



Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JULY 31, 2013
CITY COUNCIL CHAMBERS

AFTERNOON SESSION – 5:00 P.M.

CITY CLERK'S OFFICE

DATE 7/26/13 TIME 2:31 p

SERVED BY _____

RECEIVED BY [Signature]

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – July 10, 2013
9. PRESENTATIONS
 - a) Santa Fe Food Policy Council Annual Report. (Sue Perry) (5 minutes)
10. CONSENT CALENDAR
 - a) Bid No. 13/37/B – FY 2013/14 City Wide Water Utility Construction & Repair Agreement Between Owner and Contractor; Sub Surface Contracting. (Mike Gonzales, Mike Moya and Bill Huey)
 - b) Request for Approval of Amendment No. 2 to Professional Services Agreement – City Wide Water Utility Pavement Restoration Services; TLC Plumbing & Utility, Inc. (Bill Huey)
 - c) Request for Approval of Revisions to Utility Billing Administrative Manual – Policy No. 15, One-Time Credit for High Consumption Due to Unknown Cause. (Peter Ortega)
 - d) Request for Approval of Support Services Agreements – Land Use, Building Permits, Code Enforcement, Business License, Police Records, Fire Records and New E-Government Software for Land Use; SunGard Public Sector, Inc. (Caryn Fiorina)



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- e) Request for Approval of Information Technology Licensing and Professional Services Agreement – Enterprise Program Browser for Imaging Documents to Enable Municipal Court to Become Paperless (RFP #13/19/P); Justice Systems, Inc. (Judge Ann Yalman)
- f) Request for Approval of Grant Award – Operating Assistance Section 5307 for Santa Fe Trails; U.S. Department of Transportation, Federal Transit Administration. (David Chapman)
- g) Request for Approval of Amendment No. 1 to Professional Services Agreement – Task Order Number 112 Runway 2-20 MIRL Replacement and Task Order Number 113 Passenger Facility Charges Application at Santa Fe Municipal Airport; Molzen-Corbin & Associates, Inc. (Francey Jesson)
- h) Request for Concept Approval of Sale of Real Estate – Containing Approximately 460 Square Feet Within a Portion of Lot 1, Block 92 of the 1912 Kings Official Map Located Within the 600 Block of Old Santa Fe Trail; David K. Giles. (Edward Vigil)
- i) Request for Approval of Easement – Benefit Santa Fe County for the Purpose of Extending Water Service to the Santa Fe Animal Shelter Facility and Other Properties Lying South and East Thereof, the Real Property Lies Within Portions of Government Lot 1 and the NW/4 SE/4 Section 35 T17N R8E NMPM and Contains 0.93 Acres; Bill Moffett, Project Coordinator. (Edward Vigil)
- j) Request for Concept Approval of Lease Agreement – Allow for Parking of 5 Motor Vehicles on City Property Known as Archuleta Park Located at 1622 W. Alameda by the Adjoining Property Owners and Their Tenants; Robert Seymour and Jeannine Seymour. (Edward Vigil)
- k) CONSIDERATION OF RESOLUTION NO. 2013-____.
A Resolution Relating to a Request for Approval of Fourth Quarter (Year-End) Budget Adjustments for Fiscal Year 2012/2013 Ending June 30, 2013. (Cal Probasco)
- l) Pursuant to Resolution No. 2013-33, Request for Approval of Option 3 to Provide Relief from Water Utility Billing for 501(c)(3) Local Non-Profit Organizations that Use Water to Provide Services to the Homeless Population in the City of Santa Fe. (Nick Schiavo)



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- m) Request to Publish Notice of Public Hearing on August 27, 2013:

Bill No. 2013-30: An Ordinance Relating to Chapter 21 SFCC 1987 Environmental Services; Establishing a New Article 21-8 SFCC 1987 to Ban the Distribution of Single-Use Plastic Carry-Out Bags and Establish a Fee for Paper Carry Out Grocery Bags to be Imposed by Retail Establishments. (Councilor Wurzburger, Mayor Coss, Councilor Rivera, Councilor Bushee, Councilor Ives, Councilor Calvert and Councilor Dimas) (Fabian Trujillo)

- n) CONSIDERATION OF RESOLUTION NO. 2013-____. (Councilor Trujillo)
A Resolution Supporting the New Mexico Litter Control and Beautification Act of 1985 Which Authorizes the Use of Public Funds in the Form of Grants for the Purpose of Enhancing Local Litter Control and Beautification Programs. (Gilda Montano)

- 1) Request for Approval of Grant Agreement Between the City of Santa Fe and the State of New Mexico Tourism Department in the Amount of \$70,000.

- o) CONSIDERATION OF RESOLUTION NO. 2013-____. (Mayor Coss and Councilor Wurzburger)
A Resolution Declaring that the City of Santa Fe Desires to Establish a Sister City Relationship with the City of San Miguel de Allende, Mexico. (Julie Bystrom)

- p) CONSIDERATION OF RESOLUTION NO. 2013-____. (Mayor Coss and Councilor Wurzburger)
A Resolution Declaring that the City of Santa Fe Desires to Establish a Sister City Relationship with the City of Icheon, South Korea. (Julie Bystrom)

- q) CONSIDERATION OF RESOLUTION NO. 2013-____. (Mayor Coss, Councilor Dimas, Councilor Wurzburger, Councilor Ives, Councilor Calvert, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Councilor Bushee)
A Resolution Accepting the Recommendations of the Lead Santa Fe Task Force and Directing Staff to Establish and Implement a Three Year Lead/Pre-Booking Diversion Program in Santa Fe, Including Developing an Operations Plan and Explore Funding Mechanisms. (Terrie Rodriguez)



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11. Direction Regarding Alternative Action on Southside Transit Center. (Jon Bulhuis)
12. Request for Approval of Bike Purchase - Pass Rebate Program Process. (Jon Bulhuis)
13. Charter Review Commission Report and Recommendations. (Nancy Long, Vice-Chair Charter Review Commission and Zachary Shandler)
14. MATTERS FROM THE CITY MANAGER
15. MATTERS FROM THE CITY ATTORNEY

Executive Session

- 1) In Accordance with the New Mexico Open Meetings Act, §10-15-1(H)(7), NMSA 1978, Discussion Regarding Pending Litigation in Which the City of Santa Fe is a Participant, Qwest Corporation v. City of Santa Fe, Case No. 10-CV-00617 in the U.S. District Court for the District of New Mexico.
 - 2) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7), NMSA 1978, and Pursuant to City of Santa Fe Resolution No. 2012-31, Quarterly Discussion of Threatened or Pending Litigation in Which the City of Santa Fe is or May Become a Participant.
16. MATTERS FROM THE CITY CLERK
 17. 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



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F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

- Economic Development Review Sub-Committee
- City Business & Quality of Life Committee

H. PUBLIC HEARINGS:

- 1) Request from Café Greco, LLC for the Issuance of a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Café Greco, 233 Canyon Road, Unit 2. (Yolanda Y. Vigil)
- 2) **Case #2013-49. Appeal.** O. Michael Duty, Agent for Santa Fe Dining (Roof Top Pizza), Appeals the May 28, 2013 Decision of the Historic Districts Review Board in Case #H-13-036 Denying its Application to Construct a Tube Steel Ramada with a Fabric Cover Over the Third Floor Rear Deck at 60 East San Francisco in the Downtown and Eastside Historic District. (Kelley Brennan)
- 3) **CONSIDERATION OF BILL No. 2013-29: ADOPTION OF ORDINANCE NO. 2013-__:** (Councilor Calvert)
An Ordinance Relating to the Campaign Code, Article 9-2 SFCC 1987: Amending Section 9-2.3 to Amend the Definition of Contribution and Add the Definitions for "Anonymous Contribution" and "Charity"; Amending Section 9-2.5 to Clarify Whose Identification is Required on Campaign Materials; Amending Section 9-2.9 to Amend the Duties of the Campaign Treasurer and Deputy Treasurer, Including That All Contributions Shall Be Reported and Clarify the Process for Disposition of Tangible Assets; Amending Section 9-2.11 to Amend the Requirements for the Contents of the Campaign Finance Statement; Amending Section 9-2.12 to Exempt Judicial Candidates from Signing Campaign Finance Statements; and Making Such Other Stylistic or Grammatical Changes That Are Necessary; and
Relating to the Public Campaign Finance Code, Article 9-3 SFCC 1987: Amending Section 9-3.3 to Amend the Definition of Contribution; Amending Section 9-3.6 to Clarify Requirements for Seed Money Contributions and Unspent Seed Money; Amending Section 9-3.7 to Clarify that Qualifying Contributions Shall Be Placed in a Non-Interest Bearing Account; Amending Section 9-3.8 to Clarify Candidate Application Requirements; Amending Section 9-3.10 to Clarify that Seed Money Shall Be Turned Over to the Municipal Clerk When a Candidate Has Not Been Certified; Amending



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Section 9-3.11 to Clarify the Required Disposition of Unspent Payments from the Fund and Tangible Assets; Amending Section 9-3.14 to Require that the Date Shall Be Included on All Reports of Expenditures and Clarify that Seed Money and Qualifying Contribution Reports Shall Not Be Signed or Acknowledged by a Candidate for Municipal Judge; and Making Such Other Stylistic or Grammatical Changes That Are Necessary. (Yolanda Y. Vigil and Zachary Shandler)

- 4) CONSIDERATION OF RESOLUTION NO. 2013-____. (Mayor Coss, Councilor Bushee and Councilor Wurzbarger)
A Resolution Supporting the Protection and Preservation of the La Bajada Mesa Lands and Respectfully Requesting that the President of the United States, by Proclamation, Designate and Establish the La Bajada Mesa National Monument Which is Located in Congressional District 3. (Postponed at June 12, 2013 City Council Meeting) **(Withdrawn by Sponsor)**

I. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been addressed, the meeting should be reconvened at 7:00 p.m., the following day and shall be adjourned not later than 12:00 a.m. Agenda items, not considered prior to 11:30 p.m., shall be considered when the meeting is reconvened or tabled for a subsequent meeting.

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 955-6520, five (5) days prior to meeting date.

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SANTA FE CITY COUNCIL MEETING
July 31, 2013

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REQUEST FROM CAFÉ GRECO, LLC, FOR THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT CAFÉ GRECO, 233 CANYON ROAD, UNIT 1	Approved	20-21
CASE #2013-49. APPEAL. O. MICHAEL DUTY, AGENT FOR SANTA FE DINING (ROOF TOP PIZZA), APPEALS THE MAY 28, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-13-036 DENYING ITS APPLICATION TO CONSTRUCT A TUBE STEEL RAMADA WITH A FABRIC COVER OVER THE THIRD FLOOR REAR DECK AT 60 EAST SAN FRANCISCO, IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT	Remanded to H-Board w/direction	21-31

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CONSIDERATION OF BILL NO. 2013-29: ADOPTION OF ORDINANCE NO. 2013-28. AN ORDINANCE RELATING TO THE CAMPAIGN CODE, ARTICLE 9-2 SFCC 1987: AMENDING SECTION 9-2.3 TO AMEND THE DEFINITION OF CONTRIBUTION AND ADD THE DEFINITIONS FOR "ANONYMOUS CONTRIBUTION" AND "CHARITY;" AMENDING SECTION 9-2.5 TO CLARIFY WHOSE IDENTIFICATION IS REQUIRED ON CAMPAIGN MATERIALS; AMENDING SECTION 9-2.9 TO AMEND THE DUTIES OF THE CAMPAIGN TREASURER AND DEPUTY TREASURER, INCLUDING THAT ALL CONTRIBUTIONS SHALL BE REPORTED AND CLARIFY THE PROCESS FOR DISPOSITION OF TANGIBLE ASSETS; AMENDING SECTION 9-2.11 TO AMEND THE REQUIREMENTS FOR THE CONTENTS OF THE CAMPAIGN FINANCE STATEMENT; AMENDING SECTION 9-2.12 TO EXEMPT JUDICIAL CANDIDATES FROM SIGNING CAMPAIGN FINANCE STATEMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY; AND RELATING TO THE PUBLIC CAMPAIGN FINANCE CODE, ARTICLE 9-3 SFCC 1987; AMENDING SECTION 9-2.3 TO AMEND THE DEFINITION OF CONTRIBUTION; AMENDING SECTION 9-3.6 TO CLARIFY REQUIREMENTS FOR SEED MONEY CONTRIBUTIONS AND UNSPENT SEED MONEY; AMENDING SECTION 9-3.7 TO CLARIFY THAT QUALIFYING CONTRIBUTIONS SHALL BE PLACED IN A NON-INTEREST BEARING ACCOUNT; AMENDING SECTION 9-3.8 TO CLARIFY CANDIDATE APPLICATION REQUIREMENTS; AMENDING SECTION 9-3.10 TO CLARIFY THAT SEED MONEY SHALL BE TURNED OVER TO THE MUNICIPAL CLERK WHEN A CANDIDATE HAS NOT BEEN CERTIFIED; AMENDING SECTION 9-3.11 TO CLARIFY THE REQUIRED DISPOSITION OF UNSPENT PAYMENTS FROM THE FUND AND TANGIBLE ASSETS; AMENDING SECTION 9-2.14 TO REQUIRE THAT THE DATE SHALL BE INCLUDED ON ALL REPORTS OF EXPENDITURES AND CLARIFY THAT SEED MONEY AND QUALIFYING CONTRIBUTION REPORTS SHALL NOT BE SIGNED OR ACKNOWLEDGED BY A CANDIDATE FOR MUNICIPAL JUDGE; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY

Approved a/amended

31-40

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2013- ____ (MAYOR COSS, COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). A RESOLUTION SUPPORTING THE PROTECTION AND PRESERVATION OF THE LA BAJADA MESA LANDS AND RESPECTFULLY REQUESTING THAT THE PRESIDENT OF THE UNITED STATES, BY PROCLAMATION, DESIGNATE AND ESTABLISH THE LA BAJADA MESA NATIONAL MONUMENT WHICH IS LOCATED IN CONGRESSIONAL DISTRICT 3	Withdrawn by sponsor	40
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**MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
July 31, 2013**

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, July 31, 2013, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending

Isaac Pino, Acting City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

6. APPROVAL OF AGENDA

Councilor Dominguez said he would like to hear from staff regarding Item #12. He said it was his impression when this item was approved, that we gave approval for staff to establish and implement it, and not have the process come before us for approval.

Mr. Bulthuis said the wording of the Resolution which was approved, directed staff to bring the final documentation back through the process for review and approval by the Council, so that is what is included in the Council today. He said they were just following the orders and directives which were dictated in the Resolution, which is straight-forward.

Councilor Dominguez said he believes that was changed "along the way," but he is fine if the Council wants to have that discussion."

MOTION: Councilor Dominguez moved, seconded by Councilor Wurzbarger, to approve the agenda as submitted.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion and none against.

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

A copy of an Action Sheet from the Sustainable Santa Fe Commission meeting of Tuesday, July 16, 2013, regarding Item 10(m) is incorporated herewith to these minutes as Exhibit "1."

A copy of a letter to Mayor David Coss and City Councilors, dated June 3, 2013, from Teresa Seamster & Norma McCallan, Co-Chairs, Northern New Mexico Group, Sierra Club, regarding Item 10(m), is incorporated herewith to these minutes as Exhibit "2."

10. CONSENT CALENDAR

- a) **BID NO. 13/37/B – FY 2013/14 CITY WIDE WATER UTILITY CONSTRUCTION & REPAIR AGREEMENT BETWEEN OWNER AND CONTRACTOR; SUB SURFACE CONTRACTING. (MIKE GONZALES, MIKE MOYA AND BILL HUEY)**
- b) **REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – CITY WIDE WATER UTILITY PAVEMENT RESTORATION SERVICES; TLC PLUMBING & UTILITY, INC. (BILL HUEY)**
- c) **REQUEST FOR APPROVAL OF REVISIONS TO UTILITY BILLING ADMINISTRATIVE MANUAL – POLICY NO. 15, ONE-TIME CREDIT FOR HIGH CONSUMPTION DUE TO UNKNOWN CAUSE. (PETER ORTEGA)**

- d) REQUEST FOR APPROVAL OF SUPPORT SERVICES AGREEMENTS – LAND USE, BUILDING PERMITS, CODE ENFORCEMENT, BUSINESS LICENSE, POLICE RECORDS, FIRE RECORDS AND NEW E-GOVERNMENT SOFTWARE FOR LAND USE; SUNGARD PUBLIC SECTOR, INC. (KARYN FIORINA)
- e) *[Removed for discussion by Councilor Ives]*
- f) REQUEST FOR APPROVAL OF GRANT AWARD – OPERATING ASSISTANCE SECTION 5307 FOR SANTA FE TRAILS; U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION. (DAVID CHAPMAN)
- g) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT – TASK ORDER NUMBER 112 RUNWAY 2-20 MRL REPLACEMENT AND TASK ORDER NUMBER 113 PASSENGER FACILITY CHARGES APPLICATION AT SANTA FE MUNICIPAL AIRPORT; MOLZEN-CORBIN & ASSOCIATES, INC. (FRANCEY JESSON)
- h) REQUEST FOR CONCEPT APPROVAL OF SALE OF REAL ESTATE – CONTAINING APPROXIMATELY 460 SQUARE FEET WITHIN A PORTION OF LOT 1, BLOCK 92 OF THE 1912 KINGS OFFICIAL MAP LOCATED WITHIN THE 600 BLOCK OF OLD SANTA FE TRAIL; DAVID K. GILES. (EDWARD VIGIL)
- i) REQUEST FOR APPROVAL OF EASEMENT – BENEFIT SANTA FE COUNTY FOR THE PURPOSE OF EXTENDING WATER SERVICE TO THE SANTA FE ANIMAL SHELTER FACILITY AND OTHER PROPERTIES LYING SOUTH AND EAST THEREOF, THE REAL PROPERTY LIES WITHIN PORTIONS OF GOVERNMENT LOT 1 AND THE NW/4 SE/4 SECTION 35 T7N R8E NMPM AND CONTAINS 0.93 ACRES; BILL MOFFETT, PROJECT COORDINATOR. (EDWARD VIGIL)
- j) REQUEST FOR CONCEPT APPROVAL OF LEASE AGREEMENT – ALLOW FOR PARKING OF 5 MOTOR VEHICLES ON CITY PROPERTY KNOWN AS ARCHULETA PARK, LOCATED AT 1622 W. ALAMEDA BY THE ADJOINING PROPERTY OWNERS AND THEIR TENANTS; ROBERT SEYMOUR AND JEANNINE SEYMOUR. (EDWARD VIGIL)
- k) CONSIDERATION OF RESOLUTION NO. 2013-72. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF FOURTH QUARTER (YEAR-END) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2012/2013 ENDING JUNE 30, 2013. (CAL PROBASCO)
- l) *[Removed for discussion by Councilor Trujillo]*

- m) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON AUGUST 27, 2013: BILL NO. 2013-30: AN ORDINANCE RELATING TO CHAPTER 21 SFCC 1987 ENVIRONMENTAL SERVICES; ESTABLISHING A NEW ARTICLE 21-8 SFCC 1987, TO BAN THE DISTRIBUTION OF SINGLE-USE PLASTIC CARRY-OUT BAGS AND ESTABLISH A FEE FOR PAPER CARRY OUT GROCERY BAGS TO BE IMPOSED BY RETAIL ESTABLISHMENTS. (COUNCILOR WURZBURGER, MAYOR COSS, COUNCILOR RIVERA, COUNCILOR BUSHEE, COUNCILOR IVES, COUNCILOR CALVERT AND COUNCILOR DIMAS). (FABIAN TRUJILLO)**
- n) **CONSIDERATION OF RESOLUTION NO. 2013-73 (COUNCILOR TRUJILLO). A RESOLUTION SUPPORTING THE NEW MEXICO LITTER CONTROL AND BEAUTIFICATION ACT OF 1985, WHICH AUTHORIZES THE USE OF PUBLIC FUNDS IN THE FORM OF GRANTS FOR THE PURPOSE OF ENHANCING LOCAL LITTER CONTROL AND BEAUTIFICATION PROGRAMS. (GILDA MONTANO)**
 - 1) **REQUEST FOR APPROVAL OF GRANT AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE STATE OF NEW MEXICO TOURISM DEPARTMENT IN THE AMOUNT OF \$70,000.**
- o) **CONSIDERATION OF RESOLUTION NO. 2013-74 (MAYOR COSS AND COUNCILOR WURZBURGER). A RESOLUTION DECLARING THAT THE CITY OF SANTA FE DESIRES TO ESTABLISH A SISTER CITY RELATIONSHIP WITH THE CITY OF SAN MIGUEL DE ALLENDE, MEXICO. (JULIE BYSTROM)**
- p) **CONSIDERATION OF RESOLUTION NO. 2013-75 (MAYOR COSS AND COUNCILOR WURZBURGER). A RESOLUTION DECLARING THAT THE CITY OF SANTA FE DESIRES TO ESTABLISH A SISTER CITY RELATIONSHIP WITH THE CITY OF INCHEON, SOUTH KOREA. (JULIE BYSTROM)**
- q) **CONSIDERATION OF RESOLUTION NO. 2013-76 (MAYOR COSS, COUNCILOR DIMAS, COUNCILOR WURZBURGER, COUNCILOR IVES, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR RIVERA, COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). A RESOLUTION ACCEPTING THE RECOMMENDATIONS OF THE LEAD SANTA FE TASK FORCE AND DIRECTING STAFF TO ESTABLISH AND IMPLEMENT A THREE YEAR LEAD/PRE-BOOKING DIVERSION PROGRAM IN SANTA FE, INCLUDING DEVELOPING AN OPERATIONS PLAN AND EXPLORE FUNDING MECHANISMS. (TERRIE RODRIGUEZ)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JULY 10, 2013

MOTION: Councilor Bushee moved, seconded by Councilor Rivera, to approve the minutes of the Regular City Council meeting of July 10, 2013, as presented.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion and none against.

9. PRESENTATIONS

a) SANTA FE FOOD POLICY COUNCIL ANNUAL REPORT. (SUE PERRY)

A Memorandum dated July 29, 201, to the City Council and City Manager Brian Snyder, from Susan J. Perry, Wellness Coordinator and Santa Fe Food Policy Council Char, is incorporated herewith to these minutes as Exhibit "3."

Ms. Perry introduced Erin Ortigoza, Coordinator, Food Policy Council. Ms. Ortigoza presented information from *Santa Fe Food Policy Council Presentation to the City Council: July 31, 2013*, which is in the Council packet. Please see this document for the text of this presentation.

Councilor Dominguez asked about the mapping program in which they want to participate.

Ms. Ortigoza said they have been developing an approach using GIS data to highlight levels of relationships throughout the area, including potential production areas, transport networks, aggregation sites, distribution sites and potential market areas. The goal is that the map included in food plan will tell a diagrammatic story of the spatial relationships that should highlight areas which need improvement, and areas which already are very functional in our food system.

Councilor Dominguez said then you will be using data from the Health Department for some of that mapping.

Ms. Ortigoza said yes, noting they have been working with the City GIS as well as the County for information for things such as soil quality and different access points.

Councilor Dominguez wants to be sure the City's GIS data base is available to them for some of the mapping they are going to be doing.

Mayor Coss asked if there are statistics on how much of our food is local from New Mexico, versus what we import from elsewhere. He asked if there are numbers on how many of us are insecure in terms of food supply.

Ms. Ortigoza said they don't have numbers on food insecurity, but they are interested in including those in the food plan and highlighting it as a focal point, and developing a goal to move forward to a feasible percentage of food to be produced and consumed in this region. They will be looking very critically at what the local food shed should encompass. She said this all will be explained as succinctly as possible in the food plan.

Mayor Coss asked about how many people are affected by "food insecurity" which need help from Kitchen Angels or Food Depot or free lunch program.

Ms. Ortigoza said she doesn't those numbers with her, but those are in the research and will be reflecting. She said her coworker, Elena Paisano has been heading up most of the interview process and

compiling the research to date, and they will be going over her notes in the next few months for a fall draft of the food plan, noting the food insecurity piece will be highlighted very strongly as well.

Councilor Wurzburger thanked her for this wonderful work. She asked when there will be a draft plan available.

Ms. Ortigoza said the plan is to have a draft in early October. She said in August the Council is hosting a series of two workshops to draft the policy recommendations from data so far in the community outreach process. And then finalize recommendations, and they will be building a plan around that process.

Mayor Coss asked the members of the Food Policy Council in attendance to stand, and thanked them for their work.

CONSENT CALENDAR DISCUSSION

10(e) REQUEST FOR APPROVAL OF INFORMATION TECHNOLOGY LICENSING AND PROFESSIONAL SERVICES AGREEMENT – ENTERPRISE PROGRAM BROWSER FOR IMAGING DOCUMENTS TO ENABLE MUNICIPAL COURT TO BECOME PAPERLESS (RFP #13/19/P); JUSTICE SYSTEMS, INC. (JUDGE ANN YALMAN)

Councilor Ives said he is pleased they are moving toward the system Judge Yalman wants. However, he has some contractually based questions he posed to the City Attorney's office, to be sure the Judge is getting a product which the vendor will stand behind and would be useful to the Court. He said there are provisions in the agreement which caused him some concern. He said, for example, in Section 6(A) of the agreement, it talks about termination by either party on 30 days written notice to the other party. He said in his experience with such agreements regarding a system on which we will rely heavily, we try to set up source code escrows with independent third parties in the event the contractor goes away for whatever reason, or stops supporting the software, which would allow the City to pick it up and do that job. He would like to see more negotiation to ensure the system really is warranted and can't be terminated on 30 days written notice and that there is something the City can do in the event the contractor is no longer there.

Judge Yalman introduced Steve Corn, of Justice Systems. She said Mr. Corn got these questions when she arrived here at 5:00 p.m., so she can't provide a detailed response. She did speak with Judith Amer, Assistant City Attorney, who was involved in drafting the documents along with Justice Systems. She said Ms. Amer told her that the 30 day termination is in all City contracts, and not just in this contract. It isn't something Justice Systems or the City requested. She said it would be helpful for the Council to know a little about their process. She said they currently have Justice Systems software and they have been working for more than a year on the RFP. The RFP was sent to 6 software companies, with responses from 3, and of those, only 2 were within the budget. She said they had demonstrations by two, and then selected Justice Systems, the current software provider, so we have some history with them.

Judge Yalman said after Justice Systems was selected, there were two months of negotiations with them and our legal department. She said the Court has been out of the process for the most part because "we're not experts in contracts or IT. We just want the software and we want to be able to use it." She said they were very happy with the previous program, noting Justice Systems recently was awarded a contract with the State of California to use this program for its superior courts – the trial level courts. She is confident the program is going to be around for a while. She said she can't answer all of his questions.

Councilor Ives said something like a most favored nations clause, based on the California contracts, might be an interesting way to apply a band-aid. He appreciates that the 30 day termination may be in all City contracts. However, he is concerned they could terminate the system and walk away without having trained the City so it is functionally useless. He isn't suggesting the system isn't adequate to our purposes, nor does he have questions about the good motives of Justice Systems, but he wants to guard against a catastrophic circumstance.

Judge Yalman said she believes only IT can answer that questions because they would have to deal with it, commenting they call up IT and don't deal with issues themselves. She is unsure IT can continue with every software system the City gets, which is a high expectation even if you have the source code and the data dictionary.

Councilor Ives said he doesn't mind moving this forward in a way that gets Judge Yalman the system as quickly as possible, but he wants to add some additional protections, so the extreme downside circumstances which could occur are covered in a way that protects the Court and its business operations.

Councilor Ives said we are required to have backup systems required in place, and he has no idea of the status of our backup capability.

Judge Yalman said she can't answer that question .

Mayor Coss asked Councilor Ives if he would like to postpone this to the next meeting, or approve now with conditions.

Councilor Ives asked Judge Yalman what kind of heartache or difficulty in what she's trying to do.

Judge Yalman said she won't be here for the next Council meeting, which will postpone this to the end of August.

Councilor Ives said based on the fact she has said these are IT questions, he is unsure if it is necessary for the Judge to attend.

Judge Yalman said it sounds as if they would have to go back to negotiations with Justice Systems, so she is unsure that can be done before August 27th and she is unsure in some areas that "we're going to give you what you want." She said she spoke with Mr. Corn who says we can get the data dictionary. She didn't discuss the source code, but that cost money and we would need to figure that aspect which hasn't been done. She is unsure what are the most critical issues for Councilor Ives. She

doesn't know they could come back with something that would satisfy him. She doesn't know that IT will ever say, if it cuts off they can take over.

Councilor Ives reiterated, based on what the Judge is saying, Justice Systems feels it can accommodate a number of these items, that it probably makes sense to postpone final action to engage in the process to add a few more protections against real downside consequences. He said the purpose would be to make sure there is a system she can use into the future without fear of not being able to get it maintained, repaired, or, more unlikely, to have Justice Systems walk away for some reason.

Judge Yalman said she thinks Ms. Amer has addressed with some of the warranty issues. She said it is based on an Oracle system, so Justice Systems is limited in how Oracle limits them.

Councilor Ives say the only warranties on Oracle are from Oracle.

Steve Corn, Justice Systems, Albuquerque, said as a reseller, they "warranty it to us and we warrant it to you. When you have Oracle problems, you actually call us, and we support it the same way we do any other aspect of the system.

Councilor Ives said warranties are contained in 5 different sections and came in "different flavors," which is part of the challenge in understanding the warranty provisions. He reiterated his concerns about 30 day notice. He said a source code escrow makes sense to him, and something Justice Systems does with other system placements.

Mr. Corn said yes, they have escrow agreements with a number of their customers and would be happy to work on that and the other issues "and give you that comfort level that you're looking for."

Judge Yalman said she thinks it would be helpful if she was in attendance when this item comes back to the City Council.

MOTION: Councilor Ives moved, seconded by Councilor Trujillo, to postpone this item to the second City Council meeting in August, August 27, 2013.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion and none against.

10 (I) PURSUANT TO RESOLUTION NO. 2013-33, REQUEST FOR APPROVAL OF OPTION 3 TO PROVIDE RELIEF FROM WATER UTILITY BILLING FOR 501(c)(3) LOCAL NON-PROFIT ORGANIZATIONS THAT USE WATER TO PROVIDE SERVICES TO THE HOMELESS POPULATION IN THE CITY OF SANTA FE. (NICK SCHIAVO)

Councilor Trujillo said he pulled this item to recuse himself because his wife serves on the Board for the Interfaith Community Shelter.

MOTION: Councilor Dominguez moved, seconded by Councilor Calvert, to approve this request.

DISCUSSION: Councilor Wurzbarger said staff's statements about not charging the non-profits is of concern to her. She asked if the range of costs is the range around the option chosen.

Mr. Schiavo said there were different prices with the different options, and Option 3 is one developed by staff with input from the Public Utilities Committee, noting the cost of Option 3 is \$40,600 annually.

Councilor Wurzbarger said then we will need to find money for this since it's not budgeted, and Mr. Schiavo said yes.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera and Councilor Wurzbarger.

Against: None.

Recused: Councilor Trujillo.

[Councilor Bushee's comment here is inaudible]

END OF CONSENT CALENDAR DISCUSSION

11. DIRECTION REGARDING ALTERNATIVE ACTION ON SOUTHSIDE TRANSIT CENTER. (JON BULTHUIS)

Jon Bulthuis presented information in this matter from his Memo of July 11, 2013, which is in the Council packet. Please see this Memorandum for specifics of this presentation.

Responding to Councilor Bushee, Mr. Bulthuis said the funding is still intact, but it is in jeopardy if substantial progress on the project isn't made.

[Councilor Bushee's remarks here are inaudible]

Councilor Bushee said then it is the advantage of having City owned land and Mr. Bulthuis said this is correct.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dimas, to approve this request.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

12. REQUEST FOR APPROVAL OF BIKE PURCHASE – PASS REBATE PROGRAM PROCESS. (JON BULTHUIS)

Jon Bulthuis presented information in this matter from his Memo of July 10, 2013, which is in the Council packet. Please see this Memorandum for specifics of this presentation.

MOTION: Councilor Dominguez moved, seconded by Councilor Bushee, to approve this request.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

13. CHARTER REVIEW COMMISSION REPORT AND RECOMMENDATIONS. (NANCY LONG, VICE-CHAIR, CHARTER REVIEW COMMISSION AND ZACHARY SHANDLER)

A copy of *City of Santa Fe Charter Review Commission Final Report and Recommendations to the Governing Body*, dated July 18, 2013, is incorporated herewith to these minutes as Exhibit "4."

A copy of *Minority Report to the Governing Body*, dated July 17, 2013, is incorporated herewith to these minutes as Exhibit "5."

A copy of a letter dated July 17, 2013, to the City Councilors, from Carol Romero-Wirth, is incorporated herewith to these minutes as Exhibit "6."

Mayor Coss thanked the members of Charter Review Commission for their work.

Justice Serna introduced the members of the Commission. He thanked the City Attorney's Office staff for their work, and Melessia Helberg the Stenographer for doing a great job and assisting the Commission in their mission. He thanked the Mayor and Councilors for attending some of the meetings, and providing valuable input.

Justice Serna presented the Final Report and Recommendations. Please see Exhibit "4," for specifics of this presentation.

The Governing Body commented and asked questions as follows:

- Mayor Coss reiterated his thanks and appreciation to Justice Serna and the members of the Charter Review Commission for their work. He said this item now goes to the City Council, noting it will be necessary to introduce a Resolution to move items forward. He said a study session on this item might be in order for the Council on this.
- Councilor Bushee asked the timeline, noting that the expectation is that some of these provisions will be on the upcoming ballot, and the cutoff for that is sometime in October. She understands there are logistics in getting the measures ready for the ballot. She said she is interested in receiving more public input now that the Commission has made its recommendations and asked how that could be done.

Mr. Zamora said they anticipated the question, and Zachary Shandler, Assistant City Attorney, has put together a timetable, which he will present which addresses the logistics, the election time frame and the obligations of the Governing Body..

Mr. Shandler said, "The law on enacting the original charter is clear, but the law on enacting amendments to the Charter requires the reading of the State Constitution, the State Charter Act, the City's Charter and the resolution creating the Charter Commission together and applying rules of statutory construction. Based on that review, I make the following comments on the process going forward. If a Governing Body member is persuaded that one or all of the proposals presented by the Charter Commission should be on the ballot, he or she may sponsor a Resolution calling for that item to be on the ballot. You get to pick and choose."

Mr. Shandler continued, "A Governing Body may also modify a proposal or sponsor a proposal that wasn't recommended, or even one that wasn't even considered. If your proposals and ideas have a lot of variance from the Charter Commission's proposal, we advise best practices. The Governing Body should use a resolution process. In order to provide an abundance of notice to the public on the substantive items that will be introduced and debated, the Resolution likely would read, 'Resolution instructing the Clerk to put on the ballot X, Y, Z'."

Mr. Shandler continued, "The Governing Body would need 5 votes to adopt substantive contents of the Resolution. And if so, the Resolution would be incorporated into the City Clerk's Election Resolution and placed on the ballot. The City Clerk's Election Resolution notifies the voters which positions will be on the ballot and what items will be on the ballot."

Mr. Shandler continued, "So now, I have to look at your calendars. The City Clerk's Election Resolution needs to go to the Governing Body for a vote and adoption at the Council's October 9 [2013] meeting, and that's based on the City Code in terms of her timeline of providing that Resolution. If it is adopted at the October 9 [2013] meeting, the City Clerk needs a member of the

Governing Body to introduce the Election Resolution at the Council's September [?] 25 [2013] meeting. Please be aware the Election Resolution will be in English and in Spanish, and the City Clerk's Office will be working on drafts and translations throughout the month of September."

Mr. Shandler continued, "So if the Governing Body wants to use the Resolution process, then your resolutions probably would be best introduced at your August 14 [2013] meeting and voted on at the August 27 [2013] meeting. I acknowledge there may be much discussion on this point and there may be discussion that the August 27 [2013] meeting is not the best date for debate, because it is my understanding there is a major conference going on about that time period that may result in some attendance considerations. It is also up to the Governing Body, if you want to have further discussions or a study session, before you want to introduce any resolutions. Or, as long as the items are introduced by the August 14 [2013] meeting, you could have a special meeting or a work session prior to the Council's vote on the proposals."

Mr. Shandler continued, "If the Governing Body wants to have a study session, the City Attorney's Office advises it should be a public meeting, and we strongly recommend that a portion of it be reserved for a public comment period. Of course, the structure of the study session and who you would like to invite for presentations, or no presentations at all, is up to the Governing Body. Staff will look to the Governing Body for direction on these matters."

Mr. Shandler continued, "The City Clerk has looked at the calendar, in terms of committee work and room availability and has identified some possible times: August 6, 2013, between 4:00 and 5:30 p.m., the August 14, 2013 Council meeting, August 15, 2013, and August 22, 2013."

Mr. Shandler continued, "And finally, these are your decisions. And if the deadlines or getting a majority of votes for the items does not work, then it's possible that a member of the Governing Body can reintroduce an item in Summer 2015, in anticipation of wrapping it into the 2016 election proclamation."

- Councilor Bushee said the normal process is that we don't have public hearings for Resolutions, and asked "Is that what you anticipate."

Mr. Zamora said, "The normal practice on resolutions is that they appear in the afternoon session, and a public hearing is not required. However, with matters of great importance, to us a phrase that's been in the news lately, you have seen fit in the past to place Resolutions in the evening session, and provide for a public hearing and public input."

- Councilor Bushee asked if a vote of the Council is needed to require a public hearing.
- Mayor Coss said as the one who sets the agenda, he would think it is important to have a public comment period. He said we also might address that with a couple of study sessions. He said, "Just given the significance of changing the Charter, even though it is a resolution, I would put it on the Evening Agenda for a public hearing."

- Councilor Dominguez said, "I read the Minority Report, and there was a question about how these are... and I talked to Yolanda about this earlier, but just so we can get this on the record, about how the ballot itself will come out – whether or not we vote on all the amendments in one vote, or if the public will be able to vote on each one separately. And so I wanted to clear that up, if you will."

Mr. Zamora said, "It's the determination in the City Attorney's Office that substantive ballot issues may be presented together. The only place that this really becomes an issue is in the strong Mayor recommendation from the Commission. There are amendments to several portions of the Charter. What would be presented is the concept of a strong Mayor with these several amendments as one issue. What you want to avoid is parsing that single concept into several issues, where by a 51-49 [vote] there is an approval that the City Manager, for example is subject to the appointment and removal by the Mayor, but then the general concept of a full time strong Mayor is rejected. So if you parse, and this is again for the determination of the Governing Body members in the resolutions they put forward, it would be our recommendation that this comes forward with that type of concept in one ballot question, and not in 5, 6, 7 or 8 ballot questions, where portions may pass, portions may not, and it not make sense when finally compiled."

- Councilor Dominguez asked if there is any legislation in place which mandates a certain ballot procedure. He said, "In other words, is there a State law that says you have to have a certain... I don't know how you define substantive. And so that's the question that I have is, how do you define substantive and how does the Governing Body decide what is substantive and what is not. Because I have my own ideas about, if one fails, then that means that the other one fails as well."

Mr. Zamora said, "We have provided you with a recommendation of how to present a resolution if a Governing Body member chooses to go forward that way. That being said, a Governing Body member may choose to go forward with a resolution that parses a question into several pieces."

- Councilor Dominguez said then we do have the ability to parse them.
- Mayor Coss said, "We just need to be careful what we put together and what we separate."
- Councilor Bushee said she called Ms. Vigil earlier about the called ranked choice voting machines and their availability, and asked if she has had time to look into that.

Yolanda Vigil, City Clerk, said, "I did place a number of calls after we spoke yesterday. And I actually didn't get any responses. I did call Dominion, that I understand is working on the development of software, but it is not yet available, but I didn't hear back from them. That's my understanding from Denise Lamb who is the former Bureau of Elections Director for the County."

Ms. Vigil continued, "I called the Secretary of State's office as well, because I understand they sent out an RFP requesting new machines, and I wanted to see if ranked choice voting software was included in that RFP, but I didn't hear back from them either. So I've got calls into various agencies and businesses, but I don't have an answer yet."

Ms. Vigil continued, "I did call AES who are the ones that have the current machines, the M-100, and for those there is no software available as of today's date."

- Councilor Bushee asked Ms. Vigil to keep the Governing Body apprised on this, and Ms. Vigil said she would do so.
- Councilor Bushee asked, for clarity for the public, "If the strong Mayor proposal passes, would it apply to the upcoming March 2014 election.

Mr. Zamora said, "The recommendation is that it applies after the 2018 election. The recommendation from the City Attorney's Office is that it not apply until that date, mainly for notice issues for those persons considering candidacy for 2014. For example, the requirement that they discontinue their other jobs, applies at the time of filing.

- Responding to Councilor Bushee's questions, Mr. Zamora said, "On the first question. I don't, on its face, see any conflicts with the other recommendations being effective after the election. And I believe the law is that they become effective either 30 or 60 days after the certification of the election. With regard to the other proposals, those could be effective essentially immediately in 2014. That answers that question."

Mr. Zamora continued, "With regard to ranked choice voting, I'm looking at that portion of the Charter right now, I'm going to read the language, '*Commencing with the general election in March 2010, or as soon thereafter as equipment and software for tabulation of votes and the ability to correct incorrectly marked in person ballots is available at a reasonable price and at all subsequent elections, the mayor, city council and municipal judge, shall be elected using a ranked choice voting system...*' Councilor Bushee, I cannot give you an absolute. If that became available on February 28 [2014] I think there would be difficulty. There are deadlines for the Clerk to print ballots, to have those ballots translated and available, a change in software and a change in machine may affect that. So, at some point in time it will become impossible to implement for March of 2014."

Councilor Bushee said she has one final question for Justice Serna. She said there a number of proposals written about in the newspaper around salary issues for the Mayoral position. She said, "I don't believe the Commission, at least what I've read, has made any recommendations along those lines. I don't know where those proposed salaries came from."

Justice Serna said the proposed amendments indicate that the City Council establishes the salaries, so it would be in the hands of the City Council.

Mr. Shandler said the numbers were provided by the City Manager's Office.

Councilor Bushee said, "Just random from H.R. somewhere."

- Mayor Coss said the number in the press was the City Manager's salary.

- Councilor Bushee asked if the Commission concurs that the City Council, half of which may be Mayoral candidates, should weigh in on that salary."

Justice Serna said yes, it's part of the Resolution that you all sent to us.

- Councilor Bushee said, "We made it clear, even in appointing the Audit Committee that perhaps we allow the Municipal Judge to make the recommendation so we had a little bit of distance. Well, I guess we'll ask those question as we entertain these in greater detail with the public."
- Councilor Ives said Mr. Shandler indicated that final action on a resolution to move matters from the Governing Body onto the ballot need to be taken at the October 9, 2013 meeting.

Mr. Zamora said, "The final action on the overall Election Resolution needs to occur on October 9, 2013. The planning ahead for passage of the overall Election Resolution, and getting the Charter amendment issues into that election, the recommended date for that in August 27 [2013]."

- Councilor Ives said then we need the Election Resolution a full five months prior to the election.

Justice Serna said, "Under Section 6.02 Powers and Duties of the Governing Body. It says, 'the Governing Body, shall by ordinance, fix the annual salaries for the Mayor, the Municipal Judge and Councilors, and shall review those salaries not less than every four years.' Now we had former [Espanola] Mayor Maestas to appear at one of our meetings, and he recommended an independent commission be established to set all those salaries, but that did not go very far and it was not adopted."

Ms. Vigil said, "Per our Ordinance, Section 9-1.6, we adopt the election resolution "no earlier than 147 days before the election and no later than 119 days prior to the date of the election. And the other thing that plays into this is, because of the nomination petitions, we have to give an exact number of petition signatures that are going to be required. The Charter ties that into the Election Resolution, because the number of registered voters is as of the date of the adoption of the Election Resolution, so that is why everything is so early."

[Councilor Bushee's remarks here are inaudible because her microphone was not turned on]

Mr. Zamora said, "We can get you more information to clarify, but there are some statutory caps on salaries, dependent on populations, counties, etc., and so there is a range that you must work within at this moment."

[Councilor Bushee's remarks here are inaudible because her microphone was not turned on]

- Mayor Coss again thanked Justice Serna and the Commission for all of their hard work, and thanked the Justice for presenting tonight.

[Justice Serna's remarks here were inaudible because he was away from the microphone]

14. MATTERS FROM THE CITY MANAGER

A Memorandum dated July 29, 2013, with attachments, to the City Council, from Marcos A. Tapia, Finance Director, regarding Moody's Press Release, is incorporated herewith to these minutes as Exhibit "7."

Isaac Pino, Acting City Manager, noted the Memorandum placed on the desks prior to the meeting, dated July 29, 2013, from Marcus Tapia and it addresses the Moody's press release. This is an informational item.

Marcos Tapia reviewed the information in Exhibit "7." Please see Exhibit "7" for specifics of this presentation.

Mayor Coss thanked Mr. Tapia and the City Manager's office for being aggressive in pursuing and explaining what is going on.

Councilor Calvert noted that Moody's was discredited in the 2008 Financial debacle, because they were complicit with some of the companies and how they were rating them. He said he is not sure why anybody would be paying attention to Moody's anyway.

15. MATTERS FROM THE CITY ATTORNEY

Mr. Zamora Introduced Joey Montoya, who was a summer intern in the City Attorney's Office, noting Mr. Montoya just completed his first year at UNM Law School, and is from Espanola. He wished him continuing success in his legal studies at UNM.

Mayor Coss thanked him for his help this summer.

Mr. Montoya thanked Geno and Patricia for this opportunity, saying it was a great honor, and he learned a lot.

EXECUTIVE SESSION

- 1) IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, §10-15-1(H)(7), NMSA 1978, DISCUSSION REGARDING PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS A PARTICIPANT, QWEST CORPORATION V. CITY OF SANTA FE, CASE NO. 10-CV-00617, IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO.**
- 2) IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, §10-15-1(H)(7), NMSA 1978, AND PURSUANT TO CITY OF SANTA FE RESOLUTION NO. 2012-31, QUARTERLY DISCUSSION OF THREATENED OR PENDING LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT.**

Councilor Ives recused himself from participating in the portion of the Executive Session dealing with the Qwest matter, "but would seek to rejoin for the monthly update."

MOTION: Councilor Calvert moved, seconded by Councilor Ives, that the Council go into Executive Session for discussion of pending litigation in which the City of Santa Fe is a participant, *Qwest v. City of Santa Fe*, Case No. 10-CV-00617, in the U.S. District Court for the District of New Mexico, in accordance with §10-15-1(H)(7) NMSA 1978, and pursuant to City of Santa Fe Resolution No. 2012-31, quarterly discussion of threatened or pending litigation in which the City of Santa Fe is or may become a participant, in accordance with §10-15-1(H)(7) NMSA 1978.

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

For: Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Absent for the vote: Councilor Bushee.

Abstain: Councilor Ives.

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

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At 7:15 p.m., Councilor Wurzbarger moved, seconded by Councilor Trujillo, that the City Council come out of Executive Session and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting for the motion and no one voting against.

16. MATTERS FROM THE CITY CLERK

There were no matters from the City Clerk.

***Mayor Coss moved Item #17 Communications from the Governing Body
to the end of the Evening Agenda***

END OF AFTERNOON SESSION AT 7:15 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor David Coss, at approximately 7:15 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

Others Attending

Isaac Pino, Acting City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

F. PETITIONS FROM THE FLOOR

Mayor Coss gave everyone 2 minutes to petition the Governing Body

Mary Elsesser said her property borders the Gaia Gardens on the west. She was unable to attend the last Council meeting to express her concerns. She said, "If you're going to pick a side in the Gaia Garden deal, you better pick the right one, because you are setting a precedent. On one hand there are taxpaying citizens reporting violations of City Codes for the year and on the other, you have someone who has been ignoring City Codes for over a year. After a year and a half of operation and almost 20 violations, Gaia Gardens is actually praised for being responsible and working with the Land Use Department." She feels the organizer of Gaia Gardens should have been responsible in the first place, and the City has set a precedent for anyone to take all the time they want to become legal with no foreseeable deadline.

Linda Marple, Executive Director, Santa Fe Community Farm, which is a 12 acre farm located at San Ysidro Crossing and Agua Fria Village. She spoke about the workings of a true agricultural, educational 501(c)(3), noting they give away almost of their produce free to the needy via the Food Depot,

as the landowner, John Stephenson, has done for 60 years. What little produce they sell goes to repair equipment and buy supplies, not for salaries or to support the staff. Their produce prices are 2/3 less than any store or garden so they can provide fresh produce to their local, less fortunate neighbors. Their main support comes from grants and donations. The farm is agriculturally zoned, not residential. Their water rights provide for domestic use and drip irrigation, and to maintain the water rights, the water must be used for these purposes. They are not endangering the water supply of their neighbors. They are an education center and community hub, and hold workshops and classes. The farm also is in partnership with the Community College to provide an outdoor classroom. They do not disturb nor would ever knowingly infringe on the rights of their neighbors. She invited the Governing Body to visit them any time to see a true charity in action.

Alex Winsor Betts has an arts brokerage house at the corner of Lincoln and Marcy. The building has been there since 1909, and they've had a loading zone at the corner of Lincoln and Marcy for as long as she can remember, for at least 28 years. She bought the building since 2000. As a brokerage she represents clients all across Santa Fe and the nation. She has to have a loading zone to load all of the art. She said during the 10 years when the City was building the Convention Center and the New Mexico History Museum there was no on-street parking. She went to Grant and leased the brick building across from the Presbyterian Church for 10 years. When she moved back to her building two years ago, she found motorcycle parking spaces there. She said they don't use it during the day. Her proposition is to cooperate with the motorcyclists to use that space until 5:00 p.m. She said she and other businesses she represents desperately need loading space, so they can get the art to the gallery. She said her clients are upset about the lack of loading zone space. She said she put a letter in the Governing Body boxes today explaining the situation.

David McQuarie said this is to the Chair of the Finance Committee which will be considering the Parks bond, and he hopes it includes the lack of ADA improvements that required in the construction. There are numerous parks and some trails that fall in the category of exclusion. He said one is very serious which cost \$200,000, and they started on it and then they quit. Secondly, he is petitioning this Council regarding the curb cuts that are supposed to be done with the overlays of 2012-2013. He said the Mayor's Committee on Disability reviewed the plans, and they have definite questions. The person he talked to was the same person who was project manager, and was asked why they weren't doing curb ramps at every intersection. He said, "The handicapped can't make a rational decision. They can go to the light. He said today on Old Pecos Trail from Calle Medico to Cordova all intersections have ramps. He understands it is because the feds said they if you don't put them in, we're going to pull our \$800,000. I think it goes against the statement in the Transportation Department letter that says if the City believes that it is technically infeasible to bring the curb ramps into full compliance with ADA, it must achieve a test ability and usability to the maximum extent feasible and otherwise prove that full compliance is technically infeasible. He said as Chair of the Mayor's Committee Plan Review Subcommittee he requests that when they come up with the revised curb cut plans to please resubmit those to the Mayors Committee for review.

Mayor Coss noted that Item H(4) has been withdrawn by the sponsors for the time being.

G. APPOINTMENTS

Economic Development Review Sub-Committee

Mayor Coss made the following appointment to the Economic Development Review Sub-Committee:

Alan O. Austin – to fill unexpired term ending 05/2015.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve this appointment.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

City Business & Quality of Life Committee

Mayor Coss made the following appointment to the Economic Development Review Sub-Committee:

Dena Aquilina – to fill unexpired term ending 03/2014.

MOTION: Councilor Wurzbarger moved, seconded by Councilor Dimas, to approve this appointment.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Calvert, Dimas, Dominguez, Ives, Rivera, Trujillo and Wurzbarger voting in favor of the motion and none voting against.

H. PUBLIC HEARINGS

1) REQUEST FROM CAFÉ GRECO, LLC, FOR THE ISSUANCE OF A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT CAFÉ GRECO, 233 Canyon Road, Unit 1. (Yolanda Y. Vigil)

The staff report was presented by Yolanda Y. Vigil, City Clerk, noting it is not within 300 feet of a church or school. The application includes an outdoor seating area, and in accordance with correspondence from Jennifer Anderson, Director of Alcohol & Gaming, the current configuration of the outdoor boundary conforms with the State's requirement, noting that email is in the Council packet. She

said there are staff reports in the packet regarding litter, noise and traffic. Staff recommends this business be required to comply with all City ordinances as a condition of doing business in the City.

Public Hearing

Richard Horcasitas, agent for the applicants, was sworn. Mr. Horcasitas said the Applicant has read the staff report and agree with the recommendations. He said they would appreciate approval, and are here to answer any questions.

The Public Hearing was closed

MOTION: Councilor Wurzbarger moved, seconded by Councilor Bushee, to approve issuance of a Restaurant Liquor License (beer and wine on-premise consumption only), to be located at Café Greco, 233 Canyon Road, Unit 2, as recommended by staff.

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

- 2) **CASE #2013-49. APPEAL. O. MICHAEL DUTY, AGENT FOR SANTA FE DINING (ROOF TOP PIZZA), APPEALS THE MAY 28, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-13-036 DENYING ITS APPLICATION TO CONSTRUCT A TUBE STEEL RAMADA WITH A FABRIC COVER OVER THE THIRD FLOOR REAR DECK AT 60 EAST SAN FRANCISCO, IN THE DOWNTOWN AND EASTSIDE HISTORIC DISTRICT. (KELLEY BRENNAN)**

A Memorandum with attachments, dated Jul 23, 2013, for the July 31, 2013 meeting of the Governing Body, to the Members of the Governing Body, from Kelley Brennan, Assistant City Attorney, regarding this case is incorporated herewith to these minutes as Exhibit "8."

A series of color photographs used by David Rasch, Historic Division, in his presentation, are incorporated herewith to these minutes as Exhibit "9."

The staff report was presented by Kelley Brennan, Assistant City Attorney. Please see Exhibit "8" for specifics of this presentation.

David Rasch presented information regarding this matter, using the color photographs [Exhibit "9"] demonstrating the site via the overhead as follows:

- 1) The streetscape looking east toward the cathedral, noting the building in question is a 3 story building and each story does step back. There are mostly 1 and 2 story buildings with several 3 story buildings, noting this is one of those building.
- 2) The streetscape looking west, mostly 2 and 1 story buildings and a few 3 story buildings.
- 3) The building in question, first story then a stepback, second story and then the third story and we're talking about this "diamond portal which is behind "those" planters. From this angle, you can see where the open space is that is requested to be filled in with this ramada and fabric.
- 4) The front of the building, and you can see that the two stories do go straight up to the third floor parapet.
- 5) The same building from the west side. The existing portal currently has a fabric covering on its west elevation and they are talking about the area in front of that.
- 6) The other building in the streetscape that has a similar situation is the Coyote Café, which is a legally non-conforming structure, built prior to the March 2012 Code revision where temporary structures need to be compliant with Santa Fe Style standards, so the Coyote Café is a legally non-conforming structure which is within the streetscape.

Mr. Rasch said, "The plans very quickly. This building spans the entire length of San Francisco Street to Water Street on the Plaza side, on San Francisco Street. The building is 2-stories tall, but on the Water Street side, the building is 3-stories tall, and we're talking about this area of the third story. As it exists, there currently is a portal in this area, and this is the area in question, which is currently open above, and it's a dining area. What the Applicant requested was this tubular steel ramada with a fabric covering on the top and on the west side only."

Mr. Rasch continued, "Currently, as you look at the elevation of the south side of the building, you see that existing portal. And the proposed ramada in front of it, it is rather narrow in design, doesn't have much mass at all, just the uprights and the pergola roof."

Mr. Rasch continued, "From the side, you see the existing portal and this open area where the dining is protected. And then the proposed pergola with this fabric covered roof, not a solid roof, over top."

Councilor Wurzbarger asked Mr. Rasch to clarify his staff recommendation to the Historic Districts Review Board ["H-Board"] on this project, and the rationale.

Mr. Rasch said the staff report does recommend approval. He said, "There are two Code citations that I used. One, is that in this Downtown and East Side Historic District, no building shall be over two stories without appropriate setbacks and/or relief from that massing with recessed or projecting portals, and the other citation is in the recent Santa Fe Style. It mentions a series of materials that are approved for use in exterior situations in this District, with other materials approvable."

Mr. Rasch continued, "Going to the first citation, this pergola does not have a solid roof nor solid walls. You could see it as a projecting portal, so I didn't see it as a solid mass change, so I didn't think it altered the stepback massing of the existing building as much as the Board did. The Board felt that that portal affected that third story setback. The approval of materials. This is tube steel and fabric. I didn't mind that option. I understand the tube steel is more durable than a wood pergola. I think the Board would have preferred to see more traditional materials, but I was willing to allow the newer materials."

Councilor Wurzbarger asked if there was discussion at the H-Board, with respect to the option of considering alternative materials, rather than a denial, noting she couldn't find that in the minutes.

Mr. Rasch said they didn't get that far with it. The H-Board may like to see a wooden pergola, but they weren't questioned on that, however.

Public Hearing

Presentation by the Appellant

Michael Duty, Architect, Duty & Germanus was sworn. Mr. Duty said, "I think I'm going to make this real brief. You can look at two aspects of this case. You can look at the big picture and you can look at the details, and we think we have a compelling argument in both cases. In the first place, and in opening, before I get to the details, I would like to state that this case is about the disapproval of an awning on a non-historical building, there's no debate on this. There is no historical preservation issue present here. The awning will do absolutely nothing to degrade any historical status of any kind in Santa Fe. The awning will not degrade the historical status of the building, because it is not historical, and it will not degrade the historical status of the streetscape, because there is already awning material in use at this very location and in other locations along water street, notably Coyote Café Cantina."

Mr. Duty continued, "The HDRB has a responsibility to protect Santa Fe's historical heritage. It is understood and is as it should be. In our zeal to protect that heritage, we have created an ordinance that frequently reaches much farther. Once it is determined that a proposal before the HDRB is for construction or additions to non-historical buildings, then we enter into the HDRB as designer arena. That's where we are in this case."

Mr. Duty continued, "Specifically, on May 14 [2013] the owner and operator of the Rooftop Pizza applied to the City for permission to install the new awning above the portion of the existing third floor deck which you've seen, on the Water Street side of the arcade. The purpose of the awning was to provide

shade to their patrons and it was to replace an existing retractable awning which had been destroyed by the wind. The arcade building is non-contributing and not significant, having been built within the last 15 years. There are no historical preservation issues relative to the building whatsoever. The Applicant and the City Historical staff person, Mr. David Rasch met at the site for the required site visit. In the discussions that were held, David was shown sketches of the proposed awning prepared by the awning company. And as the result of that meeting, the Applicant was encouraged to proceed as planned. At this point, the Agent for the owner, Duty and Germanus was retained to prepare the actual submission to the H-Boar in full expectation that approval would be granted in time for the summer season. "

Mr. Duty continued, "The submission was made to the City for approval at the next Board meeting. The staff reviewed the proposal, and in the report, staff recommended approval of the application and that it specifically complied with Section 14-5.2(D)(9) and Section 14-5.2(E), which were the sections that the Board subsequently said that it didn't conform with. The HDRB denied the project, citing non-conformance with the very sections listed as in compliance in the staff report."

Mr. Duty continued, "In denying the project, we believe the Historic Districts Review Board erred in the application of ordinance, erred in interpretation of the ordinance and acted in an arbitrary and capricious manner. In support of that conclusion, we offer the following. Section 14-5.2(D) specifically states the following: 'Structures that have been declared significant or contributing in any Historic District, or a landmark in any part of the City, the following standards shall be met.' Section D continues to cite all of the standards applicable. This entire section applies to historical structures. And the reason we say that, in contradiction to what the City Attorney said is because that's what the ordinance says."

Mr. Duty continued, "The building in question in this appeal is not a historical structure. The HDRB erred in interpretation or application of the ordinance in the denial. The HDRB is in full recognition of the building's lack of any historical status. B) The Board concludes that the submission is not in conformance with 14-5.2(D)(9)(f), because the proposed extension of the third floor with the ramada eliminates the stepback in the manner that is not harmonious to Santa Fe Style and is not harmonious with the historic character and the visual qualities of the streetscape. They don't go on to define how it is not harmonious, but that is clearly their position. The existing stepback is not even required to be in harmony with both the Santa Fe Style and the streetscape."

Mr. Duty continued, "Relative to stepbacks, Section 14-51.2(E)(2)(a) states that, 'No building shall be over two stories in height in any façade, unless the façade shall include projecting or recessed portals, setbacks or other design elements.' That is precisely what is being provided with the awning. The HDRB refers to it as a ramada, that was their term. It is, in fact, a recessed portal, just as the ordinance allows. In addition, this façade is not over two stories. The definition of façade within the ordinance is an individual façade that is defined as including at least an 8 foot width, we are more than that, that is offset from an adjacent plane by at least 4 feet."

Mr. Duty continued, "The façade in question here is does in fact meet this definition. It's not measured from the ground. It's measured from the roof of the lower level. It does meet this definition of an individual façade by virtue of its width and setback from adjacent planes. That's what the ordinance says. This means that under the Code this is an individual façade and must have a setback if it is over two stories. It is two stories only, setback from the first floor of the building and therefore requires no additional setback. The reference was made by the staff or the HDRB members, to establish or define what streetscape and what visual qualities this submission was not harmonious with, we are left to speculate. Due to the other awnings along the street, which we've mentioned, the basis for denial seems rather arbitrary."

Mr. Duty continued, "Finally, C) The Board concludes that the project is not in compliance with the section cited, because the fabric does not meet the standard. In item 2, it states, 'Recent Santa Fe Style intends to achieve harmony with historic buildings by retention of similarity of materials.' Again, we don't have a historical building. Here again, this Section specifically states its applicability to historic buildings in complete support with and of Section 14-5.2(D), as one would expect for preservation and retention of these important structures. Again, this building is not classified as historic in any category, and therefore it is not subject to this section as written. Also, the Board can specifically approve other material. Awning material is used frequently in downtown Santa Fe."

Mr. Duty continued, "In closing, it is my contention that these conflicts in the ordinance between rules for historic structures within the District and rules for non-historic structures give rise to ongoing confusion, relative to understanding and application of the ordinance. Generally, in my experience, debates over the HDRB's intrusion into design find the root cause in this very conflict. Overall, in my opinion, the Board does a commendable job of trying to find middle ground, or reasonable interpretation. This however, is not one of those instances. We petition the Governing Body to uphold this appeal and allow the owner to install a little shade for the clientele of the restaurant."

Mr. Duty continued, "And in response to one question, we were really not given an option, as I understood it and read it, and hear from the Board, on the redesign. We were told in basics that if it's fabric, it's not permanent, therefore you can't do it. And, if it's permanent then you can't do it either, because you've got to have a setback. So the message here is, you have a non-historic building and you can't have any shade. And I think that's our appeal. Thank you very much."

Ms. Brennan said, "No matter what you feel about the merits of this appeal, I do want to emphasize that I believe that Mr. Duty's interpretation of the Ordinance is incorrect. And I'm not speaking to whether other materials are usable to things like that, but just because the building is not 50 years or older doesn't mean it's not subject to the ordinance. Harmony is defined. I hope, in my memo, I covered this. I also addressed the façade. The façade definition in the Code includes two things. It includes basically elevation from the grade to the top of the building, and it includes individual facades, which are at

least 8 feet wide and offset by four feet. So, without saying more, I do want to say I think it's important to emphasize the point that the Code does apply to all buildings in the Historic Districts. And I think you can imagine what would happen if it didn't – we wouldn't have an integrated Historic District at all eventually."

Councilor Calvert asked Ms. Brennan if it would be correct to state that the Coyote Café, which is a legal non-conforming structure, would not be counted in the streetscape, since it is of that status.

Ms. Brennan said the building itself counts in the streetscape, but it is legally non-conforming, so the answer to that is yes.

Councilor Wurzbarger asked, in the case of the Coyote Café, if they could redo its temporary structure if it were to burn up.

Ms. Brennan said it would mean they would have to do something compliant and come in to get approval. It would be very similar to what happened in this case.

Councilor Wurzbarger said there is a different height issue here.

Ms. Brennan said yes, and different relief. She said, "This building is quite massive which is what presented the issue in relation to the others in the streetscape."

Councilor Wurzbarger said the building is massive. She said she is trying to get an operational definition to the notion of what is massive, or not massive. She asked Mr. Rasch to speak to this from their earlier discussions. What are we talking about here in terms of change of "mass."

Mr. Rasch said, "Typically mass is a solid room block. And that's where when you look at this existing building, the first floor mass – there is a stepback to the second floor mass, and there is a stepback to the third floor mass. Typically it's solid walls. This pergola which has no solid walls nor a solid roof, has a visual effect on the mass, because it creates shadow, and because it has verticals that are at those corners, even though there aren't solid walls there. So, in my opinion, it's not creating solid mass, but it's this visual disruption of what the Board saw as existing compliance with all the stepbacks."

The Public Hearing Was Closed

Councilor Ives said in the conclusions in the Memo, under Item 3, it says, "If the Governing Body concludes that the project as designed does not comply with the requirements of the Code, but could be brought into compliance if redesigned, it should deny the appeal and remand the matter to the HDRB for consideration of redesign, subject to the agreement of the Appellant to redesign." He said, "We've just heard the Appellant say, or has represented, that they were told that no redesign was possible. And so I'm trying to figure out if that is... I didn't see that anywhere as a conclusion that I can recall, in any of the presentation to us, other than the comments of the Appellant, so I'm trying to get a sense of whether or not

redesign is an alternative here in the first instance. Whether we're really talking about materials, because I do understand the need to creative conformity across a Historic District, even though a particular building may not be historic."

Ms. Brennan said, "I don't think the HDRB discussed it at the time. I would say that, historically, they have, it's been my observation sitting at meetings, that they prefer natural materials – prefer wood to steel in almost every instance, not every instance. A lot depends on visibility. And actually, I have to say you have the ability to ask the Appellant if they are interested in changing materials and making that choice yourself. You don't have to remand that. I think you have all the alternatives that the Board has. I hope that answers your question."

Councilor Ives said not totally. He asked the Appellant if redesign with other materials is something the Appellant is willing to consider.

Mr. Duty said, "Yes. Absolutely. We've never had any objection to the H-Board on reconsidering. The reason I spoke as I did a moment ago, is because, while the H-Board didn't say to us, come back and redesign it, they didn't ask us to. And while the H-Board didn't say to us, no design is possible, if you read their interpretations of the ordinance in my opinion, they said to us, no design is possible. Because on the one hand they said there's an existing setback and if you want to fill it in with the material that's different from the building, another words an awning, which in my opinion does not detract from the historical massing of the building, even though it's not historical. I think what the Board said was you can't use a material that is not of the building material, so no awning."

Mr. Duty continued, "And then they also said, if it were not an awning, if it were a structure as the attorney testified to, it wouldn't be allowed either, because we've got to have that setback. My contention is they erred very strongly in that area. This setback is not in fact required under any reading of the ordinance, with the exception of a rather arbitrary decision, I think, that it's not harmonious. There's lots of setbacks in lots of sites. But as the Code reads, from the second floor up, this whole façade is less than two stories, and doesn't require a setback."

Mr. Duty continued, "I would be happy to design a permanent ramada in this location if I had any indication from the Board that they would consider that. The indications he got was that they wouldn't, but I am happy to come up with something that works for everyone."

Councilor Bushee said it appears a section is already in place. It doesn't look like the other is stepped forward, at least from the photographs we're seeing, or closer to the streetscape.

Councilor Rivera said they, he and Councilor Bushee, are looking at Exhibit "E."

Ms. Brennan asked if they're talking about the existing portal on the third floor.

Councilor Bushee said they're also looking at what they presume is the addition in question.

Ms. Brennan, using a photo of the site on the overhead, said, "This is the west side that shows the curtain on the existing portal, and they propose extending this out with tubular steel and then putting cloth on it. So, when I started, I said that I had been aware that the project as designed was the... the proposed addition to the portal was actually stepped back a little from the parapet, and I think the Appellant can say how much. But that would give a little visual relief to that. Mike, can you tell us how far stepped back it is from the parapet."

Mr. Duty said the setback to follow the ordinance as interpreted by the H-Board would be about 4 feet. There is a 4-foot setback in order to define another façade. There are a myriad of ways of looking at it. If there is an 8 foot porch and setback and the awning is 4 feet, then "why bother." He said, in practicality, the line of the building can be preserved easily with their original presentation which was behind the parapet about 12 inches. It's about the thickness and the wall and a little more, and they can build it behind the parapet a little, or project it. He said this is an easy thing to design. He reiterated he felt that the Board gave them a zero option.

Councilor Bushee said it sounds like the Board's main objection was to the tubular steel, and asked if there is another way to do this which would be more in keeping with the ordinance.

Mr. Duty said yes, and he is amenable to that.

Councilor Bushee said, "Not wanting to be the arbiter of design and taste, if we sent this back to the H-Board with the mandate that they work with you to come up with a design that would be more amenable to everybody involved, do you think that would work. That's where Councilor Ives was going."

Mr. Duty said, "I said I am amenable and happy to work with the Board on any level. I do find, the way I read their disapproval, that they've taken that away from us. In order for us to choose materials with a little setback and all of that, they've got to give up on the idea that a setback is required. So I would have to have some clarification from the Board. And of course the only clarification we got was from the staff, and their clarification was that we were in conformance with the ordinances and we were approval. I can't read the H-Board's mind, as many times as I've been in front of them. But I expect, if we were to change the design, they would have to give in a little on their interpretation of the ordinance."

Councilor Ives said he has a sense that we are, to some degree, unclear exactly what is permissible here, as the structure has been determined to be not in conformity with the statute. He thinks it's reasonable in this instance, and for the reasons Ms. Brennan has stated in terms of non-historic buildings in Historic zones, to deny the appeal. He is curious to know if a redesigned structure would be acceptable, and would like to remand that question to the H-Board for its consideration, because of the conflicts in terms of interpretation, commenting he believes that is the appropriate body to make that interpretation.

MOTION: Councilor Ives moved, seconded by Councilor Calvert, to deny the Appeal in Case #2013-49, with a remand of the question of whether or not an alternate design would be acceptable and what those parameters might be to the H-Board.

FRIENDLY AMENDMENT: Councilor Calvert would like to amend the motion to include Conclusion Number 1, that the Governing Body finds that Code requirements apply to all structures in the Historic Districts, including non-conforming structures such as the building. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON THE MAIN MOTION, AS AMENDED: Councilor Wurzbarger said, on that point in this particular case, she has no arguments with the Findings of Fact on Number 1. She said, "However, this is 4 x 8 feet. We have seen a façade that is set back. We have discussed the materials issue, which, from my long conversation with Mr. Rasch this afternoon, it appeared to me that there is a design issue. But, if we're responding to the setbacks as we can see them, as they have been, it appears to me that the main issue here is one of materials. If one is designing a 4 x 8 foot space, and we are using materials which are sensitive to the current law, that's wood. This is not a big design process that I think should be debated, unless we just want to send it back and have the rehashing of the issue of the setbacks. Given that it has been there, and given that there are alternative materials, I would be opposed to this motion, and would encourage the Council itself to make a decision on this matter. And respecting, first of all, that I am disagreeing in accepting Item one.

Councilor Trujillo said he is hearing about materials. He said the photos in Exhibit E show a false wall, and he asked how that got approved, commenting it appears to be made out of plastic. He asked if that isn't detrimental.

Mr. Rasch said the plastic or cloth material was installed before March 2012, so that material, just like the Coyote Café is legally non-conforming. They're not asking to change that.

Councilor Trujillo said he understands Councilor Ives wants to deny this, but he would like to send it back to the H-Board and mandate that they look at another material and once they make a decision it's final and won't be changed. He said we get these appeals, "and I get sick and tired of hearing them. That's their job and they need to do their job. We get these stupid appeals. To me, it's not a historic building. It's not the portal at the Palace of the Governors. And I just get tired of hearing these."

Councilor Rivera said, with regard to Exhibit E, the proposal is to extend that current type of material, 4 feet by 8 feet, out to those planters on the left hand side.

Ms. Brennan said, "Yes, except only obviously in that portion that is the wing that's coming out to the left of the entrance to the building. And as proposed, as I understand it, it's extending the portal. I believe that the fabric they are talking about hanging would be solely on the west façade, and not in the front as this shows now, but Mike can speak better to that."

Councilor Rivera said then the new area wouldn't be fully enclosed.

Ms. Brennan said this is correct.

Councilor Rivera asked, "If we were to accept this on this side of the building, accepting that it is not a historical structure, then what would keep us from preventing them from doing anything to the front of the building which faces directly to the Plaza."

Ms. Brennan said, "They would still have to come back and get approval for that, and I think all of us appreciate that that façade, meaning entire elevation of the building, is highly sensitive facing the Plaza. I believe they use umbrellas on that deck now. And because this is a southern and western exposure, I think they have particular problems that they probably don't have on the Plaza side."

FRIENDLY AMENDMENT: *Councilor Bushee* would like to amend the motion to remand this to the H-Board for everybody involved to work this out. She said, "I may not have started this with a denial of the appeal, just simply to suspend this process to send it back to the H-Board to work on both materials and potential setback issues. I don't want to disempower anyone, but it feels like not enough time was spent taking into consideration potential changes to make this work. It should perhaps not have been raised to the level of an Appeal, but it has, so maybe we can just take the tennis racket and hit it back and say, your volley, your turn, and please look at these issues, which would be both materials and setback and ask them to come back if they can't find some agreement, and we'll have to do their job. But I think I would prefer that kind of motion, if that were friendly." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

CONTINUATION OF DISCUSSION ON THE MOTION AS FURTHER AMENDED: Councilor Ives said he certainly meant to ask them to incorporate those issues in asking them to look at a redesign.

CLARIFICATION OF THE MOTION AS AMENDED WITH THE FRIENDLY AMENDMENT: Councilor Calvert said, "The only change to his motion is we're not denying the appeal. It is just a remand, with guidance."

Councilor Wurzbarger asked, "I would like a clarification as to whether we are asking them to redesign, or if we are asking them to consider alternate materials, because the redesign issue takes into a whole other area."

FURTHER CLARIFICATION OF THE MOTION, AS AMENDED: Councilor Bushee said, "Well, as I stated, my motion would be to remand [this appeal] to the Historic Districts Review Board to consider both materials and setback issues, and try and work out issues with the Appellant, and hope that we won't see it back here."

Ms. Brennan said, "I think that it is very helpful if you are remanding to the Board to give them guidance. I think the Appellant has indicated a willingness to consider setbacks that in a 4 foot by 8 foot space..."

Councilor Bushee, "... don't diminish the effect of what they're trying to do."

CLARIFICATION OF THE MOTION, AS AMENDED: Councilor Ives said, "Just one clarification, which is the point raised by Councilor Calvert, with regard to Conclusion #1, that that is still a part of the motion." Councilor Bushee said, "Sure."

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Ives and Councilor Trujillo.

Against: Councilor Wurzburger, Councilor Dominguez and Councilor Rivera.

Explaining her vote: Councilor Wurzburger said, "I'm going to vote no, because I'm concerned that we're wasting our time in terms of everything I learned today, and in terms of the dialogue about considering this in an absolute sense with respect to Item 1, and what that means in terms of the possibilities of an elevation change."

Explaining his vote: Councilor Dominguez said, "I'm going to vote no, because as I read these minutes, I think they're going to come back with the same kinds of requests, so I'm going to vote no."

- 3) **CONSIDERATION OF BILL NO. 2013-29: ADOPTION OF ORDINANCE NO. 2013-28 (COUNCILOR CALVERT). AN ORDINANCE RELATING TO THE CAMPAIGN CODE, ARTICLE 9-2 SFCC 1987: AMENDING SECTION 9-2.3 TO AMEND THE DEFINITION OF CONTRIBUTION AND ADD THE DEFINITIONS FOR "ANONYMOUS CONTRIBUTION" AND "CHARITY;" AMENDING SECTION 9-2.5 TO CLARIFY WHOSE IDENTIFICATION IS REQUIRED ON CAMPAIGN MATERIALS; AMENDING SECTION 9-2.9 TO AMEND THE DUTIES OF THE CAMPAIGN TREASURER AND DEPUTY TREASURER, INCLUDING THAT ALL CONTRIBUTIONS SHALL BE REPORTED AND CLARIFY THE PROCESS FOR DISPOSITION OF TANGIBLE ASSETS; AMENDING SECTION 9-2.11 TO AMEND THE REQUIREMENTS FOR THE CONTENTS OF THE CAMPAIGN FINANCE STATEMENT; AMENDING SECTION 9-2.12 TO EXEMPT JUDICIAL CANDIDATES FROM SIGNING CAMPAIGN FINANCE STATEMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY; AND RELATING TO THE PUBLIC CAMPAIGN FINANCE CODE, ARTICLE 9-3 SFCC 1987; AMENDING SECTION 9-2.3 TO AMEND THE DEFINITION OF CONTRIBUTION; AMENDING SECTION 9-3.6 TO CLARIFY REQUIREMENTS FOR SEED MONEY CONTRIBUTIONS AND UNSPENT SEED MONEY; AMENDING**

SECTION 9-3.7 TO CLARIFY THAT QUALIFYING CONTRIBUTIONS SHALL BE PLACED IN A NON-INTEREST BEARING ACCOUNT; AMENDING SECTION 9-3.8 TO CLARIFY CANDIDATE APPLICATION REQUIREMENTS; AMENDING SECTION 9-3.10 TO CLARIFY THAT SEED MONEY SHALL BE TURNED OVER TO THE MUNICIPAL CLERK WHEN A CANDIDATE HAS NOT BEEN CERTIFIED; AMENDING SECTION 9-3.11 TO CLARIFY THE REQUIRED DISPOSITION OF UNSPENT PAYMENTS FROM THE FUND AND TANGIBLE ASSETS; AMENDING SECTION 9-2.14 TO REQUIRE THAT THE DATE SHALL BE INCLUDED ON ALL REPORTS OF EXPENDITURES AND CLARIFY THAT SEED MONEY AND QUALIFYING CONTRIBUTION REPORTS SHALL NOT BE SIGNED OR ACKNOWLEDGED BY A CANDIDATE FOR MUNICIPAL JUDGE; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY. (YOLANDA Y. VIGIL AND ZACHARY SHANDLER)

A Proposed Amendment to Bill No. 2013-29, submitted by staff, is incorporated herewith to these minutes as Exhibit "10."

The staff report was presented by Zach Shandler from the Legislative Summary which is in the Council packet. Please see this document for specifics of this presentation. He noted there is a proposed amendment on the tables [Exhibit "10"].

Public Hearing

Justin Miller, Chair of the Ethics and Campaign Review Board ["ECRB"], said this bill is the product of a lot of work by Yolanda Vigil, Jim Harrington, the City Attorney's office and the ECRB over the course of two meetings and presentations by Ms. Vigil, Mr. Harrington and the City Attorney's Office. He said the ECRB intended these recommendations to bring a cleanup of some very clear problem areas which became evident over the past two years. He said the ECRB wanted to be sure that the Campaign & Campaign Finance laws of the City remain Constitutionally strong in the face of a legal landscape. The ECRB wanted to make sure that the public has the maximum information about candidates and candidates' finances, and at the same time the laws are workable and manageable for candidates and campaign workers. He said the ECRB did its best to come up with recommendations to achieve those goals, and he believes the proposed bill from Councilor Calvert does so, and thanked the Governing Body for its consideration of this bill.

Jim Harrington, State Chair, Common Cause, thanked Mr. Zamora, Ms. Vigil, Mr. Miller and the ECRB for letting him have input on this important bill. He said everyone worked on this for a long time, especially Ms. Vigil. He said, as Mr. Miller says, the bill cleans up a lot of problems that have been lurking in the campaign reporting law for a long time and the newer problems which surfaced in the course of the debut of the public financing law. He said the bill has unanimous support of everyone that worked on it, and he hopes the Governing Body will see fit to approve it.

The Public Hearing was closed

The Council commented and asked questions as follows:

- Councilor Wurzbarger said, with public financing increasingly on a level playing field, there will also be more individual parties in peoples' homes. She said, "My question is, does that mean that if someone gives you a coffee, because what I'm thinking is anything that is given, anything, we're taken out ever single reference to a dollar. It is anything. So if someone gives you a coffee, does that mean that you need to come in with a receipt to show how much money they spent for the coffee. It may sound mundane, but I would like clarity around that, because that is of value. Correct."

Mr. Zamora said, "The amendments that relate to campaign contributions, are designed to close loopholes that could potentially be exploited. And what we're talking about is, prior to these amendments, the current Code has an exemption for contributions up to \$25. They're just not counted and reported. And when there is a loophole like that in an existing Code, what it opens is the potential of one hundred contributions of 24.99, that never make it to a report. And not saying that anyone is accused of doing that, or anyone has done that, but saying that is a loophole that remains in our Code that could be exploited. And so the purpose was to really close the contributions loop, and require that contributions of any amount be reported."

- Councilor Wurzbarger said she wants to make sure she is clear – contributions of any amount of any kind, and using the example of coffees, however much they spend, so it is any expenditure. She said, "The days of going to someone's home for coffee with 10 neighbors, we need to get a receipt, that's all I'm saying. Is that's what's going to happen."

Mr. Zamora said, "Under the definition of contribution in the Public Finance Code, states, 'The term contribution does not include the cost of an event held in honor of, or on behalf of, a candidate when the total cost of the event amounts to no more than \$200.' This is the Public Finance Code that I'm referencing."

- Councilor Calvert said it is also in the Campaign Code.
- Councilor Wurzbarger asked where it is located in the Campaign Code.
- Councilor Calvert it is on page 4 of the Campaign Code.

Mr. Zamora said he is looking at page 14 of the substitute bill, and he doesn't have it in the packet, page 14 of the substantive bill, line 18. He said, "So the term contribution does not include the cost of an event held or on behalf of, a candidate when the total cost of the event amounts to no more than \$200."

- Councilor Wurzbarger apologized, saying she didn't catch that when she read the bill. She said she was struck with the power of saying, get rid of the \$25, and that's a good thing.

MOTION: Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2013-28, with the proposed amendment [Exhibit "10"].

DISCUSSION: Councilor Dominguez how do you define a tangible asset. He said page 8 of the Campaign Code provides, "Any campaign contributions remaining unspent and any tangible assets with an estimate resale value of greater than \$200."

Mr. Shandler said, "It does not appear that term is defined as proposed, so we would probably look to Black's Legal Diction to provide the definition in law, the difference between tangible and intangible products."

Mr. Zamora said, "This was an area that we spent considerable time on because it is difficult. You start defining it out and then you run into instances that aren't within the definition. I think implied within this language is, one, that it has value of greater than \$200. That helps to define tangible asset. That it was purchased. So you are purchasing an item, it's valued at greater than \$250 and it remains with the campaign. So, implied within that paragraph is the definition of tangible. You purchase it, it has a value of \$200, it remains with the campaign."

Councilor Bushee said, "I presume you mean if someone bought a computer or something like that, you turn it in and it gets sold and the proceeds go back to the fund. What about campaign signs. They're going to have a value of more than \$200 most likely. They're of no use, you can't resell them."

Councilor Calvert said they aren't worth \$200 individually.

Mr. Zamora said, "And that's how we analyzed it. Each sign has a value of less than \$200."

Councilor Dominguez said, "There may be instances where someone donates something and it's really worth retail \$300 or \$3,000, but they're going to value it at \$10. Is that possible. Who decides the value of something."

Mr. Zamora said, "Many of these issues we cannot answer specifically. However, the guidance, because we're not the lawyers for the campaigns, the guidance that we give to the campaign is, if there's a complaint filed against you for violating the Ethics Code, you need to make sure that your values are real and authentic. And look toward IRS type valuations, similar pricing valuations. But if someone gives you a super computer worth \$5,000, as a donation, first of all it would exceed the campaign contribution amount as an in-kind contribution. Second of all, if you value that as \$30, that's not realistic and it's going to open the campaign to scrutiny. We obviously can't tell them what to do, but we can give them guidance, which is very similar to the advice we give the Governing Body – here's where we are, here's some advice to stay away from the line, but the decision is up to the campaign. So there is a lot of valuation that the campaign

needs to do. They need to look at this language and say how do we report in a way that won't cause us to come under scrutiny."

Councilor Dominguez said he likes the intent, but he is sure there are areas where that will be challenged.

Mr. Zamora said, "Please remember this concept is in both the Campaign Code and the Public Finance Campaign Code. Applying it in the Public Finance Campaign Code, remember it's the City's money that purchased the tangible asset. If the City bought it, then it comes back. So the concepts here are that if it's public money, everything comes back to the City."

Councilor Bushee said those who were publicly funded in the last election ran into a lot of things they hoped would be resolved over time before today. For example, at the end of the election you want to have a victory party, you hope. What you then run into is space, food, a donated cake. These assets, tangible or not, will be eaten, and they may be over \$200. She asked, "How did you come down on that. I know last time it was fairly confusing."

Mr. Zamora's said, "There are two answers to that. The first answer is this. The section that I read earlier that, for any event, it is not considered a contribution to provide up to \$200 worth of value."

Councilor Bushee asked what happens if it exceeds \$200 in value.

Mr. Zamora said, "So that's the first answer. And, I'm assuming this is in the context of public financed candidacies. So first you have the \$200 event availability. And second, you have the ability to expend the campaign funds for a campaign event, and it's on election night. So therefore, you have those two options. You can expend campaign funds and you can use the \$200 limits, and whether the bills are paid that night, the next day or the next week, the expenditure was incurred during the campaign."

Councilor Bushee asked, "Say an artist or jewelry. I ran into somebody at the Spanish Market. They want to donate a very nice piece of jewelry, and said have folks bid on this so you can raise funds. How would that then qualify as both a seed contribution in terms of money received for the bidding on these items and how would you also... or say it didn't sell. Or also, how does that work in the context of seed money and also the donation given is over a value of \$200. This gets recorded only. Just give me some feedback."

Mr. Zamora said, "Councilor, that's a difficult example. What I can tell you is, under the seed money contribution portion of the Code, the maximum you can receive as a contribution from any individual is \$100. You can receive that as a cash contribution, or as an in-kind contribution. But during the seed money collection period, the maximum you can received from an individual or an entity, is \$100."

Councilor Bushee's said, "In that context, you probably couldn't conduct an auction of some kind of the item."

Mr. Zamora said, "I'll try to keep it as simple as possible. The maximum someone can donate during the seed money time frame is something of value of \$100 or less."

Councilor Wurzbarger said, "After the seed money and once you have received public money, are we not restricted, as a Council to the limit at that point as well. By the Ethics Code, \$200."

Mr. Zamora said those are two separate periods and he can answer that also. He said, "One is the seed money collection period, and the other is the period of time in which an individual receives the public financing. Those are two separate periods. Period one, the maximum receipt of an in-kind or cash contribution of \$100. After the receipt of public financing, a candidate may not receive any other type of contribution, in kind or otherwise."

Councilor Wurzbarger asked, "No matter what it is worth."

Mr. Zamora said this is correct.

Councilor Bushee said we read in the paper there is \$600,000 in the fund. As it stands, if that fund is depleted, it is reduced proportionately. She asked when we will know that it's been exceeded.

Mr. Zamora said, "The date that that all of the candidates applying for public financing would know whether or not they're getting a full share or a pro rata share, would be upon certification that they completed the qualifying contribution period. So, November 18 [2013] is the date that candidates are required to apply for certification as a publicly financed campaign. On that date, you will know how many people apply, and within a few days thereafter, a week or so, the Clerk's certifies who actually qualified. In the last election cycle, at least one candidate applied for certification and did not receive it. So, it's not an exact number when they apply, but within a week to 10 days you will know how many actually qualified."

Councilor Bushee said from experience, it is important to budget your campaign early on, which leaves a bit of an unknown, and it may be a discouragement to people to want to participate in public funding. She said there is no matching consideration. She thinks we should look at the option to raise the seed money level, if we aren't able to receive the full amount. She wants to see public financing encouraged.

Councilor Rivera asked, if Mr. Zamora said at the end of the year for a victory party or a celebration of any kind, you can use public campaign monies to do that.

Mr. Zamora said this is correct. There are two different pots they can use for a campaign event on any given day, including on election day. He said, "The first is the \$200 event exclusion where for that single event there can be \$200 worth of donations to the event. In addition to that, going beyond the \$200 threshold, you can use campaign funds, because it is funding a campaign event and it is within the election period. The election period ends on midnight on election day."

Councilor Rivera said people will get to the point where they spend all their funds, and at the end have zero left. He asked if it is possible to pay for your own campaign party out of your own pocket for an event.

Mr. Zamora said, "The Public Finance Campaign Code does not provide for that."

Councilor Calvert said you define the election period as ending at midnight on election day. He said, "Is that true, or does it end when the Clerk certifies the results of the election."

Mr. Zamora said, "Having done this research, and I can go back and look at it, when I did the Opinion Memorandum for the 2012 elections, and pored through the Campaign Code. I found the definition of the end of the campaign, for purpose of the Campaign Finance Code, and the expenditures that must be made and the refund that must come back to the City, I found that it was election day that concluded."

Councilor Calvert asked, regarding Councilor Rivera's question, if he was publicly financed, and the election period ended at midnight, he could use his own funds the following day to throw a party for the people that helped him on his campaign. He asked if this is true.

Mr. Zamora said, "Without providing specific campaign and legal advice to a campaign, that is a risk that a candidate could take if they wished."

Councilor Rivera asked, "If you're a publicly financed candidate, you can receive contributions, services from other groups that may not be affiliated with you."

Mr. Zamora said, "The Campaign Finance Code allows and provides for a reporting process for independent campaigns [contributions?], whether in support of a particular candidate or particular issues on a ballot, such as a bond, or Charter amendments or anything of that sort."

Councilor Rivera said so independent groups could provide, potentially, an unlimited amount of funds when you already are receiving public campaign financing.

Mr. Zamora said, "That's not only a local debate, but also a national debate as to the limitation of outside funds, and there are Constitutional restrictions and Supreme Court decisions on that. There are no limitations on the amount that independent campaigns can collect or expend."

Councilor Rivera said on so many levels that is wrong, but he won't get into that. He hopes people who are publicly financed candidates play by the ethical rules. He said it is difficult and you do come into tough times, commenting he called Ms. Vigil every other day to see if what he was doing was right or wrong. He said playing within the rules is what this all about. He thanked Mr. Miller and the ECRB for their work on this bill. He said it will continue to evolve, and some day have something close to perfect.

Councilor Trujillo said, "As a candidate who, when he first ran, spent under \$4,000, and the last time he spent under \$2,000, I'm still shocked at how much all of guys really spent on your campaign. I hear Councilor Bushee saying more money, \$60,000. I think \$60,000 is enough for a Mayor to spend. Even for a Council candidate it is \$15,000. And I see some of the stuff that this money gets spent on in the last election. I'm getting polls at my house. I'm like, really, it's a City Council election and we're spending megabucks on polls. This isn't a presidential election. It's a City election. And stuff like this. I wish there was a way we could regulate what it could be spent on. I know some people think they need to spend all this money on polls." He sees the concerns about what the money will be, noting in past races candidates for Mayor have spent \$100,000, and \$50,000 on Council races. It amazes him how much these campaigns have gotten locally over the past few years.

Councilor Bushee said, "Ask the Mayor how much he spent the last time he ran."

Councilor Wurzbarger said, "I really don't appreciate your comments. I would like to call the question for this, because I would like to vote on this. I think we're going to be asking these questions, just like you said. This work is important. I don't think we're debating the questions. It looks like we need a study session for those who are running to better understand what they can and can't do. So I would like to call for the question and ask for a second. **THE CALL FOR THE QUESTION FAILED FOR LACK OF A SECOND.**

Councilor Ives asked, with regard to Councilor Rivera's question, if someone else can throw a party for the candidate at that point in time given it's after the election cycle.

Mr. Zamora said, "I'm reminded of something else included in the Memo from two years back, which also is used in the volunteer services exemption from the campaign contribution. A pot luck style event, where someone, within reason, prepares food and brings food is not considered a contribution."

Councilor Bushee asked if it has to be less than \$200.

Mr. Zamora said, "Again, candidates are welcome to test the limits."

Councilor Wurzbarger departed the meeting

Councilor Bushee said, "I don't see anywhere in the Campaign Code... for instance we said we all experienced a push poll, and so that was paid for on behalf of an announced candidate. Yet, we have no registration. It wasn't an entity, we have no indication of who it was paid for by. It's not a registered 401(c)(4) that we know of, but it's certainly benefitting a particular candidate. So how does one keep track of it, and where in the Code do we make changes to make sure that we're.... It's a large contribution. A poll doesn't cost less than \$200 I can guarantee you that. So, if the candidate in question becomes a publicly funded candidate and this poll has been conducted on their behalf and paid for by an outside entity, when does that come into the mix."

Mr. Zamora said, "There are a whole host of assumptions. What I can go back to is really the Code. Whether's it's privately financed or a publically financed campaign. One, if it is a publicly announced candidate, the obligation is then to register. That candidate can have expenditures at that point in time. Those expenditures are not required to be reported for several weeks, until the first reporting on January 23, 2014. So, if it's an announced candidate, public or private, that candidate's campaign can pay for a pole. If it's privately financed, it can be paid for with any number of contributions under \$1,000. If it's privately financed, you're also in the seed money period, during which time, they can collect up to \$6,000 for a Mayoral campaign."

Bushee said, "I'm saying the independent poller, the person paying for the pole, then is attached to that candidate and they have to declare it in some form or fashion."

Mr. Zamora said, "First and foremost, there does not need to be an assumption that an independent entity is running a poll. Because a public financed or privately financed candidate could do it now and pay for it now. If it is an independently sponsored poll, then if the expenditure exceeds \$250, there's a registration requirement."

Councilor Bushee asked, "Do we have any requirements for any of these polls to declare to the people they are polling. Do we need to amend the Code in any way. I think Albuquerque has one where if someone is going to do a robo call thing they have to say who it is paid for. The same for a poll. Do we have anything like that, and should we consider that change. Because then you would drive those independents to register in some way, and you could keep track of the spending."

Mr. Zamora said, "A third item could be a news organization, which news organizations also run polls, so you have to keep that in mind also. And so, conceivably, under identification of campaign materials, it talks about campaign materials disseminated or communicated by a candidate or a by a political committee, shall conspicuously identify the name of the candidate and/or the campaign treasurer or deputy campaign treasurer, the name of an officer, etc. If it's written, printed or posted, it shall also have a telephone contact number."

Councilor Bushee asked if we need to amend the Code to include phone calls related to campaigns.

Mr. Zamora said the current Code states, campaign materials disseminated or communicated.

Councilor said then it's covered already. She said, "So it should be that any polls or robo calls should identified as paid for by – is that what you're telling me."

Mr. Zamora said, "What I'm telling you is that campaign materials disseminated or communicated. What I want to avoid Councilor, and I'm not trying to be cagy while on television, while being broadcast, is pre-judging an ethics complaint. What I'm restating is..."

Councilor Bushee said, "Not at all, I'm trying to clarify if we need to amend the Code in any way, to make sure that we drive these independents that may be participating in what may be a very publicly funded campaign.... we have these outside entities driving the race, and if there are loopholes in this Code we need to amend to make sure those independents are forced to register. If the public, sort of anecdotal, or mythical evidence right now, is that oh well, nobody's done it. They don't really state who's calling or who's paying for these calls because they aren't individuals calling. They're computerized. Do we have to amend anything in her to capture that. I think Albuquerque has something, but we have [inaudible]"

Mr. Zamora said, "Councilor Bushee, no."

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

For: Councilor Bushee, Councilor Calvert, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Rivera, Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Wurzbarger.

Explaining his vote: Councilor Calvert said, "Yes, and I want to thank everybody that worked so hard on this to get it where it is right now.

Explaining his vote: Councilor Dominguez said, "My favorite saying is, 'the road to hell is paved with good intentions.' I'll vote yes."

Explaining his vote: Councilor Ives said, "Yes, and I would ditto those many thanks."

Explaining his vote: Councilor Rivera said, "I've been through the process and know it's difficult. I think it's well worth it. I thank you for your hard work. I vote yes."

- 4) **CONSIDERATION OF RESOLUTION NO. 2013- ____ (MAYOR COSS, COUNCILOR BUSHEE AND COUNCILOR WURZBURGER). A RESOLUTION SUPPORTING THE PROTECTION AND PRESERVATION OF THE LA BAJADA MESA LANDS AND RESPECTFULLY REQUESTING THAT THE PRESIDENT OF THE UNITED STATES, BY PROCLAMATION, DESIGNATE AND ESTABLISH THE LA BAJADA MESA NATIONAL MONUMENT WHICH IS LOCATED IN CONGRESSIONAL DISTRICT 3. (Postponed at June 12, 2013 City Council Meeting) (Withdrawn by Sponsor)**

17. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of July 31, 2013, is incorporated herewith to these minutes as Exhibit "11."

Councilor Dimas

Councilor Dimas Introduced a Resolution directing the City of Santa Fe Human Resources Department to implement a Veterans' Hiring Initiative Policy for the purpose of increasing opportunities for veterans to obtain City employment. A copy of the proposed Resolution can be obtained from the City Attorney's Office.

Councilor Dimas extended thanks to Isaac Pino, and asked him to thank David Catanach and his crew, for getting the flood claim they were making on Siringo Road to remove the speed hump.

Councilor Calvert

Councilor Calvert introduced the following:

1. An Ordinance relating to campaign contributions; amending the City of Santa Fe Campaign Code, Article 9-2 SFCC 1987, to prohibit candidates from receiving campaign contributions from contractors and entities doing business with the City of Santa Fe. A copy of the proposed Ordinance can be obtained from the City Attorney's Office.
2. An Ordinance relating to proposed expenditures for any tax increases or bond measures; amending the Santa Fe City Code to establish new provisions that would require the City of Santa Fe to provide and disseminate in a timely manner the purposes of proposed expenditures for any tax increase or bond measure that requires ratification by the voters. A copy of the proposed Ordinance can be obtained from the City Attorney's Office.

Councilor Calvert thanked the Councilors for their support on the Resolution for the Veterans Community based outpatient clinic, commenting he feels it helped the VA to move its decision along, and recently decided to build a new facility in Las Soleras. He hopes it will be done by the end of 2014 or 2015 at the latest.

Councilor Calvert thanked the Environmental Services Department for their efforts at the Bandstand on the Plaza, saying they did a great job passing out recycling bins, shopping bags and such to help people keep the community clean and beautiful.

Councilor Rivera

Councilor Rivera thanked Cindy Padilla and the recycling team, Dominic Sena, Craig Vigil and Armando Gabaldon. He spent two hours with the recycling team picking up barrels, throwing them in the truck and riding with them. They are enthusiastic about their work and do a great job every day. . It was a great experience

Councilor Ives

Councilor Ives had no communications.

Councilor Bushee

Councilor Bushee said she is in favor of both of Councilor Calvert's two Ordinances.

Councilor Bushee is glad staff has been aggressive on the Moody's report. She thinks, however there was contact several months ago, and we could have tried to prevent being associated with the situation Detroit is in. She appreciates the follow through after the fact.

Councilor Bushee said she was a little alarmed on Channel 7. There was the good news of Chief Litzenberg going to Washington, D.C., with his expertise on fire prevention. She was concerned about the story about the potential loss of 40 police officers. She would like to see something at Finance that breaks down the phasing on annexation and efforts on housing.

Councilor Bushee said when events are happening on the Plaza, she is concerned about the tickets being given to motorcycles parking where cars don't drive in the east lane of Old Santa Fe Trail.

Councilor Bushee congratulated everyone on a nice Spanish Market, and said everyone seemed to be having a great market.

Councilor Bushee would like Cindy Padilla to follow up with her on a single stream recycling proposal to bring forward, as well as on a green waste pickup in the spring/fall, something simple. She would like to see a glass pickup once a month.

Councilor Bushee reiterated her desire to meet with the School Board to address MOUs and outstanding issues around facilities as well as La Farge Library.

Councilor Bushee introduced a Resolution affirming the City's commitment to equality and freedom from discrimination and violence for all of its residents, including children and youth; condemning bullying, harassment and intimidation in schools; and urging the community to work together to further define and

understand the multiple aspects of bullying. A copy of the proposed Resolution can be obtained from the City Attorney's Office.

Councilor Trujillo

Councilor Trujillo said he attended the Spanish Market and said the artists are blaming the City for losing the Winter Spanish Market.

Councilor Trujillo reminded everyone that the Santa Fe Fuego completed its season, and missed the playoffs by only one game. He said they will be back next year.

Councilor Dominguez

Councilor Dominguez thanked the Parks Crew for the work they've done on Paseo del Sol West, and thanked the stormwater and street crews for the work they done over the past few weeks.

Councilor Dominguez will be beginning his walk and talk series on Saturday at 8:00 a.m., at Fire Station 8. He will be at Frenchy's Field on September 7, and on October 5, he'll be at Los Hermanos Park in La Cieneguita.

Councilor Dominguez said he would like to cosponsor the Mayor's Resolution on Capital Improvements.

Mayor Coss

Mayor Coss introduced the following:

1. A Resolution amending the amount of designated Impact Fee Capital Improvements Plan (IFCIP) funding for the design and construction of the Herrera Drive extension roadway improvements and Paseo del Sol extension roadway improvements; authorizing the expenditure of such funding for the roadway improvements; and authorizing the City of Santa Fe to enter into a Memorandum of Agreement with the Board of Education of the Santa Fe Public School District (SFPS), so that SFPS will be the designated fiscal agent for the Road Improvement Projects. A copy of the proposed Resolution can be obtained from the City Attorney's Office.
2. An Ordinance amending Section 9-1.3 SFCC 1987, to include Precinct 89 in District 3 and making such other grammatical and stylistic changes as are necessary. A copy of the proposed Ordinance can be obtained from the City Attorney's Office.

Mayor Coss said he is proclaiming August as Fly Santa Fe Month, encouraging people to fly out of Santa Fe as often as possible.

Mayor Coss said he received a letter from the Post Office, and that they will be moving the downtown post office to Sanbusco Center. He said there were no public meetings. He said there are 30 days in which to file an appeal, but he is not planning an appeal at this point.

Mayor Coss congratulated everybody involved in the Folk Art and Spanish Markets which went well, with special thanks to city employees – Police, Fire, Parking, Solid Waste, Parks and Streets, that do such a great job on that.

Mayor Coss said, to the Spanish Market vendors blaming the City, they need to talk to the President about the reason they decided to move as was explained to him.

Councilor Rivera would like to be a cosponsor of the Mayor's ICIP Resolution.

I. ADJOURN

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 9:15 p.m.

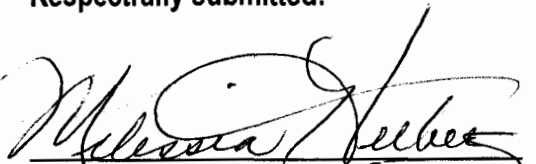
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:



Melessia Helberg, Council Stenographer

Council Item #10(m)

ACTION SHEET

ITEM FROM CITY SUSTAINABLE SANTA FE COMMISSION MEETING OF 7/16/13

ISSUE: Ordinance banning plastic bags.

SUSTAINABLE SANA FE COMMISSION ACTION: Voted to recommend proposed resolution as currently proposed

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN/ABSENT
COMMISSIONER CHIOCHIO	X		
COMMISSIONER PAPE	X		
COMMISSIONER KELLY	X		
COMMISSIONER ROTUNDA	X		
COMMISSIONER ROMERO	X		
COMMISSIONER EVANS	X		
COMMISSIONER SCHIFFBAUER	X		
CHAIR SOPOCI-BELKNAP			

Exhibit "1"



To: Mayor David Coss
Councilor Patti Bushee, District 1
Councilor Chris Calvert, District 1
Councilor Rebecca Wurtzberger, District 2
Councilor Peter Ives, District 2
Councilor Carmichael Dominguez, District 3
Councilor Christopher Rivera, District 3
Councilor Ronald Trujillo, District 4
Councilor Bill Dimas, District 4

June 3, 2013

Re: Support for the Proposed Ordinance to Ban Single-Use Bags in Santa Fe

Dear Santa Fe City Councilors,

The Northern New Mexico Group of Sierra Club whole-heartedly supports the proposed ban of single-use bags, especially plastic bags, from the waste stream of retailers and businesses in Santa Fe.

The cost of providing free bags to customers can run into thousands of dollars annually for businesses and the cost to our environment of throw away bags is enormous in terms of toxic contamination, visual pollution, and long term degradation of water and soil.

Santa Fe has long led the way in promoting the conservation of natural resources and our beautiful landscape. Many of our 2,500 area members take part in volunteer efforts to improve the watershed, riparian areas and open spaces of Santa Fe. As an organization that promotes the values and benefits of outdoor recreation, restoration and stewardship, we strongly support this proposed ban of single-use bags and a city's return to the pre-plastic days of "use a reusable bag" when shopping!

Thank you.

Sincerely yours,

Teresa Seamster & Norma McCallan
Co-chairs, Northern New Mexico Group
Sierra Club
1807 Second Street, Ste. 45
Santa Fe, N.M. 87505
(505) 983-2703

Exhibit "2"


City of Santa Fe, New Mexico

memo

ITEM # 9-a

DATE: July 29, 2013

TO: City of Santa Fe City Council, Mayor Coss, and City Manager Brian Snyder

VIA: 
Isaac Pino, PE, Public Works Department Director

FROM: Susan J Perry, Wellness Coordinator (City of Santa Fe) and Santa Fe Food Policy Council Chair

SUBJECT: July 31 Annual Report to the Santa Fe City Council by the Santa Fe Food Policy Council

Summary:

The purpose of this report is to present the Council's major accomplishments of the 2012/2013 fiscal year and new initiatives that the Council will launch in current fiscal year.

FY 2012/2013 Accomplishments include: completion of the 2 year Community Food Assessment; Design of a comprehensive methodology for *The Food Plan for the City and County of Santa Fe*; and passing Resolution 2012-93, section 7, declaring "Healthy Kids, Healthy Communities" as a legislative priority for the 2013 session. As a result of the City's and other constituents' support, the 2013 New Mexico State Legislature provided public schools additional funds to purchase New Mexico grown produce.

Action:

For your information.

Exhibit "B"

July 18, 2013

CITY CLERK'S OFFICE

DATE 7-19-13 TIME 1:23 p.m.

SERVED BY Nancy Long (Email)

RECEIVED BY Yolanda G. Nigro

CITY OF SANTA FE
CHARTER REVIEW COMMISSION
FINAL REPORT AND RECOMMENDATIONS
TO THE GOVERNING BODY

INTRODUCTION

The Charter Review Commission was created by Resolution 2012-45, adopted by the Governing Body on April 25, 2012, pursuant to Section 10.01 of the Municipal Charter, which requires appointment of a commission to review the charter at least every ten years. The members of the Commission were appointed by the Governing Body and began deliberations in December 2012. Since that time, the Commission has held 16 meetings of two to four hours duration each. It has received many suggestions and comments from members of the public, as well as detailed communications from several organizations, members of the Governing Body and City staff.

In the course of its deliberations, the Commission has considered more than 30 proposals to amend the Charter. Of these, the Commission has decided to recommend seven substantive amendments to be placed on the ballot for the election to be held in March 2014. In this report, the Commission presents a description and where appropriate justification for the recommended amendments, followed by a brief description of the remaining proposals for additional amendments that were considered, but not recommended.

Early on in the Commission process, an outreach subcommittee was formed to develop and implement a strategy to maximize the availability of the Commission's deliberations to the public. The results included a webpage on the City's website, Facebook page and Twitter account. To further promote

participation, the Commission held meetings in each of the four City Council Districts utilizing the Southside Library, Santa Fe School Board Chambers, Downtown Library and Genoveva Chavez Community Center. Members of the Commission also provided public outreach by conducting interviews on radio stations KSWV, KTRC and KVSF. Newspaper articles in the Santa Fe New Mexican and Albuquerque Journal North provided additional public coverage of the Commission proceedings.

CHARTER AMENDMENTS RECOMMENDED TO THE GOVERNING BODY

POLICY ISSUES

Water Protection and Conservation. Adopted 4-3, Justice Serna voting to approve after tie vote.

Amend Section 2.03 as follows:

The natural beauty of Santa Fe, its historical heritage, and its unique architectural style are among the city's most valued and important assets. In order to enhance the beauty and quality of both the natural and built environment within and around the city, the governing body shall protect, preserve and enhances the city's natural endowments, plan for and regulate land use and development, manage the city's growth, encourage source reduction, re-use and recycling of materials, and promote and maintain an aesthetic and humane urban environment. To effect these ends, the governing body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively administer this policy. Because water quality and availability are extremely important to the citizens of Santa Fe, the governing body shall protect, preserve, and enhance the city's water resources through regulation, conservation and tying development to water availability.

Neighborhood Preservation. Adopted 7-0.

Amend Section 2.04 as follows:

Cultural and Neighborhood Preservation.

The people of Santa Fe derive invaluable benefits from our multi-cultural heritage. The multi-ethnic and multi-racial residents who have made their homes here over the centuries have each left their unique mark on our city, producing a rich blend of stories, ~~and traditions~~ and neighborhoods. The result is a community that treasures a variety of artistic, literary and musical forms, that symbolizes an architectural style, and that celebrates the diversity of those who have chosen to live here. We therefore declare that the multi-cultural heritage and neighborhoods of Santa Fe ~~is~~ are essential to the people of this community and that public officials shall at all times exercise their powers with sensitivity to and respect for that cultural and neighborhood heritage.

ELECTION ISSUES

Independent Redistricting Commission. Adopted 6-1.

Amend Section 6.03 as follows:

"The City shall be divided into four dual-member districts numbered one through four. District boundaries shall be reviewed and revised at least every ten years following the decennial census by an independent citizens' redistricting commission. The governing body shall, by ordinance, ~~{set the boundaries of each district and}~~ establish a procedure for the appointment and deliberations of the commission which will, to the maximum practicable extent, ensure that the commission's decisions will be based exclusively on {the periodic review of district boundaries. In establishing the district boundaries, the governing body shall consider} the following principles in the following order of priority: A. each district

shall contain as nearly as possible substantially the same population based upon the most recent federal census; B. districting plans must avoid dilution of minority voting strength; C. communities of interest, including those based upon ethnic and economic factors, shall be preserved within a single district whenever reasonable; D. each district shall be formed of compact, contiguous territories. The total length of all district boundary lines shall be as short as possible; E. districting plans shall compensate for U.S. census undercount of minorities."

NOTE: The Commission recommends that an independent citizen's redistricting commission undertake redistricting as opposed to the current process of having the governing body perform the redistricting. Additionally, the recommendation allows redistricting to occur more frequently than every ten years and provides that redistricting be accomplished only pursuant to the relevant legal standards.

Campaign Contribution Limits. Adopted 8-0.

Create a new Section 4.07 as follows:

"The governing body shall have an ordinance that limits the amount of campaign contributions that can be accepted by all candidates."

Note: While there is an ordinance in place, a charter amendment would ensure permanency.

Ban on Contributions From Business Entities and City Contractors. Adopted 8-0.

Create a new Sections 4.07B as follows:

"The governing body shall adopt an ordinance or ordinances to provide meaningful bans and/or limitations on campaign contributions from contractors and entities doing business with the City of Santa Fe to all municipal elected officials and this shall be done within one year after the effective date of the amendment to the Charter that includes this requirement."

NOTE: There is a widespread recognition that money plays a very negative role in electoral politics. There are instances regionally and statewide of pay to play contributions from contractors and business entities doing business with governmental entities. This provision is intended to require that the City of Santa Fe enact permissible limits and/or bans on contractors and business entities doing business with the City of Santa Fe. The City Council would be required to have such an ordinance in place within one year of the effective date of the amendment. There is nothing that would stop the Governing Body from enacting such an ordinance before the upcoming municipal election.

Requirement to have timely disclosure of the purposes of tax increases and bond measures. Adopted 8-0.

Create a new Section 4.08 as follows:

"The governing body shall adopt an ordinance that ensures that the City shall provide and disseminate in a timely manner the purposes of proposed expenditures for any tax increase or bond measure that requires ratification by the voters."

Note: Currently the City is not required to timely disclose the purposes of tax increases and bond measures. There is not a standardized format for how information about bond expenditures is presented to voters aside from the language contained in the ballot.

Create an Audit Committee. Adopted 8-0.

Create a new Section 9.04 as follows:

"The governing body shall, by ordinance, adopt an independent audit committee for the City."

Note: The City has recently established an Audit Committee, but a Charter amendment would solidify its existence.

ADDITIONAL COMMENTS TO THE GOVERNING BODY

The Commission is concerned that ranked choice voting has not been implemented although voters adopted it in 2008. The editorial note to the Charter states that this manner of voting "... will go into effect with the regular municipal election in March 2010 or as soon thereafter when equipment and software are available..." There appears to have been some progress in the acquisition of the appropriate voting machines that would make ranked choice voting possible, but there was insufficient information available to this Commission to make a specific recommendation. Attention should be given to the implementation of ranked choice voting as provided in Charter Section 4.06

GOVERNANCE ISSUES

Change the Duties and Powers of the Mayor. Adopted 4-3.

Amend Articles 5, 6 and 8 as follows:

"ARTICLE V. THE MAYOR

5.01 Powers and Duties.

The city shall have a mayor who shall:

- A. Be elected at large by the voters of the city;
- B. have a vote on all matters that come before the governing body;
- C. be the chief executive officer of the city, which position shall be no less than full time (forty (40) hours per week), and shall not be otherwise employed or self-employed;
- D. appoint with the consent of the governing body the city manager, city attorney, city clerk and members of advisory commissions;
- E. appoint department directors;

- F. have sole authority to remove the city manager, city attorney, city clerk and department directors;
- G. cause the ordinances and regulations of the city to be faithfully and constantly obeyed;
- H. have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;
- I. propose programs and policies to the governing body;
- J. work with City personnel and timely prepare an annual budget and proposed spending priorities for review and approval by the finance committee and the City Council;
- K. represent the city in intergovernmental relationships; ~~perform other duties compatible with the nature of the office as the governing body may from time to time require;~~
- L. present an annual state of the city message, which shall identify among other matters the mayor's legislative agenda for the upcoming year;
- M. be recognized as head of the city government for all ceremonial purposes and; ~~perform other duties compatible with the nature of the office as the governing body may from time to time require;~~
- N. be recognized by the governor for purposes of military law;

ARTICLE VI. THE GOVERNING BODY

6.01 Composition

The members of the governing body, exclusive of the mayor shall be known and designated as councilors. The mayor and the councilors together are the governing body of city.

6.02 Powers and duties.

A. The governing body shall consider the legislative agenda put forth by the mayor and propose amendments to existing policies and propose new policies. serve as the principal policy maker of the city;

B. All legislative powers of the city shall be vested in the governing body, except as otherwise required by law or this charter. The governing

body shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the city by law.

C. The governing body shall by ordinance fix the annual salaries of the mayor, the municipal judge and councilors and shall review those salaries not less than every four years.

D. The governing body shall by ordinance set a policy for reimbursement of the actual and necessary expense incurred by the mayor, the municipal judge and city councilors.

ARTICLE VIII. CITY MANAGER

8.01 Appointment.

The city manager shall be appointed by the mayor with the ~~With the~~ advice and consent of the governing body.

8.02 Qualifications.

The city manager should be professionally trained and have the necessary administrative and managerial skills to manage the municipality.

8.03 Powers and duties.

The city manager shall:

- A. be the chief administrative officer of the city;
- B. have the power to hire and fire all city employees except for those employees whom the mayor has the exclusive authority to appoint and remove; and
- C. have such other powers as are provided for in city ordinances and state law.

8.04 Removal.

The city manager may be removed by the mayor ~~subject to the approval of the council or by the governing body by a majority vote of all members at a regularly scheduled meeting.~~

Effective Date: These amendments shall take effect when the mayor and councilors who are to be elected at the March 6, 2018 election take office.

Note: The Commission's recommendations are intended to move Santa Fe's weak mayor into a position of strength. These recommendations include designating the mayor as a full-time position, allowing the mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote; allowing the mayor to continue to appoint the City Manager, City Attorney and City Clerk with the approval of the Council, however, only the mayor may remove these appointees; and finally the mayor will also appoint department directors. These recommendations are made to reform and improve the governance and administration of the City of Santa Fe. These changes have been adopted by a majority of well-run cities in the United States. The recommendation will allow the City Council to focus its attention on legislative and policy matters and will eliminate the involvement of Council members in details of City administration. This recommendation will eliminate the inherent conflicts in the current system where council districts sometimes find their interests in conflict with the best interests of the City as a whole. The City Council will retain its ultimate legislative power and work out fair compromises of their differences that are in the best interests of all citizens of Santa Fe. As has always been the case in Santa Fe, checks and balances of political power in city government remain in the hands of the voters.

MATTERS CONSIDERED BUT NOT RECOMMENDED BY THE COMMISSION:

- 1. PERSONAL USE AND POSSESSION OF MARIJUANA BY AN ADULT SHOULD BE THE LOWEST LAW ENFORCEMENT PRIORITY**
- 2. PROPOSAL FOR GUN VIOLENCE PREVENTION ORDINANCES**
- 3. PROPOSAL REGARDING IMMIGRATION POLICIES AND ENFORCEMENT**
- 4. PROPOSAL REGARDING PREVENTION AND PROTECTION FROM ADVERSE IMPACT OF ELECTROMAGNETIC RADIATION FROM CELL TOWERS.**
- 5. PROPOSAL REGARDING CHILDREN'S ISSUES AND CONCERNS**
- 6. PARTIAL REDISTRICTING AND PARTIAL DISTRICTING**
- 7. CHANGES TO THE THRESHOLD NUMBER OF SIGNATURES REQUIRED FOR REFERENDUM, INITIATIVE AND RECALL**
- 8. ALL MAIL BALLOTS FOR ELECTIONS**
- 9. COUNCILOR RESIGNATION TO RUN FOR MAYOR**
- 10. TERM LIMITS FOR ELECTED OFFICIALS**
- 11. MUNICIPAL ELECTIONS TO BE HELD IN THE FALL**
- 12. RANKED CHOICE VOTING**
- 13. SALARIES FOR ELECTED OFFICIALS TO BE SET BY AN INDEPENDENT COMMISSION**

July 17, 2013

Minority Report to the Governing Body

From: Steven G. Farber, Commissioner,
Santa Fe Home Rule Charter Review Commission

1. Executive Summary of Minority Report:

There are many fine proposals being submitted for consideration by the Governing Body, such as an independent redistricting committee; the requirements for a campaign finance campaign ordinance and an ordinance banning or limiting campaign contributions from contractors or business entities doing business with the city; the requirement of an audit committee ordinance; a tax and bond timetable disclosure; the addition of a water protection and conservation statement in section 2.03 of the Charter and an amendment to Section 2.04, specifically including neighborhoods. These proposed amendments should be approved and submitted to the electorate.

I submit a Minority report to express my strong opposition to the proposal being presented by the majority of the Charter Review Commission members and that is commonly referred to as the "strong Mayor proposal". As I state in Part 3, at page 3, this deeply flawed proposal radically restructures City of Santa Fe Government. It is no exaggeration to state that the potential for an autocrat, an autocratic form of government, and political patronage are made possible through the proposed consolidation of such enormous power in the office of the Mayor.

This "strong Mayor proposal" requires amendments to five (5) separate sections of the Santa Fe Home Rule Charter listed in this Report and specifically to nine (9) subsections of Section 5.01. This "strong Mayor proposal" is complex and controversial. There is substantial ambiguity regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and "strong Mayor proposal".

The majority's proposed amendments to implement these dramatic changes to increase the Mayor's powers will eliminate the system of checks and balances that currently exists in the city's governing structure. These amendments will decrease the role and importance of the City Council in city government structure.

Exhibit "5"

In my opinion, these amendments will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor.

Without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter a weak candidate in a crowded field with only a small plurality of the vote could be granted a generous salary and benefits and enormous powers to govern this city. The "strong Mayor proposal" should be stricken because it has not been fully researched, analyzed and debated. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager and other Executive employees appointed by the Mayor.

Part 4, at page 13, presents a summary of a number of important Policy Statements that were presented to the Charter Review Commission but not recommended for action by the Charter Review Commission either because of a negative vote, as was the case for the United Way proposal regarding children, or by Motions not receiving a second so that the matters could be further debated and considered.

Part 5, at page 17, expresses my concerns about the lack of resources provided the Charter Review Commission to enable it to do its work in a fully informed manner. Part 6, at page 18, states my concern about the role of the Office of the City Attorney serving as the liaison and support for the Charter Review Commission in the face of an appearance of a conflict of interest.

2. Introduction:

First, I want to thank the Chair of the Santa Fe Home Rule Charter Review Commission, retired Justice Patricio Serna, for the professional and courteous manner in which he has chaired the Charter Review Commission and its meetings. It is an honor to be able to serve on such a Commission with such a distinguished jurist. There are many fine proposals being submitted for consideration by the Governing Body, such as an independent redistricting committee; the requirements for a campaign finance campaign ordinance and an ordinance banning or limiting campaign contributions from contractors or business entities doing business with the city; the requirement of an audit committee ordinance; a tax and bond timetable

disclosure; the addition of a water protection and conservation statement in section 2.03 of the Charter and an amendment to Section 2.04, specifically including neighborhoods. These proposed amendments should be approved and submitted to the electorate.

Though it will take considerable time, I recommend to the Governing Body and the public to take the time to read and consider the minutes from the Charter Review Commission meetings, particularly those meetings where issues of Elections, Governance and Policy Statements were discussed and then later the meetings of June 13, 2013, June 19, 2013 and June 27, 2013 where there were important votes.

3. Objection to the "Strong Mayor Proposal"

I submit this report primarily to express my strong opposition to the proposal being presented by the majority of the Charter Review Commission members and that is commonly referred to as the "strong Mayor proposal". In my opinion, this deeply flawed proposal radically restructures City of Santa Fe Government. It is no exaggeration to state that the potential for an autocrat, an autocratic form of government, and political patronage are made possible through the proposed consolidation of such enormous power in the office of the Mayor.

This "strong Mayor proposal" requires amendments to five (5) separate sections of the Santa Fe Home Rule Charter and specifically to nine (9) subsections of Section 5.01. The proponents of this proposal, and the majority of the Commission, lumped all of these changes into one proposal rather than have individual changes to the provisions be recommended for the ballot. As such, this conglomerate proposal for the "strong Mayor proposal" will create a confusing ballot. A

As I understand it from communications from an Assistant City Attorney each provision of the Charter that is being proposed for Amendment will need to be voted on separately by section. As per the April 10, 2013 email messages of Assistant City Attorney Barkley regarding the form of the ballot:

Last night after the meeting, Commissioner Romero-Wirth asked me about how the commission's proposed charter amendments that are approved by the governing body will be voted on by the electorate.

What has happened in the past has been that all amendments to a given charter section are treated as one ballot question, with a "yes" vote adopting all amendments to that section and a "no" vote leaving the section as is.

....

The voters will be asked whether to accept all proposed revisions *to a given charter section* together.

According to the Assistant City Attorney, the voters would be given the choice of accepting or rejecting in Toto the changes to the amendments to the nine (9) subsections of Charter provision 5.01, and there would also be separate ballot questions for each of Sections 6.01, 8.01, and 8.03, and 8.04. Thus, there will be five separate ballot questions regarding the "strong Mayor proposal". And, it is not at all clear that these ballot questions would be clustered together.

It is all the more ironic that the majority should have favored this approach and created a complicated ballot issue when consistently during the Commission process members of the Charter Review Commission stated to the public and other members of the Charter Review Commission concerned with various policy statements and amendments to specific charter provisions that proposed amendments to the Home Rule Charter should be short and not be complicated. See, e.g., 7/1/13, minutes, pp. 3-4, 5-6, 9-10, 11-13, 17. There was never a vote by the Charter Review Commission that proposals for amendments should be short or truncated but that impression was certainly understood by those citizens and Commissioners attending the Commission meetings wanting to offer policy statements or proposed amendments.

As I frequently stated throughout this Commission process with regard to the issue of proposed policy statements and amendments to Charter provisions, some issues are more complicated than others are and required a detailed statement for a Charter Amendment. As the Commission minutes reveal, proposals offered of more than several sentences were often challenged, criticized and picked at by

various Commissioners. But, this was not the case by the same proponents of the "strong Mayor proposal". It appears to me that in this context there was a double standard applied because this "strong Mayor proposal" is complex, convoluted, and controversial.

In summary, the majority of the Charter Review Commission proposes that there be amendments to change the Santa Fe Home Rule Charter: 1) to have the Mayor be a full time position and who shall not be otherwise employed; 2) to have the Mayor have power to hire the City Manager, City Attorney, and City Clerk and appoint advisory committee members subject to the consent of the City Council; 3) to have the Mayor have the sole power to fire the City Manager, City Attorney, and City Clerk; 4) to have the Mayor have the sole power to hire and fire all the various Department Directors of the City of Santa Fe. ¹

There was also a recommendation that I agree with to have the Mayor vote on all matters that come before the Governing Body.

Further, the role of the Governing Body being the chief policy maker for the City of Santa Fe as stated in Section 6.02 of the Home Rule Charter is eliminated. The Governing Body's role that currently exists to provide for extra or special duties to be fulfilled by the Mayor as currently allowed per Section 5.01 J is eliminated. The independent right of the Governing Body allowed under both State law and the current charter provisions to terminate the City Manager is eliminated by amending Section 8.04. The roles of a full time Mayor as the Chief Executive Officer and a City Manager as the Chief Administrative Officer are now completely ambiguous and confusing. There is no specification regarding the manner of the coordination of the position of a full time Mayor in the structure of city government and the role of the City Manager in the structure of city government as per the Santa Fe Charter and relevant state statutes.

In my view, the majority's complicated amendments to the Santa Fe Home Rule Charter to implement these dramatic changes to increase the Mayor's powers will eliminate the system of checks and balances that currently exists in the city's governing structure. These amendments will decrease the role and importance of the City Council in city government structure. In my opinion, these amendments

¹ It was reported that there were approximately ten Department Directors.

will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor. Rather than be concerned, as a justification for these amendments Commissioner Werwath stated that the changes supported in the proposal regarding giving the sole hiring power to the Mayor for Department heads was happening now anyway given the influence of Mayors and the practices that he has observed at City Hall. See, e.g., 6/27/13, Minutes, pp. 26-27.

My opposition to these changes is structural and not a liberal or conservative issue. In my judgment, these proposed amendments potentially affect the integrity and non-partisan nature of municipal elections in Santa Fe. Indeed, it is my opinion that these changes will only increase partisan politics in our municipal elections (and not just of the traditional Democratic or Republican divide or the many intra-Democratic party politics and power plays). In this age of the Citizens United decision, these proposed amendments will also promote and increase the infusion of large sums of money into the political and electoral process and they will increase special interest monetary pressure and political patronage into city government.

The majority glosses over its recommended removal of the checks and balances against the potential of an arbitrary and/or inappropriate use of power. The corrective power of the voters and the Governing Body is diluted. Mayoral elections only happen every four years. The power of recall in the Charter is not able to be used in the first or last year of a Mayor's term of office as per Section 3.03 C. And, under the majority's recommendation, there would be absolutely no power of removal of a City Manager except by the act of a Mayor. The power of recall would only apply to the Mayor, and not a City Manager, and the Mayor is insulated from a recall in the first and last years of the term of office. If a Mayor and City Manager were improperly colluding and/or engaging in mismanagement or impropriety there would be no effective means of removal of a City Manager. The sole power for the removal of an underperforming or derelict Department Director would be limited to the Mayor since the City Manager's role in the hiring and firing decision regarding Department Directors is eliminated. And, there would be no proper checks and balances oversight by the Governing Body regarding the City Manager and the proper functioning of municipal government.

There was no substantial evidence or data presented to the Charter Review Commission that supports these radical revisions and changes. There was no management study presented to the Charter Review Commission that supports these changes. There was no comparison of other governmental systems by the Charter Review Commission based on input received from other municipalities around the state. The Charter Review Commission did not take the time as a group to compile and study other municipal governmental operations in New Mexico relating to this change in the structure of the city's government. The Commission was provided copies of various Charters from other municipalities but it did not seek any organized follow up input from those municipalities about what actually works and does not work in municipal government structure.

The Charter Review Commission had no independent staff and no budget to seek out the assistance of professionals or consultants for analysis. See, e.g., 6/19/13, Minutes, p. 28. The Charter Review Commission did not reach out to the Municipal League for input, advice, or assistance in analyzing these proposed changes. The Charter Review Commission only had the input from Mayor Coss at the April 23, 2013 meeting, pp. 17-25, and then Councilors Ives and Wurzbarger advocated at the June 19, 2013 meeting for this "strong Mayor proposal" insisting that these changes were necessary. After the proposed amendments were presented, these amendments were pushed without the proponents providing substantive backup or independent research demonstrating the necessity of making these radical revisions to the current Charter provisions.

Prior to making its recommendation or voting on the "strong Mayor proposal" the Charter Review Commission did not find it necessary to invite to its meetings former Mayors, former City Councilors, and former City Managers, among other interested and informed residents, to hear their views on the subject nor did it request and receive written input from them regarding their insights and opinions about the proposed changes.

The specific wording of the "strong mayor proposal" was submitted so late in the Charter Review Commission process that various civic and neighborhood groups, such as the League of Women Voters, were not even notified of these proposed changes until the day the proposal was submitted at the start of June 19, 2013 meeting thus limiting their opportunity for review of the proposal and

interfering with their ability to provide informed comment and detailed input. See e.g., 6/19/2013, Minutes, p. 2.

The process that was followed in pushing this strong Mayor proposal forward in my opinion undermined all the hard work that the Charter Review Commission, under the leadership of Justice Serna, had previously done to have an open and transparent process. The presentation of the "strong Mayor proposal" red lined version to the community at large at the June 19, 2013 Charter Review Commission meeting by Vice Chair Long and Councilor Ives and Councilor Wurzbarger did not afford this community ample opportunity for review and input regarding this fundamental change. To state that there was complete surprise about the scope of this proposal by a number of citizens in attendance at that meeting would be an understatement. See e.g., 6/19/2013, Minutes, pp. 2, 15-16.

Though the topics of a strong mayor and taking away the powers of the Governing Body to terminate a City Manager and other related topics had been listed on Charter Review Commission agendas it is important to note that no specific language regarding any of these proposals had been previously submitted for review and consideration. The Charter Review Commission had set a deadline for the submission of topic and initial proposal language to the Charter Review Commission by the May 22, 2013 meeting. This practice was not followed regarding the "strong Mayor proposal".

At the June 19, 2013 meeting Councilor Ives, the proponent making a presentation in favor of these amendments had absolutely no information regarding the scope and manner of any fiscal impact of having a full time Mayor and a full time City Manager. After being pressed for some information on the fiscal impact Councilor Ives and being advised about Mayor Coss' prior statements, Councilor Ives took the position that Mayor Coss' comments regarding a \$100,000 range for a salary should be considered presumptively correct. See, e.g., 6/19/13, Minutes, p. 5. Commissioner Werwath opined that his research based upon Albuquerque was that the monetary cost would be less than \$150,000. See, 6/19/13, Minutes, p. 6. The Assistant City Attorney Martinez opined that the costs would likely be the same as the costs for a City Manager. See, 6/19/13, Minutes, p. 20.

Neither Councilor Ives nor Councilor Wurzbarger nor Vice Chair Long, or any other proponents of this proposal, provided specific information regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and "strong Mayor proposal". See, e.g., 6/19/13, Minutes, pp. 4-23.

At the June 19, 2013 meeting, the Chair and other members of the Charter Review Commission apparently recognized the importance of this issue to the community and the concerns being expressed by the public, as well as the fact that Councilor Ives' and Councilor Wurzbarger's and Vice Chair Long's proposal had not been submitted to the public previously for input and consideration, and agreed with other Charter Review Commission members to postpone further consideration of the proposal to the June 27, 2013 meeting.

During the Charter Review meeting process there were public and media appearances by the Chair and other Charter Committee members. There were notices and minutes on the City's website. However, the posting of minutes was necessarily delayed after each meeting due to the labor-intensive nature of preparing the minutes and the workload of the stenographer. For instance, the minutes from the very important meetings of June 19, 2013 (when the wording for the "strong Mayor proposal" was first introduced and discussed) and June 27, 2013 (when there was continuing debate and a vote on the amendments for the 'strong Mayor proposal') were not even received by the Charter Review Commission members until respectively June 25, 2013 and July 15, 2013. The minutes from the July 1, 2013 meeting were only received the afternoon of July 16, 2013, the day before the last scheduled meeting of the Charter Review Commission.

There was an attempt to use social media. Near the beginning of the process Commissioner Werwath was appointed the Chair of the outreach committee. But, the results of feedback from social media were rarely reported to the Commission by the Chair of the outreach committee. The outreach committee Chair did not follow through with the process as had been explained at the outset to provide full and complete information to the community regarding proposed changes to the Charter. Apparently, the Charter Review Commission Facebook page was never updated after April 23, 2013 and thus failed to provide the public with notice of

proposed amendments to the Charter.² This omission is particularly important regarding the controversial “strong Mayor proposal” that was essentially presented at the last moments of the Charter Review Commission’s process. The Charter Review Commission was not provided by its outreach committee with community input and feedback through any credible survey results or other credible compilation of public reaction to these amendment proposals as had been stated would be attempted at the outset of this process.

It seemed to me throughout this Charter Review Commission process from the commentary of certain Commissioners that seemed to have the support of the majority of the Charter Review Commission, that it was more important to meet an arbitrary timetable to have the work of the Charter Review Commission done and completed and a report submitted to the Governing Body. This was declared to be necessary by a deadline set for the end of July 2013 so that amendments could be forwarded to the Governing Body for review so that they would be considered at the March 2014 municipal election.

This focus on a deadline for an election vote on proposed changes rather than a meaningful attempt to gather all relevant information and a meaningful debate on the substance of this “strong Mayor proposal” was detrimental to the work of the Commission. For that reason alone, the Governing Body should reject for consideration at the next municipal election the issue of the “strong Mayor proposal” because it was not fully researched, analyzed and debated. There should be due consideration of these important ideas without any hovering deadline. I understand that there is cost in having a separate Home Rule Charter Amendment election for a “strong Mayor proposal”, but it seems to me that this issue is of such import to the city that additional time should have been, and should be, taken to carefully study the many facets of this particular proposal.

I completely agree that a Mayor is the head of our municipal government and should have an agenda and set a course for this city. The Mayor should be able to communicate this agenda and gather support to implement these policies. We do need to be mindful that without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter

² It has been reported that a Draft of the Charter Review Commission Report appeared on the Facebook page on July 16, 2013.

that a weak candidate in a crowded field with only a small plurality of the vote could be granted a very generous salary and enormous powers to govern this city.

I strongly agree, honored to have been elected in District 2 to serve as a City Councilor, that City Councilors should not be involved in any micromanagement of the government or city employees. Therefore, from an informed position, I state that the role of the City Council being the main policy maker for the City as exists under the current Home Rule Charter should be maintained. The role of the City Council to maintain checks and balances is crucial and should be retained. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager.

This "strong Mayor proposal" essentially emasculates the existing powers of the City Council. The City Council necessarily plays an appropriate and strong role in the advocacy for neighborhoods and community concerns. These proposed amendments make that role difficult to perform in any kind of meaningful manner, particularly if the Governing Body, which includes the Mayor, is removed from being the "principal policy maker of the city."

The argument that the Mayor needs these consolidated powers to carry out a mandate of election is spurious. As exists today, under Home Rule Section 5.01 the Mayor has substantial input into the policies and procedures of government. A City Manager appointed by the Mayor with demonstrated administrative expertise should have the skill to direct city government in support of programs and policies that the Mayor is presenting to the Governing Body. The City Manager should also be sensitive to the articulated policy positions of the Mayor as the Chief Executive Officer of the City as well as to the positions of the Governing Body as the primary policy maker for the City. The City Manager should not be placed in a position to serve as an assistant Mayor or chief of staff.

It has been stated that a reason for the need for this change is that there have been too many personnel changes in the City Manager position. But this general statement does not take into account the information that the Charter Review Commission members also received, individually or collectively, that there were many reasons why various City Managers resigned. There was no substantial or credible information presented that the City Managers were forced to resign as a

part of a pattern and practice of meddling by majority factions of the City Council rather than for many other legitimate or personal reasons. The push to make these changes seems to stem more from subjective opinion than objective evidence warranting these changes.

In communications to the Charter Review Commission, I consistently stated my view that the Charter Review Commission should engage in a deliberate and detailed review of the issues even if this made the Charter Review Commission process longer. See, e.g., 6/19/13, Minutes, pp. 16 and 18. I felt and still feel that we owe it to the public to fully study, analyze, and consider the substance and consequence of these issues. Prior to the June 27, 2013 Charter Review Commission meeting, the only other articulated input the Charter Review Commission received on this proposal was the dissemination of interesting, but generally irrelevant for a city the size of Santa Fe, chapters on government structure and powers from a text book from a government class that had been attended by a son of one of the Charter Review Commission's members. The information presented to the Charter Review Commission was inadequate to use as justification for these fundamental changes to our governmental structure.

These proposed changes to the structure of city government should have been thoroughly vetted, researched, reviewed, and been the subject of more public hearings prior to any vote on the proposal. And, the proposal was made more complex by the decision by Councilor Ives at the end of the process prior to the June 27, 2013 meeting to add even more sections of the Charter to be amended to carry out this "strong Mayor proposal". These supplemental amendments were received by the Charter Review Commission members between the June 19, 2013 meeting and the June 27, 2013 meeting. And, it is not at all clear when members of the public were furnished with the supplemental amendments that were prepared and submitted by Councilor Ives.

From the public hearings, it did not appear that there is serious or substantial support in the community at large, via petition or otherwise, for this proposal. At the time he presented the proposal, Councilor Ives admitted that he had received no citizen's petition seeking these changes. See, e.g. 6/19/13, Minutes, p. 6-7.

4. The Charter Review Commission and Policy Statements Not Recommended

Various Policy Statements were submitted for Charter Review Commission action and they were either not acted upon or defeated at the July 1, 2013 Charter Review Meeting. There had been a number of prior meetings where the various Policy Statements were on the Agenda and public comment and background information was presented regarding these issues. In my opinion, there is substance to the Policy Statements included herein and the Governing Body should give due consideration to placing these Policy Statements on the Ballot or enacting ordinances that would implement these policy positions.

The following are the particular Policy Statements that were presented at the July 1, 2013 Charter Review Commission meeting but not recommended.

A. Gun Violence Prevention Ordinances:

The June 26, 2013 meeting of the Governing Body was long and difficult. The subject was a proposed ordinance that would ban excess capacity ammunition magazines within the City of Santa Fe. That ordinance failed. But, there appeared to be unanimity from the audience and the Governing Body that as a society we must do all that we can to prevent gun violence and that the dialogue and conversation regarding gun violence prevention should continue. Thus, it is surprising that a proposal that the Charter include a provision requiring the City to adopt "gun violence prevention ordinances" did not even obtain the support of a second at the July 1, 2013 Charter Review Commission meeting. See, 7/1/13, Minutes, pp. 3-5.

All this provision would have done would be to place on the ballot for a public vote this simple requirement. It would be up to the Governing Body to determine the nature and substance of any such ordinances. The public conversation started at the June 26, 2013 Governing Body meeting should continue. This Policy Statement is a way to make that conversation continue and to implement gun violence prevention ordinances for the health, safety, and welfare of the city. This Policy Statement should be adopted and placed on the ballot for consideration by the voters. There would be nothing stopping the

Governing Body from independently moving forward to enact whatever gun violence prevention ordinances it deems appropriate.

B. Proposal Regarding Children's Issues and Concerns:

Santa Fe United Way submitted the following proposal for inclusion in the Charter as a separate provision:

"Our children are Santa Fe's most valuable asset. In order to nurture and protect our children, and to enhance our children's ability to thrive and to grow into productive members of society, the Governing Body shall take into account, the effects of any action on our children, and shall take action to support and protect our children. To effect these ends, the Governing Body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction authority and steps sufficient to effectively administer this policy."

Though most everyone professed their love for children, the Motion to pass this important Policy Statement to be included in the Charter failed when only Commissioner Gutierrez and I voted for its passage and approval. Commissioners Long, Hiatt, Johansen, and Romero-Wirth voted against this Policy Statement for inclusion in the Charter. See, 7/1/13, Minutes, pp. 5-7.

This is an important statement about the fabric and values of this city. For the health, safety, and welfare of the city this Policy Statement should be adopted and placed on the ballot for consideration by the voters.

C. Proposal Regarding Immigration Policies and Enforcement:

The City's Immigration Committee appeared at meetings and presented language for a Policy Statement that exists in a City Resolution that:

No municipal resources will be used to identify or apprehend any non-citizen resident on the sole basis of immigration status unless otherwise required by law to do so.

At the time of the consideration of this Policy Statement for a vote no one from the City's Immigration Committee was present to advocate for the inclusion of this Policy Statement in the Charter. There was no second to my Motion that

would have allowed further consideration of this Policy Statement. See, 7/1/13, Minutes, p. 11. If the City's Immigration Committee wants to support the adoption of this Policy Statement language in the Charter then it should make its views known to the Governing Body.

D. Proposal for Preservation of Neighborhoods and Neighborhood Integrity:

The Neighborhood Network was among the civic groups actively involved in the Charter Review Process by attending meetings and making public comment. The Neighborhood Network submitted the following proposal which was not approved because the recommended amendments to Section 2.04 were adopted instead. See, 7/1/13, Minutes, pp. 11-15.

The Santa Fe community is defined not only by the cultural composition of its citizens, but also by the variety and diversity of the neighborhoods in which these citizens reside. Santa Fe neighborhoods have distinct features that reflect a cultural and architectural heritage, and legitimate interests which affect the quality of life of their residents. These features and interests should be recognized, promoted and protected.

The recognition of Neighborhoods and Neighborhood integrity is important. And while it is significant that there is recognition that neighborhoods should be explicitly recognized by the amendments to Section 2.04, the inclusion of the Policy Statement Submitted by the Neighborhood Network as a separate provision is more inclusive and substantial than just the inclusion of the word "Neighborhood" in Section 2.04. The Governing Body should give due consideration to including this Policy Statement submitted by the Neighborhood Network for adoption and placement on the ballot for consideration by the voters.

E. Proposal Regarding Prevention and Protection From Adverse Impacts of Electromagnetic Radiation (WARN proposed language)

The Charter Review Commission heard from health care practitioner, Dr. Felecia Trujillo, and a neuro-toxicologist, Raymond Singer, Ph.D., regarding the science and findings of adverse health impacts from electromagnetic radiation and studies that were being done in Europe and other countries that were showing concerning findings regarding adverse health impacts from electromagnetic

radiation. WARN, a coalition of health care providers, submitted voluminous data and information regarding this issue. The Charter Review Commission did not provide a second to my Motion to adopt the revised Policy Statement language submitted by WARN and for an alternative Motion. See, 7/1/13, Minutes, p. 15-19. The Governing Body should continue to closely monitor and take all appropriate action regarding the health, safety, and aesthetic issues that are presented by the issues of the transmission of electromagnetic radiation.

F. Proposal for Marijuana Adult Personal Possession and Use to be the Lowest Law Enforcement Priority

This topic was proposed based on my 40 years of experience in the field of criminal justice. See, 7/1/13, Minutes, pp. 19-20 and the 4/9/13, Minutes, pp. 7-16. The Motion to approve this Policy Statement died for lack of a second.

There is a change happening in this country with regard to people's views about the medicinal qualities of cannabis, and cannabis (marijuana) in general. Scientific research and testing is occurring in Europe and in Israel and in other parts of the world showing the beneficial medicinal qualities of cannabis. Unfortunately, in this country that research is being restricted by federal authorities. States are taking it upon themselves to move forward, citizens of 17 states and the District of Columbia, including the State of New Mexico now have medical cannabis programs. Our sister State of Colorado has voted to legalize the personal possession of small amounts of marijuana for adult use, as has the State of Washington. Society has not fallen apart, all the doom and gloom from reefer madness has been seen to note be true. Prohibition does not work.

The Commission was told at our meeting on April 9, 2013 that minority members are disproportionately stopped and picked up and arrested for personal possession marijuana charges. From a law enforcement perspective it would be cheaper and easier to issue citations rather than make arrests for these offenses. The Commission was told by a New Mexico State Police Officer that Marijuana offenders rarely cause problems for police officers. Police Officers' time would be far better used in investigating and enforcing laws relating to violent crimes, property offenses, burglaries, DWI offenses, domestic violence, and offenses that truly breach the peace.

The City of Santa Fe has no power to legalize or decriminalize the adult or juvenile possession and use of marijuana. That was not the intent of this proposal. But what the city can do, and what the Governing Body should do, as has

happened in Seattle, New Orleans, Philadelphia, New York City, and many other cities around this country is to enact a policy that arresting individuals for small amounts of marijuana for their own personal use is a low law enforcement priority. We should be spending our time and our effort on other crime problems.

This is not a matter that is on the back page any more. On the front page of the June 30, 2013 Santa Fe New Mexican there was article explaining that states are having to deal with the reality of the change that is happening with attitudes about personal marijuana possession and use. There was recently an hour-long program on CNN attempting to show the reality of what is happening in America regarding medical cannabis and marijuana in general.

As a community we can and should set forth a value and Policy Statement that: The Santa Fe Police Department and the Santa Fe City Attorney's Office shall make the investigation, arrest and prosecution of marijuana offenses, where the marijuana was intended for adult personal use, the City's lowest law enforcement priority.

This proposed policy statement sets forth a policy which will stop young people and adults from being labeled as criminals for the rest of their lives because they had or used a substance which is basically benign. Marijuana is not without problems, but they can be dealt with through education to discourage juvenile and young adult use of marijuana.

We need to do what we can so that people can avoid the stigma of having to disclose, for the rest of their lives, that they were arrested because they had a small quantity of marijuana. There are many long term prejudicial impacts from having a criminal arrest record, even for such a minor offense.

Since the Motion did not receive a second it could not be considered further.

Commissioner Werwath expressed his support for these concerns but stated that he felt that the policy statement should not be in the Charter.

5. The Charter Review Commission Should Have Been Provided Supplemental Resources and a Budget to Assist the Review Process

The question of assistance for a Charter Review Commission is also of concern. By Home Rule Charter Section No. 10.02 and Section 7 of Resolution 2012-45 the office of the City Attorney is the advisor and liaison to the Charter

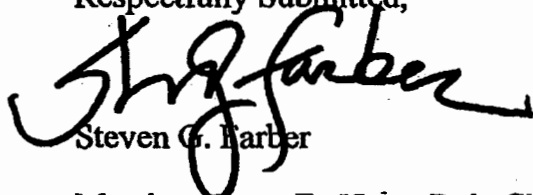
Review Commission. This is no criticism of any Member of the Office of the City Attorney, but I felt that we were hampered by the lack of continuity of assistance from the City Attorney's office. There were four different attorneys who at one time or another were present at our meetings. At times there was conflicting information being provided. There did not appear to be a seamless transfer of responsibility for legal advice and counsel. There were difficult legal issues that were presented for analysis and review.

There was no procedure for supplemental assistance when specialized expertise was needed for the work of the Charter Review Commission. Since there was no budget created independent outside experts could not be retained. Thus, in future Resolutions convening a Charter Review Commission it would appear to be wise for the Governing Body to provide for some budget to assist the work of a Charter Review Commission for independent research, analysis, and input. This is particularly significant if there is a conflict of interest or the appearance of a conflict of interest on the part of the office of the City Attorney.

6. The City Attorney's Office has a Conflict of Interest and/or the Appearance of a Conflict of Interest but Continued to Serve as the Liaison to the Charter Review Commission

In my opinion, in this Charter Review process there appeared to be a conflict of interest, or the appearance of a conflict of interest, in the Office of the City Attorney providing research and assistance regarding this issue since throughout the process the City Attorney was subject to removal by the Mayor and the City Attorney position is specifically mentioned in this "strong Mayor proposal" regarding the sole power of the Mayor to hire and fire the City Attorney.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steve Farber", written over the printed name.

Steven G. Farber

Member, Santa Fe Home Rule Charter Review Commission

July 17, 2013

Dear City Councilors,

Thank you for the opportunity to serve on the City Charter Review Commission. We have finished our work and have several proposals for your consideration. I would draw your attention to two items that should be given further thought.

First, the Commission is proposing an Independent Redistricting Commission, which I support. The language, you should note would allow for re-districting "at least every decennial census." This is new language in the Charter that opens the door for re-districting more often than every ten years and I believe should be amended to say simply "every decennial census". As you are aware, redistricting, while critical to governing, requires enormous time and resources that subtract for a time from the ability to govern. Common Cause initially opposed the proposal to redistrict more than every ten years because of a fear of "political shenanigans". In the end, they changed their position to one of support. One only need look at the state of Texas to see they were correct in their initial position. What would trigger re-districting besides the census?

Second, I believe there is another way to address the concern that water issues be explicitly recognized in the Charter. It does seem that the current language can be read to include them implicitly. We must be very careful what language we add to the Charter, as it is very difficult to change the language, if it is interpreted in a way that is unintended. In this particular proposal, I am concerned about the phrase "tying development to water availability". As you are aware the city has very progressive rules around water use and development, requiring that new development purchase water rights in order to proceed. How will the term "water availability" be interpreted? How do we determine if it is "available"? The Council could consider instead amending Section 2.03 to read:

The natural beauty of Santa Fe, its historical heritage, and its unique architectural style are among the city's most valued and important assets. In order to enhance the beauty and quality of both the natural and built environment within and around the city, the governing body shall protect, preserve and enhances the city's natural endowments, including air and water, plan for and regulate land use and development, manage the city's growth, encourage source reduction, re-use and recycling of materials, and promote and maintain an aesthetic and humane urban environment. To effect these ends, the governing body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively administer this policy.

It has been an honor to serve on this Commission; I look forward to your consideration of all that has been presented to you.


Respectfully Submitted, Carol Romero-Wirth, MPP, Esq. 

City of Santa Fe, New Mexico

memo

DATE: July 29, 2013

TO: City Council

FROM: Marcos A. Tapia 
Finance Director

CC: Brian Snyder, City Manager

SUBJECT: Moody's Press Release (Discussion Item)

Budget Background and Summary:

A press release by Moody's in April 17, 2013 (Item A) reported that Moody's had placed the bond ratings of at least 29 local governments and school districts on review for possible downgrade due to its new methodology for analyzing public pension liabilities. Four entities in New Mexico were named of concern on the basis of unfunded liabilities pertaining to PERA: the City of Alamogordo, the City of Las Vegas, the City of Santa Fe, and the County of Santa Fe.

On July 22, 2013 this document was referenced by a Reuters Reporter on an article online in its report on the City of Detroit, (Items C, and C-1).

I was asked to furnish information on the following questions:

1. When Moody's press release was issued what action did the City take?

Direct conversation between the City of Santa Fe, the City's financial advisor, First Southwest Company, and Moody's failed to elicit concrete details about the correctness or methodology including the data used in their analysis of PERA, or their assignment of the level of unfunded pension liability to the City of Santa Fe. At that time we had not used Moody's since 2008. Until Thursday, July 25, 2013 we had not heard directly from Moody's since the April press release. Through the City's financial advisor we requested a retraction and correction. None has been received.

2. What is the City's percentage contribution and is it more or less than other active participants within PERA?

The percentage of the City's "Pickup Percentage" is 75%, (Item B) this percentage is consistent with other participants including; City of Albuquerque, Bernalillo County, Rio Rancho and Santa Fe County. There are some differences for Police and Fire.

3. Is the City's contribution rate of 75% sustainable?

Yes. The annual amount of City participation in PERA is \$7.5 to \$8 million or approximately 10% of the General Fund Annual Operating budget. This remains a funding priority of the governing body.

4. What was the City's response to the Reuters.com news article?

Contacted the City's financial advisor, First Southwest Company, Mr. George Williford who immediately contacted Moody's, this conversation with Moody's failed to elicit concrete details about the correctness, methodology or the data used in their analysis of PERA, or their assignment of the level of unfunded pension liability to the City of Santa Fe. However, Moody's acknowledged that they were utilizing incomplete information which was not obtained directly from the City or PERA. Moody's also acknowledged that they likely were not properly recognizing and including revenues of all City departments and funds which are sources of pension contributions, such as City utility systems. We asked Moody's for a retraction and correction, Moody's was willing to reassess if the City provided current information.

This information was provided on Wednesday, July 24, 2013; this was the only information requested from Moody's concerning the City's PERA contributions, no information was requested for the report in April.

On Saturday, July 27, 2013 Moody's issued a rating report on the City's General Obligation Bonds, (Item D). This rating resulted in lowering of the Pension Liability for the city by almost half. This was an acknowledgement that the information, analysis and conclusions made in April were flawed. The lowering of Moody's estimated Pension Liability from April, estimated at approximately \$570.3 million and Saturday's rating report of \$332.7 million resulted in a lowered difference of \$237.6 million, which is still incorrect and overstated.

Other entities contacted: PERA and the New Mexico Municipal League.

Current Rating by Fitch AA+, Standard & Poor's AA.

Action Requested:

This information is provided as requested.

MOODY'S

INVESTORS SERVICE

Announcement: Moody's announces new approach to analyzing state, local government pensions; 29 local governments placed under review

Global Credit Research - 17 Apr 2013

New York, April 17, 2013 -- Moody's has announced its final approach to the way it will analyze and adjust pension liabilities as part of its credit analysis of state and local governments. These changes reflect the rating agency's view that pension obligations are a significant source of credit pressure for governments and warrant a more conservative view of the potential size of the obligations. As a result of this new approach, Moody's has also placed the general obligation ratings of the cities of Chicago, Cincinnati, Minneapolis, and Portland, OR, and of 25 other US local governments and school districts on review for possible downgrade. The entities whose ratings have been placed on review have large adjusted net pension liabilities relative to their rating category.

"Pension obligations represent a growing source of budgetary pressure for many governments. However, the manner in which these obligations are reported varies widely, and we believe liabilities are underreported from a balance sheet perspective," said Timothy Blake, a Moody's Managing Director. "The purpose of the adjustments is to provide greater transparency and comparability in pension liability measures for use in credit analysis."

The rating agency first announced in July 2012 its intention to make changes to the way it looks at the pension data reported by US state and local governments as it evaluates their credit quality and initiated an open comment period for market participants.

The rating agency's new approach is outlined in the report "Adjustments to US State and Local Government Reported Pension Data", available on the company's website at http://www.moody's.com/viewresearchdoc.aspx?docid=PBM_PBM151398.

Concurrently, Moody's has also released a revised "US States Rating Methodology" (http://www.moody's.com/viewresearchdoc.aspx?docid=PBM_PBM129816) and "General Obligation Bonds Issued by US Local Governments" (http://www.moody's.com/viewresearchdoc.aspx?docid=PBM_PBM151690), which describe how it will apply the adjusted pension data to its ratings of those entities. The updated state methodology introduces a scorecard with explicit weights for various rating factors and sub-factors including pensions, as a guide to approximate credit quality.

The adjustments are not a requirement or guideline for state or local governments to report or fund their pension obligations. Moody's is introducing them solely for the purpose of evaluating pension risk in the context of its credit ratings.

"Significant Outliers"

Moody's said that for the majority of US governments, their pension obligations remain manageable in the context of their revenues and resources.

"The local governments whose ratings have been placed on review were determined to be significant outliers in their current rating category," Moody's Blake said.

The median ratio of Moody's adjusted net pension liability to annual operating revenues as of fiscal 2011 is under 100%. The threshold for Aaa-rated governments to be placed under review as a result of this metric was 300%, or more than three times the median level for the sector. The thresholds applied to entities rated in the Aa, A, and Baa categories were 400%, 500%, and 600% respectively. A summary of the key input data and the Moody's adjustments for each entity with ratings placed under review is available at http://www.moody's.com/viewresearchdoc.aspx?docid=PBM_PBM152921.

Moody's rates over 8,000 local governments in the United States. Less than 1% of those with general obligation or equivalent ratings have been placed under review because of the new pension adjustments. No state government ratings are affected as a result of these changes at this time. However, rising pension liabilities have been a factor in a number of state and local government credit rating downgrades and outlook changes over the last several years.

Moody's expects any rating changes resulting from the current reviews to be one or two notch downgrades and, depending on mitigating factors, some ratings could be confirmed. Most reviews should be completed within 90 days, but some could take as long as 180 days, if necessary.

As part of its analysis, Moody's has also conducted a review of recently enacted pension reforms in relevant states and jurisdictions, to determine whether the changes would be likely to result in a material reduction in accrued pension liabilities subsequent to the fiscal 2011 reporting date.

The reviews affect a total of approximately \$12.5 billion of debt. For a number of governments, certain of their special tax, lease, and/or other related ratings have been placed under review as well as their general obligation (G.O.) debt.

The list of local government ratings placed on review follows:

Alamogordo (City of) NM -- Aa3 General Obligation bonds; A1 Gross Receipts Tax Revenue bonds

Carman-Ainsworth Community School, MI -- Aa3 General Obligation bonds; A1 Limited Tax G.O. bonds

Chicago (City of) IL -- Aa3 General Obligation bonds; Aa3 Sales Tax Revenue bonds

Cincinnati (City of) OH -- Aa1 General Obligation bonds; Aa2 Economic Development Revenue bonds; Aa2 Recovery Zone Facility Revenue bonds; Aa2 Annual Appropriation bonds

Douglas (County of) NV -- Aa2 General Obligation bonds

Dublin City School District, OH -- Aaa General Obligation bonds

Elk Grove (Village of) IL -- Aaa General Obligation bonds

Evanston (City of) IL -- Aaa General Obligation bonds

Fairfield City S.D. (Butler County), OH -- Aa2 General Obligation bonds

Fruitport Community School District, MI -- Aa3 General Obligation bonds

Glen Lake Community Schools, MI -- Aa2 General Obligation bonds

Great Oaks Inst. of Tech. & Career Dev., OH -- Aaa General Obligation bonds

Lakota Local S.D. (Butler County), OH -- Aaa General Obligation bonds

Las Vegas (City of), NM -- A1 Gross Receipts Tax Revenue bonds

Mason City School District, OH -- Aaa General Obligation bonds

Minneapolis (City of) MN -- Aaa General Obligation bonds

Murray (City of) KY -- Aa3 General Obligation bonds

Napoleon (City of) OH -- Aa3 General Obligation bonds

Oak Hills Local School District, OH -- Aa2 General Obligation bonds

Orange City School District, OH -- Aaa General Obligation bonds

Petoskey Public Schools, MI -- Aa2 General Obligation bonds

Portland (City of) OR -- Aaa General Obligation bonds; Aa1 Limited Tax General Obligation bonds; Aa2 Housing Revenue bonds; Aa2 Gas Tax bonds; Aa3 Urban Renewal and Redevelopment bonds

Santa Fe (City of) NM -- Aa2 General Obligation bonds; Aa2 Gross Receipts Tax Revenue bonds; Aa3 Gross Receipts Tax Revenue bonds; A1 Subordinate Lien Gross Receipts Tax bonds

Santa Fe (County of) NM -- Aaa General Obligation bonds; Aa1 Gross Receipts Tax Revenue bonds

Sycamore Community School District, OH -- Aaa General Obligation bonds; Aa1 Certificates of Participation

Tolles Career and Technical Center, OH -- Aaa General Obligation bonds

Trenton Public Schools, MI -- Aa3 General Obligation bonds

Virginia (City of) MN -- A2 General Obligation bonds; A3 Health Care Facilities Lease Revenue bonds

Wayne County Joint Vocational S.D., OH -- Aa3 Certificates of Participation

PRINCIPAL METHODOLOGY

The principal methodology used in rating the general obligation bonds was General Obligation Bonds Issued by US Local Governments published in April 2013, the principal methodology used in rating the gross receipts tax, sales tax, and gas tax bonds was US Public Finance Special Tax Methodology published in March 2012, the principal methodology used in rating the economic development, recovery zone facility, annual appropriation, urban renewal and redevelopment, certificates of participation, and health care facilities lease bonds was The Fundamentals of Credit Analysis for Lease-Backed Municipal Obligations published in December 2011, and the principal methodology used in rating the housing bonds was Moody's Approach to the Moral Obligation Pledge published in 1999.

REGULATORY DISCLOSURES

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Active Employers With Active Municipal Plans With Pickup Percentage

Data Date 07/25/2013, Total Record Count 177

Employer Name	Emp Nu	Plan	Pickup %
ALAMOGORDO CITY OF	02010	Municipal Plan 2	50.27
ALAMOGORDO CITY OF	02010	Municipal Fire Plan 5	74.04
ALAMOGORDO CITY OF	0201	Municipal Plan 2a	50.27
ALAMOGORDO CITY OF	02010	Municipal Police Plan 5	72.09
ALBUQUERQUE BERNALILLO COUNTY WATER AUTHORITY	04380	Municipal Plan 3	75.00
ALBUQUERQUE BERNALILLO COUNTY WATER AUTHORITY	04380	Municipal Plan 3a	75.00
ALBUQUERQUE CITY OF (REGULAR)	02020	Municipal Plan 3a	75.00
ALBUQUERQUE CITY OF (REGULAR)	02020	Municipal Detention Officer Plan 1	75.00
ALBUQUERQUE CITY OF (REGULAR)	02020	Municipal Plan 3	75.00
ANIMAL SERVICE CENTER OF THE MESILLA VALLEY	04460	Municipal Plan 3a	50.00
ANIMAL SERVICE CENTER OF THE MESILLA VALLEY	04460	Municipal Plan 3	50.00
ARTESIA CITY OF	02980	Municipal Plan 1	75.00
ARTESIA CITY OF	02980	Municipal Fire Plan 1	75.00
ARTESIA CITY OF	02980	Municipal Police Plan 1	75.00
ARTESIA CITY OF	02980	Municipal Plan 1a	75.00
BAYARD CITY OF	02050	Municipal Plan 2	10.92
BAYARD CITY OF	02050	Municipal Police Plan 4	8.10
BAYARD CITY OF	02050	Municipal Plan 2a	10.92
BELEN CITY OF	02060	Municipal Police Plan 5	75.00
BELEN CITY OF	02060	Municipal Fire Plan 5	43.52
BELEN CITY OF	02060	Municipal Fire Plan 5	43.00
BELEN CITY OF	02060	Municipal Plan 4a	75.00
BELEN CITY OF	02060	Municipal Plan 4	75.00
BERNALILLO COUNTY	03010	Municipal Fire Plan 5	75.00
BERNALILLO COUNTY	03010	Municipal Plan 3a	75.00
BERNALILLO COUNTY	03010	Municipal Plan 2a	75.00
BERNALILLO COUNTY	03010	Municipal Police Plan 5	75.00
BERNALILLO COUNTY	03010	Municipal Detention Officer Plan 1	75.00
BERNALILLO COUNTY	03010	Municipal Plan 2	75.00
BERNALILLO COUNTY	03010	Municipal Plan 3	75.00
BERNALILLO TOWN OF	02080	Municipal Plan 4a	60.00
BERNALILLO TOWN OF	02080	Municipal Plan 4	60.00
BERNALILLO TOWN OF	02080	Municipal Police Plan 4	60.00
BLOOMFIELD CITY OF	02090	Municipal Fire Plan 5	18.50
BLOOMFIELD CITY OF	02090	Municipal Police Plan 5	18.40
BOSQUE FARMS VILLAGE OF	02100	Municipal Plan 2	75.00
BOSQUE FARMS VILLAGE OF	02100	Municipal Plan 2a	75.00
CIUDAD SOIL AND WATER CONSERVATION	03480	Municipal Plan 1a	50.00
CIUDAD SOIL AND WATER CONSERVATION	03480	Municipal Plan 1	50.00
CLAYTON TOWN OF	02160	Municipal Fire Plan 4	75.00
CLAYTON TOWN OF	02160	Municipal Plan 2a	75.00
CLAYTON TOWN OF	02160	Municipal Police Plan 2	75.00
CLAYTON TOWN OF	02160	Municipal Plan 2	75.00
CURRY COUNTY	03060	Municipal Plan 3	75.00
CURRY COUNTY	03060	Municipal Plan 3a	75.00
DONA ANA COUNTY	03090	Municipal Plan 3a	75.00
DONA ANA COUNTY	03090	Municipal Plan 3	75.00
EDDY COUNTY	03100	Municipal Plan 3a	75.00
EDDY COUNTY	03100	Municipal Detention Officer Plan 1	75.00
EDDY COUNTY	03100	Municipal Plan 3	75.00
EDDY COUNTY	03100	Municipal Police Plan 5	75.00
ESPANOLA CITY OF	02290	Municipal Plan 3	75.00
ESPANOLA CITY OF	02290	Municipal Plan 3a	75.00
ESTANCIA TOWN OF	02300	Municipal Plan 1a	75.00
ESTANCIA TOWN OF	02300	Municipal Plan 1	75.00
EUNICE CITY OF	02850	Municipal Fire Plan 3	75.00
EUNICE CITY OF	02850	Municipal Police Plan 1	75.00
EUNICE CITY OF	02850	Municipal Police Plan 3	75.00

Employer Name	Emp Nu	Plan	Pickup %
EUNICE CITY OF	02850	Municipal Plan 1	75.00
EUNICE CITY OF	02850	Municipal Fire Plan 1	75.00
EUNICE CITY OF	02850	Municipal Plan 2	75.00
EUNICE CITY OF	02850	Municipal Plan 2a	75.00
EUNICE CITY OF	02850	Municipal Plan 1a	75.00
GALLUP CITY OF	02330	Municipal Plan 3a	75.00
GALLUP CITY OF	02330	Municipal Detention Officer Plan 1	75.00
GALLUP CITY OF	02330	Municipal Plan 3	75.00
GALLUP CITY OF HOUSING AUTHORITY	04140	Municipal Plan 3a	75.00
GALLUP CITY OF HOUSING AUTHORITY	04140	Municipal Plan 3	75.00
GRANT COUNTY	03110	Municipal Plan 2a	75.00
GRANT COUNTY	03110	Municipal Police Plan 5	75.00
GRANT COUNTY	03110	Municipal Plan 2	75.00
GRANT COUNTY	03110	Municipal Plan 1a	75.00
GRANT COUNTY	03110	Municipal Plan 1	75.00
HAGERMAN TOWN OF	02960	Municipal Plan 1a	75.00
HAGERMAN TOWN OF	02960	Municipal Police Plan 1	75.00
HAGERMAN TOWN OF	02960	Municipal Plan 1	75.00
HAGERMAN TOWN OF	02960	Municipal Police Plan 3	23.75
HOBBS CITY OF	02370	Municipal Plan 2	43.72
HOBBS CITY OF	02370	Municipal Fire Plan 5	24.69
HOBBS CITY OF	02370	Municipal Plan 2a	43.72
HOBBS CITY OF	02370	Municipal Police Plan 5	24.54
LAS CRUCES CITY OF	02400	Municipal Fire Plan 5	17.28
LAS CRUCES CITY OF	02400	Municipal Plan 1a	2.00
LAS CRUCES CITY OF	02400	Municipal Plan 1	2.00
LAS CRUCES CITY OF	02400	Municipal Plan 2a	27.32
LAS CRUCES CITY OF	02400	Municipal Fire Plan 5	2.00
LAS CRUCES CITY OF	02400	Municipal Police Plan 5	36.81
LAS CRUCES CITY OF	02400	Municipal Plan 3a	45.63
LAS CRUCES CITY OF	02400	Municipal Fire Plan 5	8.64
LAS CRUCES CITY OF	02400	Municipal Plan 2	27.32
LAS CRUCES CITY OF	02400	Municipal Plan 3	45.63
LEA COUNTY	03150	Municipal Police Plan 5	28.28
LEA COUNTY	03150	Municipal Police Plan 4	75.00
LOS LUNAS VILLAGE OF	02440	Municipal Fire Plan 5	75.00
LOS LUNAS VILLAGE OF	02440	Municipal Police Plan 5	75.00
LOS LUNAS VILLAGE OF	02440	Municipal Plan 3	75.00
LOS LUNAS VILLAGE OF	02440	Municipal Plan 3a	75.00
LOS RANCHOS VILLAGE OF	02450	Municipal Fire Plan 5	75.00
LOS RANCHOS VILLAGE OF	02450	Municipal Plan 2a	75.00
LOS RANCHOS VILLAGE OF	02450	Municipal Fire Plan 3	75.00
LOS RANCHOS VILLAGE OF	02450	Municipal Plan 2	75.00
LUNA COUNTY	03180	Municipal Plan 2	75.00
LUNA COUNTY	03180	Municipal Plan 2a	75.00
MCKINLEY COUNTY	03200	Municipal Plan 3a	75.00
MCKINLEY COUNTY	03200	Municipal Plan 3	75.00
MCKINLEY COUNTY	03200	Municipal Police Plan 5	75.00
MCKINLEY COUNTY	03200	Municipal Fire Plan 5	75.00
MELROSE VILLAGE OF	02880	Municipal Plan 1a	42.80
MELROSE VILLAGE OF	02880	Municipal Police Plan 1	42.80
MELROSE VILLAGE OF	02880	Municipal Plan 1	42.80
Mesilla Valley Public Housing Authority (Las Cruces)	04150	Municipal Plan 2	75.00
Mesilla Valley Public Housing Authority (Las Cruces)	04150	Municipal Plan 2a	75.00
MID. RIO GRANDE CONS. DIST.	02480	Municipal Plan 3a	75.00
MID. RIO GRANDE CONS. DIST.	02480	Municipal Plan 3	75.00
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DIST	02520	Municipal Plan 3	75.00
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DIST	02520	Municipal Plan 3a	75.00
OTERO COUNTY	03220	Municipal Police Plan 5	75.00
PECOS VALLEY CONS. DISTRICT	02540	Municipal Plan 3a	75.00
PECOS VALLEY CONS. DISTRICT	02540	Municipal Plan 3	75.00
PECOS VILLAGE OF	02530	Municipal Plan 3	75.00
PECOS VILLAGE OF	02530	Municipal Plan 3a	75.00
REGIONAL EMERGENCY DISPATCH AUTHORITY (EDDY COUNTY)	04480	Municipal Plan 3	75.00

Employer Name	Emp Nu	Plan	Pickup %
RIO RANCHO CITY OF	02620	Municipal Fire Plan 5	75.00
RIO RANCHO CITY OF	02620	Municipal Plan 2a	75.00
RIO RANCHO CITY OF	02620	Municipal Police Plan 5	75.00
RIO RANCHO CITY OF	02620	Municipal Plan 2	75.00
ROSWELL CITY OF	02630	Municipal Fire Plan 5	24.69
ROSWELL CITY OF	02630	Municipal Police Plan 5	24.53
RUIDOSO VILLAGE OF	02660	Municipal Police Plan 5	16.78
RUIDOSO VILLAGE OF	02660	Municipal Plan 2a	33.57
RUIDOSO VILLAGE OF	02660	Municipal Fire Plan 5	16.90
RUIDOSO VILLAGE OF	02660	Municipal Plan 2	33.57
SAN JUAN COUNTY	03260	Municipal Plan 2	75.00
SAN JUAN COUNTY	03260	Municipal Plan 2a	75.00
SANDOVAL COUNTY	03280	Municipal Police Plan 5	30.67
SANDOVAL COUNTY	03280	Municipal Police Plan 3	75.00
SANDOVAL COUNTY	03280	Municipal Plan 1	75.00
SANDOVAL COUNTY	03280	Municipal Plan 1a	75.00
SANDOVAL COUNTY	03280	Municipal Police Plan 5	75.00
SANTA FE CITY OF	02690	Municipal Plan 2	75.00
SANTA FE CITY OF	02690	Municipal Plan 3	75.00
SANTA FE CITY OF	02690	Municipal Plan 3a	75.00
SANTA FE CITY OF	02690	Municipal Fire Plan 5	50.00
SANTA FE CITY OF	02690	Municipal Police Plan 5	50.00
SANTA FE CITY OF	02690	Municipal Plan 2a	75.00
SANTA FE COUNTY	03290	Municipal Police Plan 5	56.80
SANTA FE COUNTY	03290	Municipal Plan 3a	75.00
SANTA FE COUNTY	03290	Municipal Fire Plan 5	75.00
SANTA FE COUNTY	03290	Municipal Police Plan 4	75.00
SANTA FE COUNTY	03290	Municipal Fire Plan 5	50.00
SANTA FE COUNTY	03290	Municipal Plan 3	75.00
SANTA FE COUNTY HSNQ AUTH (INACTIVE)	04220	Municipal Plan 3a	75.00
SANTA FE COUNTY HSNQ AUTH (INACTIVE)	04220	Municipal Plan 3	75.00
SANTA FE METRO WATER (INACTIVE)	02700	Municipal Plan 3	75.00
SANTA FE METRO WATER (INACTIVE)	02700	Municipal Plan 3a	75.00
SILVER CITY TOWN OF	02720	Municipal Fire Plan 5	75.00
SILVER CITY TOWN OF	02720	Municipal Police Plan 5	75.00
SILVER CITY TOWN OF	02720	Municipal Plan 3	75.00
SILVER CITY TOWN OF	02720	Municipal Plan 3a	75.00
SOCORRO CITY OF	02730	Municipal Plan 3a	75.00
SOCORRO CITY OF	02730	Municipal Plan 3	75.00
SOUTHWEST NEW MEXICO COG	02740	Municipal Plan 2	75.00
SOUTHWEST NEW MEXICO COG	02740	Municipal Plan 2a	75.00
T OR C CITY OF HOUSING AUTHORITY	04180	Municipal Plan 4	41.54
T OR C CITY OF HOUSING AUTHORITY	04180	Municipal Plan 4a	41.54
Taos Ski Valley	04490	Municipal Plan 1a	28.60
TAOS TOWN OF	02770	Municipal Police Plan 5	30.41
TAOS TOWN OF	02770	Municipal Fire Plan 5	30.41
TAOS TOWN OF	02770	Municipal Plan 3a	30.41
TAOS TOWN OF	02770	Municipal Plan 3	30.41
UNION COUNTY	03340	Municipal Police Plan 4	75.00
UNION COUNTY	03340	Municipal Plan 2a	75.00
UNION COUNTY	03340	Municipal Plan 2	75.00
VALENCIA COUNTY	03350	Municipal Plan 2	75.00
VALENCIA COUNTY	03350	Municipal Police Plan 1	75.00
VALENCIA COUNTY	03350	Municipal Plan 2a	75.00
VALENCIA COUNTY	03350	Municipal Police Plan 5	75.00

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Analysis: Detroit filing sends benefits warning to other cities

Sat, Jul 20 2013

By Tiziana Barghini

NEW YORK (Reuters) - Many U.S. cities have a much better economic outlook than struggling Detroit, but the Motor City's bankruptcy filing on Thursday should still set off alarm bells elsewhere as the cost of paying retirement benefits swells.

In recent decades, many municipalities have provided their workers with generous retirement benefits, both pensions and health coverage, often in lieu of pay increases. But this has created an unsustainable future burden for budgets that has only been exacerbated by the loss of real estate and other tax revenue in the financial crisis.

In particular, cities like Chicago and Santa Fe, New Mexico, have worryingly high pension liabilities compared to revenue, investors and analysts say.

Detroit's bankruptcy was years in the making, a result of severe financial mismanagement and a unique decline in Detroit's population triggered by job losses in the auto and other manufacturing industries, and the exodus of many residents to neighboring areas as the crime rate soared.

The ranks of retirees outnumber the city's active workers by more than a 2-1 ratio. With so many retirees receiving pension benefits as the population shrinks, the city is caught in a perpetual knot, one that other cities with high retiree costs relative to revenues - such as Chicago - might have to face in coming years as well.

"This could be kind of a precedent for other municipalities. Anyone concerned about some other cities like Chicago, cities in California, what this could do is accelerate a trend where states begin to withdraw their support for cities," said Jack Ablin, chief investment officer at BMO Private Bank in Chicago.

"We could potentially see more filings, not on the same scale of Detroit, but certainly some other ones coming out of the woodwork," he said.

Michigan's reluctance to provide a financial lifeline to Detroit may be establishing a new pattern.

"Detroit getting into trouble? Not a surprise. State of Michigan not coming to help? It is a big surprise, and I think I am not the only one to say that," said Richard Larkin, director of credit analysis at HJ Sims.

Municipal bankruptcies in the past have been mostly the result of problems unique to a particular locale - expensive public works projects that fail to deliver on promised revenues, ill-conceived derivatives agreements with Wall Street firms - but pension debt is one that affects cities nationwide as the population ages.

Public worker contracts are often protected by law against attempts to cut costs. That's a common link between Detroit, the California cities of Stockton and San Bernardino which filed for bankruptcy in 2012, and other local governments across the United States.

Chicago, for example, has to comply with a state law that requires the city to set aside more funding for pension obligations, a key reason for a recent downgrade by Moody's Investors Service, but it cannot cut retiree benefits.

Among U.S. cities with high pension costs, Moody's notes that Santa Fe, New Mexico, has net pension liabilities equal to six times its operating revenue, worse than any other city.

The city of Virginia in Minnesota follows at a ratio of 5.9. Las Vegas also in New Mexico at 5.5 ranks third, while Chicago occupies the fourth spot with 5.4.

FUTURE OUTCOME WILL SET THE TREND

Earlier this week, Moody's Investor Services downgraded Chicago's credit rating by three notches to A3 and Cincinnati to Aa2 due to mounting pension costs.

Like Detroit, Chicago has seen its population decline, with the number of residents falling by 7 percent between 2000 and



2010, but that's nowhere near the 25-percent decline in Detroit in that time period.

From California to Detroit, there is an attempt to reduce the cost of debt and pensions through bankruptcy that, if successful, might serve as an incentive for other cities, said Timothy Blake, managing director at Moody's Investors Service.

"We have to acknowledge that there is a trend," Blake said. "We still do not know what the outcome will be, but if the outcome is that they do reduce some of these liabilities that could be an incentive for the filing."

Resorting to a bankruptcy filing is the nuclear option when negotiations with creditors and labor unions to reduce debt and spending have not succeeded. However, bankruptcies are expensive and not easily resolved. Jefferson County, Alabama, until now the largest municipal bankruptcy, filed for protection from creditors in November 2011 and finally presented an exit plan in June.

The pressures some cities have felt in recent years are beginning to ebb as well, as the U.S. economy picks up and revenues flow more quickly into municipal coffers.

"Detroit should not be seen as emblematic of cities or as a harbinger of what's to come," said Clarence Anthony, executive director of the National League of Cities.

James Spiotto, head of the bankruptcy group at Chapman and Cutler LLP in Chicago, said filing for bankruptcy is very expensive and takes long time, and reaching an agreement without it is always preferable.

Jean-Pierre Aubry, assistant director at the Center for Retirement Research at Boston College, said that Detroit pension costs are average for the country but that the city made a particularly bad bet with the sale of two pension obligation bonds in 2005 and 2006. "Things were going well, until 2009 when the bottom fell out. Then Detroit was saddled with increased pension costs," Aubry said.

(Reporting by Tiziana Barghini; Editing by Martin Howell and Lisa Shumaker)

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Retirees could bear brunt of Detroit bankruptcy

Fri, Jul 19 2013

By Joseph Lichterman and Deepa Seetharaman

DETROIT (Reuters) - When Paula Kaczmarek moved to Detroit in 1978 to work for the city's public library system, a guarantee of good retirement benefits was a key sweetener that convinced her to leave her previous job in Boston.

"I basically came here for future security," said Kaczmarek, who retired in 2012, two years earlier than she planned, as the public library was facing potential layoffs.

Kaczmarek is among the more than 20,000 unionized retirees whose pensions and healthcare benefits hang in the balance after Detroit filed the largest municipal bankruptcy in U.S. history.

In an interview, Kevyn Orr, Detroit's state-appointed emergency manager, said restructuring the city's crippling legacy costs is critical to Detroit's recovery.

"We can't pay benefits with money that's not there," he said. "It can't be done."

Retirees and labor officials acknowledged that the city's finances were in shambles and they would have to share in the sacrifice to help Detroit recover. But they said some of the significant benefits cuts reportedly proposed by Orr in talks with creditors would have a devastating impact on their lives.

"I do have some compassion for people who are investors in Detroit, naturally, because a lot of my pension income is based on investing," said 63-year-old retired city librarian Ellen Simmons. "But it's hard to have a lot of sympathy when there are 20,000 real people who are not living high on the hog."

Although city retirement benefits are enshrined in Michigan's constitution, there is no clear road map for what will happen in a Chapter 9 bankruptcy, experts said. The question is made more complicated by the fact that it is unclear who has the legal authority to negotiate on behalf of the retirees.

Orr and labor officials have locked horns over how to manage pension and retiree healthcare obligations. Orr was appointed by Michigan Governor Rick Snyder in March to try to resolve the city's financial crisis and tackle its \$18.5 billion in long-term debt.

The city lists about \$644 million in unfunded pension liabilities, but Orr has said the number is closer to \$3.5 billion if "more realistic assumptions" are taken into account. Other unfunded post-employment liabilities, which include retiree healthcare costs, account for \$5.7 billion of the city's outstanding debts.

The city of Detroit's two largest unsecured creditors are the city's general retirement fund and the police and fire departments' retirement fund.

In a court filing, Orr said the city intended to create a committee of retired employees to represent those workers.

"The appointment of a retiree committee is adequate representation for these individuals and to facilitate the city's restructuring of its pension and other post-employment benefit liabilities," Orr said in his filing.

Orr faced three separate lawsuits from current and retired workers trying to bar his attempts to file Chapter 9.

The conflict ratcheted up when Detroit filed for bankruptcy in federal court Thursday just minutes before labor lawyers could block those efforts in another state court located 90 miles away.

At this point, it's unclear how much of a haircut, if any, the retirees will be forced to take. Still, they're preparing for the worst.

Simmons, who retired in January after working for the public library for more than 30 years, said she might have to go back to work or even move in with one of her children depending on how much is cut from her pension.

"My married kids, do they want mom living with them? They'll be gracious about it, but that's not what any of us want," she said.

(Reporting by Joseph Lichterman and Deepa Seetharaman; Additional reporting by Paul Lienert; Editing by Lisa Shumaker)



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TAPIA, MARCOS

From: MOODY'S EPI [epi@moodys.com]
Sent: Saturday, July 27, 2013 7:56 PM
To: TAPIA, MARCOS
Subject: SANTA FE (CITY OF) NM

Moody's downgrades Santa Fe's (NM) GO rating to Aa3 from Aa2 and confirms GRT and Water Utility ratings; outlook is stable

Downgrade affects \$17.1M of GO bonds; confirmations affect \$55.7M of GRT and \$38.8M of Water Utility bonds

SANTA FE (CITY OF) NM
 Cities (including Towns, Villages and Townships) New Mexico

NEW YORK, July 27, 2013 -- Moody's Investors Service has downgraded the City of Santa Fe's (NM) General Obligation bond rating to Aa3 from Aa2, affecting \$17.1 million of Moody's rated debt. At the same time, the Aa3 senior and A1 subordinate Gross Receipts Tax (GRT) ratings have been confirmed, affecting \$55.7 million in outstanding debt. The city's water utility system revenue bonds have also been confirmed at Aa2, affecting \$38.8 million in Moody's rated debt. The outlook on the city's debt portfolio has been revised to stable.

SUMMARY RATINGS RATIONALE

The ratings on Santa Fe's GO, GRT, and water system debt were placed on review for downgrade in April due to the city's large adjusted net pension liability (ANPL) relative to its rating category. The review was conducted as part of our new approach to analyzing state and local government pension liabilities, as outlined in our April 17, 2013 release "Moody's announces new approach to analyzing state and local government pensions; 29 local governments placed under review."

The GO rating downgrade to Aa3 from Aa2 reflects Santa Fe's large ANPL relative to its peers and rating category, which could present budgetary challenges and financial pressures over the long term. Increases in employer contributions could further stress the city, which already has high fixed costs as a percentage of the annual budget. The Aa3 rating also incorporates the city's large tax base anchored by governmental entities, favorable wealth indices, and adequate financial reserves. The Aa3 also reflects the city's modest debt burden.

The confirmation of the Aa3 senior and A1 subordinate GRT ratings reflects the modest increases in GRT collections, good debt service coverage levels, and satisfactory legal provisions that should prevent overleveraging of pledged revenues. The senior Aa3 GRT rating is now on par with the GO, which reflects the lack of legal separation between pledged GRT revenues and the city's general operations; this structure effectively caps the rating at the GO rating. The one notch distinction of the A1 subordinate GRT rating reflect the subordinate nature of the bonds.

The confirmation of the Aa2 rating on the city's water system bonds reflects the solid debt service coverage provided by net revenues of the system as well as the additionally pledged 0.25% capital outlay GRT. The Aa2 ratings also reflects the system's stable customer base, ample supply and system capacity, as well as the strong reserve levels maintained in the system's fund. The Aa2 also incorporates the average and manageable debt ratio of the system. The rating is now above the city's GO due to the minimal impact of pension costs on the system's financial operations.

STRENGTHS

- Large tax base anchored by governmental entities
- Adequate General Fund reserves
- Stabilized GRT collections with recent modest annual increases
- Favorable operations and reserves of the water utility system

CHALLENGES

- Large ANPL in comparison to its peers and rating category
- High amount of fixed cost relative to the size of the budget
- Heavy reliance on GRT revenues for general operations

DETAILED CREDIT DISCUSSION

EXPOSURE TO LARGE UNFUNDED PENSION LIABILITIES RELATIVE TO SIZE OF OPERATIONS AND PEERS

The city has a high pension burden, based on unfunded liabilities associated with its share of a statewide multi-employer cost-sharing plan. Santa Fe makes annual contributions into the Public Employees Retirement Association of New Mexico (PERA), which is a state-wide multi-employer cost-sharing defined-benefit pension plan. Over the last three years, the city has made its required contributions to the plan, which was roughly \$13.6 million in fiscal 2011. The city's fiscal 2011 share of PERA unfunded pension liabilities allocated by Moody's on a reported basis consist of an estimated

\$240 million, given the size of Santa Fe's required contribution relative to plan-wide contributions. Approximately 29.8% of the city's annual pension costs are made by self-supporting enterprises and other governmental funds.

Netting out these contributions results in a Moody's Adjusted Net Pension Liability of \$332.7 million, or a notable 3.5 times annual operating revenues, including the General Fund, Debt Service Fund and the ½% GRT Fund.

Moody's ANPL reflects certain adjustments we make to improve comparability of reported pension liabilities. The adjustments are not intended to replace the city's reported contribution information, or the reported liability information of the statewide cost-sharing plans, but to improve comparability with other rated entities.

In April 2013, the New Mexico Governor signed a bill that seeks to address the funding status of the plan, which increased employer contributions by 0.4% of payroll, increased member contributions by 1.5% of payroll, and decreased the cost-of-living-adjustment to 2.0% from 3.0%. Over the long term, an improved funding status of the state-wide plan will help alleviate the large liabilities associated to member entities. However, we believe increasing pension costs associated with the city's exposure to PERA will continue to represent a budgetary challenge to the city, which is reflected in the one-notch rating downgrade.

LARGE TAX BASE ANCHORED BY GOVERNMENTAL ENTITIES

The City of Santa Fe is located approximately 60 miles northeast of Albuquerque (Moody's GO rated Aa1/Negative Outlook). As the capital of New Mexico, Santa Fe serves as the home to 11,000 state and federal government jobs, offering stability in the economy. In addition, Santa Fe has historically served as an upscale, resort community and second-home destination for individuals all over the southwestern portion of the United States. We note that tourism helps diversify the local economy. The city's population increased by 9.2% to 67,947 for 2010 since the 2000 census, which is a similar growth pace to prior decades. Assessed valuations continue to increase and have averaged 2.9% growth annually over the past five years to reach a large \$10.9 billion full valuation for fiscal 2013. We note that although the pace of growth in recent years has declined, it still remained positive through the economic recession. We believe the city's tax base should remain stable over the near future given historical trends and ongoing economic activity.

Given the nature of the economy, Santa Fe exhibits favorable wealth indicators measured by both per capita income and median family income (2006-2010 American Community Survey, U.S. Census) that represent 144.2% and 115.6% of the state, respectively. Unemployment within the city remains low at 4.7% as of May 2013, which is notably lower than the state (6.4%) and national (7.3%) levels during the same time period.

GENERAL FUND RESEVES EXPECTED TO REMAIN SATISFACTORY; RELIANCE ON GRT REVENUE

Two consecutive years (fiscal 2011 and 2012) of surplus operations has afforded the city a satisfactory General Fund reserve position. Fiscal 2012 ended with a \$1.7 million operating surplus that increased total General Fund balance to \$17.7 million, or an adequate 24.8% of revenues. Moody's notes that liquidity maintained in the General Fund at fiscal year-end 2012 was much weaker at \$5.5 million, or a narrow 7.6% of revenues. Growing receivables as well as interfund loans were attributable to the weaker cash position. This amount was restricted to satisfy the state statute of maintaining at least 1/12th of expenditures. We note that the city's General Fund operations rely heavily on GRT revenues, which accounted for a significant 73% of fiscal 2012 General Fund revenues. The reliance makes the city's overall operations vulnerable when economic conditions are unfavorable, which has happened with the most recent economic recession.

Santa Fe's fixed cost, including pension contributions and debt service cost, account for approximately 40% of operating expenditures. Future increases in fixed cost could potentially stress the city's operations.

Management expects balanced operations for fiscal 2013 with no change in General Fund reserves, but reports liquidity is expected to improve to approximately \$10.2 million. The fiscal 2014 budget indicates balanced operations, but includes the possibility to using a portion of existing reserves due to stagnant revenues and stress on various city services. We anticipate that officials will continue to proactively manage the city's financial operations and maintain reserves in excess of the state statute given historical trends.

STABILIZED GRT REVENUES PROVIDE GOOD DEBT SERVICE COVERAGE LEVELS

Pledged revenues for Santa Fe's GRT bonds are derived from the 1.225% State-shared GRT, 0.50% Municipal GRT, 0.625% Infrastructure GRT, and other GRT revenues. Total collections of the combined GRT revenues have stabilized since experiencing a 14.9% decline from fiscal 2008 to fiscal 2010. Since then, collections increased 0.9% in fiscal 2011 and 3.2% in fiscal 2012 to \$53.7 million. Fiscal 2012 collections provide solid senior lien maximum annual debt service (MADS) coverage of 4.35 times and good 2.55 times for senior and subordinate combined. Unaudited fiscal 2013 GRT collections reflect nominal growth over the prior year, indicating further stability in the revenue streams and similar MADS coverage. Bondholder security is enhanced with an additional bonds test of 2.0 times MADS for both the senior and subordinate liens.

FAVORABLE WATER UTILITY SYSTEM OPERATIONS

The system's customer base remains stable and experienced a 1.8% increase in total customer connections in fiscal 2012 to approximately 34,500. The base is primarily residential in nature with only 27.3% of annual water sales derived from commercial entities. The city's water supply is diversified with multiple sources, including the Santa Fe Canyon Reservoirs, city owned wells, Buckman wells, as well as the Buckman Regional Water Treatment Plant. The city used approximately 9,958 acre-feet of the estimated 15,730 acre-feet available in a year, leaving an ample reserve margin in excess 36.7%.

The water utility bonds are not only secured by net revenues derived from the system, but are further strengthened by a lien on the 0.25% Capital Outlay GRT. Favorable operations within Santa Fe's Water Management System continued through fiscal 2012. Net system revenues of \$13.6 million combined with an additional \$7.3 million of GRT revenues provide solid annual debt service coverage of 3.14 times. Pledged revenues also provide good total system MADS coverage of 2.18 times. Reserve maintained in the Water Management Fund remain strong with net working capital and unrestricted reserve equating to 299.6% and 273.3% of operating and maintenance expenditures, respectively.

The system's debt ratio of 39.8% remains manageable. We expects favorable operations to continue in the near future given historical trends and satisfactory legal provisions, which include a 1.25 times rate covenant and additional bonds test. Moody's notes that the rating is now above the city's GO rating of Aa3 due to the minimal impact of pension costs on the system's financial operations.

MODEST DEBT BURDEN WITH BELOW AVERAGE PRINCIPAL AMORTIZATION

The city's debt burdens are modest at 1.2% direct and 2.7% overall of fiscal 2013 assessed valuation. Payout of General Obligation debt is below average with 52.9% of principal retired in 10 years. The Aa3 GO rating applies to

\$17.1 million of the city's \$38.5 million GO debt. The Aa3 senior lien/A1 subordinate lien GRT revenue debt applies to \$55.7 million of \$181.4 million of total GRT debt. The Aa2 Water Utility debt applies to \$38.8 million of \$96.4 million in debt outstanding. All of the city's debt is fixed rate, and the city has not entered into any derivative agreements.

STABLE OUTLOOK

The assignment of the stable outlook reflects the expectation that the recently passed reform will improve the overall funding status of the pension plan. The outlook also reflects our expectation that management will be able to maintain near-balanced financial operations in the immediate future.

Additionally, we anticipate the city's economy will continue to experience modest growth over the medium term.

WHAT COULD MAKE THE GO RATING GO UP

- Substantial diversification and economic expansion measured by assessed valuation growth
- Trend of operating surpluses that increase General Fund reserves significantly
- Significant reduction in adjusted net pension liability

WHAT COULD MAKE THE GO RATING GO DOWN

- Imbalance of operations resulting in erosion of reserve levels
- Significant tax base contractions measure by assessed valuation declines

WHAT COULD MAKE THE GRT RATING GO UP

- Upward movement of the GO rating coupled with substantial increases in GRT collections
- Trend of operating surpluses that increase General Fund reserves significantly

WHAT COULD MAKE THE GRT RATING GO DOWN

- Trend of declining GRT collections resulting in decreased MADS coverage
- Further leveraging of the security that weakens MADS coverage
- Negative rating action on the city's GO

WHAT COULD MAKE THE WATER UTILITY RATING GO UP

-Significant increases in debt service coverage levels and financial reserves

WHAT COULD MAKE THE WATER UTILITY RATING GO DOWN

- Declines in debt service coverage levels
- Erosion of reserve levels
- Increased debt ratio

KEY STATISTICS:

2013 Full Valuation: \$159 million

2013 Full Value Per Capita: \$28,029

Per Capita Income (ACS 2006-2010): 144.2% of NM; 122.0% of U.S.

Median Family Income (ACS 2006-2010): 115.6% of NM; 97.3% of U.S.

2012 General Fund Balance: \$17.8 million (24.8% of General Fund revenues)

2012 Net Cash Position in General Fund: \$5.5 million (7.6% of General Fund revenues)

Governmental Direct Debt Burden: 1.2%

Governmental Overall Debt Burden: 2.7%

Payout of GO Debt Principal (10 years): 52.9%

Total GO parity debt: \$38.5 million

2012 Senior Lien GRT MADS Coverage: 4.35 times

2012 Subordinate Lien GRT MADS Coverage: 2.55 times

Total Senior Lien GRT Parity Debt: \$93.5 million

Total Subordinate Lien GRT Parity Debt: \$87.9 million

2012 Water System Annual Debt Service Coverage: 3.14 times

2012 Water System MADS Coverage: 2.18 times

2012 Net Working Capital as a % of O&M Expenditures: 299.6%

2012 Unrestricted Reserves as a % of O&M Expenditures: 273.3%

2012 Water System Debt Ratio: 39.8%

Total Water System Debt Principal: \$96.4 million

The principal methodology used in the GO rating was General Obligation Bonds Issued by US Local Governments published in April 2013. The principal methodology used in the water utility system rating was Analytical Framework For Water And Sewer System Ratings published in August 1999. The principal methodology used in the gross receipts tax rating was US Public Finance Special Tax Methodology published in March 2012. Please see the Credit Policy page on www.moodys.com for a copy of these methodologies.

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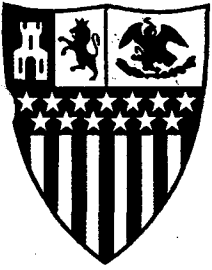
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Memorandum

To: Members of the Governing Body

Via: Geno Zamora
City Attorney

From: Kelley Brennan *KAB*
Assistant City Attorney

Re: Appeal of O. Michael Duty, Agent for Santa Fe Dining, d/b/a Rooftop Pizza,
from the May 28, 2013 Decision of the Historic Districts Review Board
in Case #H-13-036 Denying its Application to Construct a Tube Steel Ramada
with a Fabric Cover Over the Third Floor Rear Deck 60 East San Francisco Street
Case No. 2013-49

Date: July 23, 2013 for the July 31, 2013 Meeting of the Governing Body

I. THE APPEAL

On June 12, 2013 O. Michael Duty, Agent for Santa Fe Dining, d/b/a Rooftop Pizza (Appellant) filed a Verified Appeal Petition (Petition) appealing the May 28, 2013 decision (Decision) of the Historic Districts Review Board (HDRB) denying Appellant's application (Application) to construct a tube-steel ramada¹ with a fabric roof and side over a third-floor deck (Project) at the rear of the building (Building) at 60 East San Francisco Street (Property). A copy of the Petition is attached as **Exhibit A**.

II. HISTORY OF THE CASE

The Property is located in the Downtown and Eastside Historic District (District). The Building

¹ The Appellant describes the Project as an "awning". However, Code §14-12.1 defines an "awning" as "[a] rooflike covering projecting from the wall of a building and that is typically made of metal, plastic, canvas or other textile." Since the Project includes vertical supports and metal "latillas" at approximately 3½-foot intervals, it does not meet the definition of an awning and is more accurately described as a "ramada".

Exhibit "B"

is noncontributing to the District. The Project is intended to replace a retractable plastic awning to provide additional sheltered dining on a third-floor deck overlooking Water Street. Part of the deck is protected by an existing portal, which is screened on the west side with fabric.

The HDRB held a hearing on the Application on May 14, 2013 (Hearing). HDRB staff provided the HDRB with a report (Staff Report) briefly describing the Application and recommending that the HDRB approve the Application as complying with Santa Fe City Code (Code) §14-5.2(E) regulating development in the District. A copy of the Staff Report is attached as **Exhibit B**.

The HDRB voted unanimously at the conclusion of the Hearing to deny the Application for failure to comply with Code §§14-5.2(D)(9)(f) and (E)(2)(d) requirements. A copy of the relevant portion of the minutes of the May 14, 2013 meeting is attached as **Exhibit C**. Findings of Fact and Conclusions of Law embodying the Decision were adopted by the HDRB on May 28, 2013 (Findings). The Findings (Item #13-0407) are attached as **Exhibit D**.

III. BASIS OF APPEAL

The Appellant claims (1) that Code §§14-5.2(D)(9)(f) and (E)(2)(d) apply only to significant or contributing “historic” structures and thus do not apply to the Building because it is noncontributing; and (2) that the Project complies with Code §14-5.2(E)(2)(a) and (d) requirements.

IV. RELIEF SOUGHT

The Appellant asks the Governing Body to grant its appeal and approve the Application.

V. ISSUES RAISED BY THE APPEAL; ANALYSIS

1. Whether Code §14-5.2 requirements apply to the Project.

Code §14-5.2(C)(3) provides for HDRB review of “...all applications for ...alteration...in the historic districts...based on the standards set forth in this Section 14-5.2.”

An “alteration” is defined in Code §14-12.1 as “[a] change of the architectural features of a structure, including the erection, construction, reconstruction or removal of the structure or any of its parts. Additions are considered alterations.”

A “structure” is defined in Code §14-12.1 as “[a]nything that is constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including buildings...” A “building” is “[a] structure or parts of a structure covered and connected by a permanent roof and intended for shelter, housing or enclosure.”²

The Project is thus an alteration and within the jurisdiction of the HDRB.

² Code §12.1, Definitions.

Code §14-5.2(D), entitled “General Design Standards for All H Districts”, provides generally that “[i]n any review of proposed additions to alterations to structures that have been declared significant or contributing in any historic district...the following standards shall be met...” Thus it appears that the standards that follow apply only to significant and contributing structures in the District. However, Code §14-5.2(D)(9), entitled “Height, Pitch, Scale, Massing and Floor Stepbacks”, specifically provides that “[t]he height, pitch, scale, and massing of any structure in an historic district...shall be limited as provided for in this section, unless further restricted within [Chapter 14].”

Code §14-1.7(B) regulates conflicts within Chapter 14 and provides that “...the more restrictive limitation or requirement shall prevail, unless an exception is specifically stated, and the provision shall govern that requires: ...(4) other higher standards.”

Based on the foregoing Chapter 14 rule of construction, the standards set out in Code §14-5.2(D)(9) apply to all structures in the District, including the Building, because they are more restrictive in that they apply to any structure in the District. This is consistent with long-established City practice.

The Appellant also suggests that because the Building is not “historic”³, it need not comply with the standards of Code §14-5.2(E)(2), entitled “Recent Santa Fe Style”. However, the Appellant has misread the provision. “Recent Santa Fe Style” is intended to integrate new, non-historic construction in the District with historic structures in accordance with the general purpose of Code §14-5.2:

...that the qualities relating to the history of Santa Fe, and a harmonious outward appearance...be preserved, some of these qualities being:

- (a) The continued existence and preservation of historical areas and buildings;*
- (b) The continued construction of buildings in the historic styles; and*
- (c) A general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.*

Code §14-5.2(E)(2) specifically provides that it “[is intended] to achieve harmony with historic buildings by retention of a similarity of materials, color, proportion, and general detail.” Only by harmonizing new construction to historic areas and buildings through adherence to defined historic styles can the integrity of the historic districts be preserved over time.

Conclusion *Code §14-5.2 requirements apply to all structures in the historic districts, including the Building.*

³ Pursuant to Code §14-12.1, a “historic structure” is “...fifty years old or older.”

2. Whether the Project complies with Code §§14-5.2(D)(9)(f) and (E)(2)(a) requirements.

Code §14-5.2(D)(9)(f), entitled “Massing and Floor Stepbacks”, provides:

The [HDRB] may require that upper floor levels be stepped back, to carry out the intent of [Code §14-5.2]; provided that the [HDRB] in making such determinations shall take into account whether the height of the...proposed stepback of upper floor levels is in harmony with the massing of the applicable streetscape and preservation of the historic and characteristic visual qualities of the streetscape. The [HDRB] shall also require that the publicly visible facades of the structure be in conformance with Subsections 14-5.2(E) through (H).

Code §14-5.2(E) sets out specific design standards for the District.

Code §14-5.2(E)(2) defines “Recent Santa Fe Style” as “...a development from, and an elaboration of the old Santa Fe style, with different materials and frequently with added decorations.”⁴, and refers back to Code §14-5.2(E)(1), which defines Old Santa Fe Style. For example, “[t]he dominating effect [of Recent Santa Fe Style] is to be that of adobe construction...”, while Old Santa Fe Style is “...characterized by construction with adobe...” Code §§14-5.2(E)(2)(a)-(f) set out standards that describe how to achieve the effect of adobe construction. The intent is to integrate new construction in the historic districts with historic construction.

“Streetscape” means “[t]he visual character of a street or section of a street as defined by topography; the pattern of structures and open space; building and wall setbacks; street design; architectural design; and heights, widths and proportions of structures, fixtures and graphics.”⁵

The Building’s streetscape is defined by Code §14-5.2(D)(9)(a)(ii)A. and extends for 600 feet east and west from the midpoint of the Project’s street-facing façade, excluding “...institutional, buildings originally constructed to house a hotel, residential multiple unit, buildings with non-historic multiple stories, non-historic pitched roof, auxiliary outbuildings such as sheds, [and] existing structures approved by way of a variance or exception...”⁶

Thus, La Fonda to the east and the St. Francis and former Montezuma Hotel (now Doodlet’s) to the west are not part of the defined streetscape.

The Building is three stories high, with a two-story recessed central entrance with second- and third-story stepbacks on both sides. The third-story stepback includes a portal (Portal) on the west end which extends east over the Building entrance. A photograph of the Building is attached as **Exhibit E**. The Building is the highest and most massive structure in the streetscape and the second- and third-story stepbacks and Portal provide relief in

⁴ Code §14-5.2(E)(2)

⁵ Code §14-12.1

⁶ Code §14-5.2(9)(b)

accordance with Code §14-5.2(D)(9)(f) requirements, as well as with the requirements of Code §14-5.2(E)(2)(a), which provides that “[n]o building shall be over two stories in height in any façade unless the façade shall include projecting or recessed portales, setbacks or other design elements.”

A “façade” is “[o]ne whole exterior face or elevation of a structure from grade up to and including the top of the parapet. An individual façade is defined as including at least an eight-foot width that is offset from an adjacent plane by at least four feet.”⁷ This definition clearly addresses both the Building elevation, which is the entire south face of the Building from the sidewalk to the top of the third-floor parapet, and the individual vertical planes that make up the Building elevation. Thus the entire face of the Building is a façade, and each of the vertical planes that make up the Building elevation is an individual façade, as long as that plane is at least eight feet wide and offset four feet from an adjacent vertical plane.

The Appellant claims that the Project (1) complies with Code §14-5.2(E)(2)(a) because “it is in fact a recessed portal” and (2) is not required to comply with Code §14-5.2(E)(2)(a) in any event because a setback is required only if the façade is two stories high and the third-floor façade is only one story high. These claims indicate a misunderstanding of applicable Code.

The Building currently complies with Code §§14-5.2(D)(9)(f) and (E)(2)(a) requirements as a result of its existing setbacks, setbacks and portals, including the Portal. These elements also integrate the Building’s large scale⁸ with the immediate streetscape, which generally includes smaller-scale one- and two-story buildings on the north side of the blocks between Don Gaspar and Old Santa Fe Trail and Don Gaspar and Galisteo Street and the largely open Water Street parking lot on the south side. The one-story and two-story pattern continues for the remainder of the applicable streetscape⁹, interspersed with a few three-story buildings.

The Project would extend from the Portal south, east and west to the second-story parapet and would be roofed and sided on the west with fabric, effectively eliminating the existing third-floor setback on the west side of the entrance. The HDRB specifically found “...that the proposed extension of the third floor with the ramada eliminates the setback in a manner that is not harmonious to [Recent Santa Fe Style] and not harmonious with the historic and characteristic visual qualities of the streetscape.” That is, the Project would make the Building noncompliant. Although the Appellant describes the Project as a “recessed portal”, as designed it is not set back from the second-story parapet and because of the west-side fabric enclosure, it reads as a solid form that adds visual mass to the already-massive Building. Stepping the Project back several feet from each of the south, east and west parapets and integrating it into the Portal with matching wood elements might provide necessary relief.

⁷ Code §14-12.1

⁸ “Scale” is defined in Code §14-12.1 as “[t]he relationship of the parts of a building, structure, block or district to each other, to the whole and to the human figure.”

⁹ The Coyote Café, located at the corner of Water and Ortiz Streets, is two stories high, with a second-floor deck shaded with fabric borne on metal supports. The Café also occupies the three-story building next door fronting directly on Water Street.

Conclusion *The Project as designed does not comply with Code §§14-5.2(D)(9)(f) and (E)(2)(a) as it makes the Building noncompliant with those provisions.*

3. Whether the Project complies with Code §14-5.2(E)(2)(d) requirements.

Code §14-5.2(E)(2)(d) provides that “[n]o less than eighty percent of the surface area of any publicly visible façade shall be adobe finish, or stucco simulating adobe finish. The balance of the publicly visible façade, except as above, may be of natural stone, wood, brick, tile, terra cotta, or other material...” The Staff Report and the HDRB in the Findings both treat the fabric screening at the west side of the Project as a “façade”. HDRB staff considered the fabric to be a permissible “other material” under this provision. The HDRB found that the fabric did not meet the requirement.

Since a façade is defined as an “...*exterior face of a structure*...”, and structures are “...*constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground*...”, it is questionable whether the fabric can accurately be described as a façade. The examples of structures cited in Code §14-12.1 can stand on their own, e.g., a flagpole is a structure, but the flag flying from it is not. Nevertheless, and as noted above, the fabric on the west end of the Project reads as a solid form, especially since it connects to the plane of the parapet, adding visual mass to the Building. If the Project were stepped back away from the south, east and west parapets, it might mitigate this effect.

Conclusion *Even if the fabric on the Project’s west end is not a “façade”, as designed it creates the visual effect of a solid mass.*

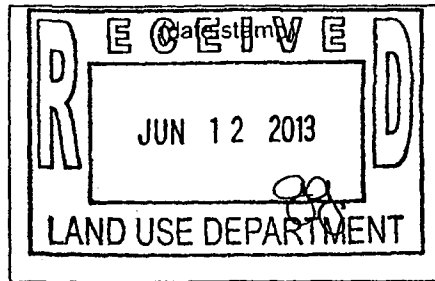
VI. CONCLUSION

1. The Governing Body should find that Code §14-5.2 requirements apply to all structures in the historic districts, including noncontributing structures like the Building.
2. If the Governing Body concludes that the Project as designed does not comply with the requirements of Code §§14-5.2(D)(9)(f) and (E)(a) and (d) and cannot be redesigned to be brought into compliance, it should deny the appeal and adopt the Findings as its own.
3. If the Governing Body concludes that the Project as designed does not comply with the requirements of Code §§14-5.2(D)(9)(f) and (E)(a) and (d), but could be brought into compliance if redesigned, it should deny the appeal and remand the matter to the HDRB for consideration of redesign, subject to the agreement of Appellant to redesign.
4. If the Governing Body concludes that the Project as designed complies with the requirements of Code §§14-5.2(D)(9)(f) and (E)(a) and (d) and is harmonious with the streetscape, it should grant the appeal and direct staff to draft findings of fact and conclusions of law reflecting its decision.



LUD Use Only

Time Filed: 1:59pm
 Fee paid: \$100.00
 Receipt attached:)



**VERIFIED APPEAL
 PETITION**

****Two originals of this form must be filed. The Land Use Department Director or his/her designee will enter the date and time of receipt and initial both originals. See Section 14-3.17(D) SFCC 2001 for the procedure.****

Appellant Information

Name: SANTA FE DINING

Address: 600 EAST SAN FRANCISCO ST., SUITE 301
SANTA FE NM 87501

Phone: (505) 989-8882 E-mail Address: MDUTY1@COMCAST.NET

Additional Appellant Names: _____

Correspondence Directed to: ☐ Appellant ☒ Agent ☐ Both

Agent Authorization (if applicable)

I/We: SANTA FE DINING
 authorize D. MICHAEL DUTY to act as my/our agent to execute this application.

Signed: [Signature] Date: 6/12/13

Signed: _____ Date: _____

Subject of Appeal

Project Name: NEW AWNING @ SANTA FE DINING (ROOF TOP PIZZA)

Applicant or Owner Name: SANTAFE DINING, D. MICHAEL DUTY

Location of Subject Site: 600 EAST SAN FRANCISCO STE 301

Case Number: A-13-036 Permit Number (if applicable): NA

Final Action Appealed:

☒ Issuance of Building Permit ☐ Other Final Determination of LUD Director

Final Action of Board or Commission (specify): ☐ Planning Commission ☐ Board of Adjustment ☐ BCD-DRC ☒ HDRB

Basis of Standing (see Section 14-3.17(B) SFCC 2001):

Basis for Appeal: ☐ The facts were incorrectly determined ☒ Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

SEE ATTACHED



☒ Check here if you have attached a copy of the final action that is being appealed.

Description of Harm

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):

SEE ATTACHED

Explain the Basis for Appeal

Please detail the basis for Appeal here (be specific):

SEE ATTACHED

Signature and Verification

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature:

Date:

Agent Signature:

Date:

State of New Mexico)

) ss.

County of Santa Fe)

I/We

O. MICHAEL DUTY

, being first

duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Petitioner/s:

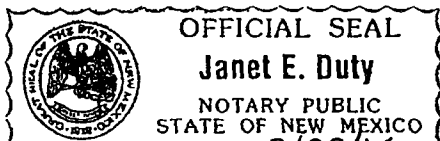
Michael Duty
Signature

Signature

O. MICHAEL DUTY
Print Name

Print Name

Subscribed and sworn to before me this 12th day of June, 20 13.



Janet E. Duty
NOTARY PUBLIC
My commission expires: 2/20/15

A-2

Copy

APPEAL TO THE GOVERNING BODY
OF
HISTORIC DISTRICT REVIEW BOARD
DENIAL OF CASE #H-13-036

On May 14, 2013 the operator of the Roof Top Pizza applied to the City for permission to install a new awning above a portion of the existing third floor deck of the Water Street side of the Arcade. The purpose of the awning was to provide shade to their patrons and it was to replace an existing, retractable awning which had been destroyed by the wind. The Arcade building is non-contributing and not significant, having been built within the last 15 years. There are no historical preservation issues relative to the building whatsoever.

The applicant and City historical staff person, David Rasch, met at the site for the required site visit. In the discussions which were held, David was shown sketches of the proposed awning prepared by the awning company, and as a result of that meeting the applicant was encouraged to proceed as planned. At this point, the agent for the owner, Duty and Germanas was retained to prepare the actual submission to the HDRB in full expectation that approval would be granted in time for the summer season.

The submission was made to the City for approval at the next HDRB hearing. The staff reviewed the proposal and in the report, staff recommended for approval of the application, and that it specifically complied with Section 14-5.2(D)(9) and Section 14-5.2(E).

The HDRB denied the project, citing non-conformance with the very Sections listed as in compliance in the Staff report. In denying this project, we believe the Historical District Review Board erred in the application of ordinance, erred in interpretation of ordinance, and acted in an arbitrary and capricious manner. In support of that contention we offer the following:

- A) Section 14-5.2(D) SPECIFICALLY states the following: "*structures* that have been declared significant or contributing in any historic district or a landmark in any part of the *city*, the following standards shall be met:" Section D continues to site all the standards applicable. This entire section applies to *historical* structures. The building in question in this appeal is NOT a historical structure. The HDRB erred in interpretation or application of ordinance in the denial. The HDRB is in full recognition of the building's lack of any historical status.
- B) The Board concludes that the submission is not in conformance with Section 14-5.2(D)(9)(f) because the "proposed extension of the third floor with the ramada eliminates the stepback in a manner that is not harmonious to Santa Fe style and is not harmonious with the historic and characteristic visual qualities of the streetscape.

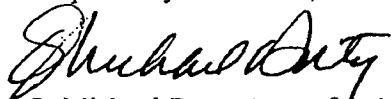
A-3

- The existing stepback is not even required to be in harmony with both the Santa Fe style *and* with the streetscape. Relative to stepbacks, Section 14-5.2 (E)(2)(a) states that “no building shall be *over* two stories in height in any façade, unless the façade shall include projecting or recessed *portales*, setbacks or other design elements”. That is precisely what is being provided with the awning; (the HDRB refers to it as a ramada), it is in fact a recessed portal, just as the ordinance allows. In addition, this façade is *not* over two stories. The definition of façade within the ordinance is: “an individual façade is defined as including at least an eight-foot width that is offset from an adjacent plane by at least four feet.” The façade in question here does in fact meet this definition of an individual façade by virtue of its width and setback from adjacent planes. This means that under the code this is an individual façade and must have a setback if it is *over two stories*. It is two stories only, set back from the first floor of the building, and therefore requires *no* additional setback.
 - No effort was made by the staff or the HDRB members to establish or define what “streetscape” and what “visual qualities” this submission was not harmonious with. We are left to speculate, but due to the other awnings along the street (Coyote Café for instance), this basis for denial seems *extremely* arbitrary.
- C) The Board concludes that the Project is not in compliance with Section 14-5.2(E)(2)(d) because the fabric does not meet the standard. In (2) it states: “Recent Santa Fe Style intends to achieve harmony with HISTORIC (caps added for emphasis) *buildings* by retention of a similarity of materials,...” Here again, this section specifically states its applicability to historic buildings, in complete support with Section 14-5.2(D) as one would expect for preservation and retention of these important structures. Again, this building is not classified as historic in any category and is therefore not subject to this Section as written.

In closing, it is my contention that these conflicts in the ordinance between rules for historic structures within the district and rules for new or non-historic structures give rise to ongoing confusion relative to the understanding and application of the ordinance. Generally, and in my experience, debates over the HDRB’s intrusion into *design* find the root cause in this very conflict. Overall, in my opinion, the Board does a commendable job in trying to find a middle ground or reasonable interpretation. This however is not one of those instances.

We earnestly petition the Governing Body to uphold this appeal, and allow the owner to reinstall a little shade for the clientele of the restaurant.

Respectfully Submitted,



O. Michael Duty, Agent for the Owner.

A-4

City of Santa Fe
Casniers Office
Santa Fe, NM 87504
(505)955-4333

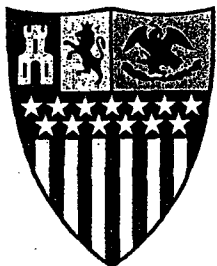
06/12/2013 2:07:36 PM
Your cashier was LEONA
B002201113162 T58

Development Review DUTY & GERMANAS ARCHITECTS 11001.431470	\$100.00
Total	<u>\$100.00</u>
Check 6463	\$100.00

Change	\$0.00
--------	--------

Thank you!

A-5



City of Santa Fe, New Mexico

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

www.santafenm.gov

David Coss, *Mayor*

Councilors:

Rebecca Wurzbarger, Mayor Pro Tem, Dist. 2

Patti J. Bushee, Dist. 1

Chris Calvert, Dist. 1

Peter N. Ives, Dist. 2

Carmichael A. Dominguez, Dist. 3

Christopher M. Rivera, Dist. 3

Bill Dimas, Dist. 4

Ronald S. Trujillo, Dist. 4

Project description: Proposes to replace an awning on the third floor patio of this non-contributing building with a textile-covered steel pergola that matches the height of the adjacent portal.

Project Number: 13-130036

Case number: H-13-036

Project Type: HDRB

PROJECT LOCATION (S): 60 E. San Francisco, Suite 301

PROJECT NAMES:

OW – Santa Fe Dining
Santa Fe, NM 87507

4056 Cerrillos Road, Ste. F-6
505-424-1882

AP – O. Michael Duty
Santa Fe, NM 87505

404 Kiva Court, Ste. G
505-470-9405

BOARD ACTION

This is to certify that the Historic Districts Review Board (HDRB) at their hearing on May 15, 2013. The decision of the Board was to deny your request because the steel and textile fabric materials are not harmonious to traditional Santa Fe Style (Chapter 14-5.2(E)(2)) and that the massing and floor setbacks do not meet Chapter 14-5.2(D)(9)(f)). For further information please call 955-6605.

Sincerely,

David Rasch
Planner Supervisor, Preservation Division

NOTE: Applicant can use this action letter to apply for construction permit, but the permit shall not be released until the end of the appeal period which starts on the date of filing of the Findings and Conclusions in the City Clerks office (SFCC 14-3.17(D)). Your permit will be denied if any changes on plans that were not approved by the HDRB or if conditions of approval are not met. Please attach copies of this letter to all sets when submitting for construction permit.

EXHIBIT

B

City of Santa Fe, New Mexico

memo

DATE: May 14, 2013
TO: Historic Districts Review Board Members
FROM: David Rasch, Supervising Planner in Historic Preservation *DR*

CASE # H-13-036

ADDRESS: 60 E San Francisco St, Suite 301

Historic Status: Non-contributing

Historic District: Downtown & Eastside

REFERENCE ATTACHMENTS (Sequentially):

CITY SUBMITTALS

- ☒ Case Synopsis
- ☐ District Standards & Yard wall
& fence standards.
- ☐ Historic Inventory Form
- ☒ Zoning Review Sheet
- ☐ Other:

APPLICANT SUBMITTALS

- ☒ Proposal Letter
- ☐ Vicinity Map
- ☒ Site Plan/Floor Plan
- ☒ Elevations
- ☒ Photographs
- ☐ Other:

STAFF RECOMMENDATION:

Staff recommends approval of this application which complies with Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and (E) Downtown & Eastside Historic District.

B-2

BACKGROUND & SUMMARY:

60 East Alameda Street is a large commercial structure that was constructed in the Spanish-Pueblo Revival style in the late 20th century. The San Francisco Street façade has two stories while the Water Street façade has three stories. The building is listed as non-contributing to the Downtown & Eastside Historic District.

The applicant proposes to alter the outdoor dining deck by removing the existing retractable plastic awning and replacing it with a more permanent ramada. The ramada is designed in a simplified Spanish-Pueblo Revival style. It will be approximately 9' high above the stuccoed wall and constructed with tube steel painted brown to match adjacent woodwork. Fabric covering will be applied to the roof and west side in the color "Buckskin Beige."



Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant:		Site Address:
Date Submitted: 4-		600 E SAN FRANCISCO
Property Owner of Record: 600 E		Proposed Construction Description: REPLACE AWNING w/
Applicant/Agent Name: O. MICHAEL DUTY		NEW AWNING @ WATUL ST 3 RD FLOOR
Contact Person Phone Number: (505) 989-8882		TOTAL ROOF AREA:
Zoning District: BCD - PLA		Lot Coverage: % NA
Overlay: <input type="checkbox"/> Escarpment		<input type="checkbox"/> Open Space Required:
<input type="checkbox"/> Flood Zone*		Setbacks: NA
<input type="checkbox"/> Other:		Proposed Front: Minimum:
		2 nd Front?
Submittals Reviewed with PZR:		Proposed Rear: Minimum:
<input type="checkbox"/> Legal Lot of Record <input type="checkbox"/> Development Plan <input checked="" type="checkbox"/> Building Plans		Proposed Sides: L R Minimum:
<input checked="" type="checkbox"/> Existing Site Plan <input type="checkbox"/> Proposed Site Plan <input checked="" type="checkbox"/> Elevations		Height: Proposed NA
Supplemental Zoning Submittals Required for Building Permit:		Maximum Height: or
<input type="checkbox"/> Zero Lot Line Affidavit		<input type="checkbox"/> Regulated by Historic Districts Ordinance
Access and Visibility: <input type="checkbox"/> Arterial or Collector** NA		<input type="checkbox"/> Regulated by Escarpment District
<input type="checkbox"/> Visibility Triangle Required		Parking Spaces: NA
Use of Structure: <input type="checkbox"/> Residential		Proposed Accessible
<input checked="" type="checkbox"/> Commercial Type of Use: OUTDOOR DINING		Minimum:
Terrain: <input type="checkbox"/> 30% slopes NA		Bicycle Parking**: NA
		Proposed: Minimum:
		** Commercial Requirement

THIS REVIEW DOES NOT GRANT ZONING APPROVAL FOR BUILDING PERMIT. FINAL ZONING REVIEW WILL BE PERFORMED AT THE TIME OF BUILDING PERMIT APPLICATION.

O. MICHAEL DUTY PRINT NAME ☐ OWNER ☒ APPLICANT ☐ AGENT

hereby certifies that the information provided for preliminary zoning review is accurate and will not be modified without consulting Land Use Department staff prior to submittal for Historic Districts Review Board review.

SIGNATURE DATE 4-12-13

To Be Completed By City Staff:

Additional Agency Review if Applicable:

- ☐ Escarpment Approval by Date: / /
- ☐ Flood Plain Approval by Date: / /
- ☐ Traffic Engineering Approval by Date: / /

Notes:

Zoning Approval:

☒ Preliminary Approval ☐ with conditions ☐ Rejected

Comments/Conditions: NO EXPANSION IN SIZE OF AWNING (D.M.) B-4

REVIEWER: DATE: 4/12/13

Duty&GermanasArchitects

April 16, 2013

David Rasch, Planner Supervisor
Historic Preservation Division
City of Santa Fe
200 Lincoln Avenue
Santa Fe, New Mexico 87501

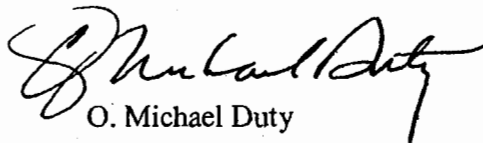
Re: 60 E. San Francisco
New Awning at Roof Top Pizzeria

Dear David:

Enclosed please find all documents required for application for the installation of a new awning on the exterior deck of the Roof Top Pizzeria. You conducted a field trip on March 28, 2013 to see the location for the new awning replacing the existing awning. The new awning will be as shown on the enclosed drawings. It will have permanent columns at the corners and fixed rafters which will form a "ramada" which will then be covered with a fabric awning material permanently affixed to the "ramada" structure. The columns and rafters will be painted a dark brown and the awning material will be tan in color.

Please do not hesitate to call if you require additional information. Thank you for your Attention to this matter.

Sincerely,



O. Michael Duty

B-5

NEW AWNING AT ROOFTOP PIZZERIA DECK

AT "SANTA FE ARCADE" (ON THE PLAZA)

UPPER FLOOR LEVEL

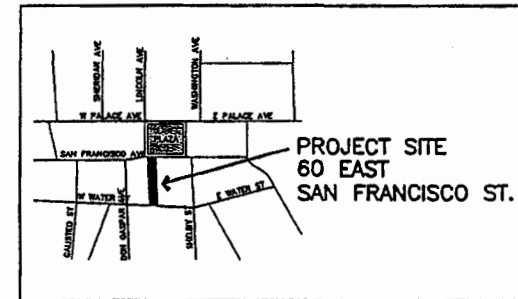
FOOD ESTABLISHMENT SPACES #301 AND 302

60 EAST SAN FRANCISCO STREET

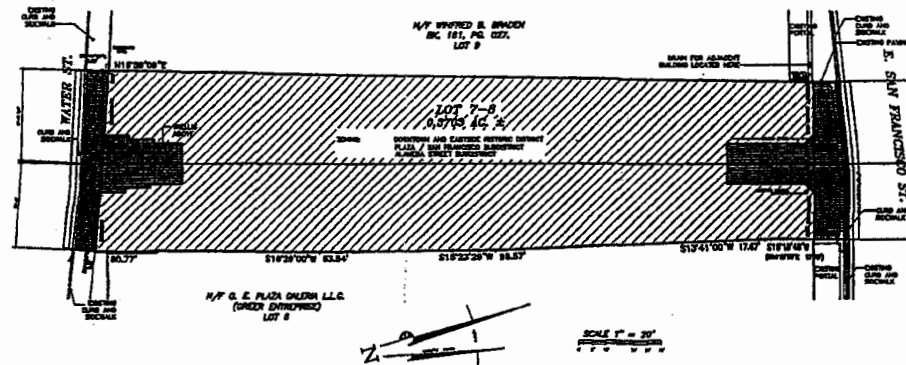
SANTA FE, NEW MEXICO

CONTENTS:

COVER SHEET
A0.1 EXIST. SITE PLAN & VICINITY MAP
A1.0 EXISTING OVERALL FLOOR PLAN
A2.0 ENLARGED EXIST. FLOOR PLAN
A3.1 NEW FLOOR PLAN
A3.2 EXISTING ELEVATIONS
A3.3 NEW ELEVATIONS
A4.0 EXISTING BUILDING SECTION
A4.1 NEW BUILDING SECTION



① VICINITY MAP
SCALE: N.T.S.



① EXISTING SITE PLAN
SCALE: 1" = 20'-0"

AS PER
D.F. NAME
OF Architect/Engineer/Professional

STATE OF NEW MEXICO
OLIVER MICHAEL DUTY
1985
REGISTERED ARCHITECT

SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA
60 EAST SAN FRANCISCO STREET ON THE PLAZA
SANTA FE, NEW MEXICO

REVISIONS:

NO.	DATE	BY

DATE: 06-17-13

DRAWN BY: DMH

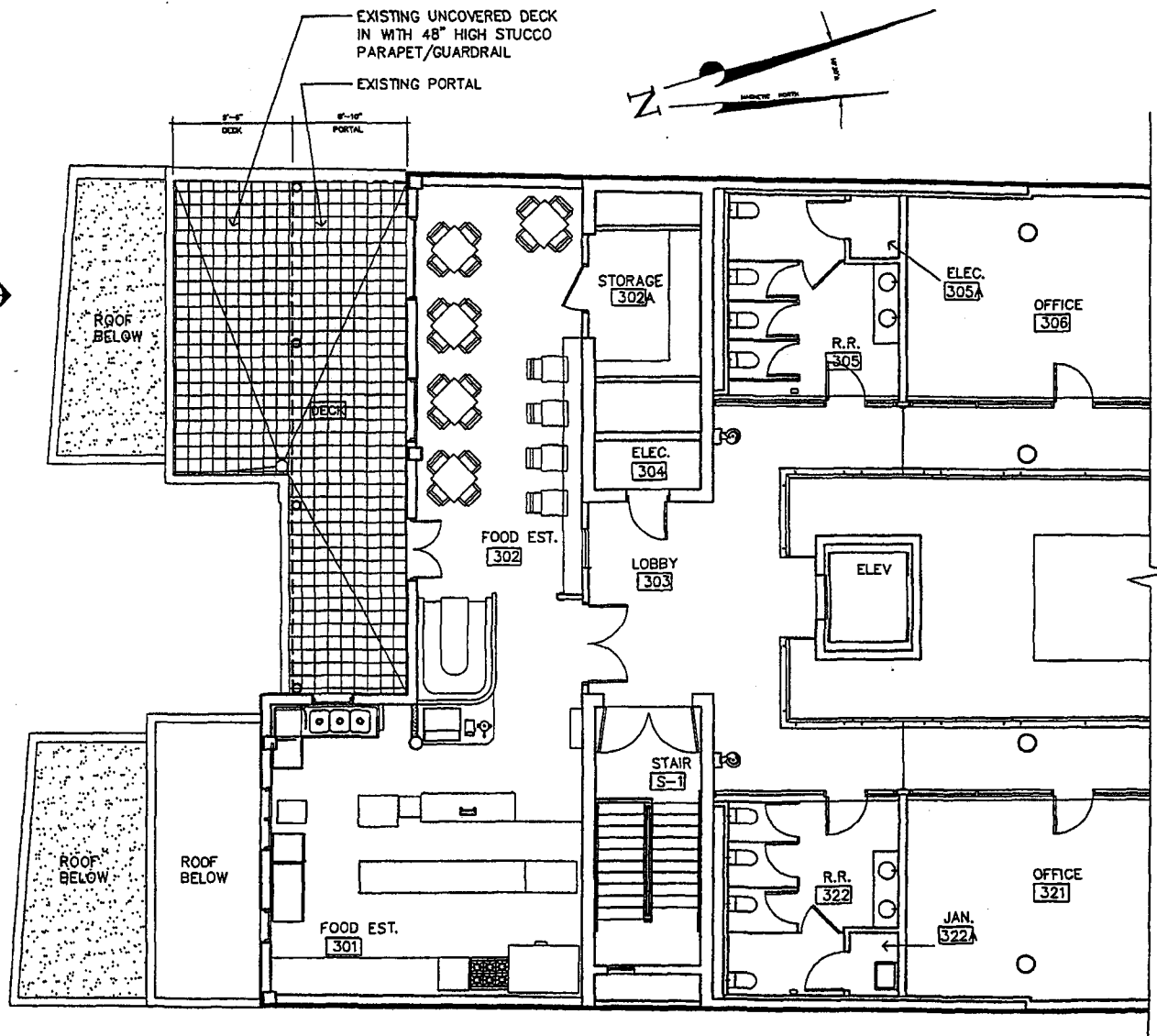
CHECKED BY: MD

DUTY & GERMANAS
ARCHITECTS

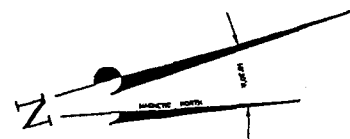
1323 PUEBLO BL. FORTUNA
SANTA FE, NM 87505
TEL: (505) 838-8888
FAX: (505) 838-8888

SHEET

A0.1



1 EXISTING FLOOR PLAN
SCALE: 1/8" = 1'-0"



RELAY
BLANK
OF ARCHITECTURE



SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA
40 EAST SAN FRANCISCO STREET ON THE PLAZA
SANTA FE, NEW MEXICO

REVISIONS
REL. DATE BY

1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

DATE: 04-17-13

DRAWN BY: JRM

CHECKED BY: JRM

DUTY & GERMANAS
ARCHITECTS

THIS FLOOR PLAN IS FOR THE
SANTA FE ARCADE, 40 EAST SAN FRANCISCO STREET, SANTA FE, NEW MEXICO
DATE: 04-17-13
BY: JRM

SHEET

A2.0



1 EXIST. WATERSTREET ELEV.
SCALE: 1/4" = 1'-0"

DATE: 04-17-13
DRAWN BY: CMB
CHECKED BY: MO



SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA
80 EAST SAN FRANCISCO STREET ON THE PLAZA
SANTA FE, NEW MEXICO

REVISIONS:
NO. DATE BY

NO.	DATE	BY

DATE: 04-17-13

DRAWN BY: CMB

CHECKED BY: MO

DUTY & GERMANN
ARCHITECTS

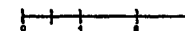
1200 PARKER DRIVE
SANTA FE, NM 87505
TEL: (505) 833-8800
FAX: (505) 833-8800

Sheet

A3.0



1 NEW WATERSTREET ELEV.
SCALE 1/8" = 1'-0"



DEVELOP
PLANS
BY ARCHITECT



SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA
60 EAST SAN FRANCISCO STREET OF THE PLAZA
SANTA FE, NEW MEXICO

REVISIONS
DATE

DATE
04-17-13

DRAWN BY
CM

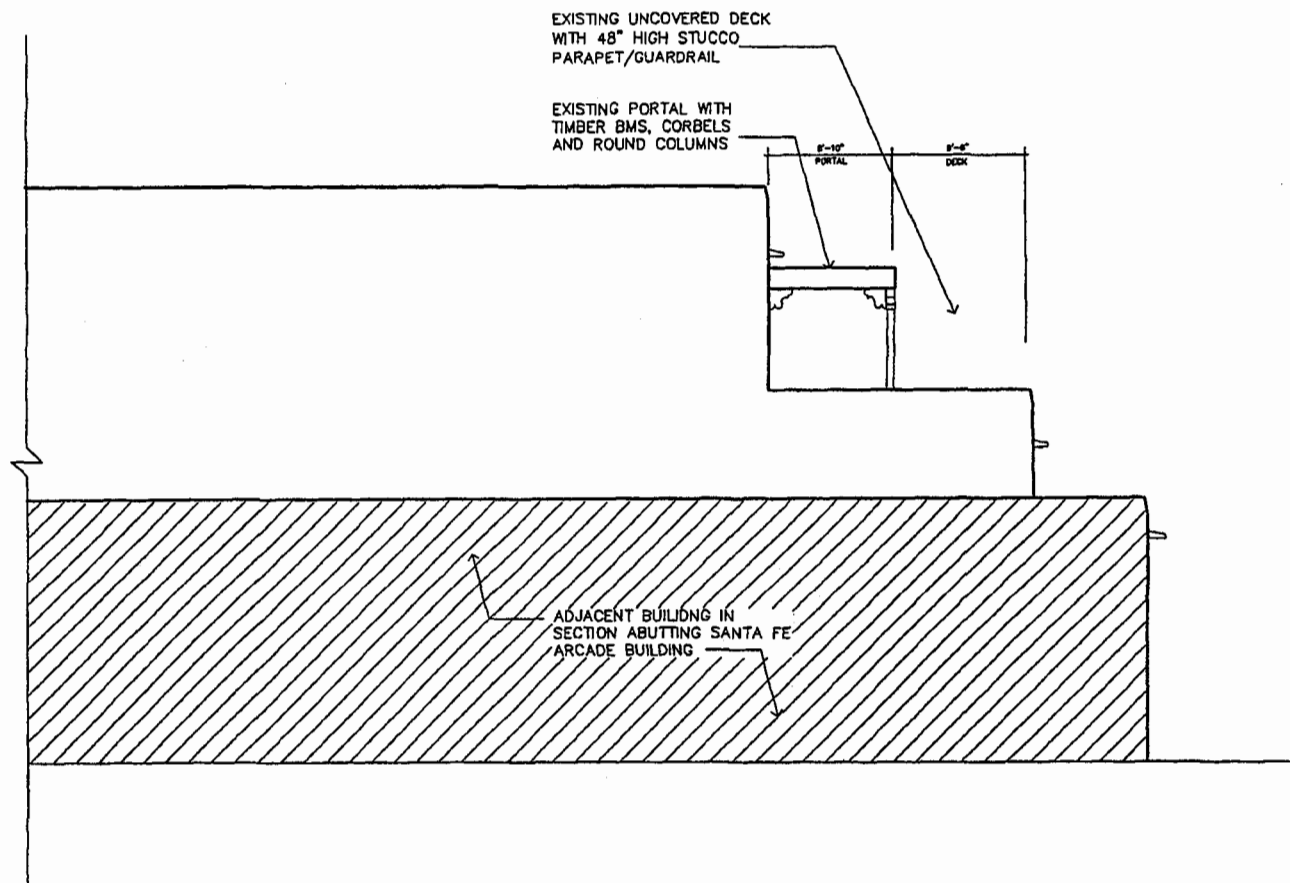
CHECKED BY
MD

DUTY &
GERMANAS
ARCHITECTS

2013, PIANO DE FORMALIZACION
SANTA FE, NM 87501
P.O. BOX 10000 SANTA FE, NM 87501
PHONE (505) 988-3333 FAX (505) 988-3333

SHEET

A3.1



1 EXIST. WEST ELEV.
SCALE: 1/4" = 1'-0"



DATE
BY



SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA
66 EAST SAN FRANCISCO STREET ON THE PLAZA
SANTA FE, NEW MEXICO

REVISIONS
NO. DATE BY

DATE:
6-17-83

DRAWN BY:
DM

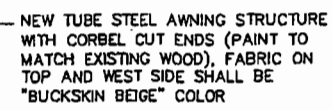
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MB

DUTY &
GERMANAS
ARCHITECTS

1225 PARKER DRIVE
SANTA FE, NM 87505
TEL. (505) 833-5555
FAX. (505) 833-5555

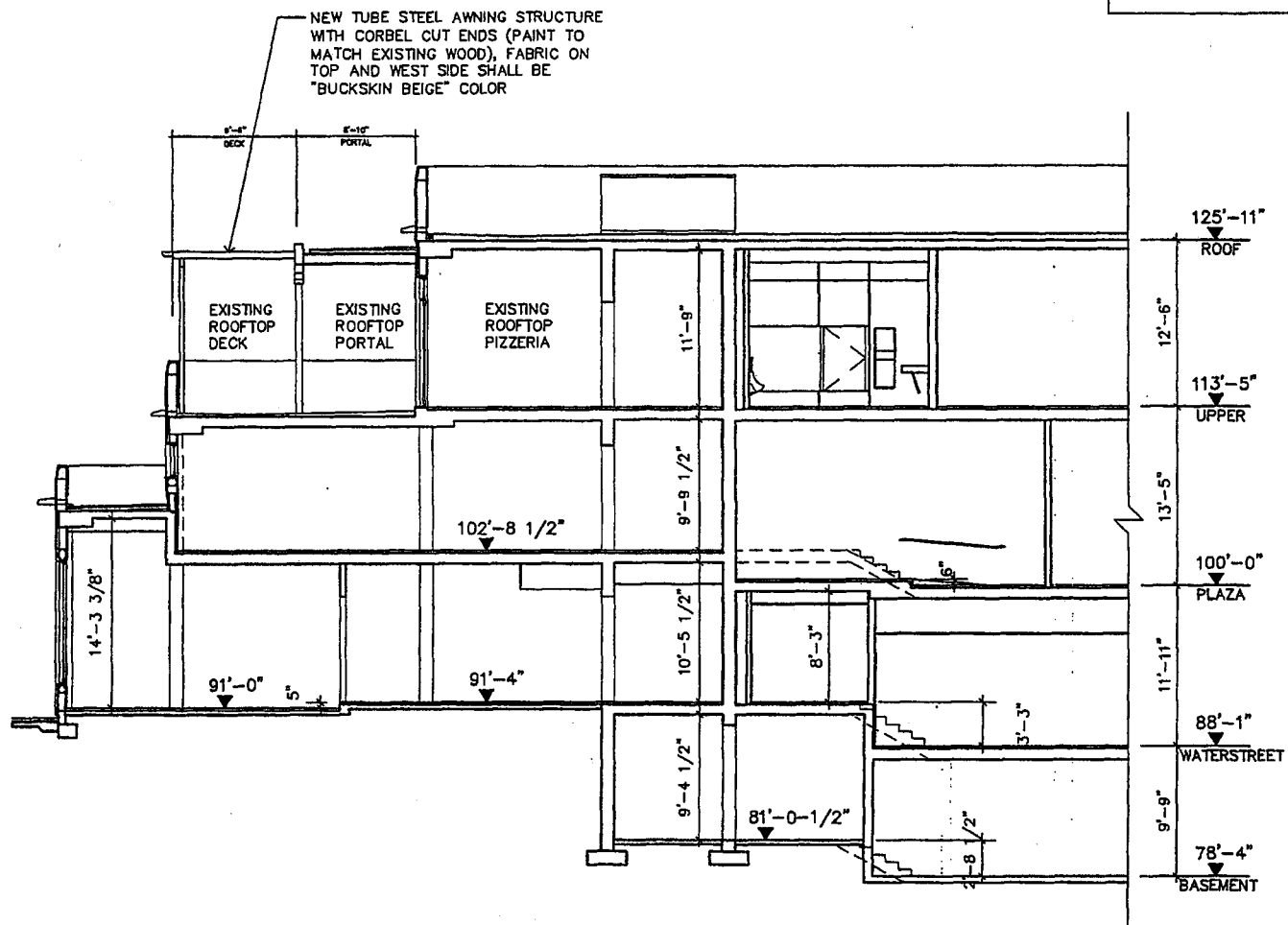
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A3.2



1 NEW WEST ELEV. (PROPOSED)
SCALE: 1/8" = 1'-0"

A3.3



NOTE:
ALL CONDITIONS SHOWN HERE ARE
EXISTING UNLESS OTHERWISE NOTED

1 NEW SECTION @ WATER STREET LOOKING WEST
SCALE 1/4" = 1'-0"

PROJECT
SANTA FE ARCADE
NEW EXTERIOR AWNING AT ROOFTOP PIZZERIA

DATE
04-17-13

REVISIONS:

NO.	DATE	BY

DATE
04-17-13

DRAWN BY:
CWS

CHECKED BY:
S

DUTY & GERMANAS
ARCHITECTS

1000 PASEO DE LOS ANGELES
SANTA FE, NM 87505
315 (505) 825-8888
FAX (505) 825-1555

SHEET
A4.1



Agenda

CITY CLERK'S OFFICE

DATE 5/8/13 TIME 9:20a

SERVED BY Camille Verf

RECEIVED BY [Signature]

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, May 14, 2013 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 2nd FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, May 14, 2013 at 5:30 P.M.

CITY COUNCIL CHAMBERS

A M E N D E D

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: April 23, 2013
- E. COMMUNICATIONS
- F. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #H-11-117 621 Old Santa Fe Trail
Case #H-13-020 523 Canyon Road
Case #H-13-009 1020 Canyon Road
Case #H-13-019 925 Old Santa Fe Trail

Case #H-13-026 222 Gonzales Rd/135 Lorenzo Rd.
Case #H-13-029 324 Camino Cerrito
Case #H-13-028 855 E. Palace Avenue
Case #H-13-031 940A E. Palace Avenue

- G. BUSINESS FROM THE FLOOR
- H. ACTION ITEMS

1. Case #H-13-019. 925 Old Santa Fe Trail. Historic Review Historic District. John T. Midyette, agent for Charley Brewer, owner, proposes a preliminary hearing to remodel an existing structure and build an approximately 7,922 sq. ft., 22'6" addition, where the maximum allowable height is 14'4", at this non-stated residence. An exception is requested to build above the maximum allowable height (Section 14-5.2(D)(9)). (John Murphey).
2. Case #H-13-032. 466 Camino Don Miguel. Downtown & Eastside Historic District. Claire Lange, agent for Susan Larson, owner, proposes to replace doors and windows, install roof-mounted mechanical equipment, and increase the height of this non-contributing building to 14'2" where the maximum allowable height is 16'4". (David Rasch).
3. Case #H-13-033. 733 Galisteo Street. Don Gaspar Area Historic District. Lorn Tryk, agent for Henry and Barbara Oliver, owners, proposes to remove coyote latilla fences and replace them with a stuccoed yardwall at the street frontage to the maximum allowable height of 5'1" and a stuccoed yardwall on a side lot line to the maximum allowable height of 6' on a significant property. (David Rasch).

EXHIBIT

tabbles

C

4. Case #H-13-034. 616 E. Alameda. Downtown & Eastside Historic District. Philip Alarid/Kiva Homes LLC, proposes to construct an approximately 1,656 sq. ft., 14'1" high, where the maximum allowable height is 14'2", single-story, single-family residence on an undeveloped piece of land. (John Murphey).
5. Case#H-13-035. 637 Garcia Street. Downtown & Eastside Historic District. Scott & Malka Wong, agent/owners, propose to demolish a 1,000 sq. ft. noncontributing residence and a 900 sq. ft. noncontributing attached casita. (John Murphey).
6. Case #H-13-036. 60 E. San Francisco, Suite 301. Downtown & Eastside Historic District. O. Michael Duty, agent for Santa Fe Dining, owner, proposes to replace an awning on the third floor patio of this non-contributing building with a textile-covered steel pergola that matches the height of the adjacent portal. (David Rasch).
7. Case#H-13-038. 218 Ambrosio Street. Westside-Guadalupe Historic District. Christl Schackel, agent for Sam and Beth Geisenberger, owners, proposes to construct a 558 sq. ft. attached two-car garage and install 6'-high vehicular gate 30' back from street at this noncontributing residence. (John Murphey).

I. **MATTERS FROM THE BOARD:** Vote on Nominations for Heritage Preservation Awards.

J. **ADJOURNMENT**

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6665 for more information regarding cases on this agenda.

Persons with disabilities in need of accommodation or an interpreter for the hearing impaired should contact the City Clerk's office at 955-6520 at least five (5) working days prior to the hearing date. Persons who wish to attend the Historic Districts Review Board Field Trip must notify the Historic Preservation Division by 9:00 am on the date of the Field Trip.

C-2

Mr. Martinez had nothing to add to the staff report.

There were no speakers from the public regarding this case.

Dr. Kantner moved in Case #H-13-035 to approve the staff recommendation to allow demolish and to reaffirm the non-contributing status of the house. Mr. Boniface seconded the motion and it passed by unanimous voice vote.

6. **Case#H-13-036. 60 E. San Francisco, Suite 301. Downtown & Eastside Historic District.** O. Michael Duty, agent for Santa Fé Dining, owner, proposes to replace an awning on the third floor patio of this non-contributing building with a textile-covered steel pergola that matches the height of the adjacent portal. (David Rasch)

Mr. Rasch gave the staff report as follows:

BACKGROUND & SUMMARY:

60 East San Francisco Street is a large commercial structure that was constructed in the Spanish-Pueblo Revival style in the late 20th century. The San Francisco Street façade has two stories while the Water Street façade has three stories. The building is listed as non-contributing to the Downtown & Eastside Historic District.

The applicant proposes to alter the outdoor dining deck by removing the existing retractable plastic awning and replacing it with a more permanent ramada. The ramada is designed in a simplified Spanish-Pueblo Revival style. It will be approximately 9' high above the stuccoed wall and constructed with tube steel painted brown to match adjacent woodwork. Fabric covering will be applied to the roof and west side in the color "Buckskin Beige."

STAFF RECOMMENDATION:

Staff recommends approval of this application which complies with Section 14-5.2(D)(9) General Design Standards, Height Pitch Scale and Massing and (E) Downtown & Eastside Historic District.

Mr. Rasch said regarding the code issues clarification that in the Downtown & Eastside Historic District under recent Santa Fé Style (14-5.2 E 2 D) talked about how much of the façade had to be stucco and it said "or another material as approved." That meant the Board could approve another material.

For awnings in the sign ordinance, he found that the Board may approve cloth or other material not used for business signs. Ms. Brennan had brought up the fact that the Board already had a precedent setting case. He reminded the Board of the vendor booths last year for the flea market when the Board approved cloth.

Ms. Mather clarified that the project on the Old Santa Fé Trail at Paseo didn't have cloth as a roofing material.

Mr. Rasch agreed. I was just on the sides. This one would be on top too.

Chair Woods asked if tube steel was among the approved materials. Mr. Rasch said it was as "another material."

Present and sworn was Mr. Charles Rosenberg 404 Kiva Court, who had samples of the actual fabric and shared them with the board members.

Ms. Walker asked the applicant if he had considered alternatives to the steel tubing.

Mr. Rosenberg said they had not. He said tube steel was recommended by Santa Fé Awning, the manufacturer.

Ms. Rios asked if this was on the third story.

Mr. Rosenberg agreed. There was an existing portal and beyond that there was an uncovered porch. It would be attached to the uncovered porch with the awning on top and rolling down on west side.

Ms. Rios asked about the steel color.

Mr. Rosenberg said it would be painted to match the wood.

Dr. Kantner asked if the existing portals would also have this fabric on the west side.

Mr. Rosenberg said it already existed there now.

Dr. Kantner asked if that meant he was asking to double the use of the fabric. Mr. Rosenberg agreed.

Mr. Katz noted on the photo they had a step back and a further step back. He asked to what extent this addition get rid of that that step back and make the second and third floor look like it just went straight up.

Mr. Rasch agreed that the tubing would come up from the corner.

Mr. Rosenberg said he had a photo of a similar project of Santa Fé Awning that might help. He passed around the photo.

Mr. Katz asked if that photo was more or less how it would look. Mr. Rosenberg agreed.

Chair Woods understood Ms. Brennan to say the precedent was set with the flea market case. So she asked if the Board could allow the tube steel & fabric happen right downtown. She felt this would set a

precedent and others would come request a shade structure at their businesses downtown.

Ms. Brennan said she didn't intend for precedent to be the word.

Chair Woods thought they were setting a precedent because everyone wants to eat in the shade. They will point to the Board's approval of the pizza place.

Ms. Brennan said the Board acted on a case by case basis. But if the Board denied an application that was virtually the same as one the Board approved it might be open to questions.

Mr. Katz asked if there was a way to have the furthest support not right at the corner to so clearly make it a box and lose the setback.

Mr. Rasch said it was coming from the deck.

Mr. Rosenberg agreed; it was behind that guard rail.

Mr. Katz asked if it was possible to set it back further.
Mr. Rosenberg agreed it was possible.

Mr. Katz said the shade could come out further but not the support. It could cantilever a little.

Mr. Rosenberg said it was to be attached into the parapet but they could pull it back.

Mr. Boniface was concerned because it added sidewalks and the roof was out of fabric. If the Board substituted materials to stucco and wood it would bother him that they were enclosing this space. It appears to damage the nice massing and setbacks of the existing building.

Ms. Mather pointed out that with the flea market it was temporary structures that would be coming down seasonally. She asked if this was removable.

Mr. Rosenberg said it was intended to be seasonal because it could not take a snow load and people wouldn't dine out there in the winter. The roll down was permanent when the sun was coming in at the side.

There were no speakers from the public regarding this case.

Chair Woods had concerns. She thought they were losing the setback and others would come forward and it was not harmonious with adjacent building and didn't meet 14-5.2 standards. So she was concerned about the proposal.

Mr. Rosenberg understood their concerns.

Dr. Kantner moved in Case #H-13-036 to deny the application based on its violation of Section

14-5.2 E 2 d, Recent Santa Fé Style that the proposed materials didn't achieve harmony with adjacent historic buildings and also violated Section 14-5.2 D 9 f - Massing and floor setbacks. Ms. Walker seconded the motion and it passed by unanimous voice vote.

- 4. Case#H-13-034. 616 E. Alameda. Downtown and Eastside Historic District. Phillip Alarid/Kiva Homes LLC, proposes to construct an approximately 1,656 sq. ft., 14' 1" high, where the maximum allowable height is 14' 2", single-story single-family residence on an undeveloped piece of land. (John Murphey).**

Ms. Rios moved to remove from the table, Case #H-13-034 for further consideration. Dr. Kantner seconded the motion and it passed by unanimous voice vote.

Mr. O'Reilly said in this zoning district an owner could exceed 40% lot coverage if they provided private open space but it was unclear where that would be provided so staff recommended postponing this case for that location to be determined.

Chair Woods asked if it was possible to provide the private open space on another lot.
Mr. O'Reilly agreed that was possible.

Mr. Katz wasn't sure what private open space was versus public open space. He presumed that by the roadway would be public.

Mr. O'Reilly said the two types were titled "common" or "private." Private was for a particular dwelling unit only. So it couldn't be a driveway and there were dimensional standards. The site plan didn't show where it would be placed and that could affect the design of the building.

Ms. Walker asked if the amount of private open space would affect the lot coverage.

Mr. O'Reilly thought it could.

Ms. Rios moved to postpone Case #H-13-034 to give the applicant an opportunity to show where the open space would be located. Ms. Mather seconded the motion and it passed by unanimous voice vote.

- 7. Case#H-13-038. 218 Ambrosio Street. Westside-Guadalupe Historic District. Christi Schackel, agent for Sam and Beth Geisenberger, owners, proposes to construct a 558 sq. ft. attached two-car garage and install 6' high vehicular gate 30' back from street at this noncontributing residence. (John Murphey)**

Mr. Murphey gave the staff report as follows:

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

ITEM # 13-0407

Case #H-13-036

Address – 60 East San Francisco Street, Suite 301

Owner/Applicant's Name – Santa Fe Dining

Agent's Name – O. Michael Duty

THIS MATTER came before the Historic Districts Review Board (Board) for hearing on May 14 2013 upon the application (Application) of O. Michael Duty, as agent for Santa Fe Dining, owner.

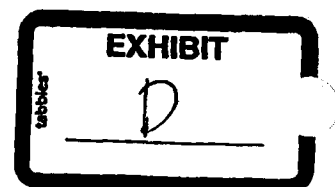
60 East San Francisco Street is a large commercial structure that was constructed in the Spanish-Pueblo Revival style in the late 20th century. The San Francisco Street façade has two stories while the Water Street façade has three stories. The building is listed as non-contributing to the Downtown & Eastside Historic District.

The Applicant requested a construction project (Project) to alter the outdoor dining deck by removing the existing retractable plastic awning and replacing it with a more permanent ramada. The ramada is designed in a simplified Spanish-Pueblo Revival style. It will be approximately 9' high above the stuccoed wall and constructed with tube steel painted brown to match adjacent woodwork. Fabric covering will be applied to the roof and west side in the color "Buckskin Beige."

After conducting public hearings and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:

FINDINGS OF FACT

1. The Board heard testimony from staff, the Applicant, and other people interested in the Application.
2. Zoning staff has determined that the Application meets underlying zoning standards; and
3. Board staff recommended that the Board approve the Application as complying with Section 14-5.2(D)(9) and Section 14-5.2(E).
4. The Property is located in the Downtown & Eastside Historic District and is subject to the 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;
Section 14-5.2(E), Downtown & Eastside Historic District.
5. Under Sections 14-5.2(A)(1)(b) and (c), 14-2.7(A)(1), and 14-2.7(A)(3), the Board has the authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
6. 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.




7. Chapter 14, Section 14-5.2(E)(2)(d) states that "No less than eighty percent of the surface area of any publicly visible façade shall be adobe finish or stucco simulating adobe finish. The balance of the publicly visible façade, except as above, may be of natural stone, wood, brick, tile, terra cotta, or other material, subject to approval as hereafter provided for building permits." The Board finds that the use of fabric for the roof and one side of the extension in this prominent position on the third level of the building does not meet this standard.
8. Chapter 14, Section 14-5.2(D)(9)(f) states that "The Board may require that upper floor levels be stepped back, to carry out the intent of this section; provided that the board in making such determinations shall take into account whether the height of the proposed building, yard wall, fence, or proposed stepback of upper floor levels is in harmony with the massing of the applicable streetscape and preservation of the historic and characteristic visual qualities of the streetscape. The Board shall also require that the publicly visible façades of the structure be in conformance with Subsections 14-5.2(E) through (H), and in meeting those requirements, may require that different floor levels be stepped back." The Board finds that the proposed extension of the third floor with the ramada eliminates the stepback in a manner that is not harmonious to traditional Santa Fe style and not harmonious with the historic and characteristic visual qualities of the streetscape.

CONCLUSIONS OF LAW

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

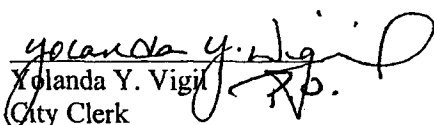
The Board concludes that the Project is not in compliance with Section 14-5.2(D)(9)(f) General Design Standards, Massing and Floor Stepbacks and the Project is not in compliance with Section 14-5.2(E)(2)(d) Downtown & Eastside Historic District, Recent Santa Fe Style, Design Standards. Therefore, the Project is denied as submitted.

IT IS SO ORDERED ON THIS 28th DAY OF MAY 2013 THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.


Sharon Woods
Chair

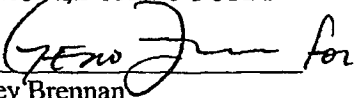
5/28/13
Date:

FILED


Yolanda Y. Vigil
City Clerk

6-4-13
Date:

APPROVED AS TO FORM

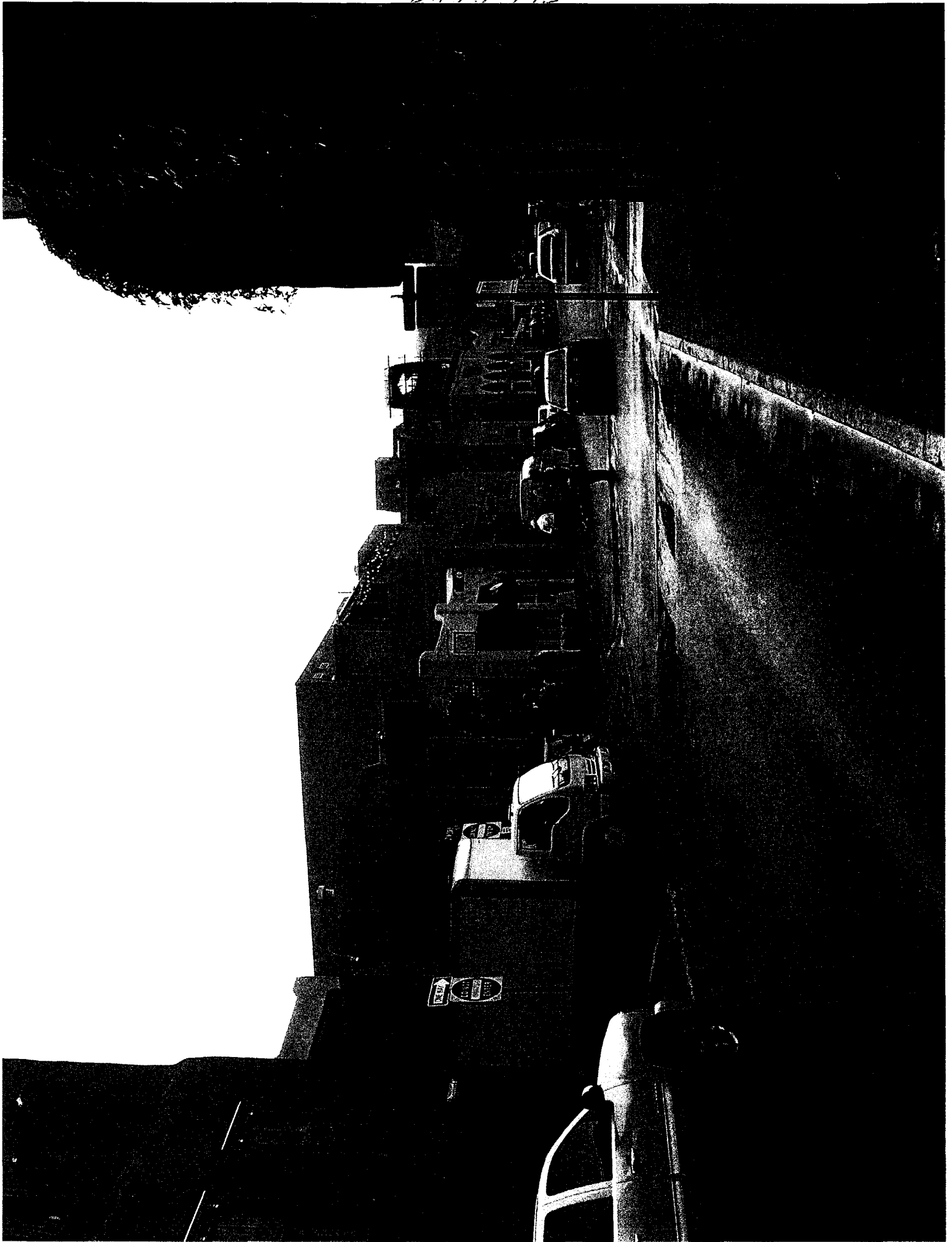

Kelley Brennan
Assistant City Attorney

6/4/13
Date:

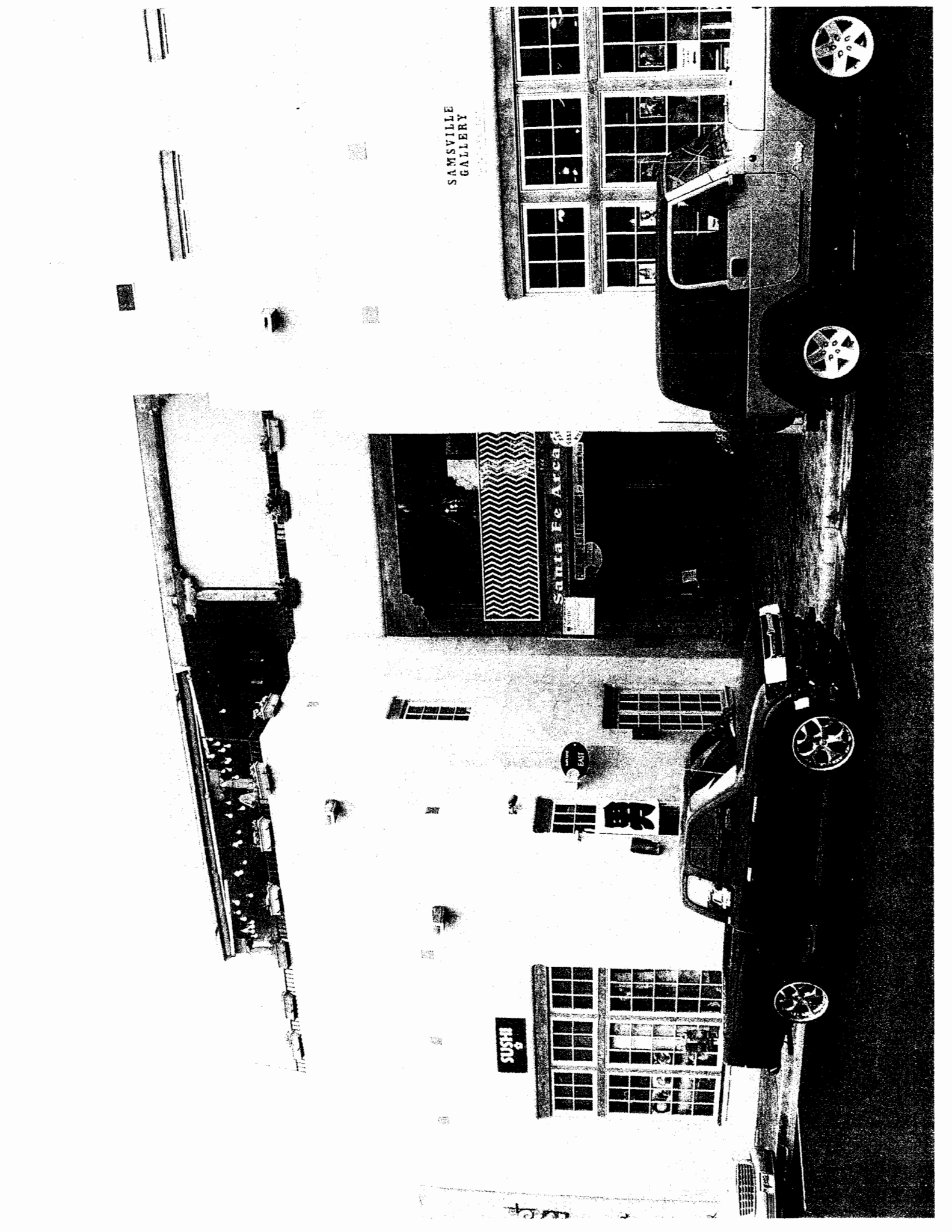
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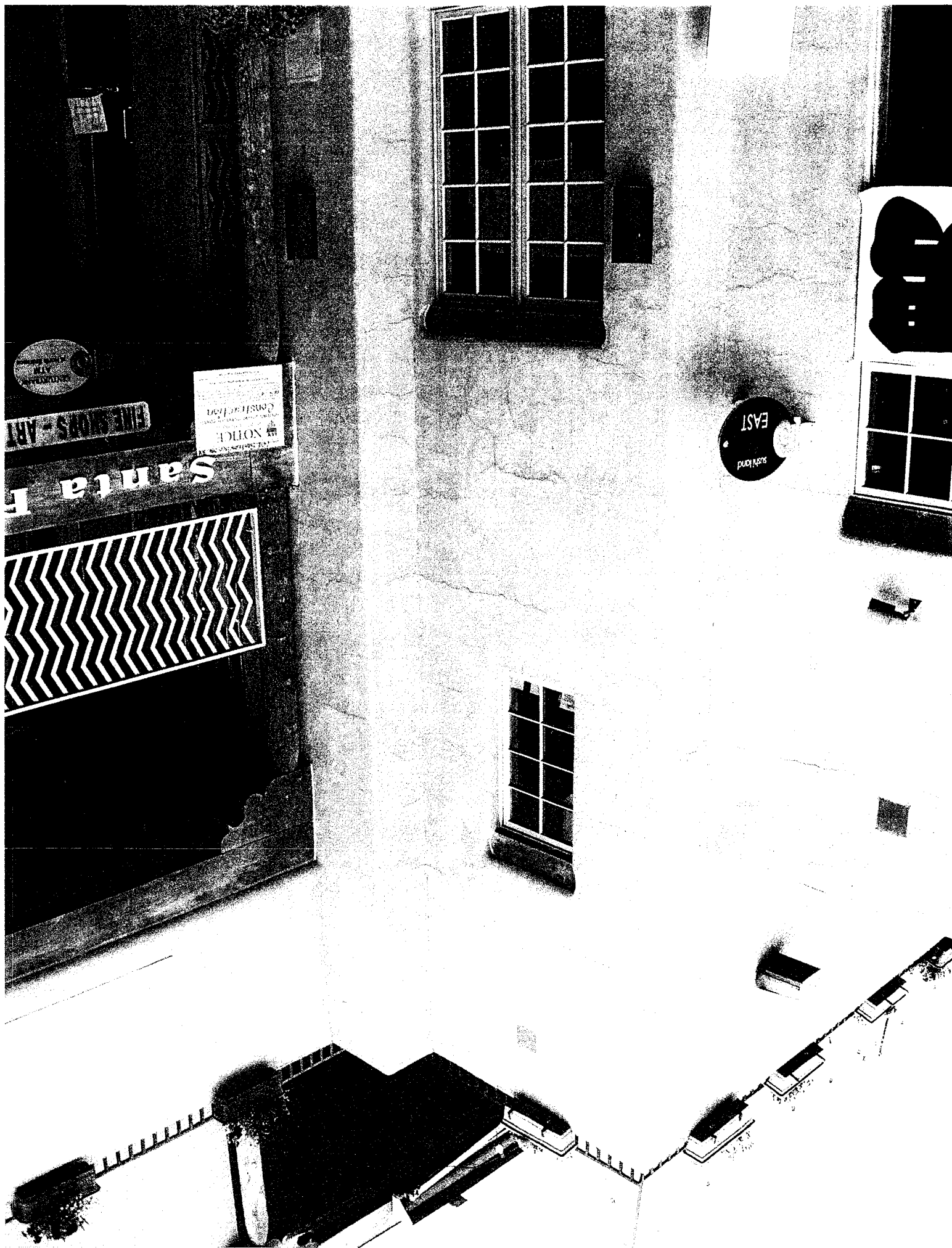
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GALLERY

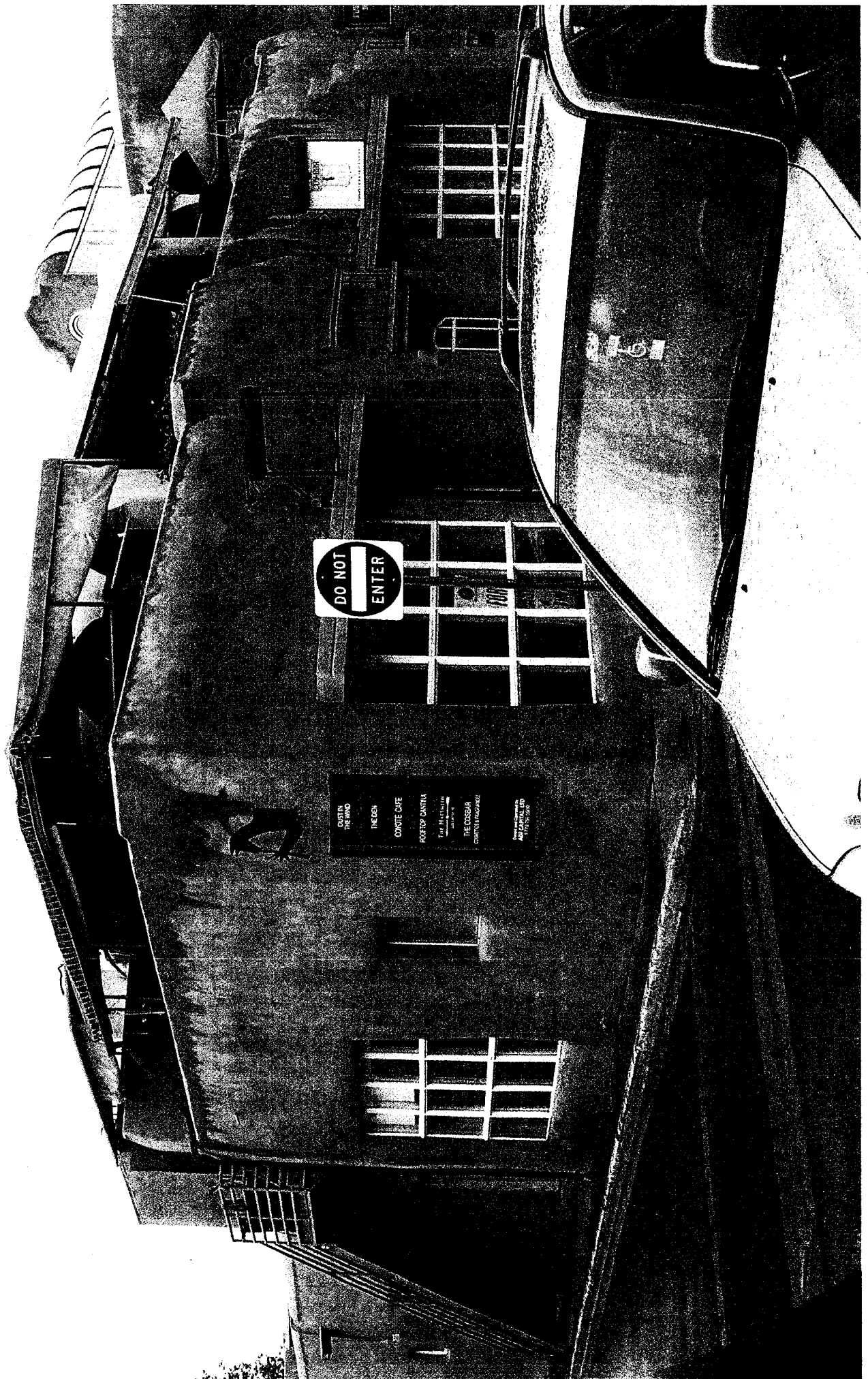
Santa Fe Arca

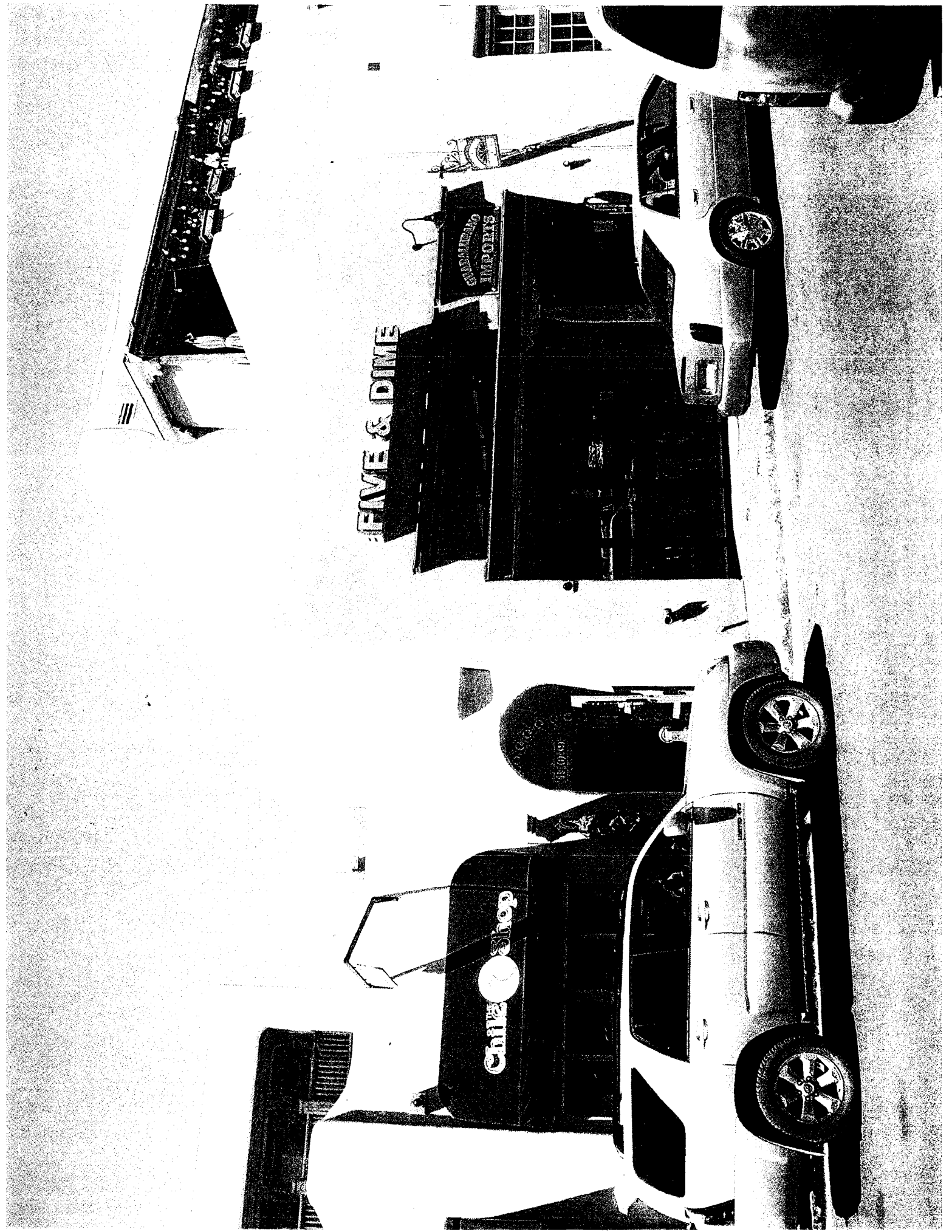
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Council Item # H(3)

CITY OF SANTA FE, NEW MEXICO PROPOSED AMENDMENT(S) TO BILL NO. 2013-29 (Controlled Substances)

Mayor and Members of the City Council:

We propose the following amendment(s) to Bill No. 2013-29:

1. On page 6, line 5, *insert* the following section:

Section 3. Section 9-2.6 SFCC 1987 (being Ord. #2005-14, §29, as amended) is amended to read:

9-2.6 Independently Sponsored Campaign Materials.

Any person or entity that contracts for or initiates the dissemination of campaign materials supporting the election or defeat of an identifiable candidate or of a ballot proposition, and that spends in the aggregate two hundred fifty dollars (\$250.) or more for such purpose shall thereafter, on each of the days prescribed for the filing of campaign finance statements of political committees, file with the city clerk a report of all expenditures made and all contributions [~~of twenty-five dollars (\$25.) or more~~] received for such purpose on or before the date of the report and which have not been previously reported. Each report shall be submitted on a form prescribed by the city clerk. Contributions shall be specified by date, amount of contribution, name, address and occupation of the person or entity from whom the contribution was made. Expenditures shall be specified by date, the amount of the expenditure, the name and address of the person or entity where an expenditure was made and the purpose of the expenditure.

Editor's Note: Renumber sections of bill accordingly

Respectfully submitted,

Staff

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

Exhibit "10"



**CITY COUNCIL MEETING OF
JULY 31, 2013
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY**

Mayor David Coss		
Co-Sponsors	Title	Tentative Committee Schedule
	<p style="text-align: center;">A RESOLUTION AMENDING THE AMOUNT OF DESIGNATED IMPACT FEE CAPITAL IMPROVEMENTS PLAN (IFCIP) FUNDING FOR THE DESIGN AND CONSTRUCTION OF THE HERRERA DRIVE EXTENSION ROADWAY IMPROVEMENTS AND PASEO DEL SOL EXTENSION ROADWAY IMPROVEMENTS; AUTHORIZING THE EXPENDITURE OF SUCH FUNDING FOR THE ROADWAY IMPROVEMENTS; AND AUTHORIZING THE CITY OF SANTA FE TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE BOARD OF EDUCATION OF THE SANTA FE PUBLIC SCHOOL DISTRICT (SFPS) SO THAT SFPS WILL BE THE DESIGNATED FISCAL AGENT FOR THE ROAD IMPROVEMENT PROJECTS.</p>	<p>Capital Improvement Advisory Commission – 8/8/13 Public Works – 8/12/13 Finance – 8/19/13 Council – 8/27/13</p>
	<p style="text-align: center;">AN ORDINANCE AMENDING SECTION 9-1.3 SFCC 1987 TO INCLUDE PRECINCT 89 IN DISTRICT 3 AND MAKING SUCH OTHER GRAMMATICAL AND STYLISTIC CHANGES AS ARE NECESSARY.</p>	<p>Council (request to publish) – 8/14/13 Council (public hearing) – 9/11/13</p>
Councilor Patti Bushee		
Co-Sponsors	Title	Tentative Committee Schedule
	<p style="text-align: center;">A RESOLUTION AFFIRMING THE CITY'S COMMITMENT TO EQUALITY AND FREEDOM FROM DISCRIMINATION AND VIOLENCE FOR ALL OF ITS RESIDENTS, INCLUDING CHILDREN AND YOUTH; CONDEMNING BULLYING, HARASSMENT AND INTIMIDATION IN SCHOOLS; AND URGING THE COMMUNITY TO WORK TOGETHER TO FURTHER DEFINE AND UNDERSTAND THE MULTIPLE ASPECTS OF BULLYING.</p>	<p>Children & Youth Commission – 8/27/13 Finance – 9/3/13 Council – 9/11/13</p>

Exhibit "11"

Councilor Chris Calvert		
Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE RELATING TO CAMPAIGN CONTRIBUTIONS; AMENDING THE CITY OF SANTA FE CAMPAIGN CODE, ARTICLE 9-2 SFCC 1987 TO PROHIBIT CANDIDATES FROM RECEIVING CAMPAIGN CONTRIBUTIONS FROM CONTRACTORS AND ENTITIES DOING BUSINESS WITH THE CITY OF SANTA FE.	
	AN ORDINANCE RELATING TO PROPOSED EXPENDITURES FOR ANY TAX INCREASES OR BOND MEASURES; AMENDING THE SANTA FE CITY CODE TO ESTABLISH NEW PROVISIONS THAT WOULD REQUIRE THE CITY OF SANTA FE TO PROVIDE AND DISSEMINATE IN A TIMELY MANNER THE PURPOSES OF PROPOSED EXPENDITURES FOR ANY TAX INCREASE OR BOND MEASURE THAT REQUIRES RATIFICATION BY THE VOTERS.	
Councilor Bill Dimas		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION DIRECTING THE CITY OF SANTA FE HUMAN RESOURCES DEPARTMENT TO IMPLEMENT A VETERANS' HIRING INITIATIVE POLICY FOR THE PURPOSE OF INCREASING OPPORTUNITIES FOR VETERANS TO OBTAIN CITY EMPLOYMENT.	Finance – 8/19/13 Council – 8/27/13
Councilor Carmichael Dominguez		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Peter Ives		

Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Ron Trujillo		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Rebecca Wurzbarger		
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 Melissa Byers, (505)955-6518, mdbyers@santafenm.gov.