



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
FEBRUARY 13, 2019
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Regular City Council Meeting – January 30, 2019
9. PRESENTATIONS
10. CONSENT CALENDAR
 - a) Request for Approval of a Form of Preliminary Official Statement in Connection with the City of Santa Fe Net Wastewater System / Environmental Services Gross Receipts Tax Revenue Bonds, Series 2019 (the "Bonds"), and Authorizing its Use by the Underwriters in the Sale of the Bonds. (Mary McCoy, Finance Director, mtmccoy@santafenm.gov, 955-6171 and Bradley Fluetsch, Cash & Investment Officer, bjfluetsch@santafenm.gov, 955-6885)
11. Highlights from the Law Enforcement Assisted Diversion (LEAD) Santa Fe Program. (Kyra Ochoa, Community Services Department Director, krochoa@santafenm.gov, 955-6603)
12. MATTERS FROM THE CITY MANAGER
13. MATTERS FROM THE CITY ATTORNEY

EXECUTIVE SESSION:

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: February 8, 2019

TIME: 4:20 PM



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
FEBRUARY 13, 2019
CITY COUNCIL CHAMBERS

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Subsection 10-15-1(H), Part (7), Discussion and Approval of Proposed Settlement Agreement Between the City of Santa Fe and the Bankruptcy Estate of Railyard Company, LLC, in Bankruptcy Case No. 15-12386-t7, Pending in the United States Bankruptcy Court, District of New Mexico. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

14. Request for Approval of Proposed Settlement Agreement Between the City of Santa Fe and the Bankruptcy Estate of Railyard Company, LLC, in Bankruptcy Case No. 15-12386-t7, Pending in the United States Bankruptcy Court, District of New Mexico. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)
15. MATTERS FROM THE CITY CLERK
16. 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
 - Community Development Commission
 - Regional Juvenile Justice Board
 - Bicycle and Trails Advisory Committee
 - Children and Youth Commission
- H. PUBLIC HEARINGS:
 - 1) Appeal by Allen Holmes of the Public Works Department's Decision to Deny Permit Application #18-10-20 to Access Public Right-of-Way at 924



Agenda

REGULAR MEETING OF
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CITY COUNCIL CHAMBERS

Agua Fria Street. (Michael Prinz, Assistant City
Attorney, mnprinz@santafenm.gov, 955-6554)

- 2) **Case #H-18-110 505 Apodaca Hill.** Appeal of the Historic Districts Review Board's October 23, 2018 Decisions Denying Applicant Iscah H. Carey's Application for Retroactive Approval of 1) Construction of an Approximately Six-Foot High Interior Fence; and 2) a Massing Exception for a Greenhouse Approximately Twenty-Two Feet in Diameter and Eleven Feet Tall, Which is Made from Transparent Polycarbonate Panels and Two-by-Fours, Constructed on Top of a Circular Two-Foot Pony Wall. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

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. and the Governing Body does not vote to extend the meeting, 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.

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 13, 2019**

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 Alan Webber, on Wednesday, February 13, 2019, at approximately 5:00 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor Alan Webber
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Roman "Tiger" Abeyta
Councilor Mike Harris
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler

Members Excused

Councilor Renee D. Villarreal

Others Attending

Erik Litzenberg, City Manager
Erin McSherry, City Attorney
Yolanda Y. Vigil, City Clerk
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

Ms. Vigil announced that item 10 (b) is postponed to March 13, 2019.

MOTION: Councilor Ives moved, seconded by Councilor Vigil Coppler, to approve the agenda as published.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

7. APPROVAL OF CONSENT CALENDAR

Councilor Ives commented on the postponed item 10 (b). >>>>

Councilor Harris requested discussion on item 10 a).

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Ives, to approve the Consent Agenda as amended with item 10 (a) removed for discussion and item 10 (b) postponed.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

8. APPROVAL OF MINUTES:

Regular City Council Meeting – January 30, 2019

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the minutes of January 30, 2019 as presented.

VOTE: The motion was approved on a voice vote with Mayor Webber, Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

9. PRESENTATIONS

There were no presentations.

10. CONSENT CALENDAR LISTING

None.

CONSENT CALENDAR DISCUSSION

- a) Request for Approval of a Form of Preliminary Official Statement in Connection with the City of Santa Fe Net Wastewater System / Environmental Services Gross Receipts Tax Revenue Bonds, Series 2019 (the "Bonds"), and Authorizing its Use by the Underwriters in the Sale of the Bonds. (Mary McCoy, Finance Director, mtmccoy@santafenm.gov, 955-6171 and Bradley Fluetsch, Cash & Investment Officer, bjfluetsch@santafenm.gov, 955-6885)

Mr. Fluetsch said this is the preliminary official statement and plan to go to the market in two weeks. The preliminary official statement outlines to the Bondholders the description of the bond sale. The Bond Counsel is here.

Mr. Peter Franklin (Modrall) said the POS is a bond offering document that provides all the information that a reasonable investor would consider pertinent to make a decision to invest. We spent considerable time with the City Staff to assemble the document and you all need an opportunity to review it. And if there is anything you think is missing that is important, please let Mr. Fluetsch know.

Councilor Harris said he pulled this from Consent because it is important for the public to understand what is being accomplished here in this facility. This is our third example in recent times. But there are also sustainability aspects so can you talk about that so members of the press and those watching can understand what we want to accomplish. I did ask questions. I did not see the certification attached but saw early on the disclaimer (which he read aloud). It seemed like we should be able to have in front of us the certification from CBI. He asked why we don't, and his response was that this is preliminary. "Perhaps you could tell us where we stand on getting certification and who the verifier is."

Mr. Fluetsch said this is for the City Wastewater Department to build two digesters. They currently flare methane gas. The facility was built in 1952 and this is a new version. This digester has a cogeneration capability by capturing methane to combust for energy generation and up to 92% of the energy is consumed so it will run on renewable clean energy and the heat off the combustion will heat the digesters to offset or eliminate the use of natural gas. So these are economic and environmental benefits. Because it fits within the green bond initiative, we are seeking certification from the entity in London. They expect we will have it by this weekend. The Verifier is First Environment who will confirm that the digester will do the things we say it will do. This is from where we were to where we will be, saving 4,000 metric tons of CO₂ equivalent. It is the equivalent of providing 419 homes with total energy use. That is what that we are not going to put out in the atmosphere in the future, once the digester is built and operational. It is very much

in line with our goal to be one of the most sustainable cities in the US. By issuing the green bond, it will be the first in New Mexico and the first certified anaerobic digester in the world. We have all worked together to get this done. The verifier, as first step they should get the verifier report that it is a green project and will do these things and will spend the bond proceeds on that digester. This goes to CBI and once the verification report is submitted to them, they will certify it no later than Monday.

Councilor Harris acknowledged that as an important story. We heard some of that in the Committee.

He noticed that it is pledged revenue from wastewater and also pledged against GRT. He asked why that was necessary and needed to bolster it.

Mr. Fluetsch said it is a standalone and is from wastewater and also the 1/16% of environmental GRT. That is used to support wastewater and the environmental stream. That part of GRT is in the Income Statement. We are not pledging any of the other parts of GRT as we do with our other bonds.

Councilor Harris asked what kind of timing is expected in the sale of the bonds.

Mr. Fluetsch said he met last week with Fitch and Standard and Poor's and who expect to rate the wastewater facility by Friday. And in a phone call with underwriters who will go through the POS. The underwriter's obligation is to the bond holder to make sure they are representing to the bond buyers from the POS is accurate. The market is set for February 27 and proceeds by mid-March.

Councilor Rivera asked Mr. Jones what this means for ratepayers.

Mr. Jones said they went through the model and how it aligns with our financial planning and concluded that it will not affect the rates.

Councilor Rivera thanked everyone who worked on this. He did not think we realized we could apply for green environmental bonds. And to have the first digester in the world is awesome.

Mayor Webber noted the original alternative was to pay for it out of cash and from what Councilor Harris mentioned of the growing confidence in our City Finance Department, he asked why this approach makes more sense.

Mr. Fluetsch said this is a \$16.1 million project. By issuing the bond, it allocates the cost to the people who will use it for the next twenty years. So those will benefit for it as part of their fees. It also preserves cash. Long term interest rates are still incredibly low. So we can invest the cash and if the Federal Reserve continues to raise rates, the City can earn as much as we want with no arbitrage and have cash balances to do it. And given where interest rates are now, it is a lay-up.

Mayor Webber saw that as a financial win and an environment win. He asked Mr. Fluetsch where he first heard about green bonds.

Mr. Fluetsch said he attended a conference and saw the workshop on green bonds and then heard about our project and made the connection. This is all about ESP - environmental social investing. Our City needs to step up and show there are not only green bond buyers but also sellers.

MOTION: Councilor Rivera moved, seconded by Councilor Harris to approve the POS for sale of Environmental Services Gross Receipts Tax Revenue Bonds, Series 2019.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

- unanimous by roll call vote.

Mayor Webber echoed Councilor Rivera's thanks. It puts Santa Fe in a position of leadership and is tremendously satisfying to see that team work.

- b) CONSIDERATION OF RESOLUTION NO. 2018-____. (Councilor Ives, Councilor Romero-Wirth and Councilor Rivera)
A Resolution Approving the Exchange and Transfer of One Tract of City-Owned Real Property Located at 4491 Cerrillos Road to the State of New Mexico in Exchange for the Transfer of Multiple Tracts of State-Owned Real Property to the City of Santa Fe. (Sean Moody, Asset Development Manager, sxmoody@santafenm.gov, 955-6213) (Postponed on December 12, 2018) (Postponed to March 13, 2019)

This item remained postponed until the March 13, 2019 Council meeting.

11. Highlights from the Law Enforcement Assisted Diversion (LEAD) Santa Fe Program. (Kyra Ochoa, Community Services Department Director, [kroshoa@santafenm.gov](mailto: kroshoa@santafenm.gov), 955-6603)

Kyra Ochoa introduced the team of LEAD Santa Fe, which the City has hosted since 2013. The program is a unique collaboration between DA's Office, treatment, Law

Enforcement, and Community Services.

Director Shelly Moeller provided a brief overview. She described the work as a pre-arrest diversion program to divert people who are apprehended into nonviolent programs with a unique collaboration among disciplines in a harm reduction approach. It recognizes that addiction is complex, and the goal is overall wellbeing instead of total abstinence.

The program was launched in May 2014 and they now have 180 clients in the program. The first three years was a pilot period with six clients in the program. The main areas impacted here are health status and quality of life, treatment and recovery, lower criminal recidivism, and economic outcome. She referred to the handout in the packet.

The Evaluator from UNM described the evaluation of LEAD as very rigorous and dynamic - quantitative for things we could measure and qualitative from those involved in it. They interviewed clients, worked with the program director on how to survey. The average time in the program for clients was 18 months. There was a slow roll out. Some positive findings realized were a decreased use of heroin, decreased days they were depressed; also fewer emergency medicine and ER visits by 13% and a decrease in ER visits for drug or alcohol diagnoses. Days of treatment increased. Which means many decided on medical assisted treatment, increased work days; increased access to permanent housing. The report is on the LEAD website. In the course of interviews, clients reported a change in how they were seen. They helped clients reduce the stigma of their addiction. The answers to questions on how they felt about self-included increased hope. Client engagement mattered to them. Those who saw the Case Manager more frequently said the engagement made a difference. It is important as the City considers funding programs like this, to make sure the program can be monitored to ensure using the funds for what the City allocated them for.

For criminal recidivism, there was a significant reduction in arrests and the number of days of detainment. In the post period clients had average days of 55.9 and the comparison group was 126 days. That has a huge impact on costs for public safety. The resulting cost savings were minimally 17%. There was no way to know if they got other services. So the potential cost savings could be even higher.

Lt. Williams said the police officers understand each time we arrest for opiates that detainment is not the long-term solution. This program is a long-term solution and it works as long as the client participates. Our goal is to get people motivated and keep them engaged. We are looking forward to working even more with them next year. If we recruit the right people for the program, we can improve recidivism numbers.

Ms. Ochoa said the change in the last four years with case management, behavioral health agency and now transitioning it to the Fire Dept is appropriate. We wanted more outreach and to physically meet them where they are. And if you haven't heard from them to try to find and re-engage them.

The Fire Department has dedicated a fourth staff person to deal with opiate overdose prevention, intervention and response. The efforts have brought a grant to 2020 to hire a social worker, an evaluator and to reimburse part of paramedic's salary and can provide case management. Opiates are the most substantial risk to life. The biggest take home is that the result is incalculable. Merging police and fire seemed like a good strategy to eliminate redundancy. This disease does not know any bounds.

We now have a \$200,000 two-year outreach program. They are in process of reassigning that officer. The County Sheriff's office will be referring into the program. In conclusion, we feel ready to take on the case management program.

Councilor Vigil Coppler said her familiarity with the program is due to helping in court. In teen court, the judge determines when graduation is appropriate. When does that happen here?

Ms. Ochoa said we don't have a set time criterion, but they are in recovery. We have specific requirements or charge to divert. They are always on the books. They don't need services any longer. It is their decision and up to them to make their statement when they no longer need services. We are four years old. It might be different in 10 years for how to graduate people. It takes a long time for them to get out of committing crimes to support their habit. But if they need more help later on, they still have a case manager to come back to.

Councilor Vigil Coppler said in Teen Court, the people are actually arrested and brought to court. In LEAD, she was getting the idea that maybe the Fire Department just comes across someone who could use LEAD help.

Ms. Ochoa agreed. There is no arrest, but they come into the program. They all have an opioid use problem. They may be shoplifting to support the habit. They don't go into the criminal justice system but at the officer's decision, get a warm handoff to a case manager who takes the person and begins the program. If they don't finish paperwork in 14 days, they are arrested.

Councilor Vigil Coppler said Senator Rodriguez spoke to us about the program and mentioned an appropriations bill being considered.

Ms. Ochoa said that appropriations bill asked for \$700,000 for Santa Fe County, Rio Arriba County, Doña Ana County, and Bernalillo County. It takes time to get the program together. The bill has been heard and passed by Senate Judiciary.

Councilor Vigil Coppler applauded all who are working on it. In her experience in District Court it has improved things significantly.

Councilor Ives echoed those comments. Thank you for taking it up and moving it forward. It is a wonderful program and thanks to Councilor Dimas who helped bring it to

Santa Fe.

Councilor Rivera recalled Councilor Dimas was a champion of the program when it first started. He asked if they see the changes happening.

Lt. Williams said their motivation is to help is to save lives - so opiate overdose has an enormous toll on life here in Santa Fe. It is not a static program but a dynamic group in Fire Dept trying to respond to needs of the community. We are responding to community needs.

We are already doing the case management and outreach and the only thing changing is the referral source. We were concerned about how much we would need to do, and it is in perfect alignment with our primary work. We moved into case management with the grant. Some people don't want our help, and some won't answer the door. But others have a high level of engagement. There is plenty more that could be done. This gives Fire fighters a more proactive engagement, but he did not know the number of added hours.

Ms. Ochoa said the Case Manager serves for those who come in-house. Their housing is covered through a state program - So all of those partners will continue to pay for services associated with the program costs of case management, supervision, as well as treatment and housing. They also collaborate with other resources in the community. The individual care plan is put together to determine what services are needed.

Councilor Rivera thought Santa Fe is probably first with this model and he thanked the people working in this program.

Mayor Webber thought Santa Fe is second in the nation behind Seattle. It is a strategic approach that makes sense and saves lives.

12. MATTERS FROM THE CITY MANAGER

Mr. Litzenberg had a couple of matters. He announced the City has received the CAFR and will have a link to it on the City website. Ms. Keyes will send Councilors the information on it. It was filed on time with the State Auditor. It came back with unmodified ranking, so it is a good review. There were ten findings, down from 14 previously.

Secondly, he announced the budget process is well underway. Councilors should be receiving the final schedule very soon. The hearings at Finance Committee will be in late April. Thank you, Mayor.

13. MATTERS FROM THE CITY ATTORNEY

Ms. McSherry said on February 22, they will have a service for those here for five years. Secondly, she formally introduced Ms. Sally Paez who comes to the City from the

New Mexico Supreme Court. Sally has jumped right in with Land Use and several other things for now.

Ms. McSherry recommended the Governing Body go into executive session to deal with the bankruptcy at the Railyard for approval of the agreement.

EXECUTIVE SESSION:

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Subsection 10-15-1(H), Part (7), Discussion and Approval of Proposed Settlement Agreement Between the City of Santa Fe and the Bankruptcy Estate of Railyard Company, LLC, in Bankruptcy Case No. 15-123860t7, Pending in the United States Bankruptcy Court, District of New Mexico. (Erin K. McSherry, City Attorney, ekmcsberry@santafenm.gov , 955-6512)

MOTION: Councilor Rivera moved, seconded by Councilor Ives, to go into executive session pursuant to Section 10-15-1(H)(7) for the purposes listed on the agenda.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

The Governing Body went into closed executive session at 6:07 pm.

At 6:46 p.m., the Governing Body was called back to order.

MOTION: Councilor Rivera moved, seconded by Councilor Ives to return to open session, stating for the record that during the executive session, no actions were taken, and the discussion was limited to the matter stated in the agenda.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

14. Request for Approval of Proposed Settlement Agreement Between the City of Santa Fe and the Bankruptcy Estate of Railyard Company, LLC, in Bankruptcy Case No. 15-12386-t7, Pending in the United States Bankruptcy Court, District of New Mexico. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Ms. Paez, on behalf of the City Attorney's Office, requested the approval of the settlement in Bankruptcy Case No. 15-12386-t7.

MOTION: Councilor Ives moved, seconded by Councilor Harris, to approve the agreement as presented.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

15. **MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

16. **COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of the communications from the Governing Body for resolutions and ordinances introduced is incorporated here with to these minutes as Exhibit 1

Councilor Vigil Coppler attended on behalf of City and District 4 an opening for Regal Santa Fe Theater opening. "They expressed such gratitude for City of Santa Fe."

She showed the Lucite plaque that gave her. She did not know where to put it, so she handed it to Mayor Webber. She commented that they have the best seats of any theater.

Councilor Lindell wished the entire City family a happy Valentine's Day.

Councilor Ives concurred in Councilor Vigil Coppler's assessment of the new Theater seats. "You can recline and that is the one danger there." He introduced an ordinance to specify height limitations in the South-Central Highway Corridor District.

Councilor Harris was pleased to meet with our new liaison team yesterday. It is great that the positions are filled. Time will be needed for them to figure out how to work together. It is not a strict assignment and they are complementary and collegial. So there will be 8 bosses and they need to be aware of that as well. One trick question is who they report to. He and Councilor Romero-Wirth had things to say last year when going through it. They said their authority goes through the City Manager's office.

Mayor Webber reported spending a couple of days around creative placement about what makes Santa Fe a special place and what we revere and what we want to change going forward. A number of creative presentations were made both here and in Albuquerque. He was sorry Councilor Villarreal was not here. She attended on Sunday and spoke to things around SFAUD and how we think about inclusion. It had robust conversation and neighborhoods and investments on the south side housing as we look at accessory dwellings, short-term rentals, and gentrification. Those will be topics we continue to address. There were guests from Austin, Phoenix and other places. There are lots of conversations across the community about what it will look like. There are also some issues in the Legislature with serious tax reforms; a hold harmless provision; and as we look at budget conversations, our lobbyist is keeping us informed in weekly email briefings. Councilor Lindell was at the Capital today. It is a fast-moving session. The Governor is clear on her agenda.

Councilor Harris asked the City Clerk when she would announce candidate packets would be available for the election for four council seats in November.

Ms. Vigil said she will meet with candidates in April and provide packets.

Councilor Harris noted the City is without a PIO, but this has to be high priority for our City and citizens. So we need to start publishing information.

Mayor Webber said that can go out through Constituent Services. Meanwhile, we are proceeding on selection of a PIO.

End of Afternoon Session at 7:00 p.m.

EVENING SESSION – 7:00 P.M.

A-E. CALL TO ORDER AND ROLL CALL

The regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called back to order for the evening session by Mayor Alan Webber, on Wednesday, February 13, 2019, at approximately 7:00 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe.

Present at the evening session were:

Members Present

Mayor Alan Webber
Councilor Signe I. Lindell, Mayor Pro-Tem
Councilor Roman "Tiger" Abeyta
Councilor Mike Harris
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler

Members Excused

Councilor Renee D. Villarreal

Others Attending

Erik Litzenberg, City Manager
Erin McSherry, City Attorney
Yolanda Y. Vigil, City Clerk
Carl Boaz, Council Stenographer

F. PETITIONS FROM THE FLOOR

Becky Casper said she realized everything that needs to be said takes more than two minutes. She said, "I compiled a comprehensive list of questions from various employees within this organization throughout various departments. It will be emailed when I leave the podium. I also have copies, if anyone in the audience would like to be aware as well. So let me ask a few questions. Why does the city hire a former employee investigated of time card fraud to lead and implementation of an ER P system designed to create transparency? In that same person is brought in at 45 dollars an hour, which is approximately nine dollars over the position that was cannibalized to accommodate him, which was previously budgeted at. How is it that no AFSCME employee has been privileged to any raises from this organization that these employees are aware of? Yet the Finance Department's Administrative Assistant has been reclassified as an Office Manager of an office of one and given a \$20 an hour raise? How is it that 80% of an HR Department have left with what they claim is a hostile environment and no one takes notice of the mass exodus? How is it that the HR Director has been able to hire and supervise her niece from the County? This is a direct violation of the HR Policy. How is it that all high paying positions have miraculously appeared without budget or no budget adjustment approval with these employees through the Governing Body. The PA's that were shown to me by former members of HR simply I have no budget approval on them. They have been signed off by your Finance Director. Does anyone else see the oddness that a specific Councilor has either a personal or familial relationship to the newly appointed Finance Director, the Project manager for a municipal judge that appoints the audit committee and was deemed to be the Chair of Finance Committee? And yet, no

one has raised any questions. And how many more families and relatives and campaign contributors will be hired or awarded contracts before this Governing Body demands oversight, or better yet, and Attorney General or State Auditor demands of this body?

I do hope what I brought up and the email that will be sent out will cause the Governing Body to stand up and protect the employees and the residents that you have been elected to represent.”

Stefanie Beninato said, “I am talking about recreation again, because I forgot to mention two weeks ago that you have \$2 million sitting in the fund for Salvador Perez. I’ve been told that it has been there for a year and a half. But seemingly, you are waiting until July to do anything, until the next funding cycle. And people go over there to see what’s going on. I don’t know why, Mayor, you keep saying that something is going on there because nothing is going on at Salvador Perez. So we wonder why we have all this money sitting in a pot that you are not using to actually get the job done so that you can open the recreation facility, so that we are all not disadvantaged by having to go to one place and try to share a facility that is not designed for that number of people. And f again, I want to point out that five weeks, one of the front doors at Genoveva Chavez have been broken - the disability door at GCCC. They adjust the heat on the pool on Friday afternoons for the swim meet that they say they have to, it doesn’t get turned up again and it is too cold for seniors like me to go swimming. We think you can heat them properly.

G. APPOINTMENTS

1. Community Development Commission

Mayor Webber appointed Rosario H. Torres to serve on the Community Development Commission.

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to approve the appointment to the Community Development Commission.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

2. Regional Juvenile Justice Board

Mayor Webber appointed Andrea M. Sandoval to serve on the Regional Juvenile Justice Board.

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to approve the appointment to the Regional Juvenile Justice Board.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

3. Bicycle and Trails Advisory Committee

Mayor Webber appointed Bruce Finger to serve on the Bicycle and Trails Advisory Committee.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Ives, to approve the appointment to the Bicycle and Trails Advisory Committee.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

4. Children and Youth Commission

Mayor Webber appointed Jennifer Romero to serve on the Children and Youth Commission.

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to approve the appointment to the Children and Youth Commission.

VOTE: The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, and Vigil Coppler voting in favor of the motion and none voting against.

Councilor Rivera thanked Councilor Vigil Coppler for letting Council know when the BTAC position was open, to get a District 3 person on it.

H. PUBLIC HEARINGS:

- 1) Appeal by Allen Holmes of the Public Works Department's Decision to Deny Permit Application #18-10-20 to Access Public Right-of-Way at 924 Agua Fria Street. (Michael Prinz, Assistant City Attorney, mnprinz@santafenm.gov, 955-6554)**

This public hearing was presented by Ms. Vigil.

Mayor Webber enumerated the proper procedures for the hearings.

The first was the appeal by Allen Holmes of the Public Works Department's Decision to Deny a Permit Application for Mr. Holmes to access public right-of-way at 924 Agua Fria Street.

Councilor Rivera said he had never seen an appeal of a Public Works Department decision.

Ms. McSherry explained there is a two-line process for it. There is no procedure included there for a public hearing, which makes it a final decision and no opportunity to appeal except to District Court. She said she has not done an exhaustive review of other departments yet.

Mayor Webber said this was the first time for him, too.

For disclosure of communications with Governing Body members, there were no disclosures.

Mr. Prinz for staff report, said he prepared the memorandum that is in your packet. He shared a map for the Council which he hoped would be helpful.

The appeal is by Alan Holmes at 924 Agua Fria Street. Mr. Holmes applied for a permit to allow him to extend an existing driveway next to his property. The Public Works Department accepted the application and staff went out to the site and they denied the application because it would interfere with access to the neighboring property at 926 Agua Fria.

And showed a map of 924 and 926 driveway. He said the 928 property also crosses the right-of-way. In the past, cars have parked on the driveway. And that is why he applied for the curb cut.

Section 23-3.1 deals with permits for curb cuts. And for the appeal right, Mr. Holmes has the right to appeal the decision. That is my presentation. I hope it is somewhat clear.

Mr. Holmes him was sworn to provide testimony. Mr. Holmes said, "My letter of explanation was not included in the packet."

Mayor Webber asked Ms. McSherry if not having the letter in the packet means we need to postpone this appeal.

Ms. McSherry agreed.

Mayor Webber said it is really unfortunate because we thought we had it all but

don't. And it not fair to you that we would sit here and absorb it. I'm concerned we would not give it due consideration. This is unanticipated and hard for us to cite, listen and read and absorb at the same time. We thought we were prepared to do that, which is most significant to the appellant.

MOTION: Councilor Lindell moved, seconded by Councilor Ives, to postpone the appeal to a date certain of February 27, 2019.

Mr. Holmes agreed to the delay to February 27, 2019 and agreed it is an unfortunate mistake.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

Against: None.

Mayor Webber offered sincere apologies to Mr. Holmes and to any of the neighbors who came to this meeting. So it is unfair to you or any of the neighbors.

Mr. Holmes said he appreciated it

Mr. Prinz said it should have it in the packet. He apologized for that.

- 2) **Case #18-110 505 Apodaca Hill. Appeal of the Historic Districts Review Board' October 23, 2018 Decisions Denying Applicant Iscah H. Carey's Application for Retroactive Approval of 1) Construction of an Approximately Six-Foot High Interior Fence and 2) a Massing Exception for a Greenhouse Approximately Twenty-Two Feet in Diameter and Eleven Feet Tall, Which is Made from Transparent Polycarbonate Panels and Two-by-Fours, Constructed on Top of a Circular Two=Foot-Pony Wall. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)**

Mayor Webber asked for any disclosures after restating the procedure for the appeal.

Councilor Ives said he did a transaction with Mr. Henry Carey who at one time had called to ask about the appeal process and he couldn't tell him much about what was appealed, and he could not think it would cause him from acting on this matter.

There were no other disclosures.

Mayor Webber clarified that there are two matters in this case for appeal and two motions would be required - one on the fence appeal and the other on the greenhouse appeal.

Ms. Sally Paez would present the Staff Report. Also present are Ms. Carol Johnson, Land Use Director and HPD Staff member Carlos Gemora who are available for any questions.

She said as a preliminary matter, that there were additional packet materials posted after the first packet was posted. That included a submission from a member of the public, Myra Guthrie, Exhibit M, which is a slide show presented by JenkinsGavin at the Historic Board meeting and are part of the items on appeal. One more preliminary matter was to remind the Governing Body that it is quasi-judicial procedure like a court of law and your responsibility tonight is to reach a decision de novo, based on the law and facts of the case. So you will put your independent judgement about whether the H Board correctly applied the law in this case.

The applicant appellant requested the Governing Body reverse a denial of those two strictures that are already constructed in the appellant's yard: a fence and a greenhouse. The Board denied those structures. so Ms. Carey is now asking you for approval. Ms. Paez showed pictures that are in the packet that might be helpful.

She briefly described the pictures including pictures of the interior fence that is over 40' back from Apodaca Hill and not subject to streetscape standards. The Findings of Fact found that the interior fence looked like a neat Asian fence style. The Board said it was not a Santa Fe style fence. They concluded the fence was disharmonious with the outward appearance of the Downtown and Eastside Historic District where 505 Apodaca Hill is located. The code says it must be harmonious. And they also spent some time discussing public visibility and whether the fence needed to be publicly visible in order for it to be part of this outward appearance. In discussing that, they relied on an interpretation of what is publicly visible that has been applied that she thought by Staff and Board but is an informal unwritten interpretation that something behind an exterior wall or fence or landscaping is still publicly visible and subject to regulations. Ms. Paez asked the Councilors to consider if the fence must in Santa Fe Style to be in harmony with the Downtown and Eastside Historic District, and in doing so, perhaps consider how public visibility as interpreted in the code might play into that. There is an interpretation of public visibility in the code and include in the appendix on page 13. She read it

Ms. Paez then showed a picture of the greenhouse which was constructed, using a prefab kit. It is over 21' feet in diameter and over ten feet in height on top of a two-foot stem wall.

In evaluating the greenhouse, Staff determined that specific standards do not speak specifically to greenhouses and determined that greenhouses would need to be screened. The determination of staff was that it did not meet typical standards for buildings and the appellant needed an exception with six criteria which she read.

The applicant applied for an exception and the Board found some of the criteria were not met. But the code said all six criteria must be conclusively met to be granted.

The Board said the exception criteria were not all met. So you are to decide if you agree with the appellant.

She asked the Governing Body to make specific motions on each part.

Ms. Colleen Gavin, 130 Grant Avenue, was sworn.

She showed a video to the south part of Apodaca hill and the streetscape there. She showed a vicinity map and pointed out various streets in the neighborhood. She showed the subject property and the greenhouse that was built February 2017 and the studio and the six-foot fence. She then showed the before of the house and then the renovation of it. She showed the street face and confirmed no view of interior fence or greenhouse was possible.

She said, "In the application, we showed that the streetscape is the first twenty feet from the street and the fence is further in. The code is silent on internal fences and a four-foot fence doesn't need a permit. They are approved administratively. This has a low parapet and is completely invisible from the street. She showed the internal fence with metal frames. It matches identically to two other fences in the District. Whose pictures she displayed and pointed out that they are right on the street. The greenhouse was shown as integral with the rest of the property.

Ms. Jennifer Jenkins, 130 Grant Avenue, was sworn. She said greenhouses are allowed in the R-1 zones and the Historic Code does not govern use. It is subject to the zoning district of which the property is a part. The H Code is silent regarding greenhouse and the reason is that green houses were at that time established not in the same style as today. All the rest of the historic districts have specific guidelines for greenhouses. She showed a map of the districts with tan for downtown and other colors for the rest.

So, if your greenhouse is in the Downtown District, you can only get it with an exception. But next to Apodaca Hill, you could have one across the street on Camino Lemitar, without an exception since it is in another historic district.

Appellant's Statement

Ms. Iscah Carey, 505 Apodaca Hill, was sworn and said some people know her as Jessica. She said, "I live and work full time at my property. I bought it in 2005 and spent

the 14 years renovating my property for me and my daughter, who is now graduating from Santa Fe High. My first year, we lived in a teepee in Santa Fe on Cerro Gordo Hill. I spent my whole life up and down the Santa Fe River since 1968. So when I bought my home, it was for me very much my home.

Regarding my greenhouse, I grew up in farm land and my parents taught me great appreciation for my environment. I appreciate a greenhouse for simple design. I hardly have to water because it evaporates and comes back down. It not only feeds my family, but I trade plants with my neighbors.

On the fence, I'm a mixed media artist and collaborated many times with metal smiths. And when I was finally able to build an interior fence to keep my dogs from running out into the street, I put up the fence to help. The fence is deep within the property and cannot be seen from the street.

I was misinformed that structures within my property aside from permanent buildings still require prior permitting. All the work on my house and studio was done with full approval of the HDRB. I would not have willingly risked putting myself in stressful and potentially very destructive process, had I known. My Landscape Contractor told me that permits were not needed, and I trusted her in that. These two projects were the final touches in the 14-year process of creating my ideal home with my daughter. Being native to Santa Fe, I feel strongly about community and integrity and the right to protect and preserve our local way of life. I have worked very hard to create a beautiful home and community on Apodaca Hill. That is why I ask for you, Mayor, and Council members for your understanding and forgiveness in this matter and your support in letting me keep what I have worked so hard to build and protect. Thank you.

Applicant Questions of Staff.

Ms. Jenkins said they have no questions for Staff.

Public Comment

Ms. Stefanie Beninato was sworn and spoke in support of the Board's decision and spoke first to the fence and why they spoke about visibility. The Board for years and years, had a former City Attorney, Kelly Brennan said a fence or wall can be easily removed so what is behind it is to be considered visible to the public. So they have to look at it as if it is visible. They have been doing that for years. It is a beautiful fence but not at all Santa Fe style. The Applicant actually renovated the property. But instead of coming to the City to get a permit for the fence, and with the greenhouse, they just built the greenhouse, based on a landscape architect's or contractor's advice, instead of coming to the City for permission. The Code said the owners are responsible for knowing what is in the Code and not knowing that is not an excuse for asking after the fact. And what was done to the primary structure was great and the use is not relevant to what is going on

here. And the fact that there is nothing in the East side Code about greenhouses had nothing to do with equity and fairness. I would like to open a factory here. But it is not equitable not to let me to have my factory there. That is where that argument goes. Choosing to live in a historic district and in a historic house means you have chosen certain limitations and just need to abide by them. And nothing said here actually addresses the exception criteria. The Board was quite willing to allow a greenhouse, as long as it looked more like a historic structure on the east side.

There is no hardship, and none talked about here. This was totally of the Applicant's own making. They decided to put in a greenhouse without asking for a permit. They haven't done anything to allow them to have a greenhouse.

Maura Guthrie asked for time to speak slowly and accommodate 40 seconds over two minutes. She lives at 503 Apodaca Hill and an adjacent neighbor.

I apologize if I have offended Iscah in any way and I am saddened by the attached letters that are a negative reflection of me. I'm a nice person and have an impeccable reputation in the law-abiding here. I am the transparent David in the non-transparent, powerful rich that brings us all here tonight. I am especially thankful for the Historic Review Board and their work at preserving the historic style of this city. I'm excited about my purchase of the Gonzales Family Home on Apodaca Hill and pray that my renovations truly reflect the historic nature. I have a few questions. Since my first letters submitted in January went missing, can the Council delay your decisions so that you can adequately study my letter. Am I part of the public? Am I visible? Does Iscah own the responsibility to keep water and stormwater off my property? Does she have stormwater storage to prevent seepage through the wall to reduce hydraulic pressure? If the wall fails, is Iscah responsible? Does her watering or irrigation of vegetables not become part of the water problem. Does the wall have least negative impact? Does Jenkins/Gavin have an influence in the business relationship with either the City or Henry Carey? In Henry Carey's sworn statement he called the geodesic dome temporary. Has Iscah denied me the right and associate with my ownership? If I can find a builder and say I didn't need a permit, can I build a house without a permit? What are the City fines for building without a permit? Most states require a tear-down. Does the City have different rules for rich people? When can I get the rules in print? Can I build a contemporary home with a greenhouse if I build a historic style casita in front of it?

I spoke to her two times two years ago. And the letter =s imply something. What does a victim need to prove defamation? Would a national newspaper find it an interesting human-interest story for a disabled cancer survivor ex-teen USA athlete present to the Santa Fe City Council?

Diana Armijo was sworn and said, "I and my husband live at 513 Apodaca Hill, directly behind this property. Abel and I do not have any objection to the greenhouse. We can see the top of it, but it is not objectionable. It is very well built, and we have no reason to object to people wanting to grow their own food. And we don't object to the wall. Her

property is sunken into the road. Jessica has a substantial investment in the greenhouse and gate and feel it is unfair for her to lose what she built.

She said, "Apodaca Hill is rapidly changing with new people moving in. There are affluent residents and retirees. Some homes are large and new, and some are small. Some have been there many decades. And passed their property down. Some have chickens, goats, horses, etc. Once in a while, the neighbors don't have any problems. We appreciate the outdoors and each other. All in all I don't object to them.

Arly Valdez was sworn and said, "I have lived on the hill all my life. My ancestors have too. I've built homes and mansions. It is changing completely and no longer is completely historical. Jessica is a great neighbor and we get along well. I hate to see her have to move her greenhouse. People there built houses with whatever they could get their hands on - hauled with their donkeys and those were small houses to live in.

Maybe we need to go back to small houses and their greenhouse - is more historical than some of the mansions. Thank you.

Michael Montez was sworn and said, "My daughter lives at 501 and I am sorry to see someone come in from outside to control things and that is what the issue is. I think it would be a hardship to have to remove it.

Peter Valdez was sworn and said he was born and raised on that hill. "And speak from my heart, she is a wonderful friend. I have no issue with the greenhouse. I don't like to take sides. I believe in getting along. I am a good friend with everyone. We have neighbors help each other and that is the way I look at it.

I like her greenhouse and she has shared with my family - my wife and our 4 and 6-year-old children. I'd like to have a greenhouse and not have the city interfere with that. Thank you.

Henry Carey was sworn and said, "This is my daughter. As I followed the process and the complaint that led us here regarding the amenities, I've developed a big concern for the viability of the historic district. In 1967 I moved into a house on Camino Cabra. I've worked on the trails and helped secure an easement up there. I have an office on Canyon Road. I have a high regard for the historic district and the HDRB is protecting my environment. But the events here made me fear what is developing. I spoke to several in the district. The process, in order to work, needs three things: clear standards, applied in consistent manner, and fall within the Code. I think the commonsense task is to not say the fence is clearly visible and I don't believe they have the power to overcome physics that it is visible when it cannot be seen. Thank you.

Jill Sutherland was sworn and said this residence is incredibly beautiful in making the hundred-year-old adobe renovated. It is respectful and harmonious. The greenhouse and fence cannot be seen from the street and we should keep it.

Robert Trujillo was sworn and said, "Sometimes it is hard for us to witness what is happening here in Santa Fe. They keep talking about the Santa Fe look but talking with locals – they have a very different opinion. Seret and Sons have architecture pieces stolen and decorating gateways have nothing to do with Santa Fe. Iscah is a local; was raised here and we need to understand why we call it the City Different. Territorial- frame houses on Palace are considered in style but they are not. I think we want to see the historical society recognize what is really important. And it is called the City Different for a reason. We would never have Territorial if everyone just did pueblo style. When someone proposes pueblo with stone, it gets turned down. This is a community that needs to be respected as a community. Trees are on the property. One tree on the property line was not going to go and that started all of this trouble. I ask you to be just and fair for what New Mexicans are.

Ben Light?? Was sworn. He said, "I've known Iscah for two decades and she is an honest person of great integrity. She has received an inordinate amount of trouble for this structure. Thank you.

Andy Burns was sworn and said "I have been up on Apodaca Hill for 20 years. I didn't hear about the greenhouse or fence until tonight. I think they are very beautiful. I've never seen them. I don't get up the hill much. I've had chickens for a long time. I'd like to have a greenhouse someday. I am a neighbor on the south side- I've known her 14 years and never had a problem with any of her building projects that she has done a beautiful job.

Iscah's daughter was sworn and said, "My parents are divorced, and my dad and I have moved around a lot. The house at 505 has been in our family and I make that place my home and lived under stress and watched it built. I think they should stay. Thank you.

There were no other speakers from the public regarding this case and the public hearing portion was closed.

Questions by the Governing Body

The Governing Body was now able to ask questions, recognizing that the public hearing is closed and none of them could ask other speakers without reopening the public hearing.

Councilor Harris said it seems much of what the Board was relying on was the section on design standards that are on page 12. As he understood it, even though the historic standard doesn't speak to greenhouse design, the standards do apply to all structures within the Downtown District.

Ms. Paez agreed.

Councilor Harris asked, without going through these standards, if they apply to what is called a greenhouse. Do these standards allow for a structure like that?

Ms. Paez said the Historic Board was concerned about how far this structure was from the historic standards. Maybe it was not 100% but they felt it was so far from the design standard and it would be possible to have a design that fit better with the character of the district.

Councilor Romero-Wirth said it is true there are functional aspects to the greenhouse that make it difficult to fit with recent Santa Fe Style. And having said that, there was a possible request for an exception.

Councilor Harris said he was very sympathetic to what the neighbors have said. I represent District 4 and have lived there all my life and there are limitations on what people can do. In the future, the standards need to be clear.

Our code really resists structures like a greenhouse. I'm sympathetic with what has been done but there were serious mistakes made in not going through proper procedures for the greenhouse. But it happened and that is where we are right now.

Councilor Ives said regarding the discussion about public visibility and with Staff's understanding of that regarding visibility from that public's view. Somehow visibility has to be more than a moment in time because view sheds do change over time. Talk to me about the notion of publicly visible and what it should be. Just the streetscape or any public spot and not a moment in time? Or toward the possibility to change?

Ms. Johnson said the guidance we have is in the code and that is if a public portion is visible from a public place. It need not need to be at the street. So without having that advice, if any point in time the public would have access, it brings it into the purview of HDRB.

Councilor Ives asked if she was suggesting the primary residence would block the view of the greenhouse. I was wondering about the fence. Clearly it is a six-foot fence and 8 foot that blocks visibility. And they would have to keep that [perimeter] fence there to hide the style of the interior fence. Is that a condition that could be imposed?

Ms. Johnson said it has been interpreted that walls and vegetation are more easily removed and is the way they evaluate visibility. Perhaps an amendment to the code would help clarify that issue. I am cautious about that but that is what prompted the Board to recall a day when fences and walls were not prevalent in the City and started constructing the walls. The Board was fearful about providing an incentive for more walls to be constructed.

Councilor Ives noted this district makes no reference in the code to greenhouses

to say they are prohibited.

Ms. Johnson agreed. The Downtown historic district overlay is silent.

Councilor Rivera went to page 56 that was showing the streetscape and could only see inside with the gates opened up.

Ms. Johnson said the position of the Board is that the wall at the property line should not be considered as blocking what is on the interior.

Councilor Rivera asked if it was approved by the Board.

Ms. Johnson did not have knowledge of all of them.

Councilor Rivera asked Ms. Gavin about a mention of two similar fences with horizontal fencing and where those are located.

Ms. Gavin said they found two examples with metal frames and horizontal wood on 405 Martínez Street and at 525 Tony street. And both are in the Downtown and East Side and are right on the street. And they went to HDRB for approval. She showed their photographs and described them.

Councilor Romero-Wirth asked how these two examples are characterized.

Ms. Gavin said architecturally, I would say it is metal frame with horizontal wood.

Councilor Romero-Wirth asked if they are harmonious with Santa Fe Style.

Ms. Gavin said they don't look Asian to her. They use historically appropriate materials in a manner that serves a very practical purpose. They are used for screening.

Ms. Johnson added that they are more harmonious with the east side character. These two examples with metal seem more consistent with the style we see on the East side and not like an Asian style.

Councilor Rivera asked Ms. Carey how they were done.

Ms. Carey said she did a little interior work and then in 2013 took the dirt off the roof. There is concrete in there to hold up the old adobe as supports. "I did a small addition to the north side to create a larger bedroom and bath for my daughter. There was a fire in there in 2007 so that was started in that year."

Councilor Rivera asked if she did the main home around 2007 but not the studio at the same time.

Ms. Carey agreed.

Councilor Rivera asked if she got HDRB approval for that.

Ms. Carey said she did, a year later. "I saw the green house as temporary. It has no foundation - it is on dirt with some rebar. I thought the scope of HDRB was only permanent buildings. I saw people building things all the time and did not think about what I would or could not do when I bought the home."

Councilor Abeyta asked if the applicant got a permit to build a fence. "I was concerned HPD Staff on page 2 said it is not part of the streetscape. Would this require a permit?"

Ms. Johnson said the direction that was given to staff would have been administrative approval because it is outside the streetscape. It was new construction and in an enclosed structure and because it was in the district, was subject to standards of the district.

Councilor Vigil Coppler thought there were no standards for greenhouses.

Ms. Johnson agreed there are no specific standards for a greenhouse but there are general standards for all structures.

Councilor Vigil Coppler thought she heard that staff recommended retroactive approval on them.

Ms. Johnson agreed.

Mayor Webber understood on what constitutes publicly visible uses that what we have is a word-of-mouth interpretation unto generation. The interpretations would need to be in writing to be fair.

Ms. Johnson agreed, and the code allows appeals of the interpretation of the LUD.

Mayor Webber surmised there is not a written interpretation. So it is not possible to interpret it was publicly visible. So, if I cannot see something that is behind a wall. Can you explain how it is publicly visible?

Ms. Johnson said in looking back, it is a policy such as wall and fence guidelines. If it was interpreted as a barrier, then the Board could not review anything that is behind a wall.

Mayor Webber asked Ms. Paez about the two examples and if they should be considered precedent or anomalies, if we think they are ugly. What precedence do we have?

Ms. Paez said in her view it is hard to compare directly between the wall and gate on Martínez and Tony Street and think this is different. I'm not an expert on architecture but because these are distinguishable, I don't think there is a binding precedent. If they were identical, it could be. They are different in design and style to differentiate.

Mayor Webber said he asked about public visibility with regard to both. If this Body found it not publicly visible, that we would consider either of them publicly visible.

Ms. Paez said it doesn't lead to all visibility. But the Board used that in their conclusion. Public visibility is fairly broad and doesn't mean just a person standing on Apodaca Hill on a publicly visible trail or another place. I don't think there is confusion with streetscape whether a block or section. Here, I think everyone agreed these structures are not within the streetscape. The broader public visibility bringing it under the district regulation is a broader definition.

Mayor Webber said "We have not fleshed it out what it means in the code but is essential. The Board thought it important to declare it publicly visible but with the greenhouse they did not see it as important whether visible or not. Where would I find some discussion on greenhouses?

Ms. Paez said, "It is a good question. You might find something on it.

Mayor Webber said, "I'm troubled by doing things and asking permission later. And that includes building walls. I am troubled by asking for permission later. I would like more information after getting permission twice before without thinking you needed to even find out what the regulations might say.

Ms. Carey said, "On Apodaca Hill, there were things being built there. I thought it was more a temporary structure - was something not on a foundation. Carport or sheds I didn't see as permanent structures, so I did not think I needed permission for that. And living on the east side I talked with contractors and builders. My outer wall is not to be considered permanent, but the interior fence is. I am trying to navigate that, and it is the reason I hired these women.

Mayor Webber asked if the greenhouse is anchored in with rebar.

Ms. Carey agreed. She described its design and mechanisms. She had not seen anything like that which was comparable.

Councilor Lindell said from the discussion or legal, we were talking about the general design standards for all He Districts and exceptions. "I heard you say you could have built something a lot closer - but a lot closer to what?

Ms. Paez said she was trying to convey design in both general standards and

Downtown Standards that work together in this case. Downtown standards talk about old Santa Fe Style and recent Santa Fe style. The two kind of interlock.

Councilor Lindell saw in the general design standards one thing about roof design and pitch.

Councilor Harris wanted to clarify one aerial survey that showed the lot line and there seemed to be a lot of open space in the back. Is this surrounded by residential on all sides?

Ms. Gavin agreed it is.

Councilor Harris thought she seemed to say the intent was pragmatic.

Ms. Gavin thought that was a statement made by the public, but she agreed with that statement. Whether it is a green house or a place for animals - whatever should go before HDRB for designation and approval.

Ms. Johnson clarified with the City Attorney that the HDRB is not charged with purview over zoning.

Ms. Paez said that is right.

Ms. Johnson explained that zoning dictates use and the HDRB has jurisdiction over what it looks like. So the issue is what the greenhouse looks like. She thanked the public for coming out. It is an incredible property and the owner has done a great job and brought new life with it.

Ms. Johnson read from Chapter 14-5.2 on the general purposes which is what the Board relied on.

Ms. Paez agreed with that. And in her review of minutes and Findings of Fact, that is what the Board was focused on.

Ms. Johnson said someone referenced the lack of guidance. In 1999, the Board adopted the wall and fence guidelines in some cases. And they relied on them with regard on those guidelines.

Ms. Paez did not think they did. "My understanding is they would have if it was part of the streetscape which is the only place where they apply those guidelines.

Councilor Romero-Wirth asked if the Council should be looking at them then.

Ms. Paez said, "Only if you consider the wall part of the streetscape but that hasn't been part of the practice of the Board."

Councilor Romero-Wirth said Ms. Paez did a good job in helping us broaden our perspective on public visibility. If you were on a high hill, is it part of public visibility?

Ms. Paez agreed that is one part of it.

Councilor Romero-Wirth said places where the public has access is broad.

Ms. Paez agreed.

Ms. Johnson explained that we are trying to protect a certain look and I think that was what the HDRB was trying to do.

Ms. Paez agreed.

Councilor Ives pointed out that we talked a lot tonight about visible or not visible. And what being able to see something is. When I looked at the code and 5.2 E 4, that section deals with porches and portals. And it makes a flat-out statement whether a porch or portal that they shall not be enclosed. That doesn't seem to abide any exception. And when it comes to the greenhouse, I would think rather than a geodesic dome there are others more harmonious by style rather than a modern geodesic dome building. And I don't mean it as any negative statement. I fully respect what you are trying to do with this property. I wish more people put in gardens to be more resilient. It is Just dealing with the historic district. And I have a hard time on compatibility of a geodesic design with adobe structure designs in the district.

Ms. Paez said she would agree with that.

Mayor Webber asked why the guidelines say greater than 20' set back is not streetscape.

Ms. Paez said the wall and fence guidelines are for those within 20' from the street.

Ms. Johnson added "Not that there is a wall inside a wall but in how the wall looks because of historic culture."

Councilor Rivera asked if this does set a precedent for the decision tonight.

Ms. Paez suggested the Governing Body should certainly be consistent in its decision. But you are talking about harmony.

Councilor Rivera asked if we would set a precedent if we said a wall on the interior would not even need to be reviewed by the HDRB.

Councilor Vigil Coppler was trying to figure out how to make a question. Not too

long ago we were in here debating public visibility and it went on and on and the HDRB was adamant the building could not be demolished because it was visible to the public. And tonight, it may be streetscape or not be streetscape. I don't know how we can be sympathetic to streetscape in one and not in the other. We do need to be consistent and wonder if you are consistent.

Ms. Paez pointed out that she was not here with the City for that case.

Ms. Johnson agreed it is a difficult ordinance because of the confusion of names. In a demolition, it is with the result that will be on the streetscape without a structure being there any longer. The streetscape primarily applies to height and how we determine the average height of structures and also to demolitions in the harmony if it is removed and don't have a replacement to fill in or restore the streetscape after demolition.

Councilor Vigil Coppler said, "You are competent and deal with these issues all the time. So I don't propose to be an expert but will have comments. You or your staff did recommend approval of the wall and greenhouse.

Ms. McSherry clarified that there are two different terms - public visibility is not the same as streetscape - one is criteria.

Councilor Vigil Coppler was thinking streetscape but meant public visibility.

Ms. McSherry said streetscape applies to the street on which it is built. But public visibility can be from other places than just a street.

Councilor Vigil Coppler said she was having trouble with a person's right to use of their property.

Mayor Webber pointed out that where there are no written interpretations, there is confusion. Ms. Johnson pointed out that is what zoning is for - the use of property and where is the right of an owner to do something on their property. And that is where we end up struggling with precedent issues. It is a signal to our LUD to get clarity on our behalf and on behalf of Staff.

Ms. Johnson agreed with that statement. How we live changes over time and technology changes over time. Those are all reasons why a land use ordinance needs to be a living document. There seems to be a coalescing of historic preservation and more confusion happening and about dividing those two functions.

Councilor Ives said, "The Board, as opposed to the Staff on whether the various provisions were meshed or not is at issue. There is a distinction of exception as opposed to waiver.

Closing Statement.

Ms. Jenkins said, "In talking about this, it is purview and reasonableness of the intent of the historic ordinance and the evolution of our community. Things do change. We have more modern amenities and the solar panels and satellites. Let's assume I could see the greenhouse. What will you think? Oh, it is a greenhouse and people want to grow things in their greenhouse. It is a modern amenity to a historic property. At what point do we say no to that. The HDRB does have purview over the greenhouse. I don't deny that. We had to apply for an exception. The folks next door in their historic district could do it without exception. We better address greenhouses. Things have changed. We talked a lot about public visibility and streetscape but neither of these are publicly visible and are not in the streetscape. That is ironic. None of these materials are prohibited in the historic design guidelines. Horizontal boards are not prohibited. It is a fence. And there are identical structures right on the street in the district.

The point about the way we use our private property is important. We can have tree houses and storage sheds in our back yard. I don't think we want to go there, and I don't think the people who wrote it wanted to go there either.

We are invested in preserving a hundred-year-old adobe structure there for this girl who moved back home. Let's do that.

Councilor Vigil Coppler said, "I have real concerns about where the City is going and had them a long time and about the application of city code that has affected people in the town where I was born and raised. I'm concerned about private use of property. We have the HDRB members who have no time limits. We need fresh eyes. And we need to change. And in that, we are holding people hostage.

"In my real estate career about people who were hampered by out of date standards and some of them gave up and sold their house. I think these issues should no longer be on the back burner. I am not saying they have done a bad job. We just approved the sustainability plan and we can't talk out of both sides of our mouth. I didn't see anything in there that said we could not allow a geodesic dome greenhouse. They probably are more efficient. What about sustainability? Do people have to build mud hut greenhouses?

I really believe that I want a trusting staff. In the time before staff were on the other side. They are very capable. There are different definitions. We are harming people and I can't stand to see that. I am in favor of this and will grant the exceptions in this case.

Councilor Romero-Wirth said, "In my mind, the issue is not about having greenhouses. Santa Fe Style is an economic value for us. Yes, we need to evolve. And greenhouses are good to have but could fit in better with other values. I'm concerned that reversing the decision of the HDRB would undermine the purposes of the Act in 14-5.2 that outline, why we have these design rules and why they are valuable to us. And in regard to this particular greenhouse, as Councilor Ives said, it would need to meet all the exceptions outlined in the code. We haven't really talked about them and they have to

meet every single one. The first was do not damage the streetscape which is where the discussion came up. Second is to prevent a hardship to applicant and in the third, a full range of options to ensure people can reside in historic district; 4th; 5th. We could talk about those. The appellant went through them to say why they met all of them.

Regarding public visibility - you don't have to be standing on the street. A drone is an extreme - in our promotional materials we show what the architecture is, and the tourism dollar is very important to our city. The greenhouse should fit in better. With the fence, we should not talk about streetscape but about public visibility. The reason we have the ordinance is that we really value the architectural style and don't want to prohibit people using their property. I worry about the precedent it would set if they could build whatever they want behind a big wall.

Councilor Harris did not think the historic design standards were created to be fair or pragmatic or reasonable. I have to pay attention to them, no matter how I feel about them.

The whole question of public visibility and the history of determinations made by the Board that you can disregard a fence is a stretch. Harmony is a key concept. I asked the question about pragmatism, but harmony is the rule of the day. I think a wood fence could be considered harmonious. I am okay with the fence. The greenhouse is a different matter. It is not harmonious. However, I think people should live their lives. People limit the way they are going to live their lives with these restrictions. The applicant honored that in two instances and had an obligation with the fence and greenhouse and without going into maybe three that were met.

Councilor Abeyta said this is interesting. I grew up on the east side and it was the outsiders who came in and built big walls. We didn't have them because we were all family. The restrictions were put on us from the outside. I've seen the changes I experienced as well as parents and grandparents. As far as code goes, when in doubt I refer to Staff and staff recommended approval of both. I am inclined to follow staff in this case.

Councilor Ives noted there are nuances in the exceptions/ There was a specific reference to streetscape, and I think that is met from the walls there. In #2, staff agreed it was met and the Board did not make any comment there, but I felt they did not meet it.

#3 - heterogenous and range of options gets to me where greenhouses are allowed and feel they are allowed. But they could have proposed one in further harmony. Due to special conditions – a different Style could have been built there.

#5 - lack of not application means that was not met. Ignorance is not sufficient for that.

#6 - least negative impact - 14-5.2 on general purposes - I agree with the Board

that it could have been achieved with a greenhouse more in the Santa Fe style. So at least one of them was not met.

The fence also falls prey to the same requirement that it must conform to general principles. I don't think this design met what was intended under historic designation for this area of the City. Public visibility is a secondary consideration, by definition in the code. And the wall does not conform to the code.

Councilor Ives added, "I want to stress that I applaud the efforts of the applicant to do something that, in and of itself, is attractive. It is a beautiful wall but not in harmony with our code. I'd like to see more growing facilities and making food at home. And I want to look at that myself. And the other portions of your house certainly speak to the deep connections you have with where you grew up.

Councilor Rivera had similar comments with Councilor Harris. I am concerned about precedents, but it could have been done with staff approval administratively. And there are other examples, so I'm okay with the fence. With the greenhouse, the applicant should have researched with other construction on the property and at least asked about permits.

Councilor Lindell thanked everyone for coming out tonight. There was a lot of caring tonight. It is unfortunate that there are things we cannot take into consideration. We are asked to apply the code here. The other things have been said. The essence came down to page 11 in our packet on standards and it needed an exception and every criterion to be met. Other councilors have gone through those. With the fence, it is a little harder with me. I'm very familiar with the two examples that were brought up. I go by them every day. They both do sit on the street so they would be streetscape. But the wall and fence guidelines are not what we are talking about tonight. Like Councilor Romero-Wirth, I am troubled that you build something that is appealing to you and just put it behind another fence. I had not really thought about that. Everything I have to say has already been said.

Mayor Webber said this is a thorny problem and consistency is difficult to achieve. Different appearances and different uses. The logic of the finding behind the finding of HDRB eludes me.

But the case is sensible, and we have overarching responsibility on the design. I'm finding myself in similar frame as Councilor Harris. The appearance of the greenhouse is hard to make consistent with the design guidelines and I don't think the criteria were met. It is hard to make the six criteria jibe. I am not convinced, if we approve the fence, that we would see whatever was being built behind the wall. It would surprise me if that were the precedent that we established. The fence is not an egregious example that causes people to think we have gone into an entirely different vocabulary. The fence is not visible and should be left standing.

We have a set of options offered to us. Mayor Webber was open to hear a motion.

Councilor Romero-Wirth observed that the Council wants to approve the fence but not the greenhouse.

Mayor Webber reminded the Council that we have to take them separately. We could start with the greenhouse and then the fence, but not together.

Motion on the greenhouse appeal

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Harris, to deny the appeal and affirm the decision of the Historic District Review Board to deny the greenhouse.

Councilor Ives said the appeal is denied because it does not conform on exception criteria. The first criterion is met but not the other five.

Mayor Webber asked if that needs to be part of the motion.

Ms. McSherry said the findings could be in the motion, but they don't have to be in it. She added that the motion could deny the appeal without affirming all of the HDRB's reasons. If you affirm the conclusion of the HDRB, it is sufficient.

Mayor Webber understood the original motion is sufficient.

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

For: Mayor Webber, Councilor Lindell, Councilor Harris, Councilor Ives, Councilor Rivera, and Councilor Romero-Wirth.

Against: Councilor Abeyta and Councilor Vigil Coppler.

Motion on the fence:

MOTION: Councilor Harris moved, seconded by Councilor Rivera, to approve the appeal of the Historic Districts Review Board's decision to deny the fence.

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

For: Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Rivera, and Councilor Vigil Coppler.

Against: Councilor Lindell and Councilor Romero-Wirth.

I. ADJOURN

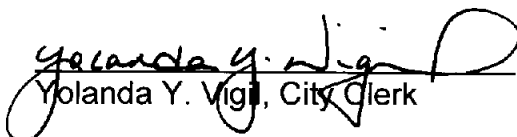
Having completed the agenda and with no further business coming before the Governing Body, the meeting was adjourned at 10:21 p.m.

Approved by:



Mayor Alan Webber

ATTESTED TO:



Yolanda Y. Vigil, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer



CITY COUNCIL MEETING OF
February 13, 2019
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

EXHIBIT 1
Council Feb 13, 2019

Mayor Alan Webber		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Roman Tiger Abeyta		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Mike Harris		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		
Co-Sponsors	Title	Tentative Committee Schedule
	<p style="text-align: center;">AN ORDINANCE AMENDING TABLE 14-5.5-4 TO SPECIFY THAT HEIGHT RESTRICTIONS WITHIN THE MIDTOWN LOCAL INNOVATION CORRIDOR ARE EXCEPTIONS TO THOSE SET FORTH IN THE SOUTH CENTRAL HIGHWAY CORRIDOR PROTECTION DISTRICT IN AREAS THAT ARE COVERED BY BOTH DISTRICTS AND TO REMOVE REFERENCES TO STRUCTURES THAT FALL WITHIN THE SOUTH CENTRAL HIGHWAY CORRIDOR PROTECTION DISTRICT THAT ALSO FALL WITHIN THE MIDTOWN LOCAL INNOVATION CORRIDOR OVERLAY DISTRICT.</p>	<p>Planning Commission – 3/7/19 Public Works Committee – 3/11/19 Finance Committee – 3/18/19 City Council (request to publish) – 4/27/19 City Council (public hearing) – 4/24/19</p>
Councilor Signe Lindell		
Co-Sponsors	Title	Tentative Committee Schedule

Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Carol Romero-Wirth		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Renee Villarreal		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor JoAnne Vigil Coppler		
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, jbg Guillen@santafenm.gov.