, to re-RFP or this contraction. The decision was based on the presentation of the scores in the packet, and the procurement manual calls for the presentation of total scores. What was lacking in the original presentation was the local preference being applied to both of the contractors. The conversation at the Finance Committee meeting was long, a little confusion with regard to the total presentations, the decision was made to do another RFP.

Mr. Johnson continued, saying we received a protest to that decision which requires us to take into account all of the information once again and come to a conclusion as to what to do, based on the next protest. They looked at the scores, recalibrated them to include the local preference. There also was concern that one of the scores was so much lower than the other scores that perhaps it presented some bias, so we tossed out that score, and recalibrated. And in both cases, with the local preference and the low scores dropped there was no material difference on the recommendation of staff.

Mr. Johnson continued, saying because of the result of the additional analysis having to be performed because of the second protest, we notified both that we would move forward in making the original recommendation, and those letters were sent out certified following the procurement manual and the dates required. He said he believes he answered the specific questions, and doesn't want too far because there is a lot of material and follow-up on that.

Mr. Johnson continued, saying the basis for the decision by Finance and the Purchasing Division following the procurement manual is that the procurement process was followed, with the additional information and what was going to be a lot of difficulty with the process. He said from staff perspective at this time, a non-biased recommendation has been made by staff. It is the Governing Body's opportunity to weigh-in and take that recommendation.

The Governing Body commented and asked questions as follows:

- Councilor Maestas said, regarding the process and the legitimacy of protests, there was the original protest by the incumbent contractor who submitted a proposal about the process. We decided to reissue the RFP. And then the winning contractor protested our decision to re-RFP. He asked can those two protests be the same, and do they have equal standing.

  Mr. Johnson said once another protest is received, we have to take a re-start and then reanalyze from that protest. The protest received by the current contractor, the decision that was made by Purchasing on behalf of the City "with my help and support," was not based on the merits of their actual protest. It was based on our procedure that I believed had not been followed correctly. So, they made their case. What we didn't accept on the face value of their case that that the evaluators were biased. What I said was there seems to be a perceived bias and since our procedure was not followed, we are recommending the second RFP.

  Mr. Johnson continued, saying, when we received the next protest, that caused us to have to re-analyze the policy and then go from there.

- Councilor Maestas asked if it is less risky on the City's part to just redo and reissue the RFP. He said we obviously felt there was some legitimacy in the original protest, and I would think that we would somehow change the process to remove any perceived bias. He asked, before we reversed ourselves, did we commit to change the process on reissuing the RFP and getting a different evaluation team – were we going to do anything different in that process.

Mr. Johnson continuing, saying to back up, he thinks it's important to note that from staff's perspective when we come to the conclusion that the procurement process was followed, we have an obligation to present the results to this Governing Body. When we initially decided to do an re-RFP, we did decide to create a new evaluation committee. We had not put that together formally, but we did decide that we would create a new evaluation committee.

Mr. Johnson continued, saying the other thing that was challenging with that particular part of the process at that point, is that both of the proposals had been made public. And so any proprietary information in either proposal was now available to the other. So, to the degree that we would then have a true competitive process, now that all information was available to both competitors, there also was a concern in terms of how the result of that process would run and being able to run a legitimate RFP again.

- Councilor Maestas said there is more up-side on reissuing the RFP with a new evaluation committee. He said we need to assure the community that our process is robust enough, and this is an anomaly, especially the reversal. He wants to see in the process, going forward, is that an original protest relating to the process should have higher standing than a protest in response to a correction to the initial protest, reiterating he doesn't think they should have equal standing. He is conveying some of the public concerns he received when the story was in the newspaper. He said he doesn't believe he can support this.

- Councilor Ives said he has a series of questions. He said at Finance we talked about the form on packet page 5, to which Mr. Johnson referred in presenting information that the procedures for presenting the results were not correct.

  Mr. Johnson said that is correct.

- Councilor Ives said that form is still incorrect.

  Mr. Johnson said, as previously stated, the reason we provided the original documentation is that the result of the changes to the math is not materially different, and he didn't want to provide altered documents for various reasons, including transparency. He said for many years, City staff has presented in this manner or in both manners with total scores, including local preference applied and sometimes not. He understands this is an inconsistency in the way staff has been directed to present scores to the Governing Body.

  Mr. Johnson continued saying, to address your question directly, as it pertains to the original analysis that scores were not presented correctly, those are the same scores in your packet. However, because the math doesn't change the recommendation, he has provided the original documentation.

- Councilor Ives, referring to packet page 78, which says, "*At its discretion, the City reserves the right to alter the membership and size of the committee.*" Councilor Ives asked if the actual membership was not altered and remained the same size.

Mr. Johnson said the makeup of the committee has never changed.

- Councilor Ives, referring to packet page 78, which says, "*Scores of the evaluation committee members will be totaled to determine the top rated firms.*" He said Mr. Johnson is now describing a process where we have decided to throw out certain scores, notwithstanding the statements about how the process is to be conducted, which was the remedy for perceived bias in some scores.

  Mr. Johnson said, "That was a simple exercise to illustrate that, despite the alleged appearance of bias, that when you take out... there was considerable discussion and concern about the low scores... and so in order to demonstrate that it would not have a bearing on the recommendation from the evaluators, that was the process that I described that we did to show that. I wouldn't suggest necessarily that it was a remedy, but to show that even if that concern were valid, if we removed that score it would have no bearing on the recommendation of the procurement that was conducted by Jennifer and her team."

- Councilor Ives, referring to packet page 210, the letter dated December 26, 2017 sent out by the Interim Purchasing Officer, states, "*When the award was summarized and presented to Finance Committee, proper procedures for presenting the results were not followed. As a result, the perception of bias and a non-convincing conclusion for the award require the Finance Department and Purchasing Office to run the process a second time.*" So there was a conclusion there was a perception bias and a non-convincing conclusion for the award, and require the Finance and Purchasing Office to run the process a second time. He doesn't why we didn't continue that way.

  Mr. Johnson said at the time the language was approved and put into the letter, we only had one protest. After that, we received an additional protest that required us to do additional analysis and look more closely at the procurement process. On closer review of the process by himself and the Interim Purchasing Officer, they concluded that the staff and the evaluation committee followed procurement. That required them to come back with their recommendation. And so it was brought to the Finance Committee and the Governing Body this evening. So, in the absence of the follow-up protest, we would have gone out for another RFP. It would have been a challenging competitive process now that the proposals were public information.

- Councilor Dominguez asked the significance when Mr. Johnson says the competitive information. He asked if it is because we're exposing one vendor's finances to the other and it could give one or the other an upper hand.

  Mr. Johnson said there is information in both proposals with regard to the pricing structure and the payback for the lease to the City, and one was better than the other. And that did have weight with the evaluators that the City was going to earn more revenue with one of the proposals, so they would be in a situation where they could have matched pricing.

- Councilor Dominguez said then it gives one an advantage over the other.

Mr. Johnson said it could also create more potential competition. He said there are sealed bids in an RFP process for a reason, and now the information is available as to what their competitive advantage had been.

- Councilor Ives, referring to packet page 250, the January 19, 2018 letter from the City to Ever Paz, which provides, "*In conclusion, the Purchasing Officer in concurrence with the Finance Director decided to run the RFP a second time. This decision was not based on the protest itself, but rather on what was thought to be a procedural misstep in presenting the award to the Finance Committee on November 13th.*" He said the previous letter said it was going to redo the RFP based on the perception of bias and an unconvincing result.

  Mr. Johnson in the first letter the language referred to the conversation at Finance Committee and the perceived bias and non convincing conclusion of the discussion that evening. The latter letter refers to that the original protest alleges clear bias on behalf of the evaluators. Staff has no information to conclude that any of the evaluators were biased in any way by any means, and they signed the City's conflict of interest form and provided follow-up to their decisions in the form of letter to suggest they felt the process was run correctly. He also puts a great amount of confidence in our leadership at the Golf Course in Ms. Romero and her assertion that the process was run correctly.

  Mr. Johnson continued, saying this is the reason "I state that the bias mentioned in the first letter is not related to the alleged bias in the protestor's protest, the first one."

- Councilor Ives, referring to the same letter, which states, "...*Further, staff recalculated the results by replacing the low scores with the average score and the result was the same.*" He asked what he means in saying the "Low scores were replaced with the average scores."

  Mr. Johnson said, "To normalize the process and to remove the outlier low score, and still have the same quantity of scores, we replaced in that calculation to see if it had any bearing on the total moving around, we replaced it with the average of that particular respondent's scores of the other evaluators."

- Councilor Ives reiterated the evaluation criteria which says that scores of the evaluation committee members will be totaled to determine the top rated firms. He said we are now varying from that and doing average scores as opposed to simply what those scores were, asking if this is correct.

  Mr. Johnson said, "No, I don't agree with that." He said he was attempting to apply a level of confidence to the decision-makers about the concern that there was bias in the scores. He is not suggesting that he provided new scores in order to calibrate the total. What he is suggesting is that by taking those concerns into account, the mathematical totals did not materially change. "They did not change the recommendation of the evaluating team.

- Councilor Ives, referring to packet page 32, said in the Non-Disclosure and Confidentiality Agreement, there is a statement that says, *The information shall remain the property of El Sabor on The Links and shall be returned to The Links Bar and Grill promptly at its request together with all copies made thereof.* He asked if El Sabor and The Links Bar & Grill are different entities.

  Mr. Johnson said the name as proposed by El Sabor was El Sabor on the Links, and it's not conflating the two different names of the restaurants.

- Councilor Ives said it further states, "*The information shall remain the property of El Sabor on The Links and shall be returned to The Links Bar and Grill....*" He asked if that is the other party that submitted in response to the RFP.

  Mr. Johnson said, "I don't have an answer to your question."

- Councilor Ives said there also has been talk of wholesale copying of one proposal by another participant in the bidding. Referring to packet pages 256 and 257 El Sabor, which is part of the El Sabor on the Links RFP submittal, under XIII Sales Strategy, it refers to "Elizabeth and Cecilia," and he understands those are not employees of El Sabor on the Links, but rather of the Links Bar and Grill, and asked Mr. Johnson if that is his understanding as well.

  Mr. Johnson said yes, his understanding is in concurrence with what Ms. Romero stated earlier, that the proposals are almost verbatim. There are changes that are made to them, you can see differences in changes, and that particular paragraph was not changed, and still contains the information from the original. It is also their understanding that the Links current contractor helped with El Sabor's proposal.

- Councilor Ives asked, "And who was that."

  Mr. Johnson said, "I don't know that name off the top of my head."

- Councilor Ives, referring to packet page 257, XIX Sales Strategy, said there is again a reference to Elizabeth and Cecilia. He asked now that we appear to understand correctly that those are not employees of El Sabor on the Links and never have been, that we are still looking at a proposal that they have submitted that was substantially copied. Regardless of whether it was substantially copied, presumably, this was the basis of which El Sabor's submission was being evaluated, but it seems to contain false information in it, and most of the people involved in evaluating this were employed or involved with the Marty Sanchez Links. And so if they were reading these proposals and saw these names as employees or people representing El Sabor on the Links, that might have been something of a surprise in assuming this information was valid and correct.

  Mr. Johnson said he concurs with his latter statement. On the former, it is important for the Governing Body to understand that the recommendation is based both on the comparison of the written proposals of each respondent and also on the interviews conducted with each respondent. So it is just a little more than evaluating based on the one proposal. It is a comparison followed up

by an interview. And on the latter, yes, you would think that would have been reviewed and potentially caught at the time of review.

- Councilor Ives said Mr. Johnson concluded in one of his letters that there was no evidence of bias, and yet there is evident copying and statements that, at least on their face, are false from El Sabor's perspective, because they do not employ Elizabeth and Cecilia. He said in terms of the question of exercising judgment or unbias, he still has questions on the basis of this being the submission to clear errors in it which apparently were not identified or understood by staff. These are his questions, commenting he wants to get it right.

  Mr. Johnson said, to clarify, the information about the copied proposal was not available to him and the Purchasing staff at the time the letters were written from Purchasing, so that was not taken into account for the responses to any of the process. That information was new as of Thursday or Friday before it was presented at the Finance Committee. Additionally, as he said earlier, while troubling, our Purchasing Manual provides no mechanism by which they could do anything or make a judgment about what we learned once we knew that it was copied, which causes the need for this conversation with the Governing Body.

  Mr. Johnson continued, saying and further, although it is troublesome, we have no description as to actually what was violated, other than they hired the same person who didn't fully update the proposal.

- Councilor Ives noted that resulted in this statement being made to the City in the RFP.

- Councilor Ives, referring to packet page 55, an email from Mr. Bonal, a member of the evaluating committee, to Ms. Romero in response to a request she sent, "*Can you please prepare a statement based on how you arrived at your evaluation score for the restaurant selection. Email it to me and I will forward to Shirley at Purchasing.* Councilor Ives thinks we have a fairly complete packet, but for some reason that email from Mr. Bonal appears to have been cut off at bottom of the page, to where it says, *"First we interviewed El Savor. They submitted a very complete RFP and even brought samples of some of their product for us to sample. The owner of El Savor did not give us the presentation. They had Larry Lujan give..."* and the email ends there.

  Mr. Johnson said only reason it was not in the packet was because he didn't have it in the pdf format when we submitted on the deadline for the Council packet, but he does have the second half of the email in his email, but doesn't have it available this evening.

- Councilor Ives said Mr. Bonal was the one person involved with the Links at Santa Fe, and it is interesting that his scores were substantially different than some of the other ones in the packet. He asked Mr. Johnson to forward the rest of the email to him. He said, given all of these questions, he just can't get his hands around approving this. He thinks it is better to go out for an additional RFP to try and cure some of these issues.

- Councilor Rivera, referring to packet page 268, asked whose Submittal Requirements these are.

  Mr. Johnson said this is what was developed, he presumes, by the MRC. He said this is the structure for the proposed revenue back to the City.

- Councilor Rivera asked who filled in the blanks.

  Mr. Johnson said Ms. Romero said that is our current vendor.

- Councilor Rivera asked which numbers were the committee looking at, because several are stricken-out that are replaced with other numbers and toward the bottom it appears that 400 is replaced with 500 and then there are two 275's.

  Ms. Romero said the numbers are the current rates the current vendors pays to the City.

- Councilor Rivera asked if in October-December if they pay $500, $400, $250 or $275.

  Ms. Romero said during October-December they pay $275.

- Councilor Rivera how the committee knew that.

  Ms. Romero said there is a comparison sheet in the packet provided by the current vendor that compares the current compensation versus the vendor that was selected.

- Councilor Rivera asked if there was any discussion about the information on page 268.

  Ms. Romero said yes there was. In looking at the compensation submitted by the bidders, we agreed that the vendor that was selected was offering more compensation to the City, and as a business, it was in the best interest of the City to move forward with the vendor that was selected based on the compensation.

- Councilor Rivera asked if there is a form to be filled out to get local preference.

  Mr. Johnson said yes, and both were provided, and the calculation was to multiply the total score by 1.10 or 110%.

- Councilor Rivera asked if that was applied initially.

  Mr. Johnson said it was applied in the evaluation, but when they presented the total scores in the submission to the Finance Committee, it was not applied. He understands that has been a common practice in presentations. And in this particular case, it caused a significant amount of confusion and concern.

- Councilor Rivera asked if that has been corrected in the scores we are looking at.

  Mr. Johnson said, "The scores you are looking at are the same as originally proposed, because when we applied the local preference it has no bearing on the recommendation.

- Councilor Rivera said in reissuing the RFP it gives significant disadvantage to two who already have submitted proposals, because the 3rd, 4th or 5th company knows those proposals because they are a public record and would give a good advantage if they decided to underbid the other two.

  Mr. Johnson said he would suggest that is would be the concern about the outcome, particularly with the financial information available. He said in his experience with RFP's, he would suggest there are other points to be evaluated, not just not the criteria, that would put them at a significant advantage, but certainly the pricing is now known.

- Councilor Rivera asked how we handled protest in the past, because he hasn't seen many like this one.

  Mr. Johnson said he has no experience or knowledge about past protests, commenting he believes they are rather rare.

- Councilor Rivera asked if they usually come back to the Governing Body.

  Mr. Johnson said, "Not that I'm aware of."

- Councilor Rivera assumes the second protest had significant merit as well as we change direction mid-stream, and asked if this is a fair statement.

  Mr. Johnson said what it caused in this case was to review the details of the process the evaluators went through, and to determine whether or not a procurement violation occurred, and from the information they gathered from the packet they couldn't come to that conclusion.

- Councilor Rivera said so then you think this is a fair process.

  Mr. Johnson said, "I think it's a fair process. I don't think it's a very clean and tight process.

- Councilor Rivera asked if there are any legal issues in hiring a contractor that was used 4 years ago in helping to issue a similar proposal.

  Marcos Martinez, Assistant City Attorney, said, "No, there's no real issue there."

- Councilor Rivera said then all the documents, even 4 years ago, are available to the public. So even if the same contractor were not used, a new vendor could have looked at the old proposal done 4 years ago and submitted a similar proposal this time around.

Mr. Johnson said that is correct. The RFP's are subject to the Public Records Inspection Act.

- Councilor Rivera said that's why the committee process is the key to the whole evaluation. You can look up old records and provide similar documentation. However, it's really the oral presentation that lends more weight to the selection.

  Mr. Johnson said that is his experience in being involved in the RFP process. We generally go through an initial round with the written proposals which usually narrows it to 2 or 3, and then there are interviews to get a true sense.

- Councilor Rivera asked if there are any issues with the current contract and with the current vendor, and if we had to go out for bid again, does the contract end or continue until another vendor is selected and a contract is signed.

  Ms. Romero said they sat with the current contract and prepared an amendment extending the contract through March 31, 2018.

- Councilor Rivera asked if there are issues if we decide to support the staff's recommendation. He said two protests were made, and there probably will be issues with whatever we decide. He asked if staff's recommendation is the recommendation of Legal as well.

  Mr. Martinez said, "I would say that if the Council were to decide to award the contract, that award would be defensible. But right now, the first question is whether there is going to be a decision right now. There are some other options that might be available to the Council. You've heard the option that it go back out to RFP. I would also might offer a third option which would be that if the Council declined to award the contract, the Purchasing Director could assign this to a hearing examiner to basically potentially develop the record, and resolve potentially the protests that way."

- Councilor Rivera asked if the hearing examiner's decision is final.

  Mr. Martinez said, "People can only decide to appeal to the District Court, but it would give some resolution and it may support future Council action."

- Councilor Maestas said we seem to have a discretionary profit-sharing arrangement with this vendor, and it seems discretionary on the offeror, and asked, "Doesn't that put the City at some risk by not having some distinct criteria on the profit sharing. I just see that as very unusual." He said you could get one vendor that is untested and could over-promise, and the incumbent contractor has more experience and knows the profit margin. He asked if this shouldn't be more transparent and shouldn't we know what the profit margin is, or if that is a privacy issue. He asked if we are putting the City at risk by leaving that wide open.

Mr. Martinez said, "I guess I would answer that question by saying it does put a greater burden on the evaluating committee to recognize whether an offer is realistic or not. And so, to the extent that RFP's get more complicated, that's a burden on the committee itself, and it requires the committee to be selected in such a way that they can evaluate whether something is realistic or not. So it is a risk the City runs. I think it is a contractual risk largely, and so we do have termination for convenience, what's on the City side in these contracts normally. But I do hear the issue you're raising. And I do think it's incumbent on the committee to evaluate whether someone puts in a statement that is remotely realistic or not."

- Councilor Maestas said we are dealing with a fixed number in talking about costs. He sees this as problematic and almost impossible to evaluate and could lend itself to over-promising and then we set up a new vendor to fail, and we're worse off.

- Councilor Dominguez thanked both vendors for submitting proposals, because we don't have people "knocking down the door to work that restaurant." I have no reason to believe that the current vendor can't do a good job, or has done a bad job. But it begs the question about why we have an RFP process, which is to keep us out of this kind of trouble. He said members of the Governing Body shouldn't know the cost of a burger and such, and the reason we have a whole process and a committee to evaluate these things.

- Councilor Dominguez said he believes in the past the Golf Course vendor had a two-year contract.

  Ms. Romero said that is incorrect, and it has always been a 4-year contract. She said they provide language in the PSA to amend the contract either annually or two years with an option to renew for two years, but it typically is a 4-year contract.

- Councilor Dominguez said then this current vendor hasn't gone through the process for 4 years, and Ms. Romero said that is correct.

- Councilor Dominguez said that is because there was the first year, we gave then a one-year extension and then a two year extension.

  Ms. Romero said that is correct.

- Councilor Dominguez asked Ms. Romero if she put together tonight's packet for the Council and Ms. Romero said that is correct.

- Councilor Dominguez said we have the proposal from the current vendor and the recommended vendor, and Mr. Romero said that is correct.

- Councilor Dominguez said the current vendor starts on packet page 67.

  Ms. Romero said the current vendor is on page 60.

- Councilor Dominguez said the current vendor provided one page on the RFP, the menu and the banquet sheet, and letters of support.

  Ms. Romero said that is correct

- Councilor Dominguez said then that's all the current vendor submitted and Ms. Romero said yes.

- Councilor Dominguez said the recommended vendor provided a much larger presentation or documentation and listed those documents in the packet, and Ms. Romero said that is correct.

- Councilor Dominguez said so these are things you consider, including the presentation given in person and Ms. Romero said that is correct.

- Councilor Dominguez said based on that alone, the truth is that the existing documentation is much much less than what you all are recommending, noting he didn't provide half of the information that was being provided that the recommended vendor provided.

- Councilor Dominguez said he has the same question as Councilor Rivera, referring to packet page 67, Attachment A. He asked Ms. Romero if the existing vendor filled out that form.

  Ms. Romero said yes.

- Councilor Dominguez said Ms. Romero said they paid $275 in rent in October, and Ms. Romero said that is correct.

- Councilor Dominguez said on this sheet it says $400 and it is scratched out with $500 next to it. He asked if it is $500 or $275.

  Ms. Romero said it is $275.

- Councilor Dominguez asked if the current vendor filled that out wrong.

  Ms. Romero said that is what the current vendor pays.

- Councilor Dominguez said then they pay $275 in October.

  Ms. Romero said yes in October, November and December.

- Councilor Dominguez wants to focus on October for now, and asked if they pay $275 in October, and Ms. Romero said that is correct.

- Councilor Dominguez said the current vendor filled out Attachment A, and at first it was $400 and now it's $500.

Ms. Romero said there is a compensation comparison in the packet, and during the month of October it is $500, and during November and December it is $275. In January it is $275.

- Councilor Dominguez said his point is that if we're going to throw "rocks at glass houses," we need to recognize some of these discrepancies in the proposal as well as the current vendor's presentation or document.

- Councilor Dominguez said when we talk about "names on the contract as Councilor Ives has pointed out, it could have been Kurt or Karl for all I'm concerned. Right. How much is that part of the evaluation process. You could simply name it Person A or Person B as your employees."

  Mr. Martinez said, "It's a little difficult for me to answer the question about how important it is. I guess what I looked at was the criteria that the Committee used. And there are several examples of the evaluation criteria, but the categories are Prior Experience, Company Experience, Pricing for Food & Alcoholic Beverages, Point of Sale, System Knowledge. The duplicated section that Councilor Ives pointed out didn't seem to relate materially to any of those categories. So that may be why, but I would only be speculating, as to why it didn't affect them."

- Councilor Dominguez said that is one of his big issues with this whole thing – we're being forced to be kind of the selection committee. He doesn't think that is fair to staff and asked, "Why have an RFP process and if it's going to be that simple to protest and raise all kinds of chaos about it, then we should just base our decisions based on popularity and not on any rhyme or reason. And I get it, Councilor Ives, total accurate judgment. If only we could do that for every single contract we have in the City. I've been there before, you just look for one thing wrong, and you spin it out of control and that justifies the reason to do whatever it is you're going to do."

- Councilor Dominguez continued, "I'm curious though, and interested in the offerings that you presented and provided, Marcos. I can tell you, to rebid it or to go our for a new RFP is not something that is appealing to me, because I think staff has said, and there's been some members of the Governing Body that have expressed this idea that there is an unfair advantage that may be given to proposals or to the existing vendor, and even to the recommended vendor. And so that's not something that I support. But what I could do, I'm curious about this option of sending it to a hearing officer. What does that entail. How do we ensure that person won't be unbiased, and isn't going to get booed or strong-armed by anybody to go a certain way and maybe fake news is provided to them to make it that much more complicated. What's that process."

  Mr. Martinez said, "I guess the way I would frame it is, first, I would describe these options as available in the event that the Council didn't vote to approve the award. If you vote to approve the award, you don't need to proceed down these other paths. But if you don't, or if there is no majority in favor, I would say the Council could, one, bring the matter back to the full Council. Two, the Purchasing Director could then also elect to have a hearing examiner review the matter. And then three, go out to RFP again. With respect to the process of an RFP and how that would be insulated from tiers of bias, I would say that normally, the City tries to have hearing examiners who are attorneys. There are rules prohibiting *ex parte* communication. I would hope that the

protestants, if that is the path recommended, would obey those *ex parte* rules, and then we would be relying on the professional judgment of the hearing examiner to be unbiased."

- Councilor Dominguez said then you are basically relying on how ethical that hearing officer is. He said, "One of the things, when you've been up her long enough, you learn how to count votes. And I think, just based on that, we could be in that position where we're not going to be able to make a decision one way or the other, and maybe that option of sending it to a hearing officer, or whatever term it is that you use, might be beneficial to the City. So I'll just throw that out."

- Mayor Pro-Tem asked, "Is that is a motion, Councilor."

- Councilor Dominguez said, "That is not a motion."

- Councilor Harris said he will be relatively brief. He said in some ways he agrees with Councilor Dominguez, and he thinks about all the times we sit up here and we look at staff and say, why are we doing a third party procurement, why don't we go out to bid. And here is a procurement that has gone awry for whatever reason, "and that's an observation and doesn't say one thing or another, whether we should have taken a different approach."

- Councilor Harris continued, saying what bothers him is this goes beyond copying, regarding the proposal presented by El Sabor. And yes, it may be available on request, but the fact of the matter to him it becomes plagiarism. He said the Webster Legal Definition of Plagiarism as a transitive verb is, *"To copy and pass off [the expression of ideas or words of another] as one's own, [use another's work] without crediting the source."*

- Councilor Harris continued, saying, however the information was obtained, it is just plain sloppy to include the names of the people who are part of the original application. He said we don't see anything in the Purchasing Code, or perhaps we do, but to him it is a gross example o plagiarism. He said then you have to start to think about business ethics and how does a person or company operates. And if they start from a basis of plagiarism, it gives him pause, to go to Councilor Maestas' questions and line of thinking, of what is to come. He said he will have a very difficult time of awarding this contract to El Sabor. He has heard two options which are probably where he will land.

MOTION: Councilor Maestas moved, seconded by Councilor Ives, to "deny approval of RFP 18/08/P, and reissue the RFP. I don't have any ideas for a revised process, but I would like to see a different selection committee and to start fresh. These would be the only procedural recommendations I would make and would open the floor to any others that I would be willing to accept, but that's my motion."

DISCUSSION: Councilor Dominguez said this is something he supported at the beginning of the process when it went through Finance, and he had conversations with staff about that. He said, "But what is curious to me, or what concerns me, is that we have already messed up this process so bad, right, we are really creating an unfair situation for anybody and everybody, really, by going out to RFP, and so, that's really just my concern about it. Is we can get an evaluating committee, and if somebody politics hard

enough, it could turn out to be the same thing. I just think that it just kind of sets a bad precedent if we go that direction. And really, we could say that about any contract that we have and recommend that it go out to RFP and just find one little loophole, one little discrepancy and send it in that direction. So, that's my only concern about it. Thank you, Madam Mayor Pro-Tem."

Councilor Harris said, "To the point, Councilor Dominguez, but we heard from our Finance Director that, in fact, we don't have a lot of protests. That, for whatever reason, it has gone awry, and so I don't that we're necessarily setting a real precedent here. But, I think that, as much as possible.... and yes the information is accessible now. Well, you know, the information was accessible to El Sabor by the individual who provided their proposal, and they chose to plagiarize in my view. So it really calls into question their ability to perform. So anyway, I'm ready to vote, but thank you."

Councilor Maestas said he wants to talk about changed conditions. Currently the City has a Beer and Win license in the City's name, and asked if that now will be a full liquor license where liquor will be served.

Ms. Romero said, "The governmental liquor license that the City holds currently is used by The Links *[inaudible]*. Several years ago, under State changes, legislation allowed golf courses to be able to utilize a full liquor license which includes spirits. This is something we brought to the Governing Body two years ago and it was declined. At time the Council members and the Mayor preferred that we only sell beer and wine. However, in this process, we included it in the PSA to serve full alcohol sales, but again, it's at the decision of the Governing Body should that language stay in there or not."

Councilor Maestas said his whole point is that we were trying to preempt Council approval. He asked, "Shouldn't we have secured Council approval before putting it in the RFP scope, that that would be a possibility. And you know where I'm leading, is that one of the contractors can assume that there is going to be higher revenue under a full liquor license and maybe potentially over-promise revenues and over-promise profit sharing with the City. So I'm worried about the changed conditions here and the lack of any revenue history, assuming that we go to a full liquor license serving scenario with spirits."

Ms. Romero said, this question was brought up during the interview process by both candidates that submitted a proposal. The question was asked, in the event that the Governing Body doesn't approve the full alcohol sales, are you okay with selling just beer and wine. And both parties agreed to that selection or not. We know in the records that we keep, that the primary sales do come from alcohol. It is assumed that if full alcohol spirits are sold that we would see an increase in sales of alcohol as a total for the year. Again, however, in this PSA process, it would be the decision of the Governing Body what is approved or decided upon. This discussion was held prior to this RFP going out, was also held with our City Attorney's Office, and the recommendation was to put that language in there based on the information we had from our governmental liquor license.

Councilor Maestas said he made his remarks about the general discretionary nature of profit sharing with the City. He asked if we can fix the profit-sharing, and if it can be a percentage of verifiable profits instead of having a contractor saying he will raise us 2% and throw in another 5%. Is there any way we can fix the profit sharing, so we don't inject more difficulty in evaluating the proposals.

Mr. Martinez said, "In the event this went out to a new RFP, the City could issue a new scope that it would be seeking, and in that way could define the parameters of the profiteering."

FRIENDLY AMENDMENT: Councilor Maestas said, "Instead of dictating every single change, I would direct staff, first of all we need a new selection committee, but that staff work on modifying the scope to improve or reduce the variability and difficulty in evaluating proposals. I want the process improved, particularly with regard to profit sharing." **THE AMENDMENT WAS NOT FRIENDLY TO THE SECOND.**

Councilor Rivera said we have already established that was a fair and legal process, and now we're going out to re-RFP on a process on which we have determined is legal. It's not perfect, but it has gone through the procurement process. He asked, "Are we setting ourselves up for more problems."

Mr. Martinez said, "Councilor Rivera, it's hard for me to answer that question. I would say there is the potential that we see yet another form of protest. I would have to review the purchasing manual in a little more detail. Again, I still think that either course of action is defensible for the City. You know, going out to RFP again, as long as it provides the same opportunity to everyone, and I recognize the issues that certain Council members have made, I think at least in some ways is still fair. I can't say that it won't preclude a protest, so is it going to solve the problems. Only time will tell."

Councilor Rivera said then we can reissue this and have a third vendor come in, and potentially win the new bid, and assuming these two filed protests against that, we would still be defensible.

Mr. Martinez said, "Yes, so long as the City selection committee and the Purchasing Director followed the proper procedures in procurement, I believe we could arrive at a process that would be defensible."

Councilor Rivera said, "I still have issue with this, because I'm not sure why, at this point, anyone would want to do business with the City. I think we've made quite a large mess of this one, and I'm not sure that we will see any other vendors try to bid for this, but it sure has been a mess."

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

For: Mayor Pro-Tem Lindell, Councilor Harris, Councilor Ives and Councilor Maestas.

Against: Councilor Rivera and Councilor Dominguez.

10(f) REQUEST FOR APPROVAL OF AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT FOR THE SANTA FE RAILYARD DEVELOPMENT BETWEEN THE CITY OF SANTA FE ("GRANTOR") AND THE SANTA FE CONSERVATION TRUST ("GRANTEE"). (ROBERT SIQUEIROS)

Councilor Harris said this is an important document. He said as you know from Finance Committee, he was unhappy we didn't see all the changes being proposed. He asked for a redline copy which was included in the packet, which he appreciates.

Councilor Harris said in Mr. Siqueiros' cover memo it talked about City staff and how the Conservation Trust and the Railyard Community signed off on it, but he saw no mention as to whether the City Attorney's Office had been involved. Mr. Siqueiros told him, "Every step of the way." He sees that Ms. Gheen signed for Ms. Brennan which answered his question.

Councilor Harris continued, saying one of the big changes that we made are the activities allowed within the Conservation Easement. He said he is unclear how we went from 13 acres to 15 acres, but there are previous dealing with the Violet Crown pad and other things. He wanted to get a little more detail.

Councilor Harris continued, referring to page 12 of the redline copy, in the discussion of the use of toxic chemicals, including, without limitation, pesticides or herbicides. He said it says in Section f, "*...provided, however, that the person responsible for maintenance and case of the Easement Area, including the City of Santa Fe Parks and Recreation Division, shall be allowed to use materials and substances regularly used by the Parks Division as modified from time to time; provided however, that any and all such uses shall be in accordance with law and without anything other than a de minimus risk to the public using the Easement Area.*" He asked to what degree this language was crafted in light of our Integrated Pest Management. He asked if IPM is a policy that will change from time to time, and asked him to provide background on what he just read.

Mr. Siqueiros, Railyard Projects Administrator, said there are 3 agencies that maintain the landscaping at the Railyard. The Railyard Corporation maintains the landscaping along the parking areas. The Parks Department maintains the landscaping in the park area. The tenants take care of the landscaping on their lease parcels. He said, with that said, they wanted to leave it a little flexible in terms of allowing the Easement to move back and forth with what the Parks are using, which probably was their main way of thinking on this. They didn't want to make it too restrictive, and if something changed we would have to come back and change the Conservation Easement.

Councilor Harris said that's what this seems to anticipate.

Mr. Siqueiros said the Railyard Park Conservancy has an annual contract with the City with the main goal to maintain the horticultural parts of the park only, and they work strictly with the Parks Department, so they are familiar with our IPM policy and such and work closely with Victor Lucero.

Councilor Harris said when Mr. Lucero testifies before us, we walk away and say, "Man, this guy knows what he's talking about."

Councilor Harris continued, saying it references time and again "public policies and procedures," specific to the Park. He assumes those were adopted by the Governing Body at some point.

Mr. Siqueiros said they are adopted by Resolution, he thinks in 2006-2007. The Railyard Community Corporation handles all events and marketing. Those policies and procedures are designed to implement the Conservation Easement permitted programs as well as what is prohibited, and they primarily are City Code, in terms of Noise Ordinances, the few required Ordinances.

Councilor Harris asked, if this were 10 or more years out, would it be appropriate to review of all that and ensure they are integrated with current practices.

Mr. Siqueiros said once this is adopted, the next step will be to review the policies and procedures, which is an extensive two-volume document, to update it with current Codes.

Councilor Harris, referring to page 22, said regarding the language under section k, dealing with the 20 feet in width extending from the building known as Site Santa Fe. He said several years ago there was a lot of discussion about the use of that area for arts and crafts vendors. He asked if that vending still is occurring, and if this language affects that at all.

Mr. Siqueiros said it doesn't affect that at all, and we still have the outdoor art vendors.

Councilor Harris said then this language doesn't impact the practice over the past several years in allowing that vending to occur, and Ms. Siqueiros said that is correct.

Councilor Dominguez said when he looks at the language stricken from the recitals, it changes from 10 acres to 11 acres, and from 3 to 4 acres in civic places and public access zones. He asked the reason for that change.

Mr. Siqueiros said the Conservation Easement was adopted well before we even started construction. After construction we did a thorough review in terms of surveying of how much of each area contributes to the overall development, and these are numbers we had. And ever since we opened, we haven't amended the Easement until now.

Councilor Dominguez said he has never seen a survey that is exactly 4 acres, and it is a variation such as 4.025 acres. He asked, contractually, if this is acceptable the way it's defined. He is curious as to the reason a lot of this seems just as vague as before. He said you could have kept it at 11 acres, unless it's really 11.25 acres.

Mr. Siqueiros said appears to be 11.36 acres.

Councilor Dominguez said in the recital it's different, and it may not be relevant.

Mr. Siqueiros said he believes in the long term it probably wouldn't be relevant unless we made extreme changes to the park area.

Councilor Dominguez said if that is staff's judgment, he is fine with that.

Mr. Siqueiros said we could make it more precise and make it 11.36 which is on the exhibits portion of the document.

Councilor Dominguez said he would recommend that change be made.

Councilor Dominguez, referring to page 6, Item F which talks about the original grantee, the Trust for Public Land. This is new language, and asked the reason it wasn't part of the original language, because he thinks we've known that all along.

Mr. Siqueiros said the only reference to the original was on the title pages that they were the grantee.

Councilor Dominguez asked the reason it wasn't part of the original.

Mr. Siqueiros said it was part of the original and is on the top of the original document.

Councilor Dominguez said it is new language to Item F, "*Whereas grantor as buyer and...*" with new language "the original grantee the Trust for Public Land, the original grantee, as seller."

Mr. Siqueiros said he doesn't know why it wasn't part of the original, but since we have taken it out of the title of the original one, we felt it was probably a good idea to include it in the restated deed.

Councilor Dominguez said then this is a restated deed of conservation easement.

Mr. Siqueiros said, "And amended."

Councilor Dominguez said he isn't opposed to this and thinks we are going in the right direction, but it raises a bunch of questions about what is really going on here. He is asking this question because it is a little puzzling to him.

Councilor Ives said coming back to Subsection F on page 12, the last language says, "*...shall be in accordance with law and without anything other than a de minimus risk to the public using the Easement Area.*" He asked Mr. Martinez if our IPM Ordinance the law that would apply here. He said it seems like the law might impose more than a *de minimus* risk, so we seem to be putting in a potential change in our IPM Ordinance if that is the law with regard to what we can use here. He is trying to understand the legal impact of that language – he is unclear.

Mr. Martinez said, "I also saw that language, and wondered what the effect of that would be as well. I would hope that complying with the Integrated Pest Management Ordinance would satisfy that *de minimus* risk. Certainly someone who would be challenging that question, about whether there is a *de minimus* risk or not would have to allege some kind of standard by which the City had failed to meet. So I guess, without belaboring the point too much, I would say it would be my opinion that IPM Ordinance would apply and would be the standard by which we should determine whether there is *de minimus* risk or not. And certainly the City is not waiving its immunity under the Tort Claims Act in any way by having this type of language in here."

Councilor Harris said Mr. Martinez used a phrase, it's defensible. He said as much as possible, we are going to create a defensible position. Councilor Harris said, "This language gives you pause, clearly. Is this as defensible as what really the City needs."

Mr. Martinez said, "I might have drafted different language here. I think the City can defend itself as I represented to Councilor Ives, but would I have selected this language. No. Probably not."

Councilor Harris said we all know that people are very concerned about this and consistently challenge our IPM Ordinance. He believes that if we need stronger language that we should take the time to do so.

Councilor Ives said it gives him pause, because it seemed to create a secondary standard against which our actions in that regard might be required to be measured. And he thinks consistency on issues like this are significant, in that if we're going to change how we do change how we do the IPM, it really should be a change to the IPM as opposed to crafting caveats in other documents. He said, "So, I'm just a fan of having it be in compliance with law, I guess. Not meaning to impede however long negotiations have occurred on this. And I'm happy to yield."

Mr. Snyder said, not being a lawyer, to him it seems it is pretty obvious that he would recommend that we just reference our City Code, which is our IPM Ordinance, and keep it simple and defensible. He said in all seriousness, we have the IPM Ordinance which could change over time, and as well if we reference that, we don't have to worry about being in compliance or not being in compliance and shifting back and forth. He said, "That would just be my recommendation." Mr. Siqueiros said that will be fine, and he will make that change.

Councilor Ives said he would hope if we became aware of matters that caused us to reexamine the IPM, we would do that readily and in that fashion so we could have consistency across the City's Ordinance.

PROPOSED AMENDMENT: Mr. Siqueiros said, "We have one change that legal and staff would like to make on packet page 41, line 2, 4(j) as follows: "*...for excursion, freight, and commuter...*" He said the word was inadvertently and is included in other places in the Conservation Easement.

Councilor Harris said it seems to him that we should give staff the opportunity to go back and make this change as well as the reconsidered language discussed, and to more accurately reflect the true acreage.

MOTION: Councilor Harris moved, seconded by Councilor Ives, to postpone approval of this request to February 28, 2018.

DISCUSSION: Councilor Ives asked if there is specific need for quicker action on this item, and Mr. Siqueiros said no.

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

For: Mayor Pro-Tem Lindell Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas and Councilor Rivera.
Against: None.

10(h) REQUEST FOR APPROVAL TO USE COOPERATIVE EDUCATIONAL SERVICES PROCUREMENT FOR A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF $42,854.32, EXCLUDING NMGRT, FOR CONSTRUCTION OBSERVATION ON CIP #454A RAIL TRAIL EXTENSION PROJECT FROM ALTA VISTA TO PEN ROAD; SOUDER MILLER & ASSOCIATES. (LEROY PACHECO)

A copy of an action sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 12, 2018, is incorporated herewith to these minutes as Exhibit "1."

Two color photographs entered for the record by Councilor Harris, are incorporated herewith collectively to these minutes as Exhibit "2."

Recusal: Councilor Maestas said, "The action involves a company that I work for. I am a Business Development Manager for Souder, Miller & Associates. Souder, Miller & Associates, at the request of our City Attorney has provided a letter assuring the City of Santa Fe that I am completely insulated from any matters involving, and projects involving the City of Santa Fe. But despite the letter and the insulation, I am going to recuse myself, so I will step out briefly."

The Governing Body commented and asked questions as follows:

- Councilor Harris said at the Finance Committee he asked for additional information consistent with the types of information he asked of others, and Mr. Pacheco has been very good to comply. He said there is a supplemental memo attached in the packet, in response to his request, which shows that this project is approximately $950,000. He said Mr. Pacheco has confirmed that these numbers include gross receipts tax in all categories. He said they had another conversation in Finance on the testing protocol which Mr. Pacheco confirmed, which is a $10,000 allowance under the GM Emulsions contract. He said the chances are this is a good recitation of what this project potentially could cost.

- Councilor Harris continued, saying he is speaking in opposition to the project for several reasons. He said Mr. Pacheco said this is all 2012 G.O. Bond funds. He asked if this is the 2012 Parks Bond.

  Mr. Pacheco said yes.

- Councilor Harris said then all of this was Parks Fund dollars. He asked if that was a $30 million bond issue.

  Mr. Pacheco said this was not the 2008 $30 million Parks Bond, and it is a different bond than the $30 million.

- Councilor Harris asked Mr. Snyder if this bond was specific to be used for Parks and Trails.

  Mr. Snyder said yes.

- Councilor Harris asked the amount of the 2012 G.O. Bond.

  Mr. Snyder said he doesn't recall "off the top of my head."

- Councilor Ives said he thinks it was $5 million, noting there were 3 components to the Bond, Parks, Stormwater and Public Safety. He said it wasn't supplemental, it was a new GO Bond issuance, and the Parks and Stormwater pieces were enacted, but the Public Safety piece for the fire station was not.

- Councilor Harris said to the extent it is a trails project, it would be allowed under the language of the bond.

- Councilor Harris continuing saying this project will cover 2 City blocks, from the back of the Chevron Station on Pen Road. He drove by there the day after Finance, and the sidewalk comes up and stops at the radius of Pen Road when it turns. He said he really hasn't looked at the plans. However, Mr. Pacheco said this two block trail runs on the east side of the tracks.

  Mr. Pacheco said this is correct.

- Councilor Harris handed out two color photographs [Exhibit "2"]. He said the first photo has a sign saying "BIKE LANE." He said that bike lane runs from Cordova to Alta Vista on the west side of the tracks. He said we have a trail there, and asked the reason we are not taking advantage of a designated trail as a bike lane.

  Mr. Pacheco said this is an existing condition that we are taking advantage of. This is the current mode that bicyclists, pedestrians use currently. The Rail Trail connection which is the last piece of urban Rail Trail within the City, from Rabbit Road into the Railyard, is part of a greater Rail Trail Master Plan. And the City has the right, granted by the Santa Fe Southern Railway, to occupy a 10 foot trail within its Railyard right-of-way. And when the DOT Railrunner took over the Santa Fe Southern's ROW, the City retained that right. So we have the right to be within that ROW. The particular urban trail separated non-motorized experience within the City from Rabbit Road to Alta Vista. He said there have been years of planning with respect to the project, $200,000 of design has been expended, and $650,000 of construction has been awarded by the Council, to complete the urban Rail Trail within the City within the Railroad ROW.

  Mr. Pacheco continued, saying it is a multi-year process, with a lot of public involvement, and at this point a $45,000 construction contract should be questioned. But the question about the greater system, there is a lot of history in response to that, that brings us to this point.

- Councilor Harris said he has questioned the decision-making associated with the Acequia Trail underpass as a $7 million project, and he questions the decision-making associated with a $1 million trail that runs two blocks, particularly since we already have a trail for more than half of it. We have a Bike Lane he thinks people are using.

- *Councilor Harris continued*, saying the second photograph [Exhibit "2"], shows that at Alta Vista the Rail Trail goes to the west side of the tracks. He doesn't see any problem. He said perhaps, philosophically, it bothers those advocates who think narrowly about what it costs for an urban trail. However, for the people who are using the trail and himself, it bothers him to spend this amount of money for something for which we have approval in place.

- Councilor Harris continued, saying he doesn't understand why we have a contract with HDR and it seems they also should be doing inspections, noting he hasn't looked at the language. He also is concerned with how we have confused the contractual relationships. We have Design Office which is the Landscape Architect for the project which is under HDR for the design phase, but then is under SMA for the inspection phase. He doesn't understand why we would confuse that, because HDR is still on the job for the construction engineering phase. He asked the reason that change was made, "particularly if you look at the Design Office contract which is to review submittals and perform the type of question and also do inspections should also be done under HDR's contract." He questions how the contractual relationships have been structured. He said, "I think we need to do and can do better."

- Councilor Ives said this contract has been ongoing for a while. And we've looked at pictures of the Rail Trail in the section from Alta Vista to Cordova, which shows on the northwestern side of the railroad tracks themselves. He asked if any part of this is to put any portion of the Rail Trail on the southeast side of the railroad tracks, and in that way, relocate bike lanes from one side to the other side.

  Mr. Pacheco said the pictures shown by Councilor Harris are NMDOT properties, and he doesn't believe those are City streets, although they are used as such. The trail connection in negotiations with the Rail Bureau puts the entire non-motorized trail, 10 ft. wide, on the east side of the tracks. And we don't show pictures of Cordova to Pen Road which is a no man's land with no sidewalk, no curb and gutter, very non-contained. So the trail would be completely on the east side of the railroad tracks for the entire two blocks, with strong negotiations by the Rail Bureau. It serves not only DOT personnel, but people using that campus, and believes we have estimated 1,500 State employees in total, between all those State buildings. And there is a need to connect those buildings, and there are connections made by the Rail Trail in that block to DOT and other State buildings further east.

  Mr. Pacheco continued, apologizing for not bringing the design documents for this contract, but said they were provided when they awarded the contracts for GM Emulsion. And so he believes the City Council did have the opportunity to look at the design at that time. And he will do his best to describe that experience.

- Councilor Ives said he is trying to understand whether or not there had been any expenditures of funds in connection with and in the existing bike lane on the western side between Alta Vista and Cordova. It sounds like Mr. Pacheco is saying that being the City is in property negotiations with

the State, that the State has said they want to see the City do the extension on the east side of the rail line to that long block segment, and then continue it down to Pen Road on the east side. He asked if he is capturing this correctly.

Mr. Pacheco said yes. He said no money has been spent on any improvements to date. The $210,000 for Design has been expended, and so far that is what has been spent. The other three categories are pending construction.

- Councilor Ives said on the basis of that, and if that's where the State in negotiations, has said, please put it, and we do have a significant State presence in the Montoya Building and other buildings aggregated on the east side of the rail line, he can't say the decision to put it there is a bad one, other than the $1 million cost. He said the engineering estimators are far more capable of determining that than he is. He understands the need, although there might be an existing bike lane on the west side, which is where the public access is the rail line and it may be an effort to try to separate access to the rail line by people who are using the pathway for their connections.

  Mr. Pacheco said one of the elements that makes it favored for the east side is the *[inaudible]* of crossing the railyard. So that gets all that traffic moving north to the railyard on the east side of the tracks, and we're hopefully minimizing the need for crossing the railroad which improves public safety.

- Councilor Ives said presumably, people would need to do that at the Alta Vista crossing. He recognizes that will be a crossing, although he doesn't think it would be possible to do the Alta Vista to Pen Road on the west side in any event. So there is going to be a crossing at some point, if it said Alta Vista as opposed to Cordova.

  Mr. Pacheco said the Alta Vista crossing exists, which was built when the Railrunner was installed. So we're not adding a crossing at Alta Vista, we're tying-into a crossing that exists. So there is a crossing across the tracks heading east that we are tying into with this project.

- Councilor Dominguez said he works in the DOT building and has to maneuver around pedestrian traffic and other traffic there. He said there may be a little more pedestrian traffic on Alta Vista, but Cordova is a more tricky place through which to navigate. He thinks we need more crosswalks, especially on the road shown in the photo.

- Councilor Harris said the South Capitol Railrunner is multi-modal and covers all sorts of things.

- Councilor Dominguez doesn't want to get into the scope of the project. It seems to him that the whole block and those two streets would have been well and extensively documented during the planning for the Railrunner and everything else. He is curious as to why we are recommending this inspection service, commenting it seems it should have been done already.

Mr. Pacheco said the inspection service is specifically for the City's construction process so the GM Emulsion project will have daily inspection and documentation of work done. When payments are issued, someone needs to measure and certify that the amount of the payment requested is accurate. When materials need to be tested, someone needs to be managing the daily process of when inspections are required and densities are achieved in installing concrete. So it's a daily inspection contract. As he mentioned at Finance, this is a task we have never skipped for City projects. He said originally we have had in-staff house – Mike Vargas and Pete Manzanares as examples. As they retired, through attrition, we moved to an E-90 temporary employment – Sinon Vigil, John Zacharias, and James Martinez who is now a permanent employee – with E-90 employees that perform this type of work for the City. He said someone needs to be looking at what is going on, on a day to day basis.

Mr. Pacheco said it would be helpful, if he could distinguish between daily construction services from construction observation services from construction engineering general services, because there is a distinction. They could have been hired for daily for construction observation, and they most likely have gone out to hire an employee. This is an engineering firm, so it's not as if their engineers would be doing daily inspections and observation. It is a different skill, and typically less expensive than an engineer.

- Councilor Dominguez said perhaps he is confused about what inspection services are.

- Councilor Harris said SMA is an engineering service and HDR is a multi-national firm, and they would have any number of employees with different skill sets, and he doesn't accept that argument.

- Councilor Harris continued, saying he wants to respond to an earlier comment from Mr. Pacheco where he said the Alta Vista crossing is in place, and Mr. Pacheco said yes.

- Councilor Harris said in his written statement, Mr. Pacheco said, *"...A grade crossing agreement at Alta Vista that is nearly resolved by the City and the NMDOT attorneys."* He said that is not in place until that agreement is settled.

- Councilor Harris continued, saying so it is layer upon layer upon layer. What it is, is $1 million for a two block trail. He is looking back at the whole decision-making process to this point which is flawed. He said it "rubs me" in a big way.

- Councilor Dominguez said this kind of discussion has been missing from a lot of our projects in the past, and it's not anyone's fault, it is just understanding project management. He appreciates Councilor Harris's remarks, and appreciates the discussion and hopes staff does as well.

- Councilor Ives said he doesn't have the education to evaluate the cost on these, and is in the position of relying on staff recommendations, and he appreciates calling those things into question where they should be. He is unsure how to do that, unless it is training and certification of staff for these kinds of projects. He said we are in the process of training project managers to become

certified, and taking steps toward this, although we may be talking more about the engineering staff that is providing estimates. He doesn't know the answer to that question. He would work gladly with Councilor Harris to bring forth something that addresses the multi-party engagement. We have talked at other meetings about who is doing that construction oversight and review. He doesn't know that it is always required that we contract that engineering review. It would seem to be better to utilize a single entity, and having them to be independent would be prudent as well.

- Councilor Harris said he is glad Mr. Johnson said we are going to tackle the CIP after the operational budget. He thinks we can take a more orderly look. He intends to be fully involved, and he has had discussions, mostly with facilities. He currently is involved, as Mr. Snyder knows, in digging deep on airport issues dealing with engineering and construction. He feels, particularly in the election season, he would testify in forums that we've come a long way in his two years. However, there are areas such as this where we need improvement.

- Councilor Harris continued, saying he asked Mr. Pacheco the reason this has taken so long, noting the contract was approved in late June 2017. He said Mr. Pacheco responded that it has to do with procurement and the use of third party. There is some uncertainty and confusion about third party procurement for inspection services, do we need to go out for on-call services. A determination was made that we didn't need to go out for bid for this, we could go for third party, and Public Works was informed that the CES PSA would need to go to the City Council for a purchase order to be released. He said Finance is going to present a summary of City CES procurement used to date in March 2018. He said given the way we started the evening regarding procurement, he is going to accept the statement at face value about the inspection services. It has taken us 8 months for this $42,000. This also clearly needs to be worked on – when we use a third party, what is appropriate and the mechanics of doing that.

- Councilor Harris continued, saying in his experience working as a general contractor, Harris Builders, much of what he has talked about in the past is as a construction manager. There is one instance where Harris bid on a State job and was the low bidder, the most responsive and they heard nothing for 4 months. The State said it doesn't issue a notice of award, but the bidder can pull their bid which is what he did. He said, "To your point Councilor Rivera, why would anybody do business with the City of Santa Fe, well in the construction business, particularly in this, we're so dependent on material prices or prices for asphalt, concrete, labor costs, access to labor, to put a $600,000 contract on the shelf while we sort out a $42,000 inspection service is ludicrous."

- Councilor Harris continued, saying if he was GM Emulsion he would say, "Mr. Pacheco, look what we're paying for asphalt in summer 2017 and the 15% increase, I would assume that conversation probably would lead to a discussion of a change order." He will be unhappy when we have to start talking about a change order for the $900,000. He asked Mr. Pacheco if he has had any conversation with GM Emulsion in this regard, noting he asked Mr. Johnson for a copy of the contract. He said Mr. Pacheco's memo said the award was approved, which isn't the same as saying the contract was signed, noting the contract was signed shortly thereafter.

Mr. Pacheco said yes, and they are aware that the contract for construction inspection is pending notification to proceed with the work.

- Councilor Harris asked if they discussed any potential price increases associated with materials.

  Mr. Pacheco said no.

- Councilor Harris said he is almost willing to bet that Mr. Pacheco will have that conversation if this contract moves forward.

- Councilor Harris continued, saying Mr. Martinez referenced termination for convenience in talking about the restaurant. He said the contract with GM Emulsion does not have that very clear termination for convenience language, it has language for termination subject to funding. In his experience, he looks closely at termination language, and it is always for convenience and is necessary for every local body. He would always be sure that language was in the contract, and would amend standard language saying they aren't going to pay for lost profits if they terminate for convenience, but will pay for the work done. We need to look at the language of all contracts.

- Mayor Pro-Tem Lindell said this is 2012 bond money.

  Mr. Snyder said that is his understanding.

- Mayor Pro-Tem Lindell asked if the money was designated in the bond language specifically to trails. She wants to know how this amount of money for this short expanse was dedicated to this project.

  Mr. Snyder said he can't speak to the bond language, but he understands what went to voters was for parks and trails related as described by Councilor Ives. This is a Parks & Trails component of that bond, but he is unsure if specific projects were identified prior to that G.O. Bond going out, and will defer to Mr. Pacheco for those details.

  Mr. Pacheco said the funding and designation, with respect to the 2012 G.O. Bond was approved and adopted by City Council sometime in 2013, and the Trails priorities were established and adopted by a City Bikeways Master Plan. There is an actual document that prioritized and listed, and adopted by Council, a City Bikeways Master Plan, which is under review currently and it is being reprioritized and based on work that has been completed. And priorities changed through the years. But we have a Master Plan that informed the then Governing Body, and put the money into the 2012 G.O. Bond and these are the projects, these are the priorities for the City. He said life happens in-between, but this is how all the Trails project to date directed staff to move forward. "So we are acting on Council direction all the way through."

- Mayor Pro-Tem Lindell said that isn't her question. Her question was, "Was this project specifically called out in the Bond."

Mr. Pacheco said the bond is distinct from the Bikeways Master Plan and even the City Council adopted General Obligation Bond implementation plan. It definitely is in the implementation plan. With respect to the bond language itself, "I only have a G.O. Bond implementation plan for Parks and Trails, and this definitely was listed in that plan."

- Mayor Pro-Tem Lindell said, "The answer is no thank you." She said we have seen projects recently on which she would be more inclined to spend $1 million, than on a two block trail. One of them is close to there, and that would be the Salvador Perez soccer fields. She said, "I'm just not able to support this project. I don't know if we'll go back and relook at it, and do reallocations, but $1 million for less than two blocks is not something that I feel comfortable with. It's kind of, for me, the same kind of thing that we ended up with, in tearing out good sidewalks and replacing them. And these things offend my fiscal duties to citizens, so that is nothing I could do."

  Mr. Martinez said, "I just wanted to alert the Council that I tracked down the GM Emulsion contract, and there is a termination for cause or convenience in this contract. I would be happy to show that to you at a later time, and that's partly because it is based off a State Price Agreement and not the type of agreement that this one is. So, the State had put that term in there."

  Mr. Pacheco said he wants to make sure Mr. Martinez is referencing the correct contract, because this contract actually was put out to bid, so he doesn't know if there is a termination. But GM Emulsion does have a City on-call, but it isn't part of this award. This award was competitively bid, independent of any State Price Agreement. It has its own RFB number.

  Mr. Martinez said, "I have to cross check that then. I entered a search under the City site and found a significant GM Emulsion contract. I will make sure that those numbers match.

- Councilor Harris said we just approved a contract not long ago associated with the Gas Tax Bond. He said will pull that up and reread it and they can compare notes later. He looks at a lot of these and he tends to look fast, and he could have missed it. He thinks termination in this instance has to do with funding availability.

  Mr. Martinez said, "Thank you. I'll try to verify what the current contract says and compare maybe all of the GM Emulsion contracts we have."

- Councilor Harris said he will send Mr. Martinez what Mr. Johnson forwarded to him, which is a signed contract.

- Councilor Harris said Mr. Pacheco referred to the Bikes and Trails Master Plan. He said the only one he has been involved in, always has projects organized by year, and dollars associated with those projects. He asked the dollar amount associated with this project contained in the Bikes and Trails Master Plan.

Mr. Pacheco said he doesn't have that information, but the way it was done, there were lots of little segments. This particular trail is not only the two blocks, but it includes a connection to a subdivision, the Kaune School District. So that has its own piece. At one time, in the Master Plan, there was an idea that there would be a HAWK signal crossing at Cordova. He said what he can say about the 426005 fund is it is specifically Rail Trail and all of the funds expended to date for the design, and money expressed to you in terms of the budget is out of that one fund, so nothing new has come in or out, it always been in the 462005 Rail Trail 2012 G.O. Bond budget.

- Mayor Pro-Tem Lindell said we will need a majority of the whole for this item, and we need a unanimous vote to move forward or not move forward with this. She said we could move to postpone when we would have the full Governing Body in attendance.

- Councilor Rivera asked if everything else has been approved, and all he is asking right now is approval for the $42,000 to get everything started, if all the other contracts are signed.

  Mr. Pacheco said yes. The HCR contract is signed and ready to go and the only one pending. He said there is a signed contract in the packet. He said because this is less than the $50,000, this is a City Manager approved contract, so it's legal, and with staff's recommendation and it's good to go. He said we are here mainly to make sure we are all on-board. He was told in order to get a PO, he needed to come to the Governing Body, so he is here. He said it isn't for the approval of the contract.

- Councilor Rivera said so Souder, Miller & Associates already has a signed...

  Mr. Pacheco said they don't have purchase order, so technically they don't have a contract. You technically have a contract when the City gives you a Purchase Order saying money is in the bank. He reiterated he is here to make sure the Council is on board. He said so far they have spent $210,831.93 for the design which is complete, but if you say go, we will spend about $1 million total. He said, "We're making sure we are ready to push go." He said all contracts have been bid competitively, and all contracts meet State procurement and City procurement laws.

  Mr. Snyder said Mr. Pacheco is correct that this contract amount is under his signature authority, noting he has signature authority up to $60,000. He said the reason a PO hasn't been issued, as referenced by Councilor Harris in his email from Adam Johnson, is that the CES contract is not currently a valid procurement under the procurement process. What is before you tonight is, if you approve this, you are approving the CES contract as a whole as a procurement mechanism for the City to utilize in these services.

- Councilor Rivera understood that Mr. Johnson was going to look at the CES procurement process again in March.

  Mr. Pacheco said his understanding is Mr. Johnson will bring a new agreement to the City Council in March for CES.

- Councilor Rivera said we are approving CES now as part of this, but we are going to look at it again in a month.

  Mr. Pacheco said CES procurement is a legal method of procurement under State law since 1999. So CES procurement is legal. In 2013, the City Council ratified CES cooperative procurement. He said that is in the Council packet as well.

  Mr. Martinez said, "I didn't want to get into that at this moment in time. As you know, the City has been reviewing its procurement procedures. We've recently adopted the State Procurement Code. In my review, I determined that the prior Purchasing Director approved the contract with CES. The CES cooperative procurement rules for both the State and the City at the time, required that the Governing Body approve any agreement between CES and the City. So when the prior Purchasing Director approved that, and I discovered it, I felt like the Governing Body needed to approve that arrangement between CES and the City of Santa Fe prior to any procurement being issued. And so this sort of happened, and that held up the PO process really. The fact that the City has been using it since 1999 is a little bit irrelevant, because the statute makes clear that you can only do it once the Governing Body approves such an agreement."

  Mr. Martinez continued, "What Adam Johnson will be bringing forward, is an agreement between the City of Santa Fe and CES, so the City can avail itself of CES's cooperative procurement. That will be for the Governing Body to determine independently. If that is something that the Governing Body feels is prudent and wise, it can approve that. So again, a little more detail than I had anticipated getting into tonight. But, because the issue has been brought up here, I felt I had to clarify."

- Councilor Ives said he has a procedural question. He said in January 2018, we received a revised, laminated sheet on voting, and on that under Consent Agenda Roll Call it says, "*A vote required is a majority of the whole.*" However the Governing Body Rules, on Page 12, Section IX(d), under Voting Procedures, says, *"Unless otherwise specified by State Law or City Ordinance, given a quorum, an action of the Governing Body requires a vote of a majority of the members present."* He said this seems to suggest that we actually need a quorum of 6 members in attendance, noting Councilor Maestas is recused, so it would be a majority of 3 on this particular vote under our rules. However, the sheet we received suggests that if it is a consent agenda item, and this was removed from the Consent Agenda, that it would require, for some reason, a super majority of the entirety of the Governing Body.

- Councilor Dominguez said once it is removed from Consent, it is no longer part of the Consent Agenda.

  Mr. Martinez said, "On this point, the Code actually does specify that you need a majority of the whole members elected. So this conflict would then defer to this Code here."

- Councilor Ives asked, "Which Code are you looking at."

Mr. Martinez said, "I'm looking at the City Code, Section 2-2.6. It states, "*In the passage or adoption of the ordinance and every resolution, or to order to enter into contract by the Governing Body, the ayes and nays shall be called and recorded. And to pass or adopt any ordinance or any such resolution or order, concurrence of the majority of the whole members elected to the Governing Body is required. So that would suggest the number in the cheat sheet.*"

- Councilor Rivera said from the discussion he heard tonight, it is not only the intention to either postpone or take a harder look at what is front of us tonight, but to actually look at the entire project and potentially pull what we have already approved and terminate those contracts.

- Councilor Harris said, "That is what I think should really be looked at closely. And from what I know now, that would be the position I would favor, to really look at redesigning this project to really just deal with the Pen Road section as well as whatever needed to be done at Cordova Road."

- Councilor Harris said he wants to go back to Mr. Martinez's statement, which was very enlightened kind of, in terms of the Governing Body having to approve the CES contract. "And if we're anticipating doing that in March of this year, can we do it now." If the entire Governing Body has not approved that contract, we adopted State Procurement Code not too long ago, really, do we have any other choice even to consider this until after we have approved the CES contract.

  Mr. Martinez said, "My recommendation would be to wait until the Governing Body approves the CES contract. And that's for the reason that the Governing Body may not approve it. But I think it needs to be considered on its own, and the pros and cons of using the CES cooperative procurement can be weighed independently of this specific contract."

- Councilor Harris said, "I think I should say, I think I've mentioned in the past, but Harris Consultants was a CES vendor for probably about four years, and used that vehicle, and that's really what it is, on behalf of several School Districts and others. CES is Cooperative Educational Services. And that's where we really started. Over time, they have expanded to provide those services to pretty much all local public bodies as well as the state. I believe we have to wait. I'm not ready to move forward with this anyway, but particularly given the situation with the CES and Governing Body approval, I believe we have to wait." He said Mr. Pacheco wants to speak to this.

  Mr. Pacheco said, "One other piece of information would be important for the record. When the request for bids went out, we had an additive alternate, just so you know. My interest is to not throw the baby out with the baby out with the bathwater, the bid out with the bathwater. But we have an alternative that was part of the bid, but that only would build the Pen Road segment. That would only get you to Pen Road, Cordova and across. And that was done by me, with the foresight of saying if we didn't have enough budgeted to do the whole thing, we would prioritize that block, and it's in the contract. We didn't award it, we awarded entire bid, and I don't know what that would do in considering that particular RFP. But I think with all of the time and money invested and community involvement, because one of the biggest pieces of doing any public project is extensive community involvement. With respect for community involvement, I think you

should be aware that we do have, within that RFP, an alternate that only builds that block. I don't know how thrilled DOT would be with that solution, but part of that bid exists that there is an additive alternate that is significantly less. If my memory serves me right, it was about $230,000 to do that block, but I could be wrong, it could be a little bit more or a little bit less. But I think you should be aware of that."

- Councilor Harris said he appreciates that Mr. Pacheco brought this up, because "I think that's where I was headed anyway. And the fact that we've got a number on the table, it's the kind of same situation that I described earlier. Because the materials price, particularly in the asphalt business are pretty dynamic. I'm going to make a motion."

MOTION: Councilor Harris moved, seconded by Councilor Dominguez, "to postpone consideration of this proposed contract until the following has been accomplished. The Governing Body approval of any CES contract specific to these services, and secondly, an examination within Public Works Department and others to look at what the alternate solution, that you describe Mr. Pacheco, would mean in terms of safety, finances and the ability to get it done. And so in that discussion, I think, we certainly would need to turn to Geo Emulsion, I would rely on, as part of that. The third portion is the City Attorney's Office would have to look at the contract and see and help guide these negotiations, so anything we do is defensible."

DISCUSSION: Councilor Dominguez said essentially we are asking to re-scope the project in some ways.

Councilor Harris said yes.

Councilor Dominguez said he thinks that is fair, because as he said previously, we haven't had these kinds of discussions before, and subject to how it complies with the bond language, he thinks it's okay as long as we don't deviate from what is allowed. And staff can address that.

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

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, and Councilor Rivera.

Against: None.

Recused: Councilor Maestas.

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MOTION: Councilor Ives moved, seconded by Councilor Rivera, at this time to move to the Evening Agenda, Item F Petitions from the Floor, and then return to finish the Afternoon Agenda.

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

The Governing Body then moved to Item F. Petitions from the floor in the Evening Agenda.

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F. PETITIONS FROM THE FLOOR

A letter, with attachments, from the Santa Fe Gateway Alliance, entered for the record by Patti Montes-Burks and Judy Reinhartz, is incorporated herewith to these minutes as Exhibit "3."

Mayor Pro-Tem Lindell allowed 2 minutes for each person to petition the Governing Body

David McQuarie, 2997 Calle Cerrada, said he has a question. He asked the reason the people on the Public Works and Finance Committees are not being true to their City, in terms that funds are used for other purposes. For example, for the Plaza, our committee has the purchase to come in and talk to us. We asked them if it is compatible with ADA. He said they said yes. When he looked at the design it was *[inaudible]* peanut butter and jelly sandwich, and the peanut butter is crunchy, but you don't know that because it's peanut butter. You can't *[inaudible]* peanut butter, it's not logical. And that's happening over and over again. Public Works told the people on parking it had to come before that committee to get what their ideas are, but they will do it anyway. *[inaudible]* I wonder why we even have a Committee on Disability when we're not allowed to give opinions.

Patty Montes-Burks, 14 Vista del Monte and **Judy Reinhartz, 20 Firerock Road,** handed out a letter to the Governing Body [Exhibit "3"], and said they in attendance representing the recently formed Santa Fe Gateway Alliance. They were formed to do what they can do to protect the southern gateway entrance into the City which is the top of the Turquoise Trail, the back road to Albuquerque which runs through the historic towns of Madrid and Cerrillos. She said a truck stop is currently planned at the confluence of four roads. She said a mega corporation, known as Pilot Flying J, the largest developer of truck stops nation-wide is knocking at Santa Fe's front door to develop a 26 acre parcel near the City/County boundary south of the City. It is moving through the County development process and has moved a step closer today because we received news from the County Hearing Officers that it was recommended to advance to the Santa Fe County Planning Commission on March 15, 2018. She said in addition to the negative impacts of such development, are City services, water services, law enforcement and public safety. She said they bring this to this Governing Body's attention because Santa Fe has worked hard and has received high accolades from the international tourism sector. She said Tourism is the City's number one industry.

Ms. Montes-Burks continued, saying we literally are at the fork of the road. There will be no turning back once the decision to approve is made. We can't push the reset button after we have seen the ugly mess in the environment and the blow it poses to the image of this City which it has taken such care to protect. Do we want a City that has a truck stop at its front door welcoming our guests, or do we want this spot in our City to reflect its historic charm and preserve its beauty for future inhabits, providing

prosperity for future organizations. Their organization isn't again truck stops, but this will bring negative impacts on what we value, the quality of our environment, the beauty of our surroundings, the view shed, the tourism in the gem of our City and down Highway 14, the Turquoise Trail which is highly honored, to bring profits to the Tennessee based giant, Pilot Flying J.

Ms. Montes continued, saying SFGA wants to record their appreciation of Mayor Gonzales's public opposition to this, and we encourage all Councilors to oppose this densely devastating project. She said, going forward, in an effort to work collaboratively with the City on this matter, we would like to know if the City has taken a stance on this matter, and if you could suggest a department with which we can communicate as we move forward to the development process. You are aware of the corridor management plans which have existed in the history of this City, and if utilized, we would have good planning. She said, "Thank you very much, I stand for questions."

Mayor Pro-Tem Lindell thanked them for getting involved.

Roger Rael, 1299 Vegas Verdes, said, "I want to thank Javier for withdrawing his petition from the Lt. Governor's race. Not only should Javier not be our Lt. Governor, he has to resign as Mayor of Santa Fe for criminal acts [for] which he's under investigation. We cannot allow Javier to be the leader of Santa Fe one more day. Ms. Lindell, you have been aware of the situation since November 2017. You chose to turn a blind eye to the allegations and did nothing to research the claims against Javier Gonzales. You called these allegations lies. By defending your colleague and friend, you have defied the public's trust. This is not acceptable, and violates the trust citizens have placed in you. It is now in the best interest of Santa Fe, especially the members of community, who are part of the *[inaudible]* that you remove yourself from the upcoming election. The blatant disregard for the rights of citizens and the preservation of safety of citizens must be compensated with your resignation tonight. Council members, it is your duty to protect us, your constituents, by encouraging the removal of Javier Gonzales and Signe Lindell from their elected positions for violation of moral turpitude, defying the public's trust and safety. It's a shame that Signe and Javier have chosen their own selfish needs to protect one another, rather than adhering to the needs of the citizens who elected them into office. Council members, we the constituents put you on notice. Should our voice not be heard, it will be felt in the next election. Thank you."

Mary Schruben, 1919 Rancho Siringo Road, said she had the opportunity at his public presentation on Sunday at Journey Santa Fe, to speak with Councilor Harris about the Midtown Campus project. She said she would like to take this opportunity to address all of you about a couple of items about this process that has come to the attention of our neighborhood association whom she represents, as well as others around the City who are concerned about it. First of all, there are no names of City Council sponsors and the staff who are affiliated with this project, on any of the project documents at the website. She thinks the public deserves to know who is actually acting on behalf of the City, so that would be Matt Brown and Matt O'Reilly, and anybody else, Adam Johnson and the two City Councilors who are sponsoring this project. She is concerned, particularly, that the specifications for public participation keep changing, and she has 4 copies of different specifications saying how the citizens can be engaged in the process. She finds this very disconcerting and less than transparent. The documents currently at the

website imply that there are exclusive invitations for certain people to participate in sections of the project, and that participation is limited, in some cases to 100 or 300 people. It is very unclear about who actually is allowed to participate and is offered the opportunity. The process appears to most of my neighbors to be not fair and not transparent, and they all have lost confidence in the public process for the determination of what will happen with the development of the Santa Fe University of Art and Design. She said, "These taxpayers are not happy and we are asking that the City Council make changes to improve the honesty and clarity of the documents on the website, and to improve the transparency and openness of the public participation in planning."

Break 8:10 to 8:20 p.m.

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The Governing Body then returned to the Afternoon Agenda

10(i) CONSIDERATION OF RESOLUTION NO. 2017-10 (COUNCILOR RIVERA, COUNCILOR IVES, COUNCILOR DOMINGUEZ, COUNCILOR HARRIS, ~~AND~~ COUNCILOR VILLARREAL AND COUNCILOR LINDELL). A RESOLUTION TO AMEND THE CONTRACTS OF THE CITY MANAGER AND THE CITY ATTORNEY TO PROVIDE FOR A THIRTY-DAY HOLDOVER PERIOD AT THE CONCLUSION OF THEIR TERMS CONSISTENT WITH THE TERM PROVISION OF THE CITY CLERK, TO PROVIDE FOR A SMOOTH AND STABLE TRANSITION FOLLOWING THE MARCH 6, 2018 MUNICIPAL ELECTION; AND APPROVING THIRTY-DAY EXTENSIONS TO THE CONTRACTS OF THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK. (JESSE GUILLEN)

A copy of a proposed Amendment to this Resolution, submitted by Councilor Maestas, is incorporated herewith to these minutes as Exhibit "4."

Councilor Maestas said he is offering an amendment [Exhibit "4"], to clarify that the Governing Body is terminating these contracts at the end of the 30-day renewal period. He said certain contracts, such as the City Manager's, make a distinction between termination and expiration and we need to be clear since we are revisiting the contract to extend it. He thinks this Governing Body, which initially adopted these contracts, should determine the ultimate outcome of the contracts. He sees it as a simple amendment, but he is open to questions and willing to discuss this in greater detail. He said certain aspects of the City Manager's contract have different scenarios and different tracks at expiration and termination.

Mayor Pro-Tem Lindell asked to be added as a cosponsor of the Resolution.

The Governing Body commented and asked questions as follows:

★ Councilor Rivera said he just saw the amendment tonight, and asked Mr. Snyder, the Manager, if this affects his contract in any way. He said his intention was not to affect Mr. Snyder and Ms. Brennan, but to add language already in the City Clerk's contract. He asked Mr. Snyder if there is a difference between a termination clause versus an expiration clause, and how that affects him.

Mr. Snyder said, "Councilor Maestas and I exchanged emails earlier today, but this is the first I'm seeing of this language as well. I look at the Resolution, as you had proposed as initial sponsor, to be a transition period contract until the next Mayor and Governing Body as a whole makes a determination on who the City Manager will be. I also look at that as an authorization and an approval of this Governing Body to go into negotiations to amend my contract. And frankly, I don't feel it is appropriate in this venue to amend my contract without having sitting and looking at the contract. This is a Resolution. I read this Resolution as a mechanism, a nod from the Governing Body to say we want to enter into an amendment to an existing contract, and we would have to bring the contract back to the Governing Body for their approval ultimately. So I'm not comfortable with it."

★ Councilor Rivera asked if he is uncomfortable with the entire Resolution, it's not just the amendment.

Mr. Snyder said he is comfortable with the Resolution, but he isn't comfortable with amending his contract at this time with the language that is being proposed.

★ Councilor Maestas said, as a point of order, the Resolution does constitute an amendment to the contract. So it's opening the contract up, "That's my whole point."

★ Councilor Rivera said his intent was not to open the entire contract, but to extend it for the 30 days until we can have a smooth transition period while we're going through budget discussions, while we're trying to fill key roles in other positions to have some stability in government. We have many department directors that already have left the City because of the uncertainty of what is going to happen. He said Mr. Snyder said he is not comfortable with the amendment. Councilor Rivera said he will yield the floor and wait to see what the rest of the Governing Body had to say.

★ Councilor Maestas said he supports the intent of the Resolution and supports the Resolution. However, it carries these contracts into the period where we have a new Governing Body, and this Governing Body adopted and voted on all these contracts. He thinks it should be our prerogative to determine the outcome of the contracts. He said under Separation in the City Manager's Contract, he has several options. He said under the expiration scenario, Mr. Snyder has the choice to get his old position prior to being City Manager which probably isn't possible. However, Section A provides, "*Upon expiration of this agreement, the contract employee shall be permitted to exercise the option of reverting back to his prior classified position and commensurate salary as a Water Division Engineer Supervisor of not less than $45.06 per hour, or accepting a different position and salary as offered by the City Manager, provided that at such time as the contract*

employee's salary is increased to $150,000 or more, the right set out in this paragraph shall terminate."

★ Councilor Maestas continued, "So he can automatically burrow in. And look, I know I adopted this contract when we were all elected. There was a great feeling of good well and being a good team, but I really didn't like this. The nature, what's customary in a contract for an at-will appointee is, you get the higher salary, you get all the perks, but at the end of your contract, you get a severance. This is rare to have anyone to be allowed to either get their old job back or a similar job equal to or more salary. And I think this sends the wrong message to other at-will employees, who are serving at the pleasure of the administration. They don't have any protection to get a classified position before their term as an exempt employee expires. So that's why I think this contract is too open-ended. I think we ought to clarify it and say this Governing Body wishes to terminate the contracts. And under a termination scenario, the City Manager would get his severance which is customary – three months severance under a termination scenario. So this is not diminishing what he would get as an exempt contract at-will employee. But I fundamentally don't think it's right to allow him to burrow in, into a classified, protected position, from an at-will City Manager position."

★ Councilor Harris asked when the contract was signed, commenting he hasn't read the contract.

★ Councilor Maestas said it was signed by the City Clerk on 06/11/14.

★ Councilor Harris said he has a real problem with entering into an arrangement with anybody, and the individual has served 4 years, and the end of that time to change the nature of that contract drastically, which is what this amendment does. He said, "I really can't support the amendment. At Finance Committee, for those who were there, I kind of misinterpreted what was being said. I didn't really make the connection to the fact that the City Clerk always had that language. I wasn't paying close enough attention, quite frankly, because I think in principle it's what we should be doing, is to allow for a reasonable transition period, and then let the chips fall where they may. And if the chip that was struck 4 years ago is reflected in the language that Councilor Maestas just read, then let it fall and play out. I think Mr. Snyder has met his obligation to the City under his contract, and I think we need to meet ours."

★ Councilor Harris continued, "Again, given the procedural question that we had to pass this Resolution, I guess what I heard is it would take 5 of us, correct, the majority of the whole. Is that right. I just want clarification."

[STENOGRAPHER'S NOTE: There was no verbal response to this question, but there was a nod by management that that is correct.]

★ Councilor Harris continued, "And certainly I can support the Resolution, but I cannot support the Amendment to the Resolution."

★ Councilor Ives said his recollection about the provision for moving back from an exempt position, such as City Manager or department head, back to a classified position, is they would come up when people are moving prior to the change of an administration. It made sense to him if someone was going to step-up for the last 4-6 months, or longer, before there was to be a shift in administration, to give them some flexibility of returning to a classified position.

★ Councilor Ives continued, saying if you asked him, without this discussion or looking at the City Manager's contract, he would have said that wasn't something we would put into a contract of someone holding an exempt position over an extended period. He is surprised that provision remains in the contract, and he would be an advocate for changing that going forward. He said that said, this is not the case based on the contract in place, noting he has not seen the contract so he can't speak to its terms. He thinks the Resolution makes sense for a smooth transition and he supports it from a continuity perspective. However, he agrees with Councilor Harris that doing it at the last minute is too significant a change, but on a going forward basis for high level exempt positions, he is in favor of eliminating the clawing back into a classified position if people have moved up career ladders into the position vacated by the high level management position.

★ Councilor Dominguez said he normally would support such an amendment. He said when we talked about the City Manager's contract in the past, he put forward the idea of doing evaluations, and can understand wanting to dig-in more on the contract. However, the intent of the Resolution was to have a smooth transition, because we've never had that kind of conversation. He said we don't know if we even will have a City Manager after the next election. There is a whole change of government that is supposed to happen. He said, "Although I appreciate wanting to relook at the contract, and tinker with it, the intent is not to do that, because we don't know what is going to happen with that position in the future, and it might be all for nothing to some degree. So I'll just leave it at that."

★ Councilor Maestas said it's not that he is randomly wanting to reopen and renegotiate the contract. The action of the 30-day extension, basically imposes on the next administration, having to deal with the status of the contracts. When in fact it was this Governing Body that negotiated and advised the Mayor and approved the contract. He thinks it is infringing on the prerogative of the next administration, and this could create problems at the end of the 30-day period for the next administration and they are inheriting open-ended contracts left to expire that kick-in certain provisions that he doesn't think are very good provisions. It is kind of a fundamental problem with the extension. He agrees with the intent, reiterating it creates more problems than it is helping to address.

MOTION: Councilor Rivera moved, seconded by Councilor Harris, to adopt Resolution No. 2018-10, without the amendment..

MOTION TO AMEND: Councilor Maestas moved to amend the motion to add a third BE IT FURTHER RESOLVED per his proposed amendment. **The motion died for lack of a second**.

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

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, and Councilor Rivera.

Against: Councilor Maestas.

Councilor Maestas said, "As a matter of process, this is a contract amendment. Do we have enough votes for a contract amendment.

Mr. Martinez said, "The proposal is to amend the contract. You would need five votes to do that, and you have five votes. And then, the next process, is that the City Manager and the City Attorney have to agree to this amendment to the contract."

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END OF CONSENT CALENDAR DISCUSSION

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11. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

12. MATTERS FROM THE CITY ATTORNEY

Mayor Pro-Tem asked Mr. Martinez to address Agenda Item 10(a) and what we need to do with that.

Mr. Martinez said, "As this discussion, and the prior discussion illustrated, the Council needs five votes in order to proceed with the contract or Resolution under the City Code. As you may recall the long early discussion on Item 10(a), the vote was 4-2. The question was whether to deny approval and made a recommendation or direction to staff to reissue the RFP. Given that, after we have now consulted the Governing Body Procedural Rules and the requirements for the number of votes, I would ask that the Governing body either move to postpone this matter to the next Council meeting or some other date certain, or alternatively could reentertain a vote either to approve the request or again, make an alternate motion to deny it. But given the fact that the vote was insufficient, I think the best practice would be to reconsider this issue either now or at a later meeting."

Mayor Pro-Tem Lindell asked to return to Item 10(a), and asked if we want to postpone this to a later meeting.

Mr. Martinez said, "Excuse me, Madam Mayor Pro-Tem, we'll need a motion to go back to Item 10(a) and then the follow-up motion."

Mayor Pro-Tem Lindell asked if there is a motion to go back to Item 10(a).

Councilor Maestas asked, "So, is it a motion to reconsider. No."

Mayor Pro-Tem Lindell said we need a motion to reconsider Item 10(a).

Councilor Ives said, "So Item 10(a) was a request for approval of the RFP Lease Operating Agreement, so it was a request for an approval to enter into a contract with El Sabor. It did not get sufficient votes and was denied. So action consistent with, at least the Rules, appears to have been taken because there not sufficient affirmative votes to enter into the contract. And so I'm not clear on the need to revisit it. And if we're suggesting that on any negative vote, if somebody is absent and there is a close vote, that we bring everything back so that everybody can participate, I'm not sure of the efficacy of that as a procedural matter."

Mr. Martinez said, "I'm not making that second suggestion. I guess that I am concerned that a 4-2 was insufficient to give direction to staff to go out and further the RFP. So I agree that no contract has been awarded, that is clear. I think though, in order to have clear direction to staff that won't be later undermined, if you could even vote on that, or resume the discussion that you want to hear, that would be helpful. But I agree that no contract has been awarded. Clearly that would require five votes affirmatively. So the motion earlier, as I recall the motion earlier being a motion to deny the award and give direction to staff to go out for further RFP. That was voted on 4-2, but a motion would have needed 5 votes. So while no contract has been awarded, I'm just not clear on whether there was a sufficient vote to give that direction and fulfill that motion."

Councilor Ives said, "So presumably, the vote was sufficient to deny the approval, but the question is whether or not the vote was sufficient."

Mr. Martinez said, "No, it wasn't sufficient to deny the approval because any motion would have required five votes. Let's just start there."

Councilor Ives said, "So if an Item comes up and there an insufficient number of votes to deny it, then we're saying that will always require an item to be postponed to come back to a later meeting of the City Council."

Mr. Martinez said, "I think the only thing I'm saying is that any motion requires five votes, whether it is affirmative or negative, I don't think that needs to be settled here now. I think that there wasn't five votes. I think the record is abundantly clear on that. So the question is whether that was sufficient in order to give direction and make some approval or disapproval on this item. So if you being with the assumption that you need five votes in order to successfully carry a motion forward, there was not five votes."

Councilor Ives said, "So if there were not 5 votes for or against, what is the effect on the agenda item."

Mr. Martinez said, "The contract is not approved, but the direction is not clear to staff. And was the direction that the Governing Body gave effective. Whether we go out to RFP or not, that's really the question. Would we go to a hearing or not. Would some other action take place or not."

Councilor Maestas asked if one of us makes a motion to reconsider and it passes, do we have to reconsider everything, the actual contract and staff direction, and if so, should we have separate votes.

Mr. Martinez said, "Councilor, I think you can just give staff direction if you want to, needing five votes, whatever that direction is."

Councilor Maestas said but we still have to amend the original motion, because the motion had disapproving the contract and it gave staff direction.

Mr. Martinez said, "If was never effective though. So the contract stays unawarded. That is part of Councilor Ives' point, what is the effect. The contract isn't awarded, but staff doesn't have effective direction. That's my concern."

MOTION: Councilor Maestas moved, seconded by Councilor Ives for purposes of discussion, to reconsider the staff direction portion on item 10(a).

DISCUSSION: Councilor Dominguez said that requires five votes. He thinks either way, we should not make that motion to reconsider tonight, but make that motion to reconsider at the next meeting. Not only will you have potentially more than five to make that reconsideration happen, but it gets us out of this mess.

Councilor Maestas said he is uncertain that those who voted to disapprove the motion were against the idea of putting it out to RFP with a new selection committee.

Councilor Dominguez said all he is saying is if the votes continue to fall as they did when we originally heard it, we still won't get five votes even for the reconsidering. He is offering an alternative, a better way to get there, at the next meeting to have that reconsideration happen. He said that is the way we've done things in the past. He thinks Councilor Ives and Councilor you did a couple of reconsiderations – "You did one and he did one, so why don't we just follow that same process to get there.

Councilor Dominguez said he doesn't know if he will support the motion. He said one of the things he wanted to ask is if this applies, the reconsideration, for resubmitting an RFP or redoing the RFP. He said one of his suggestions was to take it to a hearing officer, so you still don't have clear direction unless we have five votes for that action as well, asking if that is correct.

Mr. Martinez said, "Correct."

Councilor Maestas asked what happens to the existing contract in the interim. Do we just keep extending it like we have since this was procured initially.

Mr. Martinez said, "My recollection of what the staff person said was that it expires on March thirty-first. So we will continue until then. I don't have the contract in front of me and I didn't see it in the packet, the existing El Sabor contract, I mean The Links contract. So we know that it at least goes until March thirty-first. I could look at it again to verify that with you. I think what we know is that no contract was approved. That is clear, I think."

Mayor Pro-Tem Lindell said Councilor Maestas has made a motion and there is a second.

Councilor Ives said he is looking at Section 2-2.6 which talks about, "*In the passage or adoption of every ordinance, every resolution or order to enter into a contract by the Governing Body, the ayes and nays shall be called and recorded, and to pass and adopt any ordinance or any such resolution or order, a concurrence of the majority of the whole numbers elected to the Governing Body is required.*" He said there was a vote on non-adoption of the contract which seems to be valid... well no contract was adopted because it did not get sufficient votes. There is separate consideration of an aspect to reissue an RFP which is not ordering to enter into a contract, but rather send out a RFP from people who may be interested in entering into a contract with the City. He asked if 2-2.6 would apply in the context of direction to put out a new RFP.

Mr. Martinez said, "I understand what you're saying Councilor Ives. I think the difficulty is that one motion was made and that motion contained two elements. One was whether to deny it, and the second element was to give staff direction. And in that motion itself, there were not five votes. So, I feel like..."

Councilor Ives said, "I understand that this issue is something new for all of us and so, exercising some caution is likely in order."

Mr. Martinez said, "I think that's exactly right. That's where I'm coming from, because this issue has been, obviously, so contentious already, it prompted a long debate. I'm concerned about other potential questions that protestants might raise, and I don't want to have it be undone by a procedural failure. I don't think they'll argue that they got a contract, but whether there is direction or not is sufficient, is my concern. And so I was hoping that there would be some consensus on the direction that this Governing Body would give staff, even if it wasn't perfectly clear that direction was required."

Councilor Ives said, "And based on the prior action taken, if we were trying to modify that in this meeting, how would we go about that."

Mr. Martinez said, "I suggested that a motion be made giving direction to staff as to what to do."

Councilor Ives asked, "But are you saying a motion to reconsider in this meeting would make sense, because presumably, by doing that, we could reconsider the direction to staff that was taken at that same 4-2 vote which is causing the concern, which seems a very reasonable thing to do to eliminate that concern at the present moment."

Mr. Martinez said, "That's right."

WITHDRAWAL OF THE SECOND TO THE MOTION.

MOTION: Councilor Ives moved to "reconsider Item 10(a) and can I limit that to just the direction to staff, or is it irrevocably combined with the motion on the approval issue." **The motion died for lack of a second.**

Mr. Martinez said, "I don't think it's irrevocably combined, because my concern is that motion wasn't effective. So it has no effect. I think you could make a motion to see if you approve the contract. If that fails, you could make a motion to give direction to staff. You can do them together or separately. You can do it at this meeting or a future meeting."

Councilor Maestas said, point of order, if we bring back 10(a), doesn't the Governing Body have to approve the RFP before it is actually released, so we'll get another formal vote. We need a solution, right. Right now, we've disapproved a contract, well we've extended the current contract, but there's got to be some solution, right.

Mr. Snyder said, "Councilor Maestas, I think you've asked a couple of questions. As I understand what Marcos has been saying, I'll say it a different way. You haven't approved anything or disapproved anything tonight on 10(a). 4-2 doesn't get us to where we need to go, from the standpoint of denying the contract and/or giving direction to staff because we don't have five votes in the affirmative for whatever the motion was. Regarding the RFP process, the RFP process would be that we would go back, take into consideration the conversation that happened here, take a look at this Code and make sure it is valid, and make sure that the review team was valid and changed out from what was in the previous scope. Also, look at the point criteria just to make sure and then there may be some changes that, based on the conversation we had this evening, and we would put that out for RFP without coming back to the Governing Body. Prior to the award of the RFP, after going through the selection process, we would bring it back to the Governing Body, similar to what we did this evening. That's if the Council directed us to move toward an RFP."

Councilor Maestas said we need a solution and asked, "So, are we going to kick the can down the road, or, I guess I would appeal to the two no votes. Don't you guys want some procurement solution, or do you just want to wait until we have...."

Councilor Dominguez said, "Well I would appeal to the rest of them that they just go with the recommendation that I made in the first place, which was to take it to a hearing officer. But, just like you don't want that."

Mayor Pro-Tem said, "We're back to the choice that you presented us hours ago.

MOTION: Councilor Dominguez moved, that we vote on a reconsideration at the next meeting, so at the next meeting we decide whether or not we want to reconsider that action. **The motion died for lack of a second.**

Mayor Pro-Tem Lindell said we haven't taken any action.

Councilor Dominguez said we have taken action.

Councilor Martinez said the motion to reconsider has to be made by someone who voted against the motion.

Mayor Pro-Tem Lindell asked Mr. Martinez if he has a suggestion.

Mr. Martinez said, "I'm just trying to think of what the best way is to get the direction that the Governing Body, I think intended to give. I would agree with Councilor Ives that no contract has been awarded, since the Governing Body did not approve a contract. I suppose staff could bring back an issue about going out to RFP at the next Council meeting, or this Governing Body could decide to do that now. Alternatively, if someone who voted against it, or for it, I guess could move to reconsider at the next meeting the direction. If nothing happens right now, no award, the *status quo* probably, at least in terms of the applicants, continues, which is that no one received the award. I think there will be some need for direction though in near future, since the contract does expire at the end of March. So if you don't give us direction now, at least hopefully by the next meeting."

Councilor Rivera asked how would we reconsider something that had no action taken on it. He asked, "Wouldn't we just now open up 10(a) for discussion, or open up 10(a) again for initial discussion and then take a vote from there, whether it is to postpone or.

Mr. Martinez said, "I think you make a good point about the fact that you wouldn't be reconsidering it since it wasn't effective."

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to open up 10(a) for discussion again.

DISCUSSION: Councilor Ives said, "Point of order. I want to say the proper motion is a motion to reconsider, because we are within the same session in which the action has been undertaken, and it is proper under Robert's Rules that only a member of the majority voting on that can bring that forward. And so I think it would be one of the four who voted in the affirmative to deny that would have to make the motion to reconsider."

Councilor Rivera said, "Which wasn't really any action at all."

Councilor Ives said, "It had the effect of not approving the contract."

Councilor Rivera said, "Marcos, you need five to approve a contract, but you don't need five to deny it."

Mr. Martinez said, "I think the problem, the difficulty somewhat arises because it was framed in the negative. You need five to approve a contract. I think you need five, I think the way I'm reading the Rules, you need five to approve a motion as well. And so, under that theory of reading, then the prior action had no effect. So there was no action taken. All we know is that the contract wasn't approved."

Councilor Rivera said, "But it wasn't approved because we didn't take any action on it."

Mr. Martinez said, "It's basically an item that was pulled from consent and you never acted on it."

Mayor Pro-Tem Lindell asked one of the Councilors that voted in the affirmative to deny, if they can bring forward a motion to postpone this until the next meeting.

Mr. Martinez said, "I think, because the action wasn't effective, I think anyone can make a motion. It's a little bit in the weeds, but."

Councilor Dominguez said that is what he was trying to do.

Mayor Pro-Tem Lindell said, "So why don't you say it that way."

COUNCILOR RIVERA WITHDREW HIS MOTION.

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera for purposes of discussion, "That Item 10(a) be postponed to the next Council meeting.

DISCUSSION: Councilor Ives said, point of order, he still believes a motion to reconsider is the appropriate motion. He said generally, the purpose of reconsidering a vote is to permit correction of hasty, ill advised or erroneous action, or to take into account added information or a changed situation that has developed since the taking of the vote, so we did take a vote.

Mayor Pro-Tem Lindell asked Councilor Dominguez if he would like to restate his motion.

Councilor Maestas said he thinks we're past reconsideration and thinks a Motion to Postpone is appropriate.

CLARIFICATION OF MOTION BY ASSISTANT CITY CLERK: Ms. Byers asked if this is postponing this item to February 28, 2018, and Mayor Pro-Tem Lindell said, "Correct."

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

> **For**: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Maestas and Councilor Rivera.
>
> **Against:** Councilor Ives.

Responding to the Mayor Pro-Tem, Marcos Martinez, Assistant City Attorney, said he has no further matters.

13. MATTERS FROM THE CITY CLERK

Melissa Byers, Assistant City Clerk, reminded the public that Early Voting started today, noting there are two Early Voting Sites, one in the City Clerk's Office which goes through March 2, 2018, 8:00 a.m. to 5:00 p.m., Monday through Friday; and one at Genoveva Chavez Community Center, Tuesday through Saturday, 9:00 a.m. to 6:00 p.m.

Mayor Pro-Tem Lindell thanked Ms. Byers for the information, noting she voted this morning and there were a lot of people. It was a busy day for early voting which is good news.

14. 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 February 14, 2018, is incorporated herewith to these minutes as Exhibit "5."

Councilor Maestas

Councilor Maestas said he would cosponsor Councilor Dominguez's Ordinance he is introducing tonight relating to independently sponsored campaign communications and reporting. He had no further communications.

Councilor Harris

Councilor Harris said, "I had nothing except to make the observation on 10(a), our votes were exhausted."

Mayor Gonzales

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, introduced a Resolution committing the City of Santa Fe as a full and active participant as a compassionate city; affirming the Charter for Compassion; and authorizing the Mayor to implement this Resolution through appropriate means. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez

Councilor Dominguez introduced an Ordinance relating to the independently sponsored campaign communications and reporting; amending Subsection 9-2.6 to make changes to independently sponsored campaign communications and reporting to increase the reporting threshold for ballot propositions to five thousand dollars. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "7."

Councilor Ives

Councilor Ives said he would join as a cosponsor of Councilor Dominguez's Ordinance.

Councilor Ives introduced a Resolution to develop a program for the City to engage and work cooperatively with the private sector and public sector on making toilets available for public use." A copy of the Resolution is incorporated herewith to these minutes as Exhibit "8."

Mayor Pro-Tem Lindell

Mayor Pro-Tem Lindell said she would join as a cosponsor of Councilor Ives Resolution.

Councilor Rivera

Councilor Rivera said tonight is Ms. Helberg's last meeting, and hopes between the Mayor and the rest of us that we can bring her back in the near future and give her a proper sendoff. He thanked her for her many years of service and said, "You will missed."

Melessia Helberg, Council Stenographer said, "I'm sorry that everybody isn't here tonight so I could thank them and tell them how much I have enjoyed working with all of them, and for the past 21 years that I have been serving. This was my third and last career. And my doctor ended it. And it has given me the opportunity to continue with municipalities. Some of you don't know, I started my career as a City Clerk, and then came to Santa Fe as an Auditor with Local Government Division, and then to the Municipal League as the Training and Convention and Meeting Planner. And then on to Governor King where I was liaison to municipalities. And then I had my own business, and helped more than 20 municipalities to conduct elections. And then I got the opportunity to come here and do minutes, and not have to make any decisions or create any work, and observe first hand the workings of democracy. And I want to thank you for that. And it's been a great ride, let me tell you. Thank you so much."

Mayor Pro-Tem Lindell said, "Well we are very very grateful, not just Council, but we are a grateful City to you. Thank you very very much."

Councilor Rivera said we had a lot of discussion about exempt employees and wanted to throw something else out. He said, "We have a lot of young talent like Mr. Guillen and a lot of other people who have served as department heads that don't quite have enough time to retire. And now that the retirement times have moved up to 25 years for Fire and Police and 30 years for AFSCME and other employees, we may potentially lose out on the younger talents that may not want to get into an exempt position, knowing they still have 10 years to retire and would probably not take an exempt job because of that situation. And if it means working into a contract that you give them a place to go after their service is up to whatever Mayor they are working for, maybe that's not such a bad thing. So I just wanted to give the other side of it,

the other perspective, from being in that situation. It's a bit risky, but it is a worthwhile endeavor if you decide to get into it, but again, I think we need to keep some doors open in case those situations arise."

END OF EVENING AGENDA AT APPROXIMATELY 9:10 p.m.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Pro-Tem Lindell, at approximately 9:10 p.m. There was the presence of a quorum as follows:

Members Present
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

Members Excused
Mayor Javier M. Gonzales
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

G. APPOINTMENTS

Mayor's Youth Advisory Board

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, made the following appointments to the Mayor's Youth Advisory Board

Yazmin Holguin, Alternate (Santa Fe High) - Reappointment - term ending 12/2019;
Melissa Ruiz (Engage) - Reappointment - term ending 12/2019;
Mykalaya Martinez (Capital High) - Reappointment - term ending 12/2019;
Barath Kurapati (Mandela International Magnet School) - Reappointment - term ending 12/2019;
Rudy Flores (Santa Fe High) - Reappointment - term ending 12/2019;
Antonique Rivera (Santa Fe Community College) - Reappointment - term ending 12/2018;
Jayden Madrid, Alternate (St. Michael's High - to fill unexpired term ending 12/2018; and
Franchesca Pino, Alternate (Santa Fe Indian School) - to fill unexpired term ending 12/18.

MOTION: Councilor Maestas moved, seconded by Councilor Rivera, to approve these appointments.

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

Santa Fe City and County Food Policy Advisory Council

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, made the following appointment to the Santa Fe City and County Food Policy Advisory Council:

Gino Rinaldi, Senior Services Division Director - term ending 01/2010.

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to approve this appointment.

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

City Historian

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, made appointed the following individual to serve as the City Historian:

Andrew Lovato - term ending 03/2019

MOTION: Councilor Harris moved, seconded by Councilor Maestas, to approve this appointment.

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

Arts Commission

Mayor Pro-Tem Lindell, on behalf of Mayor Gonzales, made the following appointment to the Arts Commission:

Alex Hanna – to fill unexpired term ending 10/2018

MOTION: Councilor Ives moved, seconded by Councilor Rivera, to approve this appointment.

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

H. PUBLIC HEARINGS

1) **CONSIDERATION OF BILL NO. 2018-1; ADOPTION OF ORDINANCE NO. 2018-7 (COUNCILOR RIVERA, ~~AND~~ COUNCILOR MAESTAS AND COUNCILOR IVES). AN ORDINANCE RELATING TO THE CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE; AMENDING SECTION 12-1-5.1 REGARDING THE DEFINITION FOR "AUTOCYCLE;" AMENDING SECTION 12-1-67 REGARDING THE DEFINITION OF A "SCHOOL BUS;" AMENDING SECTION 12-6-7.4 REGARDING THE OPERATION OF VEHICLES ON APPROACH OF EMERGENCY VEHICLES ON STREETS OR HIGHWAYS; AMENDING SECTION 12-7.9.9 REGARDING OFF-HIGHWAY VEHICLE SAFETY REQUIREMENTS; AND AMENDING SECTION 12-10-1.44 REGARDING SPECIAL RESTRICTIONS ON LAMPS. (JESSE GUILLEN)**

Councilor Rivera said this is bringing forward changes that are reflected in the State law, and bringing our Code up to standard.

Public Hearing

There was no one speaking to this request.

The Public Hearing was closed

MOTION: Councilor Rivera moved, seconded by Councilor Maestas, to adopt Ordinance No. 2018-7.

DISCUSSION: Councilor Ives said he asked to be added as a cosponsor at an earlier meeting, and would like to reiterate that.

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

For: Mayor Pro-Tem Lindell, Councilor Dominguez, Councilor Harris, Councilor Ives, Councilor Maestas and Councilor Rivera.

Against: None.

2) **CASE #2017-91. APPEAL OF WILLIAM L. HARPER, ALMA WALDO, RUSSELL WALDO, AND THE LAST BRISAS DE SANTA FE CONDOMINIUM ASSOCIATION FROM THE SEPTEMBER 5, 2017 DECISION OF THE BOARD OF ADJUSTMENT TO GRANT A REQUEST BY THE MUSEUM OF NEW MEXICO FOUNDATION FOR A VARIANCE FROM CITY CODE SECTION 14-8.4(J)(3) (BUFFER FOR NONRESIDENTIAL DEVELOPMENT ABUTTING RESIDENTIAL). (RICK WORD). (Postponed to March 14, 2018)**

3) **CONSIDERATION OF BILL NO. 2017-31; ADOPTION OF ORDINANCE NO. 2018-___ (MAYOR GONZALES AND COUNCILOR HARRIS). AN ORDINANCE REPEALING SECTION 2-22 SFCC 1987, INTERNAL AUDIT DEPARTMENT IN ITS ENTIRETY; AND AMENDING SECTION 6-5 SFCC 1987 TO CHARGE THE AUDIT COMMITTEE WITH THE MANAGEMENT OF AN INDEPENDENT AUDIT CONTRACT TO PERFORM THE FUNCTIONS CURRENTLY PERFORMED BY THE INTERNAL AUDITOR. (KELLEY BRENNAN). (Withdrawn)**

a) **CONSIDERATION OF RESOLUTION NO. 2018-___ (MAYOR GONZALES AND COUNCILOR HARRIS). A RESOLUTION DIRECTING THE CITY MANAGER TO DEVELOP A PLAN TO OUTSOURCE THE FUNCTIONS CURRENTLY PERFORMED BY THE INTERNAL AUDIT DEPARTMENT IN ACCORDANCE WITH SAID RECOMMENDATION WITHIN 60 DAYS OF THE ADOPTION OF THIS RESOLUTION. (KELLEY BRENNAN). (Withdrawn)**

This item was withdrawn.

****

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 9:15 p.m.

Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:

Melessia Helberg, Council Stenographer

ITEM # 10(h)

ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 12, 2018

ITEM 9

PROJECT #454A – RAIL TRAIL EXTENSION PROJECT – ALTA VISTA TO PEN ROAD

- REQUEST FOR APPROVAL TO USE COOPERATIVE EDUCATIONAL SERVICES PROCUREMENT FOR A PROFESSIONAL SERVICES AGREEMENT WITH SOUDER MILLER & ASSOCIATES IN THE AMOUNT OF $42,854.32 EXCLUDING NMGRT **(LEROY PACHECO)**

PUBLIC WORKS COMMITTEE ACTION: Approved

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	RECUSED
CHAIRPERSON IVES			
COUNCILOR MAESTAS			X
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		
COUNCILOR VILLARREAL	X		

Exhibit "1"

ITEM # 10(h)

City of Santa Fe, New Mexico

memo

DATE: February 6, 2018

TO: Public Works Committee

VIA:

John J. Romero PE PE, Acting Public Works Department Director
Leroy N. Pacheco PE, River Watershed & Trails Section Supervisor

ITEM/ISSUE:

Approval to use CES procurement for a professional services agreement with Souder Miller & Associates in the amount of $42,854.32 excluding NMGRT for construction observation on CIP #454A Rail Trail Extension Project from Alta Vista to Pen Road

ADDITIONAL INFORMATION:

Councilor Harris of the Finance Committee requested the following additional information be included in the packet as item moves forward:

Phase	Firm	Cost	Percent
Design	HDR Inc.	$210,831.93	22%
Construction Engineering	HDR Inc.	$39,267.32	4%
Construction	GM Emulsion	$651,941.17	69%
Construction Observation	SMA/CES	$46,416.59	5%
Total Project Cost		**$948,007.01**	**100%**

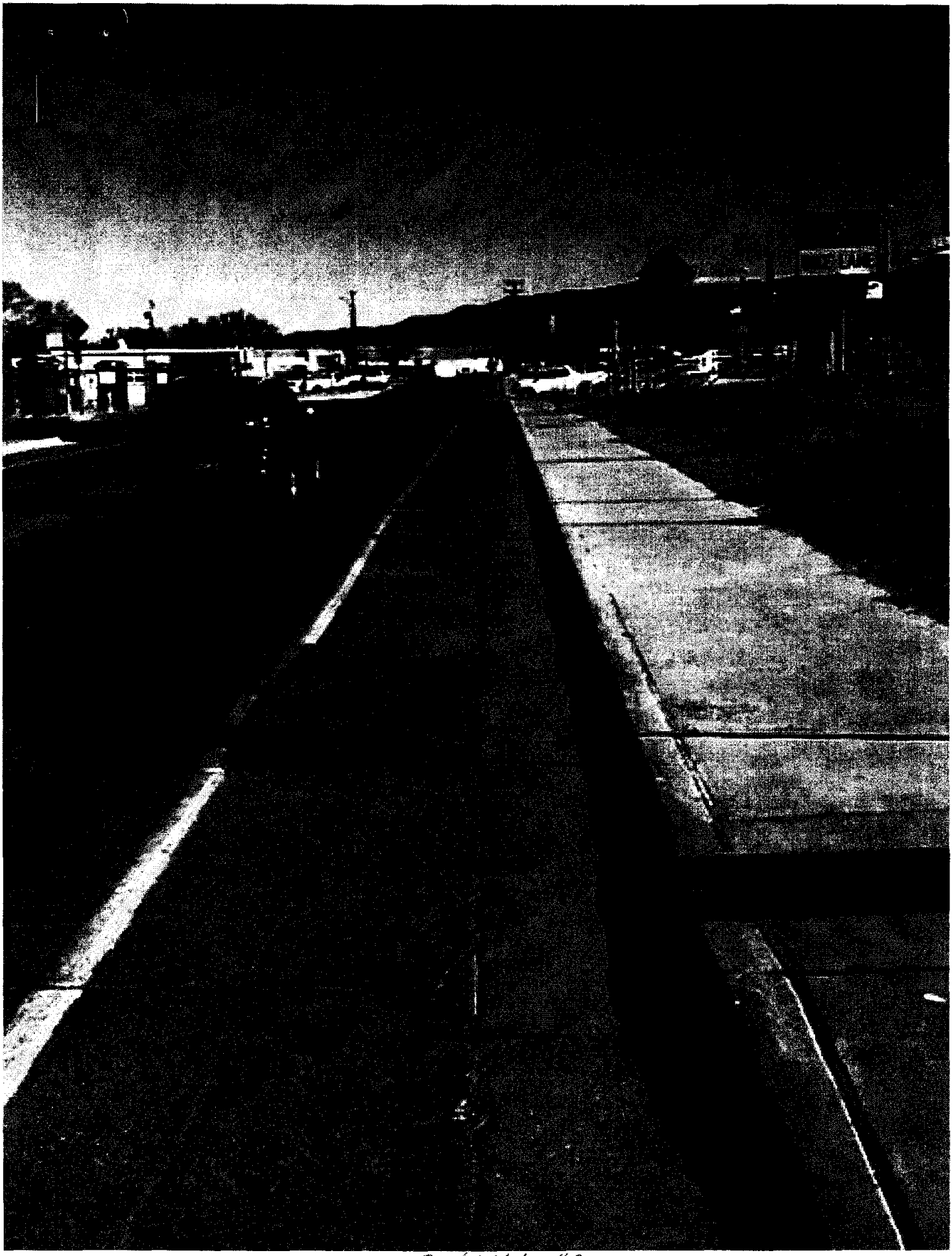
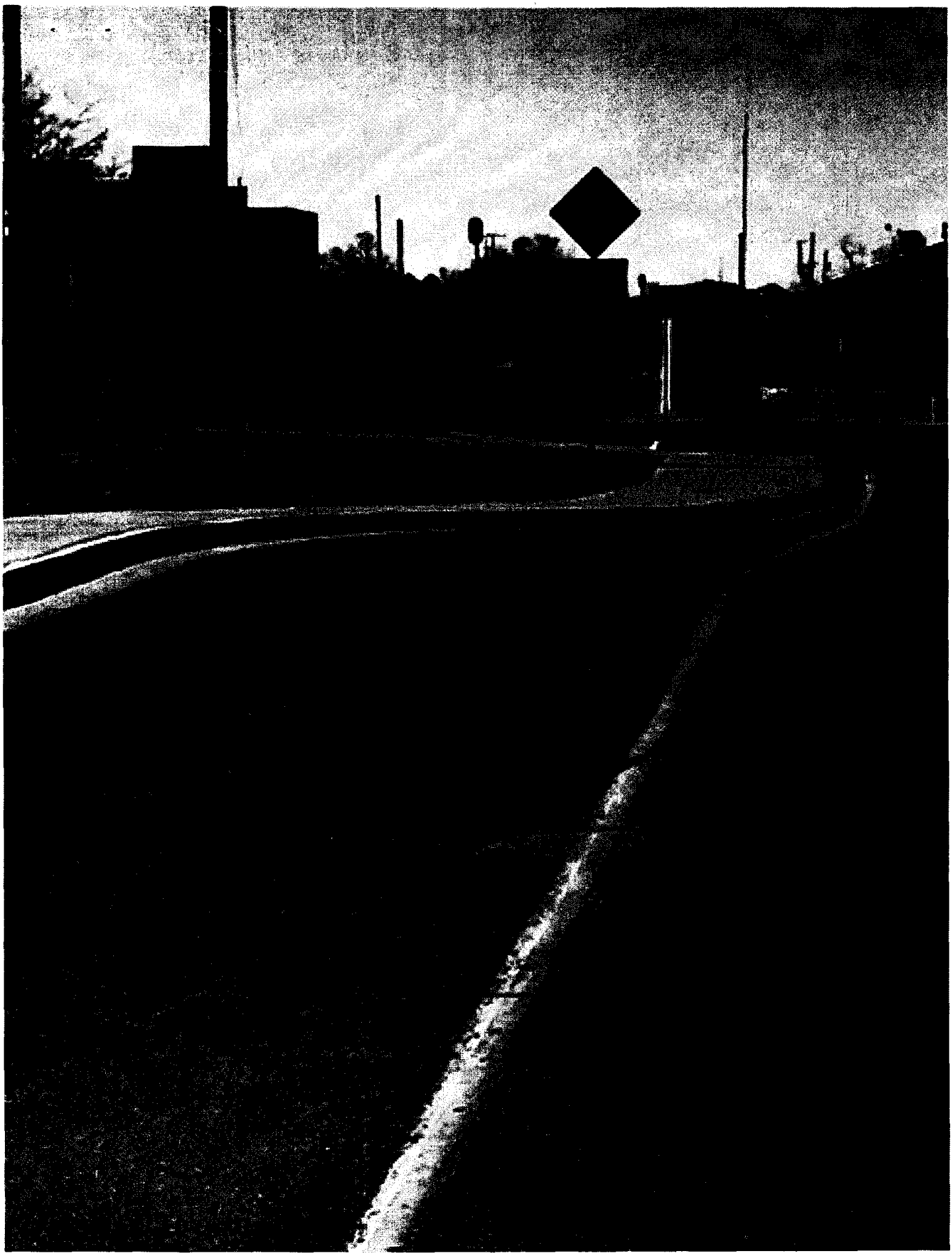


Exhibit "2"



SANTA FE GATEWAY ALLIANCE (SFGA)

http://Santafegatewayalliance.org/

5 Bisbee Ct
Suite 109-135
Santa Fe, NM 87508

admin@santafegatewayalliance.org

Background

SFGA was founded in early 2017 by a group of concerned neighbors interested in preserving and protecting the scenic character of southern gateway to Santa Fe, as well as the integrity of its environment. This gateway also encompasses the northern-most point of the Turquoise Trail National Scenic Byway. SFGA recognizes the authority of the 2000 Community College District plan as a seminal document setting forth the County's vision and goals for the south side. Additionally, SFGA supports implementation of Santa Fe County's *2015 Sustainable Growth Management Plan* (SGMP) and *2016 Sustainable Land Development Code* (SLDC) through public input.

SFGA is recognized as a Registered Organization (RO) by Santa Fe County as an unincorporated association that actively participates in County planning processes designed to meet the vision and goals of sustainable growth and development. Santa Fe County RO's are given the following rights and responsibilities:

- Receive notice of any application for discretionary development review pending within the geographic area designated in the application by the RO.
- Receive notice and participate, as deemed appropriate by the Administrator, for any amendment to the SGMP, SLDC or an area, specific or community plan, official map of the SGMP or zoning map of the SLDC within the established geographical boundaries or interests of the RO.
- Participate in Town Hall meetings with the Administrator and County planning staff.
- Participate in an annual Congress of Community Organizations.

Membership

Membership is voluntary, and supporters reside on Santa Fe's south side, at the top of the Turquoise Trail National Scenic Byway. SFGA operates through the efforts of residents of the following communities/neighborhoods:

- Churchill Estates
- Institute of American Indian Art (IAIA)
- La Pradera
- Oshara Village
- Rancho Viejo (The Village I-II, College Heights, La Entrada, Windmill Ridge)
- Turquoise Trail

1-23-2018 KMB

Exhibit "3"

- Valle Vista
- Vista Ocaso

Core Values

- Respect for the scenic beauty of Santa Fe environs - the land, its history, peoples, and character
- Advocacy for environmental justice to ensure responsible development
- Stewardship of the southern gateway for enjoyment of residents and continuing visitor appeal
- Inclusion of diverse views, experiences, and belief systems

Vision

SFGA's vision for the southern entry to Santa Fe, and the northern point of the Turquoise Trail, is directly aligned to the vision initially set forth in the *Santa Fe Community College District Plan* (2000) and later outlined in the *Santa Fe County Sustainable Growth Management Plan* (2015)

Specific elements of both plans that SFGA incorporates into its vision are listed below.

Santa Fe Community College District Plan (2000)

"The Santa Fe Community College District will be a place of existing and new communities where:

- Compact development forms will be the norm rather than the exception;
- Central, mixed use places will be the basic building block of new village communities;
- Connections will be provided that link various destinations in the District for use by vehicles, pedestrians, bicyclists, equestrians and transit users (both bus and rail); and
- Community principles and input will be the basis for understanding the needs of each individual place within the District. Together the compact form, centers, and connections will provide the opportunity for the activities and interaction which create a rich community life; and
- Sustainability will be applied to all future development within the District. Sustainability means meeting the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable design incorporates designs, technologies and practices to significantly improve the efficiency, quality and environmental responsiveness of development." (p. 7)

Sustainable Growth Management Plan

"The Santa Fe area is known worldwide for its special landscape, creativity, artistic endeavors and unique cultural history. Santa Fe county is a place of natural beauty, diverse cultures and enduring sustainable communities"

1-23-2018 KMB

1. "Create a Growth Management Strategy that Directs the Location and Character of Future Growth to Appropriate and Designated Areas that include Residential, Commercial and Industrial Uses.
2. Create a Growth Management Strategy Based on Fiscal Responsibility
3. Focus on Existing Community Needs and Values for Future Planning and Local Economic Development
4. Respect the Natural Environment, the Rural Landscape and Open Spaces Between Established and New Communities
5. Conserve Water for Present and Future Generations
6. Refine the Zoning Standards and the Development Review Process
7. Provide Appropriate County Resources to Implement a Sustainable Growth Management Strategy
8. Ensure Effective, Transparent and Ethical Governance" (pp. 17-18)

SFGA Mission

To preserve and protect the gateway to Santa Fe for the health, safety and enjoyment of all through public input guided by our vision.

SFGA Goals

SFGA goals align to those set forth in the *Santa Fe Community College District Plan* (2000), which "seeks to create neighborhoods and a community which can sustain itself over time by building protection of resources and support and opportunity for residents into the development pattern before development occurs." (p. 1); and the sustainability *'placemaking'* goals outlined in the Sustainable Growth Management Plan (p.23)

- Placemaking is about maintaining existing communities and creating new ones with the intention of promoting citizens' health, happiness and well-being. In Santa Fe County places were historically created for a variety of functional reasons—agricultural, commercial, transportation destinations, protection and religion.
- There is a diversity of "place" in Santa Fe County, ranging from small, compact villages based around agriculture to expansive range lands centered on family.
- Placemaking was, and continues to be, a process that focuses on a local area's assets, inspiration and collective aspirations. It implies not only design options but also something less tangible, a conveyance or confluence of spirit. The idea of "sense of place" derives from these two important aspects of placemaking.

2017-2018 SFGA Campaign

Oppose construction of a proposed Pilot Flying J Travel Center/Truck Terminal at junction of NMSR14 and Rancho Viejo Blvd on the basis of incompatibility with County vision and code.

Santa Fe GATEWAY Alliance

ACTION & ADVOCACY

- SFGA **takes action and advocates for** responsible, compatible development that enhances the value of the southern gateway to Santa Fe.

- SFGA **promotes** sustainable development that protects the health, safety and public welfare of residents and tourists.

- SFGA **responds proactively** to the following concern expressed in the 2015 *Santa Fe County Sustainable Growth Management Plan* (SGMP:

  "Lack of emphasis on gateways, rural highways, scenic routes and corridors. Gateways and corridors are extremely important to the first impression of a place. If the character of these areas is eroded by poorly planned development, the County may become less attractive to residents and as a tourist destination. These negative impacts on the counties Scenic and National Scenic Byways should be prevented to ensure a strong tourist trade and economic vitality in this area of the county."

- **SFGA collaborates** with like-minded individuals and organizations to promote the county's vision of the southern gateway to Santa Fe, among them the *Turquoise Trail Regional Alliance* and the *Institute of American Indian Art*, whose President and student government have pledged strong support to SFGA goals.

- **SFGA supports**:
  - The Santa Fe County vision of sustainable, responsible and compatible development set forth in the:
    - Community College District Plan and
    - 2015 Santa Fe County Sustainable Growth Management Plan (SGMP)
  - Consistent and rigorous implementation of the provisions of the 2016 *Sustainable Land Development* Code.

- SFGA OPPOSES projects, businesses, and land development uses that threaten to undermine the health, safety, and welfare of those living in the southern gateway environs.
- SFGA strongly opposes construction of a Flying J Travel Center at Santa Fe's south side just off I-25 (junction of NM14 and Rancho Viejo Blvd) on the basis that a truck stop in this location is not needed and will likely damage the physical environment, while polluting air, water, and night sky. The proposed location will not serve the public welfare of neighboring communities.

TOPICS FOR PUBLIC INPUT AT COUNTY MEETINGS & HEARINGS

- Air Quality
- Environmental Justice
- Green & Clean Industry
- Living Wage Jobs
- Land Contamination
- Light Pollution
- Noise Pollution
- Public Safety
- Potential Taxation to Support Pilot Flying J
- Supporting Local Small Businesses
- Sustainability
- Traffic Congestion
- Traffic Safety
- Tourism Impact
- Viewshed
- Water Quantity & Quality
- Wastewater & Storm Water Disposal

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

ASSOCIATED STUDENT GOVERNMENT RESOLUTION

November 13th, 2017

Whereas, members of the Associated Student Government at the Institute of American Indian Arts are the official voice and governing body for the students at the college; and

Whereas, members of the Associated Student Government at the Institute of American Indian Arts recognize the negative impact of the construction of the Pilot/Flying J Truck Stop at the intersection of Turquoise Trail and Rancho Viejo Blvd .by bringing over 300 semi-trucks into a residential community and 100 semi-trucks idling overnight; and

Whereas, members of the Associated Student Government at the Institute of American Indian Arts recognize the negative impact the Truck Stop at the and resulting excessive semi-truck traffic will drastically increase sound and air pollution; and

Whereas, members of the Associated Student Government at the Institute of American Indian Arts there is statistical proof that truck stops harbor and facilitate sex, human, and drug trafficking; and

Whereas, members of the Associated Student Government at the Institute of American Indian Arts recognize the negative impact the Truck Stop will have in the surrounding community by disrupting the aesthetics of the entryway into the city of Santa Fe.

Now Therefore Be It Resolved, that the members of the Associated Student Government at the Institute of American Indian Arts cast their unanimous and unwavering support of the Santa Fe Gateway Alliance to Stop the Truck Stop Campaign.

Be It further Resolved, that this resolution be forwarded to the appropriate Santa Fe County Officials who are considering the application to construct the Pilot Flying J Truck Stop.

Tiffany Adams
Associated Student Government
President

Elizabeth K. Stahmer
Associated Student Government
Vice President

Elleh Driscoll
Associated Student Government
Secretary

Lorenza Marcais
Associated Student Government
Treasury

New Mexico State Senate

State Capitol
Santa Fe

COMMITTEES:

VICE CHAIR:
· Conservation

MEMBER:
· Public Affairs

SENATOR
ELIZABETH "LIZ" STEFANICS
D - Bernalillo, Lincoln, San Miguel, Santa Fe,
Torrance & Valencia-39

P.O. Box 720
Cerrillos, NM 87010

Home: (505) 471-7643
Cell: (505) 699-4808
E-mail: liz.stefanics@nmlegis.gov

January 8, 2018

To: Santa Fe County Land Use Hearing Officer

Santa Fe County Commissioners

From: Liz Stefanics

Re: Flying J Truck Stop Development on State Hwy 14

As a resident of South Hwy 14, I personally oppose the Flying J Truck Stop Development being currently proposed.

I write, though, as the state Senator for the area and for the residents who will be affected by this proposed development. As one of their elected officials, I write to oppose the project **on their behalf**. Numerous reasons have been presented in the public meetings, the public hearings, and through the news media.

I have been inundated with comments of opposition from my constituents in the Community College District, Rancho Viejo, Santa Fe Gateway Alliance, Hwy 14 groups, San Marcos, Madrid, Cerrillos, theTurquoise Trail Association, and Business Groups.

The constituents and residents of the county must be heard and respected in their views and concerns. Santa Fe County has the responsibility of protecting the health and safety of its residents as well as the quality of life that residents have come to expect in their homes in Santa Fe County.

I respectfully request that you determine this is not the correct site for the project and deny approval of the development.

SANTA FE NEW MEXICAN

The West's oldest newspaper, founded 1849

Robin M. Martin
Owner

Robert M. McKinney
Owner, 1949-2001

Inez Russell Gomez
Editorial Page Editor

Phill Casaus
Editor

OUR VIEW

Slam the brakes on truck stop

The discussion of the Pilot Flying J truck stop is moving into high gear this week.

After months of spirited debates and hours of meetings, the proposal to build a truck stop at the outhern entrance to Santa Fe along Interstate 25 will go efore a hearing officer, starting at 3 p.m. Thursday in the anta Fe County building, 102 Grant Ave. That officer, in turn, hould make a recommendation, which would be sent to the lanning Commission and then to the Santa Fe County commissioners.

All of this is just for the conceptual plan; should that be pproved, applications would have to be submitted for each of he three phases being proposed. The plan could be approved n concept, in other words, but rejected for failing to meet speific standards. It's no wonder that a Pilot J official said, after ne of the informational meetings, that Santa Fe County's reglations are among the most rigorous his company has seen.

As we have said all along, it's not enough for opponents to islike the notion of a truck stop. Trucks and cars, after all, eed to fill up on gasoline. Travelers need a place to stop for ecessities. Property owners have a right to develop land, so ng as they meet zoning and code requirements.

The question, of course, is whether this proposal meets anta Fe County's complicated sustainable development code, rowth management plan and goals for the Community ollege District.

Under the current conceptual plan, the 26.46-acre parcel ould be divided in three; the middle area, at 10.41 acres, ould be the site of a travel station. That property would nclude 75 parking spaces for trucks, 66 spots for automobiles, owers and a convenience store with three fast-food restauants — oh, and a fueling station. The conceptual plan shows e eventual development of a pair of hotels and a light indus-

That's a lot of development for the Community College District. There, according to the land-use code, the county plan for the 26.7-square-mile district calls for a development "pattern that is an alternative to suburban sprawl." That sort of sprawl, by the way, is defined as the kind that leads to "total" reliance on automobiles.

It is difficult to see where a truck stop, with places for idling big trucks, loads of gas pumps and even a drive-thru fast-food window, isn't a place that relies on on trucks and cars for its very existence. This is hardly the alternative to suburban sprawl called for in the county plan.

That's only one of the objections made by nearby residents. Their group, the Santa Fe Gateway Alliance, has been steadfast in its opposition, turning from emotional arguments to specific attacks on the proposal based on legal language in the code, always a wise strategy.

They have pointed out potential damage to the view of the night sky from truck stop lights. They have argued that a truck stop could endanger the historic nature of N.M. 14, the scenic Turquoise Trail. They have reminded everyone that the entrance to Santa Fe — while located in the county — is important to all citizens of Santa Fe, considering our town's dependence on attracting people who come here for the area's scenic beauty. Big signs, bright lights and the hum of idling trucks are not only unattractive, they go against the vision for this area of the county. And that's without considering the impact of truck traffic, emissions, water use and other potential liabilities from the truck stop. (The company's paid-for reports, of course, indicate no issues, not one.)

Neighbors' arguments are winning allies. State Sen. Liz Stefanics, formerly a county commissioner, tweeted this week her opposition to the truck stop, saying: "Santa Fe County has the responsibility of protecting the health and safety of its residents as well as the quality of life that residents have come to expect in their homes in Santa Fe County. I respectfully request that you determine this is not the correct site for the project and deny approval of the development."

Mayor Javier Gonzales, also on Twitter, thanked her and said, "The highway corridor needs to be protected from commercial development that pollutes our night sky and unnecessarily increases traffic congestion." Both are correct.

Looking to the future, there are other concerns. The world is in the midst of a transportation revolution, with self-driving trucks and cars possible and a Tesla electric semitruck in development. Fewer drivers would make the need for amenities and parking spaces less critical; electric semis would not need gasoline.

The world is changing rapidly. About the only thing worse for a much-traveled entrance to Santa Fe than an operating truck stop could be one left shuttered. There's already an abandoned outlet mall off Interstate 25. We don't need more empty retail space alongside the highway. No one should oppose development reflexively, using emotion rather than reason. But after examining the proposal, opponents have it right. Not this truck stop. Not this location.

Item #10(i)

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2018-____
Extension of CM and CA Contracts

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2018-___:

1. On page 2, line 21 ***insert*** the following:
   "**BE IT FURTHER RESOLVED** that the Governing Body, in the exercise of its authority, hereby terminates the contracts of the City Manager, City Attorney and City Clerk at the conclusion of this thirty-day renewal period."

Respectfully submitted,

_____
Joseph M. Maestas, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

Exhibit "4"

CITY COUNCIL MEETING OF
February 14, 2018
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Javier Gonzales

Co-Sponsors	Title	Tentative Committee Schedule
Ives	A RESOLUTION COMMITTING THE CITY OF SANTA FE AS A FULL AND ACTIVE PARTICIPANT AS A COMPASSIONATE CITY; AND AUTHORIZING THE MAYOR TO IMPLEMENT THIS RESOLUTION THROUGH APPROPRIATE MEANS.	Finance Committee - 2/19/18 City Council - 2/28/18

Councilor Carmichael Dominguez

Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE RELATING TO THE INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; AMENDING SUBSECTION 9-2.6 TO MAKE CHANGES TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING TO INCREASE THE REPORTING THRESHOLD FOR BALLOT PROPOSITIONS TO FIVE THOUSAND DOLLARS.	Ethics and Campaign Review Board - TBD Finance Committee- 3/5/18 City Council (request to publish) - 3/14/18 City Council (public hearing) - 4/11/18

Councilor Mike Harris

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Peter Ives

Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION TO DEVELOP A PROGRAM FOR THE CITY TO ENGAGE AND WORK COOPERATIVELY WITH THE PRIVATE SECTOR ON MAKING TOILETS AVAILABLE FOR PUBLIC USE.	Public Works Committee - 2/26/18 Finance Committee- 3/5/18 City Council - 3/14/18

Councilor Signe Lindell

Co-Sponsors	Title	Tentative Committee Schedule

This document is subject to change.

Exhibit "5"

Councilor Joseph Maestas		
Co-Sponsors	**Title**	**Tentative Committee Schedule**

Councilor Chris Rivera		
Co-Sponsors	**Title**	**Tentative Committee Schedule**

Councilor Ron Trujillo		
Co-Sponsors	**Title**	**Tentative Committee Schedule**

Councilor Renee Villarreal		
Co-Sponsors	**Title**	**Tentative Committee Schedule**

Introduced legislation will be posted on the City Attorney's website, under 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, jbguillen@santafenm.gov or Linda Vigil at (505) 955-6501, lfvigil@santafenm.gov .

This document is subject to change.

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2018-__

INTRODUCED BY:

Mayor Javier M. Gonzales

Councilor Peter N. Ives

A RESOLUTION

COMMITTING THE CITY OF SANTA FE AS A FULL AND ACTIVE PARTICIPANT AS A COMPASSIONATE CITY; AFFIRMING THE CHARTER FOR COMPASSION; AND AUTHORIZING THE MAYOR TO IMPLEMENT THIS RESOLUTION THROUGH APPROPRIATE MEANS.

WHEREAS, La Villa Real de la Santa Fe de San Francisco de Asís, the Royal Town of the Holy Faith of Saint Francis of Assisi, has been revered for centuries as a sacred place for healing, reflection, and transformation; and

WHEREAS, compassion and kindness are fundamental to a healthy society, and is recognized in both secular and spiritual communities; and

WHEREAS, in a Compassionate City, the needs of all the inhabitants of that community are recognized and met, the wellbeing of the entire community is a priority, and all people and living things are treated with respect; and

WHEREAS, a Compassionate City is populated with people who are motivated by compassion to take responsibility for and care for each other; and

Exhibit "6"

WHEREAS, the principle of compassion lies at the heart of all religious, ethical and spiritual traditions, calling us always to treat all others as we wish to be treated ourselves; and

WHEREAS, compassionate actions and policies produce positive benefits in all sectors of civic and community life, including safety, education, religion, public health, business, politics, the environment, spiritual well-being, and intergovernmental relations; and

WHEREAS, compassion impels us to work tirelessly to alleviate the suffering of our fellow creatures, to dethrone ourselves from the center of our world and put another there, and to honor the inviolable sanctity of every single human being, treating everybody, without exception, with absolute justice, equity and respect; and

WHEREAS, the U.S. Conference of Mayors passed a resolution in June of 2013 to endorse the Campaign for Compassionate Cities; and

WHEREAS, we come together to declare Santa Fe as a Compassionate City that promotes and instills a kind and compassionate culture; and

WHEREAS, Santa Fe strives to be a livable city of peace, environmental sustainability and well-being, where all may thrive and realize their full potential; and

WHEREAS, Santa Fe's Compassionate City initiative is aligned with compassionate cities nationwide and encourages kindness and compassion campaigns universally in our schools, colleges, and neighborhoods; and

WHEREAS, the spirit of Compassionate Santa Fe is to identify, recognize, and promote kindness as a means to a more equitable and compassionate community and professional environment to better support community and one another; and

WHEREAS, the primary goal of Compassionate Santa Fe is to have a kinder, more compassionate, and more authentic experience in Santa Fe, which will promote and practice equity, inclusiveness and connection for all of its residents.

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

CITY OF SANTA FE that La Villa Real de la Santa Fe de San Francisco de Asís, the Royal Town of the Holy Faith of Saint Francis of Assisi shall be a full and active participant as a Compassionate City.

BE IT FURTHER RESOLVED that the Governing Body affirms the Charter for Compassion and joins the International Campaign for Compassionate Communities Initiative, in which citizens, government, and institutions commit to working together to embrace and apply compassionate solutions and encourage community service to meet the needs of children, families, communities, and neighbors.

BE IT FURTHER RESOLVED that the Mayor of Santa Fe shall be authorized to implement this resolution through any practical means they deem appropriate in their sound discretion.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2018.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2018/Compassionate City

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2018-__

INTRODUCED BY:

Councilor Carmichael A. Dominguez

AN ORDINANCE

RELATING TO THE INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING; AMENDING SUBSECTION 9-2.6 TO MAKE CHANGES TO INDEPENDENTLY SPONSORED CAMPAIGN COMMUNICATIONS AND REPORTING TO INCREASE THE REPORTING THRESHOLD FOR BALLOT PROPOSITIONS TO FIVE THOUSAND DOLLARS.

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

Section 1. Section 9-2.6 SFCC 1987 (being Ord. No. 2005-14, as amended) is amended to read

9-2.6 Independently Sponsored Campaign Communications and Reporting.

A. Any person or entity that makes expenditures of two hundred fifty dollars ($250.) or more in the aggregate during a single election to pay for any form of public communication including print, broadcast, cable or electronic advertising, billboards, signs, pamphlets, mass mailers, mass electronic mail, recorded phone messages, organized phone-banking or organized precinct-walking, that is disseminated to one hundred (100) or more eligible voters, and that either expressly advocates

Exhibit "7"

the election or defeat of a candidate[~~, or the approval or defeat of a ballot proposition~~]; or refers to a clearly identifiable candidate [~~or ballot proposition~~] within sixty (60) days before an election at which the candidate [~~or proposition~~] is on the ballot, shall thereafter, on each of the days prescribed for the filing of campaign finance statements, file with the city clerk a report of all such expenditures made and all contributions received for the purpose of paying for such expenditures on or before the date of the report and which have not been previously reported. Each report shall be submitted on a form prescribed by the city clerk.

B. Any person or entity that makes expenditures of five thousand dollars ($5000.) or more in the aggregate during a single election to pay for any form of public communication including print, broadcast, cable or electronic advertising, billboards, signs, pamphlets, mass mailers, mass electronic mail, recorded phone messages, organized phone-banking or organized precinct-walking, that is disseminated to one hundred (100) or more eligible voters, and that either expressly advocates the the approval or defeat of a ballot proposition; or refers to a clearly identifiable ballot proposition within sixty (60) days before an election at which the proposition is on the ballot, shall thereafter, on each of the days prescribed for the filing of campaign finance statements, file with the city clerk a report of all such expenditures made and all contributions received for the purpose of paying for such expenditures on or before the date of the report and which have not been previously reported. Each report shall be submitted on a form prescribed by the city clerk.

C. For subsections A and B above, contributions shall be specified by date, amount of contribution, name, address and occupation of the person or entity from whom the contribution was made. No contribution shall be reported in the name of a person who is not the actual contributor or who has been or will be reimbursed or compensated for the contribution by another person. The president, chief executive officer or equivalent position shall certify on the filing that its expenditures were or were not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, his/her representatives or agents or the candidate's political committee. Expenditures

shall be specified by date, the amount of the expenditure, the name and address of the person or entity where an expenditure was made and the purpose of the expenditure. No report is required under this subsection for expenditures made exclusively for communications to the news media, editorials, reports or commentary by the news media, impartial candidate forums or debates or the announcements thereof, or for impartial voter guides allowed by the Internal Revenue Code for Section 501(c)(3) organizations or a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel unless the membership organization or corporation is a campaign committee or a political committee.

*Editor's Note: Please renumber the succeeding paragraphs accordingly.

APPROVED AS TO FORM;

_____

KELLEY A. BRENNAN, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2018-__

INTRODUCED BY:

Councilor Peter N. Ives

A RESOLUTION

TO DEVELOP A PROGRAM FOR THE CITY TO ENGAGE AND WORK COOPERATIVELY WITH THE PRIVATE SECTOR ON MAKING TOILETS AVAILABLE FOR PUBLIC USE.

WHEREAS, tourism is a mainstay and critical component of the Santa Fe economy; and

WHEREAS, the City lacks sufficient numbers of publicly available toilets to serve either the City's tourists or its residents, primarily in the downtown area; and

WHEREAS, for the City to be a welcoming city for its residents and tourists alike, more public restrooms are required; and

WHEREAS, public restrooms are expensive for the City to construct, maintain, and repair; and

WHEREAS, given the built environment in Santa Fe, locating public restrooms presents many challenges; and

WHEREAS, wayfinding to existing public restrooms ~~could~~ must be improved; and

WHEREAS, most businesses located in the City have restrooms that are available to

Exhibit "B"

their customers; and

WHEREAS, public institutions, other than the City, also have restrooms that might be made available for public use; and

Comment [JG1]: We do have restrooms available in City Hall and the Convention Center. Or are you referring to places that aren't currently available to the public, but could be?

WHEREAS, the City should attempt to work both with other public institutions and the private sector on a program to make more restrooms available to the general public; and

WHEREAS, private business are already engaged in conversations about such programs; and

WHEREAS, hundreds of cities around the world are working cooperatively with their private sectors to make bathrooms available by using various incentives including cash payments, reduced billings for city services and other similar measures; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that:

A. The City Manager is directed to work with the Tourism Department, the Parks and Recreation Department, the Transit Department and the Water Department, as well as other departments or divisions as may be necessary or advisable, to create a program to make restrooms located in private business available for public use, one such terms as are prudent and advisable;

B. And to also work with other public institutions within the City of Santa Fe to make available as many restrooms for public use as is possible; and

C. To update existing wayfinding materials so that access to all such facilities is clear; and

D. To explore and report on placing and/or expanding bathrooms in existing City facilities, like parking structures; and

E. Review and evaluate how similar programs are operated in other cities; and

F. Report back to the Governing Body in ninety (90) days about the feasibility and cost of such a programs or programs.

PASSED, APPROVED AND ADOPTED this _____day of _____, 2018.

_____

JAVIER M. GONZALES, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, CITY ATTORNEY

M/Legislation/Resolutions 2018/Public Restrooms