



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MARCH 27, 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 – March 13, 2019
9. PRESENTATION
 - a) Proclamation -- Santa Fe High Demons Boys Varsity Basketball Team (Councilor Vigil Coppler)
10. CONSENT CALENDAR
 - a) Request for Approval of Amendment No. 5 to Professional Services Agreement in the Total Amount of \$21,821.06, Plus Applicable Gross Receipts Taxes, for Professional Security Services; Universal Protection Service, LP, dba Allied Universal Security Services. (David Silver, Emergency Manager dmsilver@santafenm.gov, 955-6537; Mark Baca, Airport Manager, mbaca@santafenm.gov, 955-2901)
 - b) Request for Approval of FTA Section 5303 Federal Transportation Grant Funds in the Total Amount of \$68,493.43, for Santa Fe MPO Program Operations; Transportation/Transit Planning, NMDOT/ Federal Transit Authority (FTA). (Erick J. Aune, Santa Fe MPO Officer, ejaune@santafenm.gov, 955-6664)
 - 1) Request for Approval of Budget Amendment Resolution (BAR).

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: March 22, 2019

TIME: 2:37 PM



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- c) Request for Approval of FY 2019-2020 Law Enforcement Protection Fund Applications in the Total Amount of \$121,800, for Expenses Associated with Advanced Training and Purchase of Law Enforcement Apparatus, Equipment and Supplies from the State of New Mexico, Department of Finance & Administration, Local Government Division. (Andrew Padilla, Police Chief, aapadilla@santafe.nm.gov, 955-5102)
- d) Request for Approval of Amendment No. 1 to Professional Services Agreement in the Amount of \$69,800, for Network and Video System Installations at the Genoveva Chavez Community Center Facilities; HEI, Inc. (Larry Worstell, ITT Infrastructure Manager, lworstell@santafenn.gov, 955-5580)
- e) Request for Approval of Amendment No. 4 to Professional Services Agreement in the Amount of \$12,200, Exclusive of NMGRT, for Bid and Construction Documents for the BS3 to BS4 & Well #13 Fiber Optic Line Project; M&E Engineering. (Alex Gamino, Auto and Security Systems Administrator, aegamino@santafenm.gov, 955-4375)
- f) Request for Approval of Award of Bid '19/19/P in an Amount of Up To \$757,872, Exclusive of NMGRT, to Provide Groundwater Monitoring, Soil Vapor Monitoring, and Other Environmental and Engineering Services for Landfill Sites for a Period of Four Years; Intera, Inc. (Shirlene Sitton, Environmental Services Division Director, sesitton@santafenm.gov, 955-2209 and Alex Puglisi, Environmental Compliance Specialist, aepuglisi@santafenm.gov, 955-4232)
- g) Request for Approval of Amendment No. 1 to Professional Services Agreement to the Cost Share Agreement for Watershed Management to Extend the Term to 12/31/2019; USDA Forest Service. (Alan Hook, Water Resources Coordinator, aghook@santafenm.gov, 955-4205)
- h) Request for Approval of Change Order No. 1 to the Contract for a Decreased Amount of \$28,040.78, Inclusive of NMGRT, for the Waste Water Management Division Anaerobic Digester Project – CIP # 950; Bradbury and Stamm Construction, Inc. (Alan MacGregor, Engineering Supervisor, asmacgregor@santafenm.gov, 955-4623)



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- i) Request for Approval of Community Development Block Grant RFP '18/20/P, Professional Services Agreement Amendments No. 2 for Housing and Urban Development (HUD) Addition of Required 2 CFR 200 Specific Language Only; Homewise and Santa Fe Habitat for Humanity. (Jacqueline Beam, Affordable Housing Planner, jybeam@santafenm.gov, 955-6574)
- j) Request for Approval of Amendment No. 1 to Professional Services Agreement to Extend the Term and Increase Compensation in the Amount of \$50,000, for a Total Amount of \$140,000, for the Provision of Rental Assistance Administered by Life Link. (Alexandra Ladd, Affordable Housing Director, agladd@santafenm.gov, 955-6346)
- k) Request for Approval of Procurement of Two Ambulances Using Houston-Galveston Area Council (HGAC) Sole Source Agreement in the Total Amount of \$276,128 for the Fire Department; Southwest Ambulance Sales. (Greg Cliburn, Medical Officer, Fire Department, gbccliburn@santafenm.gov, 955-3123)
- l) Request for Approval to Accept Fiscal Year 19 Fire Protection Grant Fund Award in the Amount of \$100,000, to Purchase 45 P-25 Capable Mobile Radios Using NM State Price Agreement #70-000-16-00014AJ; Motorola Inc. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)
 - 1) Request for Approval of Budget Amendment Resolution (BAR).
- m) Request for Approval of Cooperative Pricing Agreement for Procurement Services for Local Public Bodies; Houston-Galveston Area Council (HGAC). (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)
- n) Request for Approval of Cooperative Pricing Agreement for Procurement Services for Local Public Bodies; FireRescue GPO. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)
- o) Request for Approval of Memorandum of Agreement No. 2019-0179-RECC/BT in the Total Amount of \$1,743,999.99, for the Public Safety Radio Communications System Solutions Project between Santa Fe County and the City of Santa Fe; Santa Fe County. The City's Portion for the Project is \$1,157,170.99. (Paul Babcock, Fire Chief, prbabcock@santafenm.gov, 955-3112)



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- p) Request for Approval of Procurement of One (1) 2019 Chevrolet Tahoe and One (1) 2019 Chevrolet Silverado 1500 in the Amount of \$76,182, Using NM State Price Agreement 70-000-16-00002, for the City of Santa Fe Fire Department; Melloy Chevrolet in Los Lunas. (Jan Snyder, Assistant Fire Chief, jmsnyder@santafenm.gov, 955-3121)
- q) CONSIDERATION OF RESOLUTION NO. 2019-____. (Mayor Webber)
A Resolution Ratifying Submittal of an Application to the New Mexico Finance Authority for Refinancing of Subordinate Lien Gross Receipts Tax Revenue Bonds, Series 2009 – Santa Fe University of Art and Design. (Brad Fluetsch, Financial Planning & Reporting Manager, bjfluetsch@santafenm.gov, 955-6885)
- r) Request for Approval to Publish Notice of Public Hearings on April 24, 2019:
- 1) **Bill No. 2019-3:** An Ordinance Amending Section 11-4 to Clarify the City Manager's Authority to Approve Budget Revenue and Expenditure Increases in Excess of \$60,000 Under Certain Circumstances and to Allow the Finance Department to Implement Re-Appropriations of Unspent Budget Amounts for Ongoing Grants and Capital Projects Upon Request by the Associated Department. (Councilor Abeyta) (Andy Hopkins, Budget Analyst, ajhopkins@santafenm.gov, 955-6177) (**Postponed on March 13, 2019**)
 - 2) **Bill No. 2019-5:** An Ordinance Amending Section 14-12 to Add a Definition for Banner; and Amending Section 14-8.10(A) to Remove Reference to the 400th Anniversary Celebration as it Relates to the Display of Banners. (Councilor Ives) (Liz Camacho, Economic Development and Communication Administrator, excamacho@santafenm.gov, 955-6042)



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- s) CONSIDERATION OF RESOLUTION NO. 2019-____. (Mayor Webber, Councilor Villarreal, Councilor Rivera, Councilor Romero-Wirth, Councilors Ives, and Councilor Lindell)
A Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of "Waters of the United States"; Submitting This Resolution to the Environmental Protection Agency; and Encouraging City of Santa Fe Residents to Submit Their Comments During the Public Comment Period Ending April 15, 2019. (Melissa McDonald, River Watershed Coordinator, mamcdonald@santafenm.gov, 955-6840; Alex Puglisi, Environmental Compliance Specialist, aapuglisi@santafenm.gov, 955-4232)
- t) Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Following Requests from 311 OSFT, LLC.: (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)
- 1) Approval of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Jimmy D's/The Map Room, 311 Old Santa Fe Trail, Which is Within 300 Feet of the San Miguel Mission and Chapel, 401 Old Santa Fe Trail.
 - 2) Approval of Transfer of Ownership and Change of Location of Inter-Local Dispenser Liquor License No. 2587, With On-Premise Consumption and Patio Service, from Zuma Corporation, dba Zia Diner, 326 S. Guadalupe Street, to 311 OSFT, LLC, dba Jimmy D's/The Map Room, 311 Old Santa Fe Trail.
- u) Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from National Dance Institute of New Mexico (NDI) for a Waiver of the 300 Foot Location Restriction to Allow the Dispensing/Consumption of Alcohol for their Annual Gala to be Held on Saturday, May 11, 2019, with Alcohol Service from 4:30 p.m. to 11:00 p.m. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6512)



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- v) Request for Approval of Amendment No. 1 in the Amount of \$1,119,813.12, (Paid in 96 Installments) for the Compressed Natural Gas (CNG) Fueling Facility Design, Build, Operation and Maintenance (RFP '18/01/P); Clean Energy. (Keith Wilson, Transit Division Director, kpwilson@santafenm.gov, 955-2223 and Shirlene Sitton, Environmental Services Division Director, sesitton@santafenm.gov, 955-2209) (Postponed on February 27, 2019) (Postponed on March 13, 2019) **(Postponed to April 10, 2019)**
- 11. Request for Approval of Award of Bid '19/16/P for On-Call Engineering Services for the Water System Capital Improvements Program (CIP): (Bill Schneider, Water Resources Coordinator, whschneider@santafenm.gov, 955-4203)
 - 1) Carollo Engineers in the Amount of Up To \$385,000, Exclusive of NMGRT.
 - 2) Hazen Sawyer in the Amount of Up To \$450,000, Exclusive of NMGRT.
 - a) Request for Budget Amendment Resolution (BAR) in the Amount of Up To \$786,172.
- 12. 2019 60-Day Legislative Session Report. **(INFORMATION ONLY)** (Mark Duran)
- 13. Request for Approval of a New Mexico Department of Transportation Requested Technical Amendment to Railroad Crossing Construction and Maintenance Agreement with New Mexico Department of Transportation, Pursuant to NMAC 18.14.4.9(A)(9), Regarding the Multi-Use Transportation Pathway Extension from the South Side of Alta Vista and the Western Side of the Railroad Tracks to the Eastern Side of the Railroad Tracks. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)
- 14. MATTERS FROM THE CITY MANAGER
- 15. MATTERS FROM THE CITY ATTORNEY
- 16. MATTERS FROM THE CITY CLERK
- 17. COMMUNICATIONS FROM THE GOVERNING BODY



Agenda

REGULAR MEETING OF
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MARCH 27, 2019
CITY COUNCIL CHAMBERS

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
- H. PUBLIC HEARINGS:
 - 1) CONSIDERATION OF BILL NO. 2019-2: ADOPTION OF ORDINANCE NO. 2019-____. (Councilor Vigil Coppler and Councilor Harris)
An Ordinance Amending Section 24-2.6 SFCC 1987 to Extend the Truck and Other Large Vehicles Traffic Restriction on Camino Carlos Rey from Cerrillos Road to Zia Road. (John Romero, Engineering Division Director, jromero1@santafenm.gov, 955-6638)
 - 2) **Appeal No. 2019-14 of Case #H-2019-005.** Appeal of the Historic Districts Review Board's January 22, 2019 Decision Denying a Proposal to Construct a 380 Square Foot Carport at 211 Delgado Street, Which was Based on the Board's Determination that the Carport Would Overwhelm the Primary Façade of a Contributing Structure in the Downtown and Eastside Historic District. (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.



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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
March 27, 2019**

ITEM	ACTION	PAGE
1. Call to Order	Convened at 5:00 p.m.	1
5. Roll Call	Quorum Present	1
6. Approval of Agenda	Approved as amended	1-2
7. Approval of Consent Calendar	Approved as amended	2
8. Approval of Minutes – March 13, 2019	Approved as presented	2
9. Presentations:	Demons Basketball	2-3
10. Consent Calendar Listing	Listed	3-7
Consent Calendar Discussion		
10(r) Public Hearings Notices	Approved	7-8
11. On-call Engineering Bid Awards	Approved	8-9
12. 2019 Legislative Report	Informational	9-10
13. Railroad Crossing Amendment	Approved	10-11
14. Matters from the City Manager	Comment	11
15. Matters from the City Attorney	Discussion	11-14
16. Matters from the City Clerk	None	15
17. Communications with Governing Body	Communications	15-17
Evening Session at 7:04	Quorum Present	17
F. Petitions from the Floor	Petitions Made	17-18
G. Appointments	None	18
H. Public Hearing		
1. Truck Restrictions Ordinance	Approved	18
2. Appeal of Case #H-2019-005	Appeal Granted	18-28
I. Adjournment	Adjourned at 8:25 pm	28

**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
March 27, 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, March 27, 2019, at approximately 5:00 p.m., in 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
Councilor Renee D. Villarreal

Members Excused

Others Attending

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

6. APPROVAL OF AGENDA

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, 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, Vigil

Coppler and Villarreal voting in favor of the motion and none voting against.

7. APPROVAL OF CONSENT CALENDAR

Councilor Lindell requested discussion on Item 10 (r) 2.

Councilor Vigil Coppler requested discussion on Item 10 (r) 1 for comment and questions.

MOTION: Councilor Abeyta moved, seconded by Councilor Ives, to approve the Consent Agenda as amended with Item 10 (r) pulled for discussion.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

8. APPROVAL OF MINUTES:

Regular City Council Meeting – March 13, 2019

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, to approve the minutes of March 13, 2019 as presented.

VOTE: The motion was approved on a unanimous 9-0 voice vote with Mayor Webber, Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

9. PRESENTATIONS

a) Proclamation – Santa Fe High Demons Boys Varsity Basketball Team. (Councilor Vigil Coppler)

Councilor Vigil Coppler and Councilor Villarreal, both graduates of Santa Fe High School, made the presentation.

Councilor Vigil Coppler said the Council is so glad to have our team here tonight.

Councilor Villarreal said she graduated in 1993 and was a former Demonette. She gave thanks to all coaches, families and the administration for supporting our players. We attended lots of games and are pleased with the sportsmanship which the team displayed throughout the season. Even though there were some bad calls, we were overwhelmed with emotion at the championship game in the Pit. Some people even flew in to watch it. There were injuries and illnesses to work through and for bringing our Capitol City together. And thanks to Coach Cole and the rest of the coaching staff; even the cheerleaders. You helped revive the spirit of Santa Fe High School. You will go on to great things and have a lot of pride.

Councilor Vigil Coppler read the whereas statements of the Proclamation and Mayor Webber proclaimed that March 27 was Santa Fe Boys High School Demon Day.

Coach Cole thanked the City Council on behalf of staff and players. He said they have six seniors here who paved the way to bring back pride to Santa Fe and lead to other great things. He introduced all the players and coaching staff. Everyone applauded and pictures were taken.

10. CONSENT CALENDAR LISTING

- a) Request for Approval of Amendment No. 5 to Professional Services Agreement in the Total Amount of \$21,821.06, Plus Applicable Gross Receipts Taxes, for Professional Security Services; Universal Protection Service, LP, dba Allied Universal Security Services. (David Silver, Emergency Manager dmsilver@santafenm.gov, 955-6537; Mark Baca, Airport Manager, mbaca@santafenm.gov, 955-2901)
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- r) This item was pulled for discussion by Councilor Vigil Coppler and Councilor Villarreal.

- s) CONSIDERATION OF RESOLUTION NO. 2019-14. (Mayor Webber, Councilor Villarreal, Councilor Rivera, Councilor Romero-Wirth, Councilors Ives, and Councilor Lindell)
A Resolution in Opposition to a Proposed Rule Change by the Environmental Protection Agency and the Department of the Army Revising the Definition of "Waters of the United States"; Submitting This Resolution to the Environmental Protection Agency; and Encouraging City of Santa Fe Residents to Submit Their Comments During the Public Comment Period Ending April 15, 2019. (Melissa McDonald, River Watershed Coordinator, mamcdonald@santafenm.gov, 955-6840; Alex Puglisi, Environmental Compliance Specialist, aapuglisi@santafenm.gov, 955-4232)
- t) Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Following Requests from 311 Old Santa Fe Trail, LLC.: (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)
 - 1) Approval of a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcohol at Jimmy D's/The Map Room, 311 Old Santa Fe Trail, Which is Within 300 Feet of the San Miguel Mission and Chapel, 401 Old Santa Fe Trail.
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- v) Request for Approval of Amendment No. 1 in the Amount of \$1,119,813.12, (Paid in 96 Installments) for the Compressed Natural Gas (CNG) Fueling Facility Design, Build, Operation and Maintenance (RFP '18/01/P); Clean Energy. (Keith Wilson, Transit Division Director, kpwilson@santafenm.gov, 955-2223 and Shirlene Sitton, Environmental Services Division Director, sesitton@santafenm.gov, 955-2209) (Postponed on February 27, 2019) (Postponed on March 13, 2019) **(Postponed to April 10, 2019)**

CONSENT CALENDAR DISCUSSION

r) Request for Approval to Publish Notice of Public Hearings on April 24, 2019:

- 1) **Bill No. 2019-3:** An Ordinance Amending Section 11-4 to Clarify the City Manager's Authority to Approve Budget Revenue and Expenditure Increases in Excess of \$60,000 Under Certain Circumstances and to Allow the Finance Department to Implement Re-Appropriations of Unspent Budget Amounts for Ongoing Grants and Capital Projects Upon Request by the Associated Department. (Councilor Abeyta) (Andy Hopkins, Budget Analyst, ajhopkins@santafenm.gov, 955-6177) **(Postponed on March 13, 2019)**

Councilor Vigil Coppler pointed out on the resolution on page 4, section F-2, that there was no maximum stated on that. While it doesn't have anything to do with a degree of trust but might be with City Managers in the future. It could be up to millions of dollars. She thought it was going to come back through committees and thought it was to be postponed for those hearings. She wondered if anyone else was concerned.

Mr. Hopkins said it is actually going back to Public Works. It went here only for a request to publish and then is going back to Public Works.

Councilor Abeyta noted that this is only to publish notice.

Councilor Vigil Coppler thanked him for clarifying that.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell to approve publishing the notice.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

- 2) **Bill No. 2019-5:** An Ordinance Amending Section 14-12 to Add a Definition for Banner; and Amending Section 14-8.10(A) to Remove Reference to the 400th Anniversary Celebration as it Relates to the Display of Banners. (Councilor Ives) (Liz Camacho, Economic

Councilor Lindell commented that she would encourage us as the Governing Body, regarding banners on different poles within the City to look at this not as individual projects but to come up with a policy and procedures and be careful with precedent and cost allocation and not violate the anti-donation clause and perhaps look at other cities' policies and procedures for it.

MOTION: Councilor Lindell moved, seconded by Councilor Ives to approve the amendment to the ordinance.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

END OF CONSENT CALENDAR

11. Request for Approval of Award of Bid '19/16/P for On-Call Engineering Services for the Water System Capital Improvements Program (CIP): (Bill Schneider, Water Resources Coordinator, whschneider@santafenm.gov, 955-4203)
 - 1) Carollo Engineers in the Amount of Up To \$385,000, Exclusive of NMGRT.
 - 2) Hazen Sawyer in the Amount of Up To \$450,000, Exclusive of NMGRT.
 - a) Request for Budget Amendment Resolution (BAR) in the Amount of Up To \$786,172.

Ms. Vigil clarified that this matter has been to Public Works and Finance Committees. The actual titles on the agenda had been incorrect and this one is accurate.

Mr. Schneider said the request for the first contract is for \$385,000 and it has gone through the committees for scope of services and clarification of total dollars. The second award was consistent and is for \$450,000. The budget adjustment request gives the total budget adjustment for both.

Councilor Harris knew this has attracted a lot of attention and he was very comfortable with it.

MOTION: Councilor Harris moved, seconded by Councilor Ives to approve the award to Carollo Engineers in the Amount of Up To \$385,000, Exclusive of NMGRT.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

MOTION: Councilor Harris moved, seconded by Councilor Ives to approve the award to Hazen Sawyer in the Amount of Up To \$450,000, Exclusive of NMGRT.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

12. 2019 60-Day Legislative Session Report. **(INFORMATION ONLY)** (Mark Duran)

Mr. Duran presented the report and noted he had shared a written report to Councilors and summarize that. Overall, he thought it was very successful, passing the hold harmless bill, HB 407 with changes to the local election act which needed more clean up. The short-term occupancy tax passed the legislature and was already signed by Governor Lujan Grisham. She has until April 5 to act on all passed legislation. They passed the airport management bill. One that was not successful was the Community Solar Act that got close to the finish line but not across. They just did not pass it.

There was lots of indirect legislation that benefitted Santa Fe. Among them were the film credits and cannabis bills. Recreational marijuana did not pass.

We landed \$9 million for the airport; \$2.2 million for the south side teen center, \$400,000 for solar; over \$1 million for community projects including restrooms at the Plaza' \$500,000 for the LEAD program.

Mr. Duran just had a meeting with DOT and there are \$10-\$20 million in road funding which the College of Santa Fe will participate in and perhaps more for

discretionary funding. So this session had a lot of money available. He felt the City got its fair share and maybe more.

He thanked all who worked hard for this achievement including City Staff and the City Manager. Director Wheeler was also available when needed. Over 40 bills became priorities, but he tracked over 160 bills and participated in all the analyses. And Mayor Webber did an amazing job with energy and time which was very helpful.

He applauded the incredible Santa Fe delegation. They deserve most of the credit.

Mayor Webber recognized the amazing job Mr. Duran did. He thought it was an all-time record and he was on duty all the time from that first breakfast to adjournment and provided a remarkable sense of solidarity. Thanks to his effort, the City came away with legislative wins and a plenty of capital outlay to move forward on.

Councilor Lindell remembered when she was first here years ago, and the Council approved a contract Mr. Duran. She thought it was a lot of money, but Mark worked hard for it and always give us answers. She didn't know how he kept track of all of it and balanced the relationships. This year was particularly a successful year. Thank you very much.

Mayor Webber pointed out that it is not over. The session is over but our work with the new administration, meeting today with the Secretary of Transportation, shows a new sense of cooperation and people want to work with us on our priorities. So he urged Mr. Duran to not go too far.

13. Request for Approval of a New Mexico Department of Transportation Requested Technical Amendment to Railroad Crossing Construction and Maintenance Agreement with New Mexico Department of Transportation, Pursuant to NMAC 18.14.4.9(A)(9), Regarding the Multi-Use Transportation Pathway Extension from the South Side of Alta Vista and the Western Side of the Railroad Tracks to the Eastern Side of the Railroad Tracks. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Ms. McSherry noted that Council voted on this at the last meeting and then DOT wanted to make a correction to substitute City for County in one section. She recommended passage of the amendment.

Mayor Webber understood this request is for cleaning up language for what was previously approved.

Ms. McSherry agreed.

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve the requested amendment.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

14. MATTERS FROM THE CITY MANAGER

Mr. Litzenberg said our staff is working on budget to get to you as soon as possible to allow Councilors to have a chance to study it before the budget hearings. He was still not sure on the date, but they are working hard on it.

15. MATTERS FROM THE CITY ATTORNEY

Ms. McSherry said she spoke with the Public Works Committee about procurement. The matter relates to confidentiality of proposals. She wanted to share a little background about it. The information is important. Technically, bids are in response to invitations to bid which are very different than requests for proposals. Invitations to bid are generally for a service or goods that can be described with particularity such that the only part that will matter, once the City gets responses to the request is the price. We don't necessarily have to look at quality or reputation. It is for a certain amount and a certain way.

In contrast to that, an RFP emphasizes quality, experience, expertise and things of that nature. And for that reason, those factors are weighted more than price. Also may include creativity. People put forth a lot of work on a proposal. In the review of RFPs, it often needs people who are experts to evaluate that type of information in a specialized way. So it is important in an RFP that the criteria are listed expressly and that the matter of evaluating those proposals are such that all of these vendors that are participating will know how they will be judged. Actually, the City of Santa Fe has the unfortunate distinctions of having one of the few published procurement cases in New Mexico and lost. That was in 1994 and the reason for losing and becoming liable for damages was that the City added the criteria after the request for proposals was issued. And we added a local criterion which had not been in the RFP. Later on, the City added local criteria to our ordinance, and we have that and could provide local vendors a preference. But at the time, we had not included⁴ that criteria but included it in the evaluation of proposals. We basically re-ranked the proposals, based on that local criteria.

The City became liable for damages for the time that bidder put into their proposal. It is one of the very few cases to deal with how RFPs work in New Mexico.

That brings us to letters of recommendation when we go into executive session when the Council wishes to discuss the criteria. It is based on the current code and that is certainly not something that is required for input but something to consider and something that can be changed. This is just a recommendation under our current code.

She just wanted to raise some of those potential justifications for the Governing Body's consideration. She clarified that the request for confidentiality is not about the RFP, itself. That is a public document which can be talked about in public. We can always share that with the public and can even talk about the basis for scoring and how each of those criteria were developed and speak to the basis of scoring. All of that is public before and during the process. We can disclose the recommended vendor and score. We can also give names of some vendors and number of proposals and after approval by the Governing Body, everything becomes public except for trade secrets. That is the way PERA does it. They have the proposal as public; they have a confidential portal to see the proposals and that becomes public after the award except for the trade secrets. That is a rare occurrence in City proposal requests but is possible.

What is confidential is the information in the proposal until the final vote to award. She suggested the Governing Body might want to consider that if an award is canceled, those proposals do not become public and the information remains confidential. That is to make all proposals fair. Some vendors might claim it was canceled due to public pressure to discuss it in the Council meeting or anything not in the original criteria. And those not awarded could claim public pressure.

The Council's role is to approve or deny the expenditure or if any mistakes were found in the RFP, that is an opportunity to correct a mistake. What the City cannot do, unless there was actually an addition error in calculations or were misapplied factors, is to substitute a different vendor.

Mayor Webber assumed she would share the written document after it is cleaned up.

Ms. McSherry agreed.

Councilor Ives said she mentioned the process in using the system for RFPs of a portal through which one would have access to the documents in order to re-evaluate them. He asked if that was what the City was moving toward.

Ms. McSherry agreed that is an option. We would provide a separate packet of confidential materials, what the proposal is about, and how contractors would be selected. That is posted on-line through a portal. We don't have to follow a certain strategy in that.

Councilor Rivera said there was a question at Finance and Public Utilities Committee about not being able to see actual amounts and how they scored.

Ms. McSherry explained that will be part of the proposal and is confidential but could be provided.

Councilor Rivera asked if Council would have to discuss that in executive session.

Ms. McSherry agreed.

Councilor Rivera asked if there is a way to protect staff who do the scoring and later have to go back and work with vendors on another project. He saw that as problematic.

Ms. McSherry said there is not a protection in place now except scores are confidential until final approval.

Councilor Rivera pointed out that an item Council approved tonight was an award for bid and neither of them was the lowest bid. It was an award of bid.

Ms. McSherry said it should be a request for proposals.

Councilor Rivera said that was #11 on this agenda.

Ms. McSherry added that, in common parlance, they are probably interchangeable but shouldn't be because it doesn't help to distinguish these two types of procurement.

Councilor Vigil Coppler asked if Ms. McSherry and City Manager envision some staff training to get the nomenclature and semantics correct so they will be on the agenda correctly. If Councilors cannot figure out the difference, and we don't prepare the agenda anyway - so how will staff know what to use when putting them on the agenda.

Ms. McSherry said she was not worried about it.

Councilor Vigil Coppler said she was concerned about it and maybe the public will catch on regarding what is public and what is not.

Ms. McSherry said the idea is to do a lot of training and she understand the point.

Mayor Webber asked for clarification. The items coming to Council as offers, under the process described, what are the parameters of the Governing Body's decision? Are we being asked to consider the evaluation? Councilor Vigil Coppler is right about accuracy of not just the title but the nature of the agenda item. You were saying there is an RFP and the answers are somewhat proprietary for what is competitive in nature. We

have experts who evaluate the proposals and recommend to the Governing Body. What are the range of actions at that point?

Ms. McSherry said it is- to approve or not approve and could be based on the expenditure involved if there is a mistake in the evaluation. It can't be because we don't like the vendor.

Mayor Webber was looking forward to reading the study in written form and what the implications are.

Councilor Romero-Wirth asked if we aren't the overseers to hold them accountable on clear criteria and that Staff has followed it correctly.

Ms. McSherry agreed. A mistake could be a reason to deny the award. Part of it is also approving the expenditure.

Councilor Romero-Wirth asked what the basis is for making that decision - that we know everything was done properly.

Councilor Rivera understood that even going back to the City's procurement process, that this is something we would have to deal with.

Ms. McSherry said it depends on what you put into the ordinance. Like local preference. Nothing says we have to follow the State's procurement code.

Councilor Romero-Wirth said Ms. McSherry outlined the process, but there are real reasons why things should be held confidential until award.

Ms. McSherry agreed. There are policy reasons and a process to determine the greater risks.

Councilor Romero-Wirth - maybe you have vendors whose work could actually hurt us.

Ms. McSherry agreed that is possible.

Mayor Webber said we can go over the written document and submit our responses. We will meet the test for confidentiality but provide the information the Governing Body needs to make the decisions in a response to an RFP in front of the Governing Body.

16. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

17. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of the communications from the Governing Body are incorporated herewith in these minutes as Exhibit 1.

Councilor Vigil Coppler had a question on procedure. When going through the charts in the packet that detail our votes in committee, she saw excused, absent and blank beside the members names. She wondered how she could get on the "good list like Councilor Lindell." As soon as she knows she will be absent, she notifies the chair but then sees a blank by her name and it looks like she just blew it off.

Councilor Romero-Wirth said she had one that said unexcused when she was first elected but had informed the chair, she would be absent.

Mayor Webber would explore that with the City Clerk.

Councilor Ives said Councilor Vigil Coppler is very diligent with notifying me when she has to miss a Public Works Committee meeting and that is audible at the meeting.

Councilor Abeyta said, "We worked out an agreement with the Santa Fe County Fire Department on issuing building permits in the annexed area at the Mutt Nelson Road and just pending your signature. There are residents awaiting their building permits.

Councilor Rivera noted if a Councilor is not present when consent is approved that is noted, He agreed with Councilor Ives that Councilor Vigil Coppler has always let him know when she would be absent to be listed as an excused absence.

"Lastly, my father's birthday was March 29 and he passed away. And the following March 29 my granddaughter was born. So I wish her a happy birthday. My wife's birthday is on April 3 and my sister's is on April 5."

Councilor Romero-Wirth is introducing an ordinance amending Section 25.4.3 commercial water users rebate program to expand eligibility to commercial water users, utilizing shared water users.

Councilor Harris updated Council on what is going on at the airport. We passed a vision statement on the airport about two months ago and began working on a strategic plan for the airport. He wanted to thank Michael Prinz for his help on the draft of minimum standards. That had not been touched since 1984. They are also responding to the airport security program in developing rules and regulations. That is a difficult discussion because it involves inherently some tension between our commercial aviation who have no issues with the rules and regulations on their side but more of a problem with general aviation. Lastly, they have a draft of agreement with the Northern New Mexico Air Alliance based on a study and as soon as accomplished, he will share it with the Governing Body.

Councilor Lindell was waiting for her invitation to the Rivera house for cake.

Mayor Webber announced we are rapidly approaching the Mayor's Give Back Ball on Saturday night. Councilor Harris won't be there but will be in spirit. We will honor 27 nonprofits 260 volunteers and 695 total in attendance. Jo Cooper Udall will be the MC and glad she will be there. Good bands will be there. We will celebrate those who give back so much to the City.

Secondly, Councilors have received an email on a topic that is uppermost today which is potholes. We get lots of calls and emails bout potholes. And the response to that epidemic is "we hear you." For too long, we have let our streets get to this point where they are disrupted by the wet weather. This year, snowplows were dispatched 32 times vs 3 times last year. In the next four weeks, we will hit the pot hole list as fast as we can and hopefully cover most of them. We moved \$386,000 to cover the staff time. Crews started working 10 hours per day to fill them around the City. We had City crews working on weekends, but the hot mix plant is not open on weekends. Contractors will come on the weeks of April 1 and April 8. We had 76 potholes on the list and are working on them now. When a crew fixes one, they look for others nearby. The average time is about 45 minutes at each one. So we can fill the bulk of them in the next month.

In the winter, we used a cold mix and they only lasted a few days. Now the hot mix plant is open, and a more permanent fix can be done. 505-955-6949 is the number to call in a request for a pothole fix. Because we know they are caused from deferred maintenance and we are working hard to resurface streets and do some concrete work by deploying \$6.5 million of gas tax bonds. It looks like we can squeeze even more out of bonds and just heard from Mr. Duran about DOT dollars to pave streets here.

Councilor Rivera requested clarification about a pot hole on Agua Fria. He was told by the City that it is a county road and when he called the County, they said it is a city road.

Councilor Vigil Coppler noted the City is already getting damage claims from tires being ruined by pot holes.

Councilor Harris said it clearly will be implemented appropriately. He asked if the list published so when a person sees one on the list, they know they don't need to call.

Mayor Webber said they would make it public.

Councilor Harris added that they will need an equally sound work on medians.

Mayor Webber agreed and they are working on that.

At 6:23 p.m., the Council recessed until the evening session.

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, March 13, 2019, at approximately 7:04 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
Councilor Renee D. Villarreal

Members Excused

Others Attending

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

F. PETITIONS FROM THE FLOOR

Stefanie Beninato addressed recreation issues, but more on HR. "There was an article today for the Deputy HR Director. I asked about the Project Manager for HR hired at \$98,000 and deputy now gets \$92,000. I wondered what kind of projects the HR Project Manager has. The only project this project manager has one that started in 2015 for classified positions and technically, according to the RFP, ended a year ago in April 2018. Some of that person's duties are already handled by an Advisory Council. So we are seemingly just adding another level of bureaucracy in the personnel system.

I am sure you got the letter yesterday that Fort Marcy is a disaster and although people think the south side is being neglected, in fact, Fort Marcy and Salvador Perez are the orphans here. There are very good showers at GCCC but all we have is one column

with three heads on it and it doesn't matter what you get in temperature. I wrote to you about things that were wrong. It is really bad, and the Project Manager will not listen to Staff. We need more outlets and not necessarily a full-length mirror but one with a shelf when you try to put up your hair."

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

- 1) **CONSIDERATION OF BILL NO. 2019-2: ADOPTION OF ORDINANCE NO. 2019-03.** (Councilor Vigil Coppler and Councilor Harris)
An Ordinance Amending Section 24-2.6 SFCC 1987 to Extend the Truck and Other Large Vehicles Traffic Restriction on Camino Carlos Rey from Cerrillos Road to Zia Road. (John Romero, Engineering Division Director, jjromero1@santafenm.gov, 955-6638)

Councilor Vigil Coppler said this is straightforward. We sometimes allow or prohibit trucks on the road. On Camino Carlos Rey, the sign is too far in to Carlos Rey to allow a big truck to turn around. We need to have some way to have the sign closer to the street.

Mayor Webber opened the Public Hearing.

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

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta to approve adoption of the ordinance.

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, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

- 2) **Appeal No. 2019-14 of Case #H-2019-005.** Appeal of the Historic Districts Review Board's January 22, 2019 Decision Denying a Proposal to Construct a 380 Square Foot Carport at 211 Delgado Street, Which was

Based on the Board's Determination that the Carport Would Overwhelm the Primary Façade of a Contributing Structure in the Downtown and Eastside Historic District. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Mayor Webber reviewed the process for appeals again, noting that in these matters, we don robes as quasi-judicial body and governed by a set of rules that are not for most of our other activities. We are focusing on the facts at hand. Last time Councilor Romero-Wirth reminded us again with a good summary.

Ms. McSherry said the Governing Body is serving in a quasi-judicial role that is different from policy making and have to consider the facts and apply those factors in the legal guidance to those facts that are relevant to those provisions.

Councilor Romero-Wirth said it means there is no way to make that more succinct.

Mayor Webber said the procedure begins with any disclosures and a staff report and statements by City Attorney Staff and Land Use Staff and then the appellant is sworn and makes a statement as sworn testimony. The appellant may ask questions of staff. Members of the public can speak for up to two minutes sworn testimony. Questions can be raised. Staff can respond to the appellant. Then comes a closing statement and he will close public hearing. If more testimony is desired then, we have to reopen the public hearing. Once closed, the Governing Body deliberates and takes action.

There were no disclosures or communications to disclose.

Ms. Sally Paez presented the City Attorney's Memo. She said, "You are reviewing the decision of Historic Districts Review Board de novo so you will be independently applying to the facts and not referring to the application. Property owners are here to appeal the denial of a carport on 211 Delgado Street. She provided a quick background that was in the staff report. It is in the Downtown and East side Historic District. Main residence, a guest house and carport are there. The original was a duplex symmetrical and had two addresses built by 1920. She was not sure when it became contributing, but three sides are identified as primary. A guest house is noncontributing and appears was first built as garage at 209 Delgado and became a single-family residence and both it and the duplex came under the same ownership and then proposed to remodel the property.

She display a floor plan from page 60 for what was approved in 2015 and showed in green the primary façades and the addition at the back and a new garage on the left side. An open portal connects both structures and it was consolidated as one large single-family residence in 2015.

On the south elevation you can see the primary façades and the guest house to the left and proposed south was added in 2015 - and the garage all the way on the left.

In 2018, the owner applied for three things that included a change to a non-primary portal and adding a carport that was added in 2015.

Staff recommended approval as compliant with code the portal but not the car port and Board said the carport would overwhelm the primary façade. She showed the site plan. The proposed carport was highlighted in yellow.

The Board took from the Code the provisions to deny any alteration or addition that would cause the structure to lose its contributing status and said it should be applied to the noncontributing portion. She mentioned and showed a carport at the neighboring property on 209 Delgado that was approved last February. 209 is a noncontributing structure and that is probably why the Board did approve that one.

Ms. Paez brought the Findings of Fact and Conclusions of Law from the case with copies that can be entered as an exhibit to the record. She handed them out.

A copy of the Findings of Fact and Conclusions of Law are incorporated herewith to these minutes as Exhibit 2.

Ms. Paez acknowledged the noncontributing house next door and said it was downgraded in 2013 because it had not enough historic integrity remaining. When they keep adding on, it chips away at the contributing status. She asked that the Governing Board consider if the carport does overwhelm the integrity of the house and if you do, you should affirm the Board's decision and if not, to overturn the Board's decision.

Mayor Webber asked to hear from the appellant up to 15 minutes.

Ms. Jennifer Jenkins and Ms. Collen Gavin, 130 Grant Avenue, were sworn.

Ms. Jenkins said she knew Councilors didn't have the benefit of a site visit, so she showed some of the features on the monitor. She showed the context of a driveway to the back to the compound which is 65 feet from Delgado. She showed 209 Delgado with the recently approved carport and showed its location. She showed a view of driveway with a stone wall on the left and a large tree blocking the view from the street. She showed existing garage and the proposed carport in front of it and the portal approved in 2015 and the main residence with nice yardwalls. She showed the front of the residence and the front portal which has a primary elevation. Staff and Board decided what elevations are primary with unique features that make the house special. It is the south elevation and that portal. She explained there is a vacant lot directly across from it

When the portal was added in 2015, it was a lost opportunity with corbels and beam that define the building. When they did the guest house, they used a simple beam 4x4 or 6x6 but could have replicated the first portal to emulate the historic portal. It has a

more contemporary feel. The garage was the third part to replace those doors with a carriage door concept replacement.

She showed the view coming down the drive due east with 209 and 211 on the right.

In terms of context, she thought it would be good to see the result, so they drew copies of the architectural drawings for 209 and had it professionally rendered. The design is simple as a portal and replace the simple portal on guest house to emulate the historic part. It is a modest structure and when we change out those timbers at guest house, it transforms the space.

Ms. Gavin handed out a drawing with color codes. Blue was the original duplex from that time period. And a separate structure which they thought was first a garage and changed in the 1950's and the green was an addition and the pink building was enlarged as a guest unit in green and in yellow was the proposed carport.

Within the staff memo, she pointed out the code provisions for this request and described how they satisfied the code requirement in the application. This is 65' away from the contributing structure. They are not altering a primary façade. There would be no addition on a primary façade unless it was 10' away and they are 65' away and attached to a noncontributing portion. So this project is in compliance.

She added that during the hearing, not once did a member express a concern that this application would endanger the status of this contributing structure.

She explained that the contributing status was established by the Board and maybe it was never surveyed so we often have to go to the Board and ask for a status survey. It might have been surveyed before it was 50 years old. So we had a historian do an assessment to say that it was worthy of preservation and sometimes they say nothing here contributes to the historic fabric. This is a typical process. And is often done.

If the carport was constructed and they went to ask for a downgrade because of the carport, there is not a chance the Board would downgrade it. There are times when changes do affect the historic status. The Board is very reluctant to downgrade so an applicant must really make a case for downgrading. And if that was the situation, she would not accept the case.

She concluded by saying they are 100% compliant with all the code sections. And at no time did the Board say they were concerned about the historic status.

She stood for questions.

Mayor Webber asked if she had questions of Staff.

Ms. Jenkins noted that the Staff recommended approval, so she had no questions.

Public Hearing.

Six people were sworn together.

Mr. Bonifacio Armijo was sworn and said he is a general contractor and hired to oversee their project. "You can see the kind of land on the approval and the changes recommended have corbels and beams and carriage doors, so it is in keeping with the character. He pointed out that he once sat on the HDRB for a couple of years and, based on his experience there, everything in this case is met so he asked Council to reverse the decision and approve the case.

Mr. Jerry Lyons, the property owner was sworn. He said, "We are here part-time and want to make this our permanent home. We got married three years ago in Corrales and want to be part of the neighborhood. There are homes that have no owner living there We want to enhance the neighborhood of what they see in our property. So I thank you for hearing this appeal and hope you will go the other direction."

Mr. Edward Gonzales was sworn. He said, "I live next door at 219 Delgado. The reason I'm here is to support the reversal of the Board's decision. It will look handsome and not take away anything from the owners. I have a double carport that has been there for 50 years."

Mr. Roy Meyer, 215 Delgado, was sworn. He said, I live at 215 Delgado, about 100 feet away and I probably will see this more than anyone else. I was raised in 211 Delgado and feel all the work has been done to make this beautiful and not overwhelm it. I appreciate the work of the HDRB. Their work is important. But the historic value of our community is evidenced in this change that will enhance our neighborhood. I think it is a great idea to allow this."

Mr. Paul Chatto, attorney, was sworn. He said, "I am a friend of the owner. I spent 30 years of historic preservation with the National Park Service. This is a very light, airy structure - not a heavy one that overwhelms the landscape."

Ms. Stefanie Beninato was sworn and said, "In terms of the Board, you should read the Finding of Fact and Conclusions of Law for 209 Delgado. We cannot assume their thought process or what they might do in the future. They did downgrade 209 Delgado because it was overwhelmed by additions. I've observed the HDRB for a long time and people keep coming to the Board and have a historic structure and keep coming back with wanting to do one more little thing to it and eventually, the whole house is surrounded with something different. In terms of the Board's view, I know it is back from Delgado, but this is proud of the historic façade, in other words, as you come up the street what you first see is the carport. You do not see the house. The carport next to it is much bigger and it was surprising to her that the Board would actually approve that. But it is a

noncontributing structure and they have a different standard for that. I think that is probably determined the Board's decision. It is first a car culture seen. I don't know what the Board was thinking. On the other hand, the applicant is far back from Delgado and this is an improvement on the garage doors for sure and the portal work will add to it.

It is an objective finding and you have to decide if this house is being overwhelmed by the carport. It was subjective by the Board and will be subjective to you.

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

Council Discussion

Councilor Ives asked Ms. Paez, on page 4 of the packet in the staff memo, the five different attributes under the code and the fourth one is that additions are not permitted to the side of the existing footprint unless the addition is set back a minimum of ten feet from the primary façade. It seems interpretation of setback in this incidence that sits to the side as opposed to back from the plane of that principal south-facing façade and seems to be demonstrated on the sheet that shows the carport, in fact, extending probably about ten to fifteen feet in front of the historic façade even though it is set 35 feet to the side of the façade. "Do you know of interpretations of that language "setback" that have been consistently applied? And I know you are in a position and I don't mean to put you on the spot. But I would simply ask that broad question to determine if there is any context that we have on how the word "setback" has been interpreted."

Ms. Paez said, "My understanding of the interpretation of that is that because there is broken massing on the side when you get to the end of #1 façade and it does cut in and comes back out. I think because it cuts back and I'm not sure it is ten feet - but it comes back before it comes out. Carol Johnson might correct me.

Ms. Johnson went to page 18 in the packet which has a really clear footprint shown. The guest house is only attached by the portal and this drawing schematic also shows it. It is attached only to the noncontributing elevation so that provision does not apply. It is not being attached to the contributing structure.

Councilor Ives noted that the provision is that it is not allowed to the side of the existing footprint. The language is interesting there.

Ms. Johnson said the footprint of the contributing structure is setback from the noncontributing building and where the carport is being attached. The five criteria apply only to contributing structures and their primary façades.

Councilor Ives said the perspective on the first page of the handout that seems to clearly show that the carport extends in front of the façade. So the carport will cover that southern façade. So he struggled to understand what HDRB meant by "overwhelmed" in

this context. "I'm not totally clear they needed to go there. It is actually in front of the south façade which is the primary façade. So I'm struggling with language and interpretation in our code to understand what they were saying."

Councilor Villarreal referred to the color coded visual and said she assumed this addition is in back was connected.

Ms. Jenkins said it is not visible. When you look at it, the blue is not attached except by the portal as a breezeway. They are separate structures. If we attached to the blue, the ten-foot rule would apply. It is only when you directly attach. Nothing could be attached to the front which is the primary façade. So we are attaching to an adjacent, non-contributing structure, so the ten-foot rule does not apply. That guest house is for when they have guests. It is not for tenants. If they are both here at the same time, one would be outside the garage in the carport.

Councilor Rivera referenced the approved carport at 209 Delgado and asked what that residence looks like. Is it a primary residence? And what contributed to that decision to approve?

Ms. Jenkins said it is a single-family residence with lots of changes over the years, so it is non-contributing, and it has a double car carport. She said she was not an expert on the history of that structure. The good news here is they will return to a flat roof for that house.

Councilor Rivera asked if she thought the new carport on 209 affects the view of the appellant's house.

Ms. Jenkins said it is not blocking the view and neither does the proposed carport. She pointed out where the primary face is in the driveway.

Councilor Rivera asked about dimensions.

Ms. Jenkins said our carport is 10' 4" high and theirs at 209 is 13' high and extends further out. Because of the way this house is oriented on the property, you would have to build something in the middle of the driveway to block that primary façade.

Councilor Rivera asked if it was designed for rental.

Ms. Jenkins said there is no rental. It was designed for the residence.

Councilor Ives liked the logic that it is attached to a structure that is not found to be contributing so the pink part is also separated from the main house. So he didn't think that rule would apply. It is of interest that the next-door carport is set back from the structure even though not contributing. He thought the work here was fabulous and he loved the other things proposed.

There were no other questions.

Ms. Paez concluded that that the Governing Board might concede that 4 out of the 5 criteria were met. She thought, in the Governing Board's view, it does alter the space visually by having something in front sticking out further. But she did think the Board would argue that this is an alteration of the space that embodies the contributing status, which is, by definition, the primary façade. She was not sure if Council would concede that is not a problem. The other concern was about deleting the features making up the contributing status.

She did look at the Staff Report on 209 and saw that it is set back according to the architect plan. The Board could see on the right-hand corner the carport that is set back from the street façade. She would enter it into the record, but it would be Exhibit J as part of the record.

A copy of the portion from the 209 Delgado Staff Report is incorporated herewith in these minutes as Exhibit 3.

Councilor Rivera asked if they were required to set it back? It is only on contributing structures and this is noncontributing so it would not apply. It was just the design.

Ms. Paez was not sure it is actually ten-feet back.

Councilor Romero-Wirth said, based on our last comment, that they were not just looking at the blue area.

Ms. Paez agreed. She thought they were looking at the whole of the structures and the fact that it stuck out further, they viewed it as interfering with contributing status.

Councilor Romero-Wirth said that helped her understand page 31 of the January minutes. The garage was noncontributing but that fits with Ms. Paez' theory of the whole property and not just the blue part. So they referred to the difference in height on the overall façade.

Ms. Paez said that was her understanding.

Councilor Harris asked how far Councilors have to go to understand their thinking if this is de novo.

Ms. Paez noted that as a good point.

Councilor Abeyta asked if this portal was making them consider this an addition to a contributing structure.

Ms. Paez was not sure there was a direct finding that this was an addition to a contributing structure. But the addition is definitely to noncontributing structure. So if they were two separate properties it would be approved.

Councilor Vigil Coppler said there are a lot of things the Assistant City Attorney didn't know and was not high on that. But she noted that Staff did recommend approval and asked if that is still the case.

Ms. Johnson agreed. On original application, staff did recommend approval.

Councilor Vigil Coppler asked if Ms. Johnson considered that it does meet the code.

Ms. Johnson said yes.

Mayor Webber offered a closing statement.

Ms. Jenkins said, in response to the City Attorney's statement on page 4 of Staff's memo, it lists these criteria that are applicable and stated that they are in compliance with #2 through #5 and the only one left is that there was no evidence or statement about the carport threatening the contributing status. So it is important to point that out. We don't have to assume what the Board was thinking because we have the Findings and Conclusions.

An element of this that our client, Mr. Meyer, briefly touched on is that we have over the years, lost historic elements and one has been a common thread that we need to support people residing in our historic neighborhoods and preserve the residential aspects and support the people who want to reside in these historic structures and it comes with things like "I'd like to have my car covered or have solar panels on my roof." Those are the things that help people live here. That is most important. This is 100% compliant with code here as the Land Use Director said. So she asked the Governing Body to overturn this matter.

Mayor Webber closed the public hearing and moved to deliberations and motions.

Councilor Ives said that nothing he had to say is meant to detract from the good things the owners have done to this property. They have given great care and stewardship of it. And of the three items in the project, only the carport is under appeal and matching the wood of the primary residence is fabulous. And a coherent form, likewise. In historic zones, we struggle frequently with what the Code means, and they have great expertise in the HDRB. And everyone here probably has expressed that we try to respect what that body does and what they say. But that has not stopped us from contravening when we interpret our own sense of the code, based on presentations and the information in our packet. I clearly struggle with terms like setback. It makes sense to interpret it as a whole

and the buildings to which they are attached. So I can't support the appeal although I find the design attractive.

Councilor Harris said, "I have to take the opposite view from Councilor Ives because I think as proposed then and now, it is compliant. On page 4, it is subject to interpretation. I see the second sentence on additions to primary façades. This carport is not part of the contributing structure and is away from it. I interpret the ten-foot rule only applies to attaching to contributing structure and agree with Ms. Beninato that the Board made a subjective decision and I am too. I don't think it detracts from the primary façade. We heard that from everyone. It makes a significant improvement. I support the appeal.

Councilor Romero-Wirth said, "In my defense about what the Board was thinking, I realize this is de novo but understanding where they were coming from helps me in my understanding, so I don't think it is irrelevant."

Councilor Vigil Coppler said, "With all due respect to Councilor Ives, I was not elected here to rubber stamp anything and we do have to give support to the people we appoint to Boards. But they have to make some assumptions and sometimes they get it right and sometimes not. Staff works with it every day and are able to make distinctions that sometimes an appointed body doesn't. Sometimes the H Board members don't have the qualifications; they are political appointees. So we should give them credence, but this is de novo and we need to put a little humanity here. We have to live with the code. It is what it is. We are where the buck stops and have every right to say what we think. Some people think we do get it wrong. I'm not afraid of it and I won't rubber stamp it."

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, in **Appeal No. 2019-14 of Case #H-2019-005**, to grant the appeal and reverse the Historic Districts Review Board's decision and direct Staff to prepare Findings of Fact and Conclusions of L consistent with this decision.

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

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

Against: Councilor Ives.

I. ADJOURN

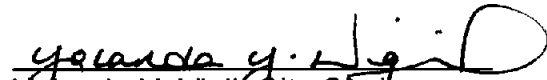
Having completed the agenda and with no further business to come before the Council, the meeting was adjourned at 8:25.

Approved by:



Mayor Alan Webber

ATTESTED TO:



Yolanda Y. Vigil, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer



CITY COUNCIL MEETING OF
March 27, 2019
**BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY**

EXHIBIT 1
Council March 27, 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
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
	AN ORDINANCE AMENDING SECTION 25.4.3 SFCC 1987 THE COMMERCIAL WATER USER REBATE PROGRAM TO EXPAND ELIGIBILITY TO COMMERCIAL WATER USERS UTILIZING SHARED WATER METERS.	Public Utilities Committee – 5/1/19 City Council (request to publish) – 5/8/19 Water Conservation Committee – 5/14/19 Finance Committee – 5/20/19 City Council (public hearing) – 6/12/19

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.

ITEM # 19-0199

**City of Santa Fe
Historic Districts Review Board
Findings of Fact and Conclusions of Law**

Case #H-19-008

Address – 209 Delgado St.

Agent's Name – David Smith

Owner/Applicant's Name – Next Wave Ventures

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on February 12, 2019.

BACKGROUND

209 Delgado Street is a single-family home that was constructed in a vernacular manner before 1928. The existing building has approximately 980 heated square feet and features a cross-gabled roof and a lower shed roof addition on the east side. In 2004, the board approved a 300 square foot addition and remodel. Vinyl windows were installed without permission. In 2013, the board downgraded the status to non-contributing after finding that very few historic elements remained (Case #H-13-087). In 2015, the board approved a 430 square foot wooden pergola, a free-standing fireplace, and a 6' high coyote fence with stuccoed pilasters (Case #H-15-040).

Applicant now proposes to remodel and raise the height of the existing building, to construct a living room addition and an attached carport, and to change the front wall and gate.

The existing building has a pitched roof with a peak height of about 13'-6". The proposed remodel would result in parapet walls between 12'-6" and 14'-0" in height (the maximum allowable height is 14'-6"). Applicant proposes to retain most of the vinyl windows, although one window on the front façade would be replaced with glass block.

The proposed 550 square foot living room addition would have parapet building walls to a height of 14'-0" with El Rey "Adobe" stucco to match the existing structure. New windows would be mostly wood-clad casement windows with divided lites and painted desert tan to match the French door on the rear elevation.

The proposed 480 square foot carport would have parapets built to a height of 13'-8" with stucco to match the existing structure and the proposed living room addition. The attached carport would be open on three sides with approximately 1'-9" thick stucco pillars and "brown" stained wooden lintels spanning the openings.

The existing non-historic front wall and gate are mostly built to the boundary of a driveway easement, but a portion has a small, set back planter area which provides space for a large tree and a gate. To accommodate the living room addition, the Applicant proposes to remove the tree and rebuild the wall and gate along the easement boundary.



FINDINGS OF FACT

1. After conducting public hearings and having heard from Applicant and all interested persons, the Board hereby FINDS, as follows:
2. Zoning staff determined that the Application meets underlying zoning standards.
3. Staff Recommendation: Staff recommended approval of the proposed project and found that the application complied with Section 14-5.2(D)(9), General Design Standards for all Historic District – Height, Pitch, Scale, and Massing; and 14-5.2(E), Downtown and Eastside Standards.
4. The project is subject to requirements of the following sections of the Santa Fe Land Development Code:
 - Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing (of any structure); and
 - Section 14-5.2(D) General Design Standards.
5. The property is located in the Downtown and Eastside Historic District and is subject to Section 14-5.2(E) of the Santa Fe Land Development Code.
6. Applicant did not request any exceptions in the Application.
7. The western façade faces Delgado and currently has a porch.
8. The proposed remodel of the western façade would result in a large blank wall with a single window.
9. Under Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of Applicant's proposed design to assure overall compliance with applicable design standards.
10. Under Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
11. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.
12. The information contained in the Application, and provided in testimony and evidence establishes that all applicable design standards for Board approval as herein described have been met.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approved the Application as recommended by Staff, with the following additional conditions:
 - the western, living room wall must have at least one additional window, and both new windows shall be of the same size and style;

- all new building wall corners and window openings must be rounded with at least a 3" radius;
- all new windows must be recessed at least 3";
- parapets must have a canted top;
- Applicant shall articulate the fireplace on the western façade if possible within the setback;
- the remaining vinyl windows must be replaced to match the existing rear door and proposed additional windows and doors; and
- Applicant must submit new drawings to Staff for approval.

IT IS SO ORDERED ON THIS 26th DAY OF FEBRUARY 2019, THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Cecilia Rios
Chairperson

26 February 2019
Date:

FILED:
Yolanda Y. Vigil
Yolanda Y. Vigil
City Clerk

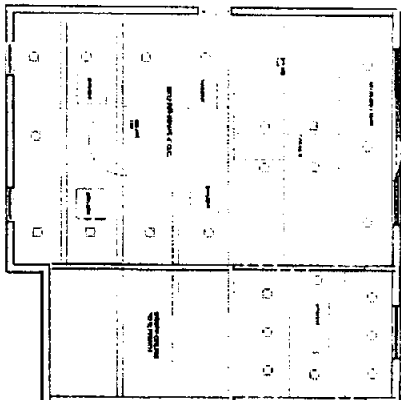
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Date: js

APPROVED AS TO FORM:

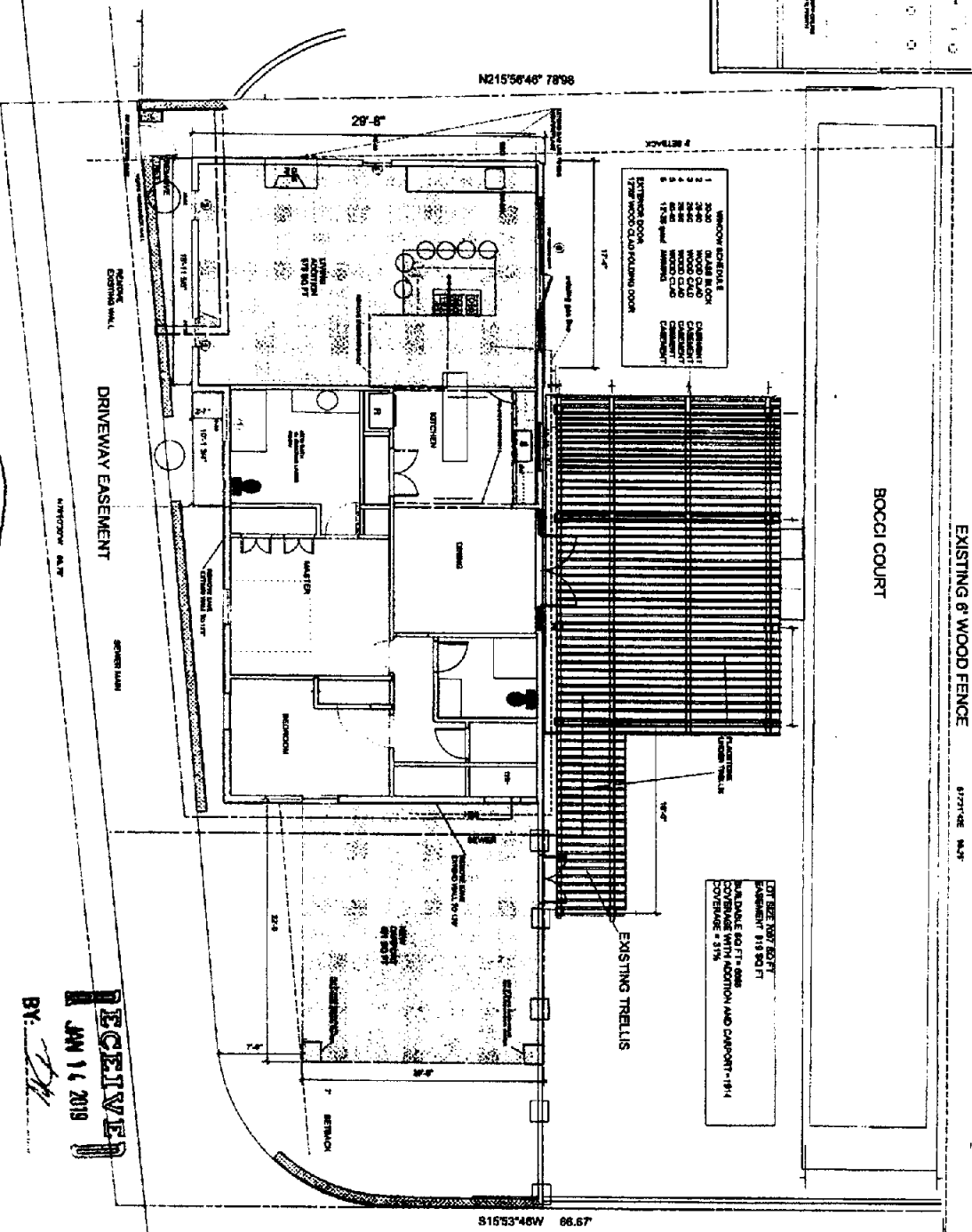
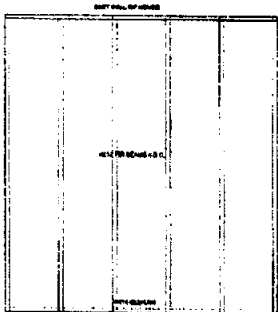
Sally Query
Assistant City Attorney

3/15/19
Date:

FRAMING AND REFLECTED
CEILING PLAN ADDITION



CARPORT FRAMING



RECEIVED
JAN 16 2019
BY: [Signature]

SCALE
1/4" = 1'-0"
DATE
DEC 2018

209 DELGADO ST
SANTA FE NEW MEXICO

DAVID SMITH architect

220 DELGADO ST
SANTA FE NM 87501 505 577 5012

Exhibit 5