City of Santa Fe

Agenda

REGULAR MEETING OF
THE GOVERNING BODY
JANUARY 29, 2014
CITY COUNCIL CHAMBERS

CITY CLERK'S OFFICE
DATE 1/24/14 TIME 1:00 pm
SERVED BY
RECEIVED BY

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – January 8, 2014
9. PRESENTATIONS
   a) Employee of the Month for January 2014 – Stuart Stephenson, Digital Duplicating Center Technician, City Clerk's Office. (5 minutes)
   b) Introduction of Law Enforcement Academy Graduates and Lateral Hire. (Chief Ray Rael) (10 minutes)
10. CONSENT CALENDAR
   a) Request for Approval of Procurement Under State Price Agreement – City-Wide LED Traffic Signal Lights; Econolite Group, Inc. (Rick Devine)
   b) Request for Approval of Grant Agreements for Senior Services Division; State of New Mexico Aging and Long-Term Services Department. (Ron Vialpando)
      1) Request for Approval to Plan, Design, Renovate and Equip Parking Lot at Mary Esther Gonzales Senior Center.
      2) Request for Approval of Purchase and Installation of Commercial Meals Equipment for City-Wide Senior Centers.
      3) Request for Approval of Budget Increase – Grant Fund.

SS002.pmd-11/02

c) Request for Approval of Lease Agreement – Allow for Parking of Service Vehicles and Storage of Materials on City Alley Located Along the Southerly Boundary of 1549 Sixth Street; Wayne S. Colmer and Roberta L. Colmer 1998 Revocable Inter Vivos Trust and Colmer Development Company. (Edward Vigil)

d) Request for Approval of Sale of Real Estate – Approximately 447 Square Feet Within a Portion of Lot 1, Block 92 of the 1912 Kings Official Map Located at 642 Old Santa Fe Trail; David K. Giles. (Edward Vigil)

e) Request to Publish Notice of Public Hearing on February 26, 2014:

1) Bill No. 2014-4: An Ordinance Relating to the City of Santa Fe Housing Code, Chapter 26, SFCC 1987; Amending Subsection 26-1.21 to Include Veterans in the List of Professions to Qualify for Expanded Eligibility Standards for Santa Fe Homes Program (SFHP) Homes. (Councilor Calvert and Councilor Bushee) (Alexandra Ladd)

2) Bill No. 2014-5: An Ordinance Relating to the Santa Fe Homes Program ("SFHP"); Amending Section 14-8.11 SFCC 1987 to Make Permanent the Current Percentage Requirements of the SFHP; Amending Section 26-1 SFCC 1987 to Update the Legislative Findings, to Establish the Schedule for Payments in Lieu of Constructing Units for SFHP Developments with Two Through Ten Total Units, to Make Permanent the Current Percentage Requirements of the SFHP and to Make Various Other Changes to the SFHP Ordinance. (Councilor Wurzburger) (Alexandra Ladd)

3) Bill No. 2014-6: An Ordinance Relating to the Residential Green Building Code; Creating a New Subsection 7-4.3 SFCC 1987, to Establish a Residential Addition and Remodel Green Building Code for Single Family Attached and Detached; Amending Exhibit "A" to Chapter VII to Create a New Chapter 2 to Establish Definitions, to Create a New Item 802.6 Regarding Rough Plumbing for Future Use of Gray Water, to Create New Chapters 11 and 12 to Establish Checklists for Remodeling and Remodeling of Functional Areas and Small Additions and to Create a New Appendix B to Establish Whole Building Ventilation System Specifications. (Councilor Calvert, Councilor Ives and Councilor Bushee) (Katherine Mortimer)

a) A Resolution Amending the *Administrative Procedures for the Santa Fe Residential Green Building Code* ("RGBC") to Grant the Land Use Director the Authority to Make Administrative Changes to the RGBC User's Guide and to Add Item 802.6 to the User's Guide; Adopting Administrative Procedures for the City of Santa Fe Residential Addition and Remodel Green Building Code ("RARGBC"); and Directing Staff to Create a User's Guide for the RARGBC. (Councilor Calvert, Councilor Ives and Councilor Bushee) (Katherine Mortimer)

4) Bill No. 2014-7: An Ordinance Relating to Campaign Contributions from City Contractors; Amending the Code of Ethics, Section 1-7 SFCC 1987 and the Campaign Code, Section 9-2 SFCC 1987 to Regulate Conflicts of Interest Arising from Campaign Contributions from City Contractors and for Related Purposes. (Councilor Calvert) (Zachary Shandler)

f) CONSIDERATION OF RESOLUTION NO. 2014-____. (Councilor Calvert, Councilor Bushee and Councilor Ives)
A Resolution Supporting The Southwest Transit Association's Position Paper on the Future of Federal Transit Funding; Encouraging Congress to Restore Capital Bus and Bus Facilities Funding to Small Urban Cities to Pre Map-21 Levels; and Calling on the State of New Mexico to Establish a State Transit Fund to Assist Transit Systems Operating Within the State. (Jon Bulthuis)

g) Request for Approval of Findings of Fact and Conclusions of Law for Case #2013-93, Appeal of the September 12, 2013 Decision of the Planning Commission in Case #2013-58 Denying the Request of Aguafina Development, LLC for Preliminary Subdivision Plat Approval and a Variance for Three Tracts of Land Located at 4701 and 4702 Rufina Street and 4262 Agua Fria Street. (Kelley Brennan)

h) Request for Approval of Appointment of Precinct Officials (Amended) for the March 4, 2014 Regular Municipal Election. (Yolanda Y. Vigil)

11. **Case #2013-127.** Request for Approval of the Recommendation of the City Attorney Pursuant to Santa Fe City Code §14-3.17(D)(6) that the Governing Body Dismiss the Appeal of Stefanie Beninato from the December 10, 2013 Decision of the Historic Districts Review Board in Case #H-13-080A and Case #H-13-080B, 777 Acequia Madre. (Kelley Brennan)

12. Bid No. 14/18/B – Indefinite Quantity Price Agreement for Bulk Fuel. (Robert Rodarte)

    a) Desert Fuel, Inc.
    b) Honstein Oil & Distributing, LLC

13. Request for Approval of Amendment No. 2 to Professional Services Agreement – Additional Engineering Services for Cerrillos Road Construction Project – Camino Carlos Rey to St. Michael's Drive; Parsons Brinckerhoff, Inc. (Desirae Lujan)

14. Request for Approval of Procurement Under State and Cooperative Price Agreements – Nutrition, Transportation and In-Home Support Services for Senior Services Division; Shamrock Foods Company. (Robert Rodarte)

15. Request for Approval of Professional Services Agreement – LEAD Program Services for FY 2013/2014; The Life Link. (Terrie Rodriguez)

16. Request for Approval of O.T.A.B. Annual Grant Program – 2014 Procedures and Application for Lodgers' Tax Funding Assistance of Special Events; Santa Fe Occupancy Tax Advisory Board. (Jim Luttjohann)

17. Request for Approval of Budget Increase – FY 2013/2014 Rent at Montoya Federal Building. (Marcos Tapia)

18. CONSIDERATION OF RESOLUTION NO 2014-____. (Councilor Calvert, Councilor Wurzburger, Councilor Bushee, Councilor Ives and Councilor Dominguez)
    A Resolution Respectfully Requesting that the City of Santa Fe's Congressional Delegation Support Efforts to Build, Preserve, Rehabilitate and Operate Rental Housing that is Affordable for Low Income Veterans and their Families. (Terri Rodriguez)

19. CONSIDERATION OF RESOLUTION NO. 2014-____. (Councilor Calvert, Councilor Wurzburger, Councilor Bushee, Councilor Ives and Councilor Dominguez)
    A Resolution Calling on the State of New Mexico and the Public Regulation Commission to Follow Santa Fe's Lead in Making New Mexico the Nation's Solar Power Leader and Set the Goal of Generating Ten Percent of the State's Energy from Solar by 2020. (Nick Schiavo)

20. Request to Publish Notice of Public Hearing on February 26, 2014:

    Bill No. 2014-8: An Ordinance Relating to the Single-Use Bag Ordinance, Section 21-8 SFCC 1987; Amending Subsection 21-8.1 to Modify the Legislative Findings Related to Paper Grocery Bags; Amending Subsection 21-8.4 to Eliminate the Requirement that Retail Establishments Collect a Paper Grocery Bag Charge of Not Less than Ten-Cents for Each Paper Grocery Bag Provided to Customers; Amending Subsection 21-8.6 to Establish a 30 Day Implementation Period; and Making Such Other Changes As Are Necessary. (Councilor Wurzburger and Councilor Bushee) (Cindy Padilla)

21. MATTERS FROM THE CITY MANAGER

22. MATTERS FROM THE CITY ATTORNEY

    Executive Session

    In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending or Threatened Litigation in Which the City of Santa Fe Is or May Become a Participant, Southside Transit Center Location. (Zachary Shandler)

23. Action Regarding Southside Transit Center Location. (Zachary Shandler)

24. MATTERS FROM THE CITY CLERK

25. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. SALUTE TO THE NEW MEXICO FLAG

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

- Children and Youth Commission
- Santa Fe Water Conservation Committee
- Division of Senior Services Advisory Board of Directors

H. PUBLIC HEARINGS:

1) Request from Blue Corn II, Inc., for a Small Brewers Off-Site A Liquor License to be Located at Draft Station, 60 E. San Francisco Street, Suites 312 and 313. (Yolanda Y. Vigil)

2) Request from Santa Fe Hard Cider, LLC for a Wine Wholesaler Liquor License to be Located at Santa Fe Hard Cider, 1730 Camino Carlos Rey North, Unit #103. (Yolanda Y. Vigil)

3) Request from Billu, LLC for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at India Palace Restaurant, 227 Don Gaspar Avenue. (Yolanda Y. Vigil)

4) Request from The Signature Gallery for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Wine at The Signature Gallery, 102 E. Water Street. This Location is Within 300 Feet of The Church of Antioch at Santa Fe, 207 Old Santa Fe Trail. The Request is for the Monroe Jackson Exhibition to be Held on February 14, 2014 from 5:00 p.m. to 7:00 p.m. (Yolanda Y. Vigil)

5) CONSIDERATION OF RESOLUTION NO. 2014-____. (Councilor Bushee)
A Resolution Authorizing the Establishment of a Hospital Study Group for the Purpose of Gathering Information and Making Recommendations Related to the Current General State of Christus St. Vincent Regional Medical Center. (Kate Noble) **(Postponed to February 12, 2014 City Council Meeting)**

6) CONSIDERATION OF RESOLUTION NO. 2014-____. (Councilor Ives)
A Resolution Calling for the Formation of a Community Health Working Group to Examine the Effects of the Affordable Care Act on the Delivery of Health Care Services to the Santa Fe Community, the Cost of Health Care in Santa Fe and Delivery of Health Care Services to the Indigent. (Kate Noble) **(Postponed to February 12, 2014 City Council Meeting)**

7) CONSIDERATION OF BILL NO. 2014-1: ADOPTION OF ORDINANCE NO. 2014-____. (Councilor Bushee)
An Ordinance Amending Various Provisions of the City of Santa Fe Animal Services Ordinance, Chapter 5 SFCC 1987. (Johnny Martinez) **(Postponed to February 12, 2014 City Council Meeting)**

8) CONSIDERATION OF BILL NO. 2014-2: ADOPTION OF ORDINANCE NO. 2014-____. (Councilor Trujillo and Councilor Bushee)
An Ordinance Relating to the Prohibition of the Procurement of Tobacco by Minors; Amending Subsection 16-15.4 SFCC 1987 to Amend the Definition of "Tobacco Product" and Create a New Definition for "Electronic Smoking Device". (Alfred Walker) **(Postponed to February 12, 2014 City Council Meeting)**

9) CONSIDERATION OF BILL NO. 2014-3: ADOPTION OF ORDINANCE NO. 2014-____. (Councilor Trujillo)
An Ordinance Relating to Santa Fe Smoke Free Ordinance, Section 10-6 SFCC 1987; Amending Subsection 10-6.2 to Include Findings Relating to Electronic Smoking Devices and Amending Subsection 10-6.3 to Include Definitions for "Electronic Smoking Device" and "Tobacco Product". (Alfred Walker) **(Postponed to February 12, 2014 City Council Meeting)**

10) CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014-____. (Councilor Wurzburger)
An Ordinance Relating to Impact Fees, Section 14-8.14 SFCC1987; Amending Section 14-8.14(E) to Modify the Amount of Impact Fees Assessed for Residential Developments; and Making Such Other Stylistic or Grammatical Changes that Are Necessary. (Matthew O'Reilly) (Postponed at January 8, 2014 City Council Meeting) **(Postponed to February 26, 2014 City Council Meeting)**

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.

SUMMARY INDEX
SANTA FE CITY COUNCIL MEETING
January 29, 2014

ITEM	ACTION	PAGE #
AFTERNOON SESSION		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
APPROVAL OF CONSENT CALENDAR	Approved	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 8, 2014	Approved	5
PRESENTATIONS		
EMPLOYEE OF THE MONTH FOR JANUARY 2014 – STUART STEPHENSON, DIGITAL DUPLICATING CENTER TECHNICIAN, CITY CLERK'S OFFICE		5
INTRODUCTION OF LAW ENFORCEMENT ACADEMY GRADUATES AND LATERAL HIRES		6
CONSENT CALENDAR DISCUSSION	None	6
CASE #2013-127. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY PURSUANT TO SANTA FE CITY CODE § 14-3.17(D)(6), THAT THE GOVERNING BODY DISMISS THE APPEAL OF STEFANIE BENINATO FROM THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-13-080A AND CASE #H-13-080B, 777 ACEQUIA MADRE	Approved	6
BID NO. 14/18/B – INDEFINITE QUANTITY PRICE AGREEMENT FOR BULK FUEL DESERT FUEL, INC. HONSTEIN OIL & DISTRIBUTING, LLC.	Approved	6-7

ITEM	ACTION	PAGE #
REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – ADDITIONAL ENGINEERING SERVICES FOR CERRILLOS ROAD CONSTRUCTION PROJECT – CAMINO CARLOS REY TO ST. MICHAEL'S DRIVE; PARSONS BRINCKERHOFF, INC.	Approved	7
REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND COOPERATIVE PRICE AGREEMENTS – NUTRITION, TRANSPORTATION AND IN-HOME SUPPORT SERVICES FOR SENIOR SERVICES DIVISION; SHAMROCK FOODS COMPANY	Approved	7
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – LEAD PROGRAM SERVICES FOR FY 2013/2014; THE LIFE LINK	Approved	8
REQUEST FOR APPROVAL OF O.T.A.B. ANNUAL GRANT PROGRAM – 2014 PROCEDURES AND APPLICATION FOR LODGERS' TAX FUNDING ASSISTANCE OF SPECIAL EVENTS; SANTA FE OCCUPANCY TAX ADVISORY BOARD	Approved	8
REQUEST FOR APPROVAL OF BUDGET INCREASE – FY 2013/2014 RENT AT MONTOYA FEDERAL BUILDING	Postponed to 02/12/14	8-11
CONSIDERATION OF RESOLUTION NO. 2014-8. A RESOLUTION RESPECTFULLY REQUESTING THAT THE CITY OF SANTA FE'S CONGRESSIONAL DELEGATION SUPPORTS EFFORTS TO BUILD, PRESERVE, REHABILITATE AND OPERATE RENTAL HOUSING THAT IS AFFORDABLE FOR LOW INCOME VETERANS AND THEIR FAMILIES	Approved	12
CONSIDERATION OF RESOLUTION NO. 2014-9. A RESOLUTION CALLING ON THE STATE OF NEW MEXICO AND THE PUBLIC REGULATION COMMISSION TO FOLLOW SANTA FE'S LEAD IN MAKING NEW MEXICO THE NATION'S SOLAR POWER LEADER AND SET THE GOAL OF GENERATING TEN PERCENT OF THE STATE'S ENERGY FROM SOLAR BY 2020	Approved	12-13

ITEM	ACTION	PAGE #
REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 26, 2014: BILL NO. 2014-8: AN ORDINANCE RELATING TO THE SINGLE-USE BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1 TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AMENDING SUBSECTION 21-8.4 TO ELIMINATE THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE OF NOT LESS THAN TEN-CENTS FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS; AMENDING SUBSECTION 21-8.6 TO ESTABLISH A 30-DAY IMPLEMENTATION PERIOD; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY	Approved	13-14
MATTERS FROM THE CITY MANAGER	None	14
MATTERS FROM THE CITY ATTORNEY		
EXECUTIVE SESSION	Approved	14-15
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	15
ACTION REGARDING SOUTHSIDE TRANSIT CENTER LOCATION	Approved w/direction from staff	15-16
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	16-18
EVENING SESSION		
CALL TO ORDER AND ROLL CALL	Quorum	20
PETITIONS FROM THE FLOOR		20-24
APPOINTMENTS		
CHILDREN AND YOUTH COMMISSION	Approved	24-25
SANTA FE WATER CONSERVATION COMMITTEE	Approved	25
DIVISION OF SENIOR SERVICES ADVISORY BOARD OF DIRECTORS	Approved	25

ITEM	ACTION	PAGE #
PUBLIC HEARINGS		
REQUEST FROM BLUE CORN II, INC., FOR A SMALL BREWERS OFF-SITE A LIQUOR LICENSE TO BE LOCATED AT DRAFT STATION 60E. SAN FRANCISCO STREET, SUITES 312 AND 313	Approved	26-32
REQUEST FROM SANTA FE HARD CIDER, LLC, FOR A WINE WHOLESALER LIQUOR LICENSE TO BE LOCATED AT SANTA FE HARD CIDER, 1730 CAMINO CARLOS REY NORTH, UNIT #103	Approved	32-34
REQUEST FROM BILLU, LLC FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON PREMISE CONSUMPTION ONLY) TO BE LOCATED AT INDIA PALACE RESTAURANT, 227 DON GASPAR AVENUE	Approved	34-35
REQUEST FROM THE SIGNATURE GALLERY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT THE SIGNATURE GALLERY, 102 E. WATER STREET. THIS LOCATION IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE MONROE JACKSON EXPEDITION TO BE HELD ON FEBRUARY 14, 2014, FROM 5:00 P.M. TO 7:00 P.M.	Approved	35-36
CONSIDERATION OF RESOLUTION NO. 2014- ___ . A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A HOSPITAL STUDY GROUP FOR THE PURPOSE OF GATHERING INFORMATION AND MAKING RECOMMENDATIONS RELATED TO THE CURRENT GENERAL STATE OF CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER	Postponed to 02/12/14	36
CONSIDERATION OF RESOLUTION NO. 2014- ____. A RESOLUTION CALLING FOR THE FORMATION OF A COMMUNITY HEALTH WORKING GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE CARE ACT ON THE DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY, THE COST OF HEALTH CARE IN SANTA FE AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT	Postponed to 02/12/14	36

ITEM	ACTION	PAGE #
CONSIDERATION OF BILL NO. 2014-1: ADOPTION OF ORDINANCE NO. 2014- ___ . AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE CITY OF SANTA FE ANIMAL SERVICES ORDINANCE, CHAPTER 5 SFCC 1987	Postponed to 02/12/14	36
CONSIDERATION OF BILL NO. 2014-2: ADOPTION OF ORDINANCE NO. 2014- ___. AN ORDINANCE RELATING TO THE PROCUREMENT OF TOBACCO BY MINORS; AMENDING SUBSECTION 16-15.4 SFCC 1987, TO AMEND THE DEFINITION OF "TOBACCO PRODUCT" AND CREATE A NEW DEFINITION FOR "ELECTRONIC SMOKING DEVICE"	Postponed to 02/12/14	37
CONSIDERATION OF BILL NO. 2014-3: ADOPTION OF ORDINANCE NO. 2014- ___. AN ORDINANCE RELATING TO SANTA FE SMOKE FREE ORDINANCE, SECTION 10-6 SFCC 1987; AMENDING SUBSECTION 10-6.2 TO INCLUDE FINDINGS RELATING TO ELECTRONIC SMOKING DEVICES AND AMENDING SUBSECTION 10-6.3 TO INCLUDE DEFINITIONS FOR "ELECTRONIC SMOKING DEVICE," AND "TOBACCO PRODUCT"	Postponed to 02/12/14	37
CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014- ___. AN ORDINANCE RELATING TO IMPACT FEES, SECTION 14-8.14 SFCC 1987; AMENDING SECTION 14-8.14(E) TO MODIFY THE AMOUNT OF IMPACT FEES ASSESSED FOR RESIDENTIAL DEVELOPMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY	Postponed to 02/12/14	37
**********		
MATTERS FROM THE CITY CLERK	Information/discussion	37
COMMUNICATIONS FROM THE GOVERNING BODY	Information/discussion	38
**********		
ADJOURN		38

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
January 29, 2014

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Pro-Tem Rebecca Wurzburger, on Wednesday, January 29, 2014, at approximately 5:00 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum, as follows:

Members Present
Councilor Rebecca Wurzburger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Christopher M. Rivera

Members Excused
Mayor David Coss
Councilor Christopher Calvert
Councilor Peter N. Ives
Councilor Ronald S. Trujillo

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

At the time called the meeting was called to order by Mayor Pro-Tem Wurzburger, there was not a quorum of the members of the Governing Body in attendance at the meeting. Mayor Pro-Tem Wurzburger said until there was a quorum, she would hear Introductions and later Matters from the Governing Body, and no votes were taken until the arrival of Councilor Bushee at 5:38 p.m., when there then was a quorum of the Governing Body for the conducting of official business.

6. APPROVAL OF AGENDA

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

10. CONSENT CALENDAR

a) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE PRICE AGREEMENT – CITY-WIDE LED TRAFFIC SIGNAL LIGHTS; ECONOLITE GROUP, INC. (RICK DEVINE)**

b) **REQUEST FOR APPROVAL OF GRANT AGREEMENTS FOR SENIOR SERVICES DIVISION; STATE OF NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT. (RON VIALPANDO)**

   1) **REQUEST FOR APPROVAL TO PLAN, DESIGN, RENOVATE AND EQUIP PARKING LOT AT MARY ESTHER GONZALES SENIOR CENTER.**
   2) **REQUEST FOR APPROVAL OF PURCHASE AND INSTALLATION OF COMMERCIAL MEALS EQUIPMENT FOR CITY-WIDE SENIOR CENTERS.**
   3) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

c) REQUEST FOR APPROVAL OF LEASE AGREEMENT – ALLOW FOR PARKING OF SERVICE VEHICLES AND STORAGE OF MATERIALS ON CITY ALLEY LOCATED ALONG THE SOUTHERLY BOUNDARY OF 1549 SIXTH STREET; WAYNE S. COLMER AND ROBERTA L. COLMER 1998 REVOCABLE INTER VIVOS TRUST AND COLMER DEVELOPMENT COMPANY. (EDWARD VIGIL)

d) REQUEST FOR APPROVAL OF SALE OF REAL ESTATE – APPROXIMATELY 447 SQUARE FEET WITHIN A PORTION OF LOT 1, BLOCK 92 OF THE 1912 KINGS OFFICIAL MAP LOCATED AT 642 OLD SANTA FE TRAIL; DAVID K. GILES. (EDWARD VIGIL)

e) REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 26, 2014:

1) BILL NO. 2014-4: AN ORDINANCE RELATING TO THE CITY OF SANTA FE HOUSING CODE, CHAPTER 26, SFCC 1987; AMENDING SUBSECTION 26-1.21 TO INCLUDE VETERANS IN THE LIST OF PROVISIONS TO QUALITY FOR EXPANDED ELIGIBILITY STANDARDS FOR SANTA FE HOMES PROGRAM (SFHP) HOMES (COUNCILOR CALVERT AND COUNCILOR BUSHEE). (ALEXANDRA LADD)

2) BILL NO. 2014-5: AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987, TO UPDATE THE LEGISLATIVE FINDINGS; TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE (COUNCILOR WURZBURGER). (ALEXANDRA LADD)

3) BILL NO. 2014-6: AN ORDINANCE RELATING TO THE RESIDENTIAL GREEN BUILDING CODE; CREATING A NEW SUBSECTION 7-4.3 SFCC 1987, TO ESTABLISH A RESIDENTIAL ADDITION AND REMODEL GREEN BUILDING CODE FOR SINGLE FAMILY ATTACHED AND DETACHED; AMENDING EXHIBIT "A" TO CHAPTER VII TO CREATE A NEW CHAPTER 2 TO ESTABLISH DEFINITIONS, TO CREATE A NEW ITEM 802.6 REGARDING ROUGH PLUMBING FOR FUTURE OF GRAY WATER, TO CREATE NEW CHAPTERS 11 AND 12 TO ESTABLISH

CHECKLISTS FOR REMODELING AND REMODELING OF FUNCTIONAL AREAS AND SMALL ADDITIONS AND TO CREATE A NEW APPENDIX B TO ESTABLISH WHOLE BUILDING VENTILATION SYSTEM SPECIFICATIONS (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE). (KATHERINE MORTIMER)

a) A RESOLUTION AMENDING *THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE* ("RGBC") TO GRANT THE LAND USE DIRECTOR THE AUTHORITY TO MAKE ADMINISTRATIVE CHANGES TO THE RGBC USER'S GUIDE AND TO ADD ITEM 802.6 TO THE USER'S GUIDE; ADOPTING ADMINISTRATIVE PROCEDURES FOR THE CITY OF SANTA FE RESIDENTIAL ADDITION AND REMODEL GREEN BUILDING CODE ("RARGBC"); AND DIRECTING STAFF TO CREATE A USER'S GUIDE FOR THE RARGBC (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE). (KATHERINE MORTIMER)

4) BILL NO. 2014-7: AN ORDINANCE RELATING TO CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS; AMENDING THE CODE OF ETHICS, SECTION 1-7 SFCC 1987, AND THE CAMPAIGN CODE, SECTION 9-2 SFCC 1987, TO REGULATE CONFLICTS OF INTEREST ARISING FROM CAMPAIGN CONTRIBUTIONS FROM CITY CONTRACTORS AND FOR RELATED PURPOSES (COUNCILOR CALVERT). (ZACHARY SHANDLER)

f) CONSIDERATION OF RESOLUTION NO. 2014-7 (COUNCILOR CALVERT, COUNCILOR BUSHEE AND COUNCILOR IVES). A RESOLUTION SUPPORTING THE SOUTHWEST TRANSIT ASSOCIATION'S POSITION PAPER ON THE FUTURE OF FEDERAL TRANSIT FUNDING; ENCOURAGING CONGRESS TO RESTORE CAPITAL BUS AND BUS FACILITIES FUNDING TO SMALL URBAN CITIES TO PRE MAP-21 LEVELS; AND CALLING ON THE STATE OF NEW MEXICO TO ESTABLISH A STATE TRANSIT FUND TO ASSIST TRANSIT SYSTEMS OPERATING WITHIN THE STATE. (JON BULTHUIS)

g) **REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CASE #2013-93, APPEAL OF THE SEPTEMBER 12, 2013 DECISION OF THE PLANNING COMMISSION IN CASE #2013-58 DENYING THE REQUEST OF AGUAFINA DEVELOPMENT, LLC FOR PRELIMINARY SUBDIVISION PLAT APPROVAL AND A VARIANCE FOR THREE TRACTS OF LAND LOCATED AT 4701 AND 4702 RUFINA STREET AND 4262 AGUA FRIA STREET. (KELLY BRENNAN)**

h) **REQUEST FOR APPROVAL OF APPOINTMENT OF PRECINCT OFFICIALS (AMENDED) FOR THE MARCH 4, 2014 REGULAR MUNICIPAL ELECTION. (YOLANDA Y. VIGIL)**

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – JANUARY 8, 2014.

MOTION: Councilor Dominguez moved, seconded by Councilor Dimas, to approve the minutes of the Regular City Council meeting of January 8, 2014, as presented.

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

9. PRESENTATIONS

a) **EMPLOYEE OF THE MONTH FOR JANUARY 2014 – STUART STEPHENSON, DIGITAL DUPLICATING CENTER TECHNICIAN, CITY CLERK'S OFFICE.**

Mayor Pro-Tem Wurzburger read the letter of nomination into the record and presented the Employee of the Month certificate to Stuart Stephenson, along with a check for $100 from the Employee Benefit Committee.

Mr. Stephenson thanked everyone he works with, saying without their support he wouldn't be able to do this. He thanked Mr. Hill for nominating him and all the people who voted for him for this honor.

b) **INTRODUCTION OF LAW ENFORCEMENT ACADEMY GRADUATES AND LATERAL HIRES. (CHIEF RAY RAEL)**

Chief Ray Rael introduced the latest law enforcement graduates and new officers for the City of Santa Fe, and read a brief biography on each of them.

Short break 5:20 to 5:25 p.m., after which Mayor Pro-Tem heard Item 25 Communications from the Governing Body and, with the arrival of Councilor Bushee at 5:38 p.m., continued with the regular agenda

CONSENT CALENDAR DISCUSSION

No items were removed from the Consent Calendar for discussion.

11. **CASE #2013-127. REQUEST FOR APPROVAL OF THE RECOMMENDATION OF THE CITY ATTORNEY PURSUANT TO SANTA FE CITY CODE § 14-3.17(D)(6), THAT THE GOVERNING BODY DISMISS THE APPEAL OF STEFANIE BENINATO FROM THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD IN CASE #H-13-080A AND CASE #H-13-080B, 777 ACEQUIA MADRE. (KELLEY BRENNAN)**

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

12. **BID NO. 14/18/B – INDEFINITE QUANTITY PRICE AGREEMENT FOR BULK FUEL. (ROBERT RODARTE)**
    a) **DESERT FUEL, INC.**
    b) **HONSTEIN OIL & DISTRIBUTING, LLC.**

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

13. REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT – ADDITIONAL ENGINEERING SERVICES FOR CERRILLOS ROAD CONSTRUCTION PROJECT – CAMINO CARLOS REY TO ST. MICHAEL'S DRIVE; PARSONS BRINCKERHOFF, INC. (DESIRAE LUJAN)

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

14. REQUEST FOR APPROVAL OF PROCUREMENT UNDER STATE AND COOPERATIVE PRICE AGREEMENTS – NUTRITION, TRANSPORTATION AND IN-HOME SUPPORT SERVICES FOR SENIOR SERVICES DIVISION; SHAMROCK FOODS COMPANY. (ROBERT RODARTE)

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

15. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – LEAD PROGRAM SERVICES FOR FY 2013/2014; THE LIFE LINK. (TERRIE RODRIGUEZ)

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

16. REQUEST FOR APPROVAL OF O.T.A.B. ANNUAL GRANT PROGRAM – 2014 PROCEDURES AND APPLICATION FOR LODGERS' TAX FUNDING ASSISTANCE OF SPECIAL EVENTS; SANTA FE OCCUPANCY TAX ADVISORY BOARD. (JIM LUTTJOHANN)

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

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

17. REQUEST FOR APPROVAL OF BUDGET INCREASE – FY 2013/2014 RENT AT MONTOYA FEDERAL BUILDING. (MARCOS TAPIA)

Councilor Bushee asked how many are people left in the Montoya building.

Marcos Tapia, Finance Director, said there are none. He said the problem is, as stated in the Memo, we anticipated moving on July 1, but we didn't so we owed rent. The Feds had problem with its elevators "the whole nine yards," and ended up costing the City $164,000 for rent. He said it is what we owe, and "it's just come to pass."

Councilor Bushee said then we didn't move out in time.

Mr. Tapia said, "We didn't move out as anticipated when the budget process was going on. We anticipated being out of there by July 1, but that didn't happen.".

Councilor Bushee said, "I just brought this up because it had been promised at the time that we were going to save money by moving to Market Station, and a lot of it had to do with rent and this is a substantial amount of money."

Mr. Tapia said, "Correct. It would have been a lot worse if we had stayed in the Montoya Building."

Councilor Bushee said, "So we have to pay this amount of money and there's no negotiating it.".

Mr. Tapia said, "Yes, and we're done."

Mayor Pro-Tem Wurzburger said, "This was absolutely predictable for those who were following the evolution of the delays that happened with construction, but we did not have the numbers. So would you like to make a motion, Councilor Bushee. Further questions."

Councilor Bushee said, "I would be consistent with my votes in terms of even moving over to the Railyard Market Station."

Councilor Rivera asked, "How much did we pay in rent for an entire year.

Mr. Tapia said, "I believe this amount here. I don't have that figure in front of me, but I believe this amount before us is pretty much it."

Matthew O'Reilly, Land Use Director, said, "Our original lease amounted to about $396,000 a year. We were informed by General Services that they were going to raise our rent substantially, almost 20% up to about $25 per sq. ft., had we stayed. So the amount that that they charged us is the previous rate that we were paying before because we couldn't get out in time."

Councilor Rivera asked the number of months of the delay.

Mr. O'Reilly said he isn't sure, but it was 3 or 4 months. He said, "A lot of it had to do with, we sent them notice of when we wanted to be moving out, and they promptly informed us that they were going to shut down all of the elevators during that exact time when we were going to move out. And we asked them to delay their project because we needed the elevators to move our materials out of the building and they refused. So, we were kind of subject to them running the building the way they wanted to. In addition to that, there were delays in the construction at Market Station which caused us to have to remain there a little longer."

Councilor Rivera asked, "Were the delays prorated. Was the amount we're paying $169,000, pro-rated for the extra months we took. It seems high."

Mr. O'Reilly said, "The rate was about $396,000 a year, and if you do the math, I think that comes out to how much that is per month, maybe someone could do the math for me."

Mayor Pro-Tem Wurzburger said 1/4 would be $100,000, and 3 months is approximately 1/4, so it if is a little bit more. If it was 4 months, then that would be $125,000, so we might be looking at a discrepancy of $40,000.

Mr. O'Reilly said, "They charged us for the extra time we had to stay in their facility, pro rated for the amount of time we were there, based on our previous rental rate."

Councilor Rivera said, "So we're not sure exactly the length of time of the delay."

Mr. O'Reilly said, "We are sure. I am not sure. I do not have that information in front of me."

Brian Snyder, City Manager, said, "Based on the quick calculations, it's between 4 and 5 months, the delay, based on the number calculated."

Councilor Bushee said, "But the Memos say just over 3 months, both your memos."

Councilor Dimas asked, "Marcos wasn't part of that for damages to the elevator, or repair of the elevator."

Mr. Tapia said, "I would have to check the invoices Councilor. This memo first came to me because we wanted to wait, and I actually waited and made my staff wait for when we were going to do the BAR. I didn't want to transfer the $170,000 they estimated until I knew exactly what the invoice was going to be. I don't have that invoice, but I know we waited, because we were going to do this in August or September for September, and I said no, not until we're actually moved out and I get an actual accounting. I will go back and send you an email showing the amount of time, the invoice, and show the exact number. We have that information. I don't have it included in this, and that's my fault, but I'll get that information and shoot it to you and it will show you exactly every penny we paid and why we paid, but we did save a lot of money by moving."

Mr. O'Reilly said, "The payments the City is making to be at Market Station on a yearly bases are less than the rent less than we were paying, and substantially less than the new rental rate that the government is charged at the Federal Building because they've raised it so much. My understanding is that it is about $100,000 less per year we pay to be at Market Station than if we had stayed at the Federal Building."

Councilor Rivera said, "I appreciate and understand that. I just want to make sure that we're not paying out more than we really need to be paying to the Federal government."

Mayor Pro-Tem Wurzburger again asked the Council its pleasure and if it would like to postpone it, or make an action on it.

Councilor Rivera asked if we are under any time constraints to get this approved tonight.

Mr. Tapia said, "This is money due to the Federal government. There is no negotiation. This is the final bill and this is what the City owes."

Mayor Pro-Tem Wurzburger said, "The question is if we don't pay our bill now, as opposed to two weeks from now, are their repercussions we need to be advised on."

Mr. Tapia said, "As far as I'm aware of right now, no. We can wait a couple of weeks to pay this."

MOTION: Councilor Dimas moved for approval of this request. **THE MOTION DIED FOR LACK OF A SECOND.**

MOTION: Councilor Rivera moved, seconded to Councilor Bushee, to postpone this item to the next meeting of the Governing Body, on February 12, 2014, with direction to staff to provide the requested information prior to the next meeting.

DISCUSSION: Councilor Wurzburger said, "If you could actually put those numbers in the memo of what we saved and what we didn't, just for posterity so it's clear.

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

18. CONSIDERATION OF RESOLUTION NO. 2014-8 (COUNCILOR CALVERT, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR IVES AND COUNCILOR DOMINGUEZ). A RESOLUTION RESPECTFULLY REQUESTING THAT THE CITY OF SANTA FE'S CONGRESSIONAL DELEGATION SUPPORTS EFFORTS TO BUILD, PRESERVE, REHABILITATE AND OPERATE RENTAL HOUSING THAT IS AFFORDABLE FOR LOW INCOME VETERANS AND THEIR FAMILIES. (TERRI RODRIGUEZ)

MOTION: Councilor Bushee moved, seconded by Councilor Rivera, to adopt Resolution No. 2014-8, as presented by staff.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

19. CONSIDERATION OF RESOLUTION NO. 2014-9 (COUNCILOR CALVERT, COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR IVES AND COUNCILOR DOMINGUEZ <u>AND COUNCILOR RIVERA</u>). A RESOLUTION CALLING ON THE STATE OF NEW MEXICO AND THE PUBLIC REGULATION COMMISSION TO FOLLOW SANTA FE'S LEAD IN MAKING NEW MEXICO THE NATION'S SOLAR POWER LEADER AND SET THE GOAL OF GENERATING TEN PERCENT OF THE STATE'S ENERGY FROM SOLAR BY 2020. (NICK SCHIAVO)

Councilor Dominguez asked the source of the information contained in the Resolution.

Nick Schiavo, Interim Public Utilities Division Director, said some of the language came from previous past Resolutions on renewable energy, information from the past plus other information gathered by Councilor Calvert.

Councilor Dominguez said then the source of the information is from Councilor Calver, "do you know where it's from."

Mr. Schiavo said, "No I don't, Councilor."

Councilor Dominguez said, "Some of the numbers, not that I can dispute them, I'm just wondering where they came from, so I can better educate myself about them."

Mr. Schiavo said, "I can get you the sources of each of those off-line."

Councilor Dominguez said, "That will be good."

MOTION: Councilor Dominguez moved, seconded by Councilor Dimas, to adopt Resolution 2014-9, as recommended by staff, with the addition of Councilor Rivera as a cosponsor.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

Explaining his vote: Councilor Rivera said, "Yes. And can you sign me on as a cosponsor."

Explaining her vote: Mayor Pro-Tem Wurzburger said, "Yes, and I'd like to thank those of you who have supported this and showed up tonight to show your support even though you couldn't speak. Again, we apologize for making you wait. And I vote yes."

20. REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON FEBRUARY 26, 2014: BILL NO. 2014-8: AN ORDINANCE RELATING TO THE SINGLE-USE BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1 TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AMENDING SUBSECTION 21-8.4 TO ELIMINATE THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE OF NOT LESS THAN TEN-CENTS FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS; AMENDING SUBSECTION 21-8.6 TO ESTABLISH A 30-DAY IMPLEMENTATION PERIOD; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). (CINDY PADILLA)

Councilor Bushee said, "Since this has been put out there in the public, there were folks that wrote and someone forwarded and maybe you got a copy, of that... There was an appeal, and maybe you just speak to that. Is this something you're still concerned we even need to do. The question has been posed to me on numerous occasions, just because the concern still is out there that we will drive people to using paper bags. So this is not really an illegal tax, if they've won the lawsuits that have been out there to date, is there a reason for us to be doing this."

Ms. Brennan said, "The answer is yes. I was aware of the case, and had read it when I made my recommendation. It is a different Ordinance."

Councilor Bushee said, "Can you sort of help me, in lay-person's terms, how it is different. Were they not requiring that the actual merchant hold onto the money."

Ms. Brennan said, "I can answer your question. As you know, I'm somewhat reluctant, always, to give detailed legal advice in open session. But I will say that the California Ordinances provides for a ten cent charge per paper bag, mandates a ten cent charge per paper bag by the merchant. But the ten cents proceed per bag.... the requirements for those proceeds are set out in the Ordinance and go toward furthering the purposes of the Ordinance. Education. They are not retained by the merchant to do with as they will. That is one difference, and it also raises an anti-donation clause issue."

Councilor Bushee said, "I figured there were some fine details and you would have them, so thank you.

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to approve this request as submitted by staff.

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

21. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

22. MATTERS FROM THE CITY ATTORNEY
EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, §10-15-1(H)(7), NMSA 1978, DISCUSSION REGARDING PENDING OR THREATENED LITIGATION IN WHICH THE CITY OF SANTA FE IS OR MAY BECOME A PARTICIPANT, SOUTHSIDE TRANSIT CENTER LOCATION. (ZACHARY SHANDLER).

MOTION: Councilor Dominguez moved, seconded by Councilor Dimas, in accordance with the New Mexico Open Meetings Act, § 10-15-1(H)(7) NMSA 1978, that the Council go into Executive Session for discussion regarding pending litigation in which the City of Santa Fe is or may become a participant, Southside Transit Center Location.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

Explaining her vote: Councilor Bushee said, "Yes. This truly is threatened and pending litigation." Ms. Brennan said, "Yes." Councilor Bushee said, "All right, yes."

The Council went into Executive Session at 6:08 p.m.

Mayor Pro-Tem Wurzburger said the Governing Body will return at 7:00 p.m., to finish the Afternoon Session immediately prior to the Evening Session.

MOTION TO COME OUT OF EXECUTIVE SESSION

MOTION: At approximately 7:00 p.m. Councilor Dimas moved, seconded by Councilor Dominguez, that the City Council come out of Executive Session and stated that the only item which was discussed in executive session was the item which was on the agenda, and no action was taken.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Dimas, Dominguez, Rivera, and Mayor Pro-Tem Wurzburger voting in favor of the motion and no one voting against.

23. ACTION REGARDING SOUTHSIDE TRANSIT CENTER LOCATION. (ZACHARY SHANDLER).

MOTION: Councilor Dimas moved, seconded by Councilor Rivera, that the Transit Division act in accordance with the guidance provided in Executive Session based on operational, financial and legal considerations regarding the City's acquisition of real property, including through potential condemnation, for the Southside Transit Center location.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Councilor Mayor Pro-Tem Wurzburger.

Against: None.

Explaining her vote: Councilor Bushee said, "As much as I hope this doesn't come down to condemnation, I vote yes."

24. MATTERS FROM THE CITY CLERK

There were no matters at this time from the City Clerk.

25. 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 , is incorporated herewith to these minutes as Exhibit "1."

Councilor Dimas

Councilor Dimas introduced a Resolution directing the Traffic Engineering Division to reconstruct the median at Zia Road and Galisteo Road so as to restrict left turn movements to and from Galisteo Road and to increase the length of Zia's eastbound dual left-turn land at the St. Francis Drive signalized intersection. A copy of the Resolution, is incorporated herewith to these minutes as Exhibit "2."

Councilor Dominguez

Councilor Dominguez said, "Before I get started, I just wanted to make this quick statement. I think it's a little unfortunate that Councilor Bushee isn't here to be able to conduct the business City staff needs to have conducted so we can get it done. Instead, she is at an event I was supposed to attend, but came over here because we needed to make a quorum. And so I just wanted to make that statement. I think it's a little bit unfortunate. There is business that needs to be done."

Councilor Dominguez introduced a Resolution establishing policies to promote transparency, accountability, shared prosperity and competition as such policies relate to outsourced City services.

Councilor Rivera

Councilor Rivera thanked Mayor Pro-Tem Wurzburger for allowing him to read the proclamation at the Roundhouse yesterday for Senior Citizens Day at the Legislature, commenting there was a great turnout.

Mayor Pro-Tem Wurzburger said she hopes they were advised that she was caring for a senior friend whose toes were amputated as a cause of diabetes, and Councilor Rivera said yes.

Mayor Pro-Tem Wurzburger said, "I knew you would represent us very well. Thank you for doing that."

Councilor Rivera said last week he spent some time with the people at Wastewater, touring the facility, looking at equipment, going out in the field to see what they do with the cameras and the Vactor trucks. He said it was an enlightening experience. He said the City employees are phenomenal, know what they're doing, take their job seriously and love their jobs. He asked staff to pass his thanks to Bryan Romero for getting his visit scheduled, and for allowing his participation. He said Bryan Romero "really runs a good ship down there. Everyone spoke very highly about him, which says a lot about Bryan."

Councilor Rivera introduced a Resolution relating to the replacement power/energy plan proposed to replace 836 megawatts at the San Juan Generating Station; urging the New Mexico Public Regulation Commission to reject PNM's replacement plan and claim for cost recovery of stranded assets and support an alternative renewable energy based replacement plan. He said he would welcome any cosponsors. A copy of the Resolution, is incorporated herewith to these minutes as Exhibit "3."

Mayor Pro-Tem Wurzburger noted that Councilor Bushee has arrived at the meeting

Mayor Pro-Tem Wurzburger

Mayor Pro-Tem Wurzburger acknowledged Cindy Padilla who is retiring, thanked her for her service to the City and for her accomplishments at the Environmental Services Division.

Mayor Pro-Tem Wurzburger said she will not be at the next Council meeting because she will be attending her daughter's engagement party in Sydney, Australia.

Mayor Pro-Tem Wurzburger said she had the opportunity to be introduced on Santa Fe Live this morning. She said Kate Noble introduced her by saying she was quite convinced that my mission in life right now is to redefine lame duck. She thanked everyone for being supportive of the

flurry of Resolutions and Ordinances she is trying to push forward which build on all the work we've accomplished together over the last 12 years. She said the last Council meeting of her tenure on February 24, 2014, will be jammed so it is important for us to attend all committee meetings between now and that date.

Mayor Pro-Tem Wurzburger introduced the following:

1. An Ordinance amending Subsection 6-4.2 SFCC 1987, regarding membership requirements for the City Community Development Commission. A copy of the Ordinance, is incorporated herewith to these minutes as Exhibit "4."

2. An Ordinance relating to the Code of Ethics, Section 1-7 SFCC 1987; amending the Code of Ethics to establish that workplace bullying by Governing Body members would be a prohibited act and subjection to a violation of the Code of Ethics. A copy of the Ordinance, is incorporated herewith to these minutes as Exhibit "5."

3. A Resolution supporting efforts to retain younger talent and invigorate Santa Fe's night time economy and creating a task force to make action recommendations to the Governing Body. A copy of the Resolution, is incorporated herewith to these minutes as Exhibit "6."

4. A Resolution amending the Administrative Procedures for the Santa Fe Homes Program ("SFHP") to reflect the amendments approved by Ordinance 2014- ___. A copy of the Resolution, is incorporated herewith to these minutes as Exhibit "7."

5. A Resolution repealing Resolution No. 2013-80 that called for a third-party independent audit of the 2008 Parks, Trails and Open Space Bond; and authorizing a special external audit of the entire expenditure of 2008 Parks, Trails and Open Space Bond ("2008 Bond"). A copy of the Resolution, is incorporated herewith to these minutes as Exhibit "8."

6. A Resolution supporting the continuation of the community development process to revitalize central Santa Fe and outlining the next steps of the Remike Project. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "9."

Mayor Pro-Tem Wurzburger introduced the following on behalf of Councilor Calvert:

An Ordinance relating to street performers on public property; amending Section 23-8 SFCC 1987. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "10."

END OF AFTERNOON SESSION AT 7:00 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Pro-Tem Rebecca Wurzburger, at approximately 7:00 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
Councilor Rebecca Wurzburger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Christopher M. Rivera

Members Excused
Mayor David Coss
Councilor Christopher Calvert
Councilor Peter N. Ives
Councilor Ronald S. Trujillo

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

F. PETITIONS FROM THE FLOOR

A copy of a communication from Stefanie Beninato, with attachments, regarding *Code/historic violations, denial of due process and equal protection 600 Galisteo Street*, entered for the record by Stefanie Beninato, is incorporated herewith to these minutes as Exhibit "11."

David McQuarie said he is here tonight to ask about the money for the Parks Bond issue. He said the $500,000 at the Pueblos del Sol trails is to be spent on the Mayor's Committee on disabilities directive. He said they do not direct, they only advise. He said the money spent was never directed. He said we advised the City Engineer at the time. He said there was a estimate of $250,000 for curb cuts which were never done. He said various improvements made at the [inaudible] Trail which were never reviewed or anything. There have been improvements at the

JCT Park, but the ones requested were not included. He figures roughly $1 million has been spent or misused which would be included. He said there is an RFP currently out for improvements of trails and public rights of way. He said the Federal Regulations say all City activities or jurisdictions, which is buildings and asked what is it going to include. There are barriers at the new Civic Center, the Railyard, Pueblos del Sol, Franklin Miles, and he could name about 40 – are these included. If so, why not, and does he have to write a letter to the Justice Department just to get an answer.

Marilyn Bane said she heard some disturbing news last night from the Historic Design Review Board. It appears there is a different process that would eliminate "Matters from the Floor" at that Board meeting. She said her understanding that this also applies to the Archaeological Review Committee as well as the Planning Commission, "although I don't either of those have been using that recently, but the H-Board has." She said, "I think is a very slippery slope. I think it is very dangerous. I think it is very wrong and I'm really very upset about it. And so are the people I've spoken to, both with the Historic Neighborhood Association, the Santa Fe Neighborhood Network and the Old Santa Fe Association, although we did not take a vote and I'm not speaking here representing any of them this evening. I am representing myself to say that I have spent many hours at the H-Board bringing up general matters, whether it's lighting on Canyon Road, whatever it may be. To stop that public process, I think is wrong. This is an administration that has said that it is open and transparent, that it has also welcomed and certainly the Council has always welcomed people. You may not have always liked what we said, but you have always allowed people to say it. I moved here 20 years ago, and I can remember when Larry Delgado was Mayor and Charlie Griego stood up here would say, 'Wake up and smell the coffee, Larry.' And we loved him for it. It's important. And I think if we move in a different direction it is wrong, and I think it ought to be stopped. That's what I have to say. Thank you."

Karen Heldmeyer, former City Councilor, said she is also a former member of the Planning Commission which is probably more germane to this discussion. She said, "I'm surprised to hear that what is being called 'Petitions from the Floor,' is being removed from the H-Board agenda. The H-Board, the Planning Commission, and to a lesser extent, the Board of Adjustment, are *quasi-judicial* bodies, but they are not just *quasi-judicial* bodies. They are also recommending bodies. They are bodies that recommend to this body land use policy, and land use policy is one of the things that's most important in this town, and one of the things that people get most chagrined about from time to time. And it seems to me, that having a place where the public can talk about

land use policy in front of the bodies that consider it, that make recommendations to the Land Use Department and to this body, makes a great deal of sense, because a lot of times, the public has some really good things to say that are useful."

Former Councilor Heldmeyer continued, "And so maybe you don't want to call it 'Petitions from the Floor,' that's fine. Maybe you want to put a time limit on it, because I hear meetings run long. That's fine too. And maybe you want to differentiate people who want to speak to *quasi-judicial* issues versus policy issues, and that's fine, and that's what you have staff for, legal staff and land use staff. But it seems like it is a good place for people to start talking about land use policy. And if they don't have that opportunity, then everything is going to be dumped *de novo* onto your laps right away. And it seems to make more sense to present it to the bodies that deal with it first and then have them vet ideas, talk to staff about it, and if there is merit in what is being proposed to bring it here. Thank you."

Stefanie Beninato said, "I have a few issues, sort of all having to do with democracy, participatory democracy and due process. I just found out by looking at the agenda today that Item #11 was decided without me being given any notice at all. I'm an Appellant from a decision by the H-Board on 777 Acequia Madre. It definitely says in the Code that the City Council must, and I underlined that, must hear appeals that deal with exceptions from the H-District Regulations or Ordinances. I wasn't even informed that Ms. Brennan was trying to get rid of this appeal and telling you not to hear it so I would be forced to Court. I think this City Council needs to hear these appeals. You are supposed to be hearing appeals from administrative bodies *de novo*. And again, I was not informed. I then ask that one of you make a motion that you reconsider dismissing this. You give me a recent (?) opportunity, you the law, that says you must hear these appeals that deal with exceptions under the H-Board. And I'll wait to hear what you have to say about that."

Ms. Beninato continued, "I'm also here to comment on this lack of petitions from the floor from the H-Board. I discovered that last night when I went in, trying to have H-Board deal with some problems that I have at 600 and 610 which are affecting my property. One of the members of the H-Board asked the staff how that it happened that there weren't going to be petitions, and Mr. O'Reilly said that he made that decision himself. There have been other changes in hearings which have deleted participatory democracy. If you want people to vote, you need to give them an opportunity also to come down to City Council and City administrative bodies to be heard. And I agree with what Ms. Heldmeyer said that it is really the Board of Adjustment, H-Board that should be hearing these matters in deciding whether to have staff look at it, or go forward, or policy matters that then they can come to you. It should not be something that you get stonewalled, and stonewalled and stonewalled on. And I know I'm not the only person. I actually met another

woman who told me she had been stonewalled all the way from staff in Land Use, through the department head, through the City Attorney's Office."

Ms. Beninato continued, "My third thing is, I want to put in the record that I have two problems. One at 600 Galisteo Street, and I will just give these to you [Exhibit "11."]. [Ms. Beninato then provided copies to the Governing Body, the City Clerk, City Attorney and Stenographer for the record]. I would have sent this by email, but you wouldn't have been able to open it, there were too many photos. I was told two weeks ago by City Manager, that Ms. Brennan was going to meet with me. However, Ms. Brennan had already sent me an email, copied to the City Manager, telling me that she wasn't going to meet with me. And she told me that one of the reasons was that the wall at 600 wasn't visible from the street, couldn't be seen from the street. Photo 1 on the second page is a photo of that wall. If you look at #2 and hopefully this will be for the audience as well, you will see that my wall is the one to the left, 600 is to the right. And Ms. Brennan has gone around telling the whole staff at this City that no one should talk to me because this wall, whatever wall we're really talking about, is involved in the lawsuit that I have against the City about the flooding in my house. This is my wall over here, #2, that's 604½ and 600 is to the right. And it has nothing to do with my house. It is not even connected to my house, it is not even a common wall. And again this is a denial of due process not to be able to talk to staff about other matters. And the law says that if you're in a lawsuit, you can't talk to the heads of the department, without the City Attorney being present or giving permission, about the lawsuit."

Ms. Beninato continued, "Number 3 here, you can see on the bottom on the ground, that is adobe dirt. If you look at #4, you can see here the degrading of this wall and you can see that it's several inches back. This wall has seven courses of block on top of it. And when this totally crumbles, it will crumble, it will wall onto my house. This house should be reconsidered as, or this wall should be reconsidered as historic, because it's been there since at 1940, from the very fast research I would be able to do."

Mayor Pro-Tem Wurzburger cautioned Ms. Beninato to wrap up her remarks.

Ms. Beninato said, "I'll be through in just a minute. It's really something that's not being heard."

Mayor Pro-Tem Wurzburger said, "I'll give you one more minute."

Ms. Beninato continued, "By the way, on the letter I gave you, I have cited all the ordinances that are in violation because of lack of action both at 600 and 610, and which I will not go through. On 610, #1, you will see the wall, and this is a primary façade. And in 2008 you can

see what the bump-out, or curb, that little thing that extends from the wall, what it looked like. And then you see it in #2 stuccoed over. #3 shows you an addition to that curb. This was not permitted. They were supposed to be fixing the foundation and lowering the grade. Ms. Brennan has told me that they got to change the grade. That is not true. This is a photo showing what this extension looks like. They were going to build a wall here. They did build the wall."

Mayor Pro-Tem Wurzburger again asked Ms. Beninato to wrap up her remarks.

Ms. Beninato said, "I will. They did build the wall and they had the permit for that at the end of 2011, but in 2012 the woman who occupies that condo decided to add a retaining wall which you can see in the photos on the second page of 610 and then added 2 ½ feet of dirt so that the 5 ½ or 5 3/4 foot wall on my side, you can see these guys. They're walking up on the dirt. This again violates both historic and direct terrain management, because that's running down onto my property and it is causing damage to my wall. I cannot get any action from the City and I feel like I'm being treated like a piece shit. Excuse me, I didn't mean to say that. I meant to say a piece of crap on the bottom of somebody's shoe. That's how I feel. My due process is being denied and I'm asking that the City Council direct the City staff to take action. Thank you."

Diane Spencer said she is a Registered Nurse at St. Vincent's Hospital. She said, "I just came to urge the Santa Fe City Council to support the Bushee/Coss Resolution for the Hospital Study Committee. As a nurse working at the hospital for 17 years, I've seen a lot of changes in staffing and I know there are a lot of financial issues. So I think the Bushee/Coss Resolution would be an excellent opportunity for all the people they have suggested on the committee, to sit down and discuss the issues that are very important to everyone in this room. Because, sooner or later one of us is going to be in the hospital or know someone in the hospital. So I urge everyone to support the Bushee Resolution. Thank you."

G. APPOINTMENTS

1) CHILDREN AND YOUTH COMMISSION:

On behalf of Mayor Coss, Mayor Pro-Tem Wurzburger made the following appointment to the Children and Youth Commission:

Paige Aarniokoski – to fill unexpired term ending 01/2015.

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

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Dimas, Dominguez and Rivera, and Mayor Pro-Tem Wurzburger voting in favor of the motion and none voting against.

2) SANTA FE WATER CONSERVATION COMMITTEE

On behalf of Mayor Coss, Mayor Pro-Tem Wurzburger made the following appointment to the Santa Fe Water Conservation Committee:

Nancy S. Avedisian.

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

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Dimas, Dominguez and Rivera, and Mayor Pro-Tem Wurzburger voting in favor of the motion and none voting against.

3) DIVISION OF SENIOR SERVICES ADVISORY BOARD OF DIRECTORS

On behalf of Mayor Coss, Mayor Pro-Tem Wurzburger made the following appointments to the Division of Senior Services Advisory Board of Directors:

Doug Schocke – term ending 01/2016;
Tonie Ann Gallegos – term ending 01/2016; and
Rosemarie Trujillo – term ending 01/2016.

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve these appointments.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Dimas, Dominguez and Rivera, and Mayor Pro-Tem Wurzburger voting in favor of the motion and none voting against.

H. PUBLIC HEARINGS

1) REQUEST FROM BLUE CORN II, INC., FOR A SMALL BREWERS OFF-SITE A LIQUOR LICENSE TO BE LOCATED AT DRAFT STATION 60E. SAN FRANCISCO STREET, SUITES 312 AND 313. (YOLANDA Y. VIGIL)

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of January 23, 2-13, with attachments, which is in the Council packet. She noted the business is not within 300 feet of a church or school. She said the application includes a properly enclosed outdoor patio seating area. She noted there are staff reports in the packet regarding litter, noise and traffic, and staff does not anticipate a substantial change in litter and noise or any unacceptable traffic impacts due to the approval of this request. Staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

Stefanie Beninato was sworn. Ms. Beninato said there are liquor establishments in virtually every building downtown. She said if we are concerned about the south side, we should be equally concerned about the Plaza. She said in the past two months, in particular, she has noticed an increase in miniature bottles being thrown downtown and seen people walking about with open containers, including glasses of wine. She asked from what liquor establishment these are coming which isn't preventing them from leaving. She believes we need a police presence downtown in the evenings because of the number of liquor establishments and what seems to be a pretty lax attitude about the open container law. She said, "Either we get rid of it and we can be like New Orleans and you can be walking around, and you can go to the Laundromat and the drive in and get daiquiris, or we are serious about liquor consumption and safety of pedestrians and others in the downtown. Thank you."

Suzanne Odom, Attorney for the Applicant, Blue Corn II, Inc., was sworn. Ms. Odom introduced James Hargrove, President, Blue Corn II and Santa Fe Dining. She said he would like to entertain any concerns the Council might have. She said she would like Mr. Hargrove to "let you know about some of the polices in place." She said, "Blue Corn II is a subsidiary of Santa Fe Dining and they have adopted some of the best practice policies regarding alcohol anywhere."

James Hargrove [previously sworn] said, "To quickly address some of your concerns. We feel like we have the most pro, forward thinking and pro-active alcohol policies in the City and in the State. We've had them in place for about 3 years now. We've taken the State training and emulated and expanded that quite a bit. We have annual training for our staff that has to do with real life situations at table-side, handling/stopping service of guests, but more importantly stopping any kind of service before level of intoxication take place. And we've introduced what, really we don't know of anyone that's doing it, is drink maximums. The standard minimum number of drinks, when you come into one of our restaurants and the draft station will be the same, is zero. You may have exactly zero drinks until the server has seen your eyes, checked your ID, listened to you talk, and watched your behavior to make sure there's no visible signs of intoxication. Now you may have 1, and you can have a maximum of 3, or a maximum of 4 with an entre."

Mr. Hargrove continued, "So we are very very pro-active about this, and a lot of training and a lot of time. Everyone has to get trained every single year that works for our company, and I do those training policies. I'll conclude with, I know that it's very forward thinking and it's working well. I went through what was supposed to be a 5 minute interview with the insurance agent to determine some liability and coverage for us. It turned into an hour-long conversation on the phone with a woman in Philadelphia, and as we hung up, she said, 'In 22 years, I've never heard of anyone's policies that you have that are so aggressive and careful. You should try to roll these out State-wide, nation-wide.' That's a goal down the road, but we're very proud of our policies and we're very very careful with alcohol service."

Ms. Odom said, "If I might also mention, this isn't really an increase in density. The Marble Brewery Taproom was formerly at this location."

The Public Hearing was closed

Councilor Dominguez said, "Just so that I know who's who and what's what. We've got the Blue Corn Brewery, and are they the ones that had the over-intoxication violation that resulted in an accident a few years ago."

Mr. Hargrove said, "Yes, March 5, 2010."

Councilor Dominguez said, "Okay, that's the Blue Corn Brewery."

Mr. Hargrove said yes.

Councilor Dominguez asked, "So what is Blue Corn II."

Mr. Hargrove said, "The d/b/a is Blue Corn Brewery, the legal name is Blue Corn II. It's the same entity."

Councilor Dominguez said, "So we're essentially giving... okay and draft station is..."

Mr. Hargrove said, "It's a taproom that's being served by Blue Corn Brewery. You're allowed to have up to 3 of these taprooms for each brewery in New Mexico."

Councilor Dominguez said, "Then that is a State license that's granted. Correct."

Mr. Hargrove said, "Correct."

Councilor Dominguez asked, "And Santa Fe Dining."

Mr. Hargrove said, "It is the parent company of Blue Corn and several other restaurants here in Santa Fe."

Councilor Dominguez said, "So Santa Fe Dining is at the top, and then Blue Corn and Blue Corn II are the same entity."

Mr. Hargrove said, "Blue Corn Brewery is the business name of Blue Corn II, Inc., and then we have 7 other restaurants."

Councilor Dominguez said, "So I guess here's a question for staff, and I don't know the answer to this, but what does the State law say with regard to new licenses when a licensee has already had a violation."

Ms. Brennan said, "Councilor, I really can't answer that question. What I would say is that the State does finally approve this. And I would imagine that if that outstanding violation were an issue for the State that they would not approve it."

Councilor Dominguez said, "So if we deny this tonight, they would then appeal our decision to the State and the State would get the final approval either way."

Ms. Brennan said, "As I understand it, that has been our experience."

Councilor Dominguez said, "Okay, I would like to have staff provide me with some sort of, I guess, a State Statute on that, not necessarily for this case, but for the future, assuming there is a future. That's all I have Madam Mayor Pro-Tem. Thank you."

Councilor Bushee said, "Then Marble Brewery is moving somewhere and still going to be in existence."

Mr. Hargrove said, "Yes ma'am."

Councilor Bushee said, "Downtown somewhere."

Mr. Hargrove said, "I don't know exactly where, but it's south of downtown, right off Cerrillos somewhere."

Councilor Bushee said, "In town Cerrillos."

Mr. Hargrove said yes.

MOTION: Councilor Dominguez moved, seconded by Councilor Rivera, "that we deny this request, and ask them to appeal our decision, if they want to, to the State, and really put the onus on the State to decide whether or not they want to continue to allow those establishments."

DISCUSSION: Councilor Rivera said, "Can I ask the Applicant again, just so I understand, exactly what a draft station is."

Mr. Hargrove said, "The Draft Station is just the name we chose for our taproom. For each brewery in New Mexico, Blue Corn, Chama River, La Cumbre Marble, on and on and on, you're allowed 3 off-premise licenses for tasting rooms or taprooms. So in the case of Blue Corn, there's a brewery there on the south side of town. There's also a restaurant and a bar there. That counts as one of those 3. So, this would be the second that we would open up. So for each brewery, whether you're a brew pub with a restaurant attached or not, you are allowed 3 of these permits."

Councilor Rivera said, "Blue Corn has two restaurants in town. Correct."

Mr. Hargrove said, "Right. Blue Corn downtown doesn't have the brewery. So it's the Blue Corn on the south that has the brewery that's allowed to have these from this location."

Councilor Rivera asked, "And what is served there. Is it just beer."

Mr. Hargrove said, "Beer and pizza. So no spirits, no wine by law. And it has to be beer brewed in New Mexico."

Councilor Rivera said, "So again, the license is issued by the State, so they've already approved that."

Mr. Hargrove said, "The preliminary approval has taken place, and then it goes from this body back to them, and then I get my license."

Councilor Dominguez said, "My discussion isn't necessarily against the licensee. It's really just this, I don't know, perverted process even that the State has that ultimately what we have to say with regards to these sorts of licenses doesn't really matter because the State has proven in the past, basically overturns our appeals, or they get the final say either way. And so, it's almost as if the State wants to take some of the responsibility off them and put it on this Governing Body so we can have these sorts of debates, and have these decisions made at the local level, and they kind of get taken off the hook if you will. And so that's part of my concern about this, is that ultimately, the State is going to decide either way."

Ms. Brennan said, "Councilor if you would like, I can come back to the next meeting with that information, or before that, if you wanted to postpone this tonight."

Councilor Dominguez said, "If there would be a Motion to Postpone, I would go ahead and withdraw that, but I'm sure if I see that."

Mayor Pro-Tem Wurzburger said, "So the motion we have now to deny. There is a second for discussion. May we go ahead and have a vote on that particular motion please, or are you staying with your second."

THE MAKER AND SECOND WITHDREW THEIR MOTION AND SECOND.

MOTION: Councilor Rivera moved, seconded by Councilor Dominguez, to postpone this request to the next meeting of the City Council on February 12, 2014, "when we can get additional information from the City Attorney."

DISCUSSION: Councilor Dominguez said, "What I would like to see is what the State law says with regard to establishments that have, I guess, violations, specifically over-intoxication violations. I don't know what that is, unless somebody can provide it. Actually, I'll just have the City Attorney provide it."

Mr. Hargrove said, "This is an amateur's understanding, but to speak to part of what you're saying there. I'm not an expert on the State law, so I can't answer that. But part of the process that I went through was to go to each of the Fire, the Zoning, the Health, all of that. I think that's part of what they would like for you to see tonight, that we went through that process and we got passed by every City body, and then it goes on to the alcohol process. I would also point out that The Marble Taproom moved out about a month ago, and we kept all the staff on, we wanted to keep that staff. They had been unemployed for a month. I'm really anxious to get them back to work and get the placed opened up and running. I hear your concerns. The incident that happened 4 years ago at Blue Corn, I wasn't involved with Blue Corn then, but we went through our punishment, we paid our fines and that's all behind us now. And we feel like we should be able to move forward with this."

Councilor Dominguez said, "That's part of what I said. It's really not against the licensee. It's really to understand what the State law has to say with regard to previous over-intoxicated violations. Because these are things we have to take seriously. It is on the table for us to consider. It's not just to consider whether or not the police and fire and everybody else has signed off. That's not what the law says we should consider, it's the license. And there are so many different licenses out there that the State allows, it can be interesting. So I'm as much of an amateur as you are about this, but nonetheless we have to make the decision. The decision lies upon us as representatives of the community, so."

VOTE: The motion failed to pass on the following Roll Call vote:

For: Councilor Rivera and Councilor Dominguez.

Against: Mayor Pro-Tem Wurzburger, Councilor Bushee and Councilor Dimas.

Explaining her vote: Mayor Pro-Tem Wurzburger said, "I'm going to vote against this motion. I think that we are delaying something that affects both a business and a locality for our own lack of understanding of the law, and I think it's interesting to understand that. But I think we all basically understand what our relationship with the State is, so I'll be voting against this motion."

Explaining her vote: Councilor Bushee said, "I would vote against the motion to postpone, as well."

MOTION: Councilor Dimas moved for approval. **THE MOTION DIED FOR LACK OF A SECOND.**

Ms. Brennan said, "Point of Order. Mayor Pro-Tem, you can vote, and I believe, second, if you so choose.

MOTION: Councilor Dimas moved, seconded by Mayor Pro-Tem Wurzburger, to approve the request from Blue Corn II, Inc., for a Small Brewers Off-Site A Liquor License to be located at Draft Station, 60 E. San Francisco Street, Suites 312 and 313, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez and Mayor Pro-Tem Wurzburger

Against: Councilor Rivera.

2) REQUEST FROM SANTA FE HARD CIDER, LLC, FOR A WINE WHOLESALER LIQUOR LICENSE TO BE LOCATED AT SANTA FE HARD CIDER, 1730 CAMINO CARLOS REY NORTH, UNIT #103. (YOLANDA VIGIL)

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of January 23, 2014, with attachments, which is in the Council packet. She said this business is not within 300 feet of a church or school, and noted there are staff reports in the packet regarding litter, noise and traffic, and staff does not anticipate a substantial change in litter and noise or any unacceptable traffic impacts due to the approval of this request. Staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

Public Hearing

Stefanie Beninato was sworn. Ms. Beninato said she has the same concerns about yet another wholesale distributor. She said she can't picture where this business is located on Camino Carlos Rey. She said, "Again, I really wish the City had undergone, and taken the initiative to have a liquor distribution plan, which I had suggested about two years ago when this first came up. Ms. Wurzburger told me she was going to work on that with me, but it never really happened, so you all could make informed decisions about the density of alcohol use, wholesale, retail, wine and beer, restaurant whatever it would be. And instead of doing it on a piecemeal basis, as you are going to take these four items tonight."

Michael Zercher, owner/operator, Santa Fe Hard Cider, was sworn. Mr. Zercher said, "You approved my winegrowers license at the October 30th meeting. That is the license that permits me to actually produce the hard cider. This license, the Wine Wholesalers License, simply gives me the ability to self-distribute my product to existing stores, bars, restaurants and so on, so it doesn't increase the density of taprooms or other establishments serving it. It simply allows me, as I'm launching my business, to take the more profitable route of self-distributing my product which, obviously, is important when I'm in a start-out mode, for cash flow purposes."

The Public Hearing was closed

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve the request from Santa Fe Hard Cider, LLC, for a Wine Wholesaler Liquor License to be located at Santa Fe Hard Cider, 1730 Camino Carlos Rey North, Unit #103, with all conditions of approval as recommended by staff.

EXPLANATION OF HER MOTION PRIOR TO SECOND: Councilor Bushee said, "I've been up here for a long time doing this, and even when we've turned down licenses, the State has just overturned our decision. And I understand the need for, want to, look at the distribution and planning. And again, it comes back down to, they issue the licenses. They just kind of come here for us to *pro forma* say yes essentially, and make sure the basics are taken care of, noise and fire and all that. But, what is a little frustrating is that I still of the opinion that adults should be responsible for their own behavior and held accountable. And I'm also someone who advanced the DWI Forfeiture Bill, because I want to take to task those that do not act responsibly. So it's very frustrating. I think it is up to the individual to behave appropriately and we have laws in place for that. It's also frustrating on this end when we have situations like we had in the case that's going to the Supreme Court where we have far too many liquor establishments close to schools, so that's something that I wish we actually had the power to do something about. And it seems we end up in litigation if we try and do something, so it's a very big Catch-22 for us up here. It's frustrating. Some people are frustrated by a Historic appeal. I'm frustrated by these, and these licensings and appeals. I just find this to be a no win situation. And you try to take care of the public safety, health and welfare of your community... and then on the other hand, we have a whole lament that we don't have any kind of night life. That's it."

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

> **For**: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Mayor Pro-Tem Wurzburger.

Against: None.

Explaining his vote: Councilor Rivera said, "Yes, and if I could take a moment to explain my vote, so that people watching don't think I'm hypocritical since I voted no on the last one. But the difference for me is that Santa Fe Hard Cider has not been punished by the State for allowing somebody to drive drunk and killing two young ladies. The punishment Blue Corn had to deal with, which was a financial punishment, because they weren't allowed to sell alcohol for three months has now been washed away, because now they're allowed to open a taproom which will even out everything the punishment was supposed to do to Blue Corn, so it's not really a punishment at all. They haven't really been harmed too much by it, and they feel it is sufficient, yet they allowed someone to drive drunk who killed two young girls."

3) REQUEST FROM BILLU, LLC FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON PREMISE CONSUMPTION ONLY) TO BE LOCATED AT INDIA PALACE RESTAURANT, 227 DON GASPAR AVENUE. (YOLANDA VIGIL)

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of January 23, 2014, with attachments, which is in the Council packet. She noted the business is not within 300 feet of a church or school. She said India Palace Restaurant's application includes a properly enclosed outdoor patio seating area and noted there are staff reports in the packet regarding litter, noise and traffic. She said staff does not anticipate a substantial change in litter and noise or any unacceptable traffic impacts due to the approval of this request. Staff recommends this business be required to comply with all of the City's ordinances as a condition of doing business in the City

Public Hearing

Stefanie Beninato was sworn. Ms. Beninato said if you are going to have an overlay in the south side of Santa Fe about liquor distribution, you also probably need to have a City-wide plan. However, you really can't deny this license because it is a restaurant, and are and have allowed restaurants all over the City, particularly downtown, to have such licenses.

The Public Hearing was closed

Councilor Bushee clarified that, "This is the restaurant in the Water Street Parking.... but they have Don Gaspar there, which seems to be an odd address.

MOTION: Councilor Dimas moved, seconded by Councilor Bushee, to approve the request from Billu, LLC, for a Restaurant Liquor License (Beer and Win On-Premises consumption only), to be located at India Palace Restaurant, 227 Don Gaspar Avenue, with all conditions of approval as recommended by staff.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Rivera, and Mayor Pro-Tem Wurzburger.

Against: None.

4) REQUEST FROM THE SIGNATURE GALLERY FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/ CONSUMPTION OF WINE AT THE SIGNATURE GALLERY, 102 E. WATER STREET. THIS LOCATION IS WITHIN 300 FEET OF THE CHURCH OF ANTIOCH AT SANTA FE, 207 OLD SANTA FE TRAIL. THE REQUEST IS FOR THE MONROE JACKSON EXPEDITION TO BE HELD ON FEBRUARY 14, 2014, FROM 5:00 P.M. TO 7:00 P.M. (YOLANDA Y. VIGIL)

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of January 24, 2014, with attachments, which is in the Council packet. She said this business is within 300 feet of the Church of Antioch at Santa Fe, 207 Old Santa Fe Trail, noting there is a letter of support for the request in the packet, from Reverend Daniel Dangaran of The Church of Antioch at Santa Fe.

Public Hearing

Stefanie Beninato sworn. Ms. Beninato reiterated her concerns, that drinking should be done responsibly, but you keep giving "waiver after waiver after waiver after waiver." She thinks everyone would be better served and spent less time on the issue if the City went to the State and asked it to revise the law so that it doesn't include churches. Almost every Church has given a waiver of the 300 foot location restriction. She said, "I would definitely urge you to keep it in terms of schools, even though the State may or may not uphold that restriction when it actually comes to them, but I think you would all be better served and it would be more efficient for City Council not to have to consider these waivers week after week after week. Thank you."

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Bushee, to grant the waiver of the 300 foot location restriction, and approval to allow the dispensing/consumption of wine at The Signature Gallery, 102 E. Water Street for the Monroe Jackson Exhibition to be held on February 14, 2014, from 5:00 p.m. to 7:00 p.m., with all conditions of approval 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 Mayor Pro-Tem Wurzburger.

Against: None.

Agenda Items H(5) through H(10), as follows, are postponed to the City Council meeting of February 12, 2014.

5) **CONSIDERATION OF RESOLUTION NO. 2014- ___ (COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A HOSPITAL STUDY GROUP FOR THE PURPOSE OF GATHERING INFORMATION AND MAKING RECOMMENDATIONS RELATED TO THE CURRENT GENERAL STATE OF CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER. (KATE NOBLE). (Postponed to February 12, 2014 City Council Meeting)**

6) **CONSIDERATION OF RESOLUTION NO. 2014- ____ (COUNCILOR IVES). A RESOLUTION CALLING FOR THE FORMATION OF A COMMUNITY HEALTH WORKING GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE CARE ACT ON THE DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY, THE COST OF HEALTH CARE IN SANTA FE AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT. KATE NOBLE). (Postponed to February 12, 2014 City Council Meeting)**

7) **CONSIDERATION OF BILL NO. 2014-1: ADOPTION OF ORDINANCE NO. 2014- ___ (COUNCILOR BUSHEE). AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE CITY OF SANTA FE ANIMAL SERVICES ORDINANCE, CHAPTER 5 SFCC 1987. (JOHNNY MARTINEZ). (Postponed to February 12, 2014 City Council Meeting)**

8) **CONSIDERATION OF BILL NO. 2014-2: ADOPTION OF ORDINANCE NO. 2014-___ (COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). AN ORDINANCE RELATING TO THE PROCUREMENT OF TOBACCO BY MINORS; AMENDING SUBSECTION 16-15.4 SFCC 1987, TO AMEND THE DEFINITION OF "TOBACCO PRODUCT" AND CREATE A NEW DEFINITION FOR "ELECTRONIC SMOKING DEVICE." (ALFRED WALKER). (Postponed to February 12, 2014 City Council Meeting)**

9) **CONSIDERATION OF BILL NO. 2014-3: ADOPTION OF ORDINANCE NO. 2014-___ (COUNCILOR TRUJILLO). AN ORDINANCE RELATING TO SANTA FE SMOKE FREE ORDINANCE, SECTION 10-6 SFCC 1987; AMENDING SUBSECTION 10-6.2 TO INCLUDE FINDINGS RELATING TO ELECTRONIC SMOKING DEVICES AND AMENDING SUBSECTION 10-6.3 TO INCLUDE DEFINITIONS FOR "ELECTRONIC SMOKING DEVICE," AND "TOBACCO PRODUCT." (ALFRED WALKER). (Postponed to February 12, 2014 City Council Meeting)**

10) **CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014- ___ (COUNCILOR WURZBURGER). AN ORDINANCE RELATING TO IMPACT FEES, SECTION 14-8.14 SFCC 1987; AMENDING SECTION 14-8.14(E) TO MODIFY THE AMOUNT OF IMPACT FEES ASSESSED FOR RESIDENTIAL DEVELOPMENTS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY. (MATTHEW O['REILLY). (Postponed at January 8, 2014 City Council Meeting). (Postponed to February 12, 2014 City Council Meeting)**

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24. MATTERS FROM THE CITY CLERK

Yolanda Vigil, City Clerk reminded everyone that Absentee Voting is being conducted for the March 4, 2014 City Election in the City Clerk's Office, City Hall, 200 Lincoln Avenue, Room 215 upstairs.

Ms. Vigil reminded the public that the Voter Registration Books close on Tuesday, February 4, 2014, at 5:00 p.m., so if they aren't registered, to please do so.

25. COMMUNICATIONS FROM THE GOVERNING BODY

Councilor Bushee said, "I do apologize. I thought we had only 3 members of our body out of town, and so I thought I had a little leeway in getting here."

Councilor Bushee continued, "And I do want to follow up, if I could, with the City Attorney, with regard to allowing our sometimes *quasi-judicial* bodies, whether or not they can not allow public input. That seems irregular to me."

Ms. Brennan said, "Mayor Pro-Tem, Councilors, Councilor Bushee, the Land Use Director has the authority, under Code, to establish the agenda for land use boards."

Councilor Bushee said, "And it's not the Chair or the board that determines how they run their meetings."

Ms. Brennan said, "No ma'am. It's the Land Use Director."

Councilor Bushee said, "And so this is by fiat, by one individual that this can happen."

Ms. Brennan said, "The determination of the agenda, and I think it's usually done in consultation with the Chair, but I don't know. But I do know that it is permitted by Code."

Councilor Bushee asked, "Can you please send me the Code provision that allows for that. Thank you."

Ms. Brennan said she would do so.

****

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 8:00 p.m.

Approved by:

David Coss

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:

Melessia Helberg, Council Stenographer

CITY COUNCIL MEETING
EXECUTIVE SESSION
January 29, 2014

The governing body of the City of Santa Fe met in an executive session duly called on January 29, 2014 beginning at 6:10 p.m.

The following was discussed:

1) In Accordance with the New Mexico Open Meetings Act §10-15-1(H)(7) NMSA 1978, Discussion Regarding Pending or Threatened Litigation in Which the City of Santa Fe Is or May Become a Participant, Southside Transit Center Location.

PRESENT
Councilor Bushee
Councilor Dimas
Councilor Dominguez
Councilor Rivera
Mayor Pro-Tem Wurzburger

ABSENT
Mayor Coss
Councilor Calvert
Councilor Ives
Councilor Trujillo

STAFF PRESENT
Brian K. Snyder, City Manager
Kelley Brennan, Interim City Attorney
Yolanda Y. Vigil, City Clerk
Zachary Shandler, Assistant City Attorney
Matthew O'Reilly, Land Use Director
John Bulthuis, Transit Director
Ken Smithson, Director of Transit Operations & Maintenance

There being no further business to discuss, the executive session adjourned at 6:45 p.m.

Yolanda Y. Vigil

Yolanda Y. Vigil, City Clerk

CITY COUNCIL MEETING OF
JANUARY 29, 2014
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION BY MEMBERS OF THE GOVERNING BODY

Mayor David Coss

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Patti Bushee

Co-Sponsors	Title	Tentative Committee Schedule

Councilor Chris Calvert

Co-Sponsors	Title	Tentative Committee Schedule
	AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.	PWC - 2/10/14 FC – 2/17/14 PSC – 2/18/14 CC 1 - 2/26/14 CC 2 – 3/26/14

Councilor Bill Dimas

Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION DIRECTING THE TRAFFIC ENGINEERING DIVISION TO RECONSTRUCT THE MEDIAN AT ZIA ROAD AND GALISTEO ROAD SO AS TO RESTRICT LEFT TURN MOVEMENTS TO AND FROM GALISTEO ROAD AND TO INCREASE THE LENGTH OF ZIA'S EASTBOUND DUAL LEFT-TURN LANE AT THE ST. FRANCIS DRIVE SIGNALIZED INTERSECTION.	PWC – 2/10/14 FC – 2/17/14 PSC – 2/18/14 CC – 2/26/14

Councilor Carmichael Dominguez

Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ESTABLISHING POLICIES TO PROMOTE TRANSPARENCY, ACCOUNTABILITY, SHARED PROSPERITY AND COMPETITION AS SUCH POLICIES RELATE TO OUTSOURCED CITY SERVICES.	FC - 2/17/14 CC - 2/26/14

This document is subject to change.

Exhibit "1"

Councilor Peter Ives		
Councilor Chris Rivera		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
	A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATING STATION; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO REJECT PNM'S REPLACEMENT PLAN AND CLAIM FOR COST RECOVERY OF STRANDED ASSETS AND SUPPORT AN ALTERNATIVE RENEWABLE-ENERGY BASED REPLACEMENT PLAN.	PUC – 2/5/14 FC – 2/17/14 CC 2/26/14

Councilor Ron Trujillo		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
Councilor Rebecca Wurzburger		
Co-Sponsors	**Title**	**Tentative Committee Schedule**
	AN ORDINANCE AMENDING SUBSECTION 6-4.2 SFCC 1987 REGARDING MEMBERSHIP REQUIREMENTS FOR THE CITY COMMUNITY DEVELOPMENT COMMISSION.	FC – 2/17/14 CC 1 – 2/26/14 CC 2 – 3/26/14
	AN ORDINANCE RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS.	FC – 2/17/14 CC 1 – 2/26/14 CC 2 – 3/26/14
	A RESOLUTION SUPPORTING EFFORTS TO RETAIN YOUNGER TALENT AND INVIGORATE SANTA FE'S NIGHTTIME ECONOMY AND CREATING A TASK FORCE TO MAKE ACTION RECOMMENDATIONS TO THE GOVERNING BODY.	FC – 2/17/14 CBQL – 2/18/14 CC – 2/26/14
	A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM ("SFHP") TO REFLECT THE AMENDMENTS APPPROVED BY ORDINANCE 2014-___.	PWC – 2/10/14 FC – 2/17/14 CC - 2/26/14

This document is subject to change.

Councilor Wurzburger Continued		
	A RESOLUTION REPEALING RESOLUTION NO. 2013-80 THAT CALLED FOR A THIRD-PARTY INDEPENDENT AUDIT OF THE 2008 PARKS, TRAILS AND OPEN SPACE BOND; AND AUTHORIZING A SPECIAL EXTERNAL AUDIT OF THE ENTIRE EXPENDITURE OF 2008 PARKS, TRAILS AND OPEN SPACE BOND ("2008 BOND").	PWC – 2/10/14 FC – 2/17/14 CC - 2/26/14
	A RESOLUTION SUPPORTING THE CONTINUATION OF THE COMMUNITY DEVELOPMENT PROCESS TO REVITALIZE CENTRAL SANTA FE AND OUTLINING THE NEXT STEPS OF THE REMIKE PROJECT.	EDRC 2/3/14 PWC 2/10/14 FC 2/17/14 CBQL 2/18/14 Council 2/26/14

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 or Rebecca Seligman at (505)955-6501, rxseligman@santafenm.gov .

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-___

INTRODUCED BY:

Councilor Bill Dimas

A RESOLUTION

DIRECTING THE TRAFFIC ENGINEERING DIVISION TO RECONSTRUCT THE MEDIAN AT ZIA ROAD AND GALISTEO ROAD SO AS TO RESTRICT LEFT TURN MOVEMENTS TO AND FROM GALISTEO ROAD AND TO INCREASE THE LENGTH OF ZIA'S EASTBOUND DUAL LEFT-TURN LANE AT THE ST. FRANCIS DRIVE SIGNALIZED INTERSECTION.

WHEREAS, left turn movements to and from Galisteo Road at Zia Road are difficult to make, particularly when eastbound Zia Road/St. Francis Drive signal traffic queues through the intersection; and

WHEREAS, Galisteo Road traffic has alternative means of ingress and egress via Rodeo Road; and

WHEREAS, by closing the median at Galisteo Road and Zia Road, the eastbound dual left on Zia Road at the St Francis Drive signalized intersection can be extended from approximately 100' to approximately 500', increasing storage capacity from 4 vehicles to 20 vehicles; and

Exhibit "2"

WHEREAS, increasing the eastbound dual left on Zia Road at the St Francis Drive signalized intersection will significantly improve the operations of the signalized intersection, by reducing the delay experienced by the eastbound left-turn traffic.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Traffic Engineering Division staff is directed to close the median at Zia Road and Galisteo Road and to extend the eastbound dual left on Zia Road at the St Francis Drive signalized intersection from approximately 100' to approximately 500'.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2014.

_____

DAVID COSS, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/Resolutions 2014/Zia-Galisteo Median

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-___

INTRODUCED BY:

Councilor Chris Rivera

A RESOLUTION

RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATING STATION; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION TO REJECT PNM'S REPLACEMENT PLAN AND CLAIM FOR COST RECOVERY OF STRANDED ASSETS AND SUPPORT AN ALTERNATIVE RENEWABLE-ENERGY BASED REPLACEMENT PLAN.

WHEREAS, on February 15, 2013, Governor Susanna Martinez, the Public Service Company of New Mexico (PNM), and the Environmental Protection Agency (EPA) announced an agreement to close San Juan Generating Station (SJGS) Units 2 & 3 (836 megawatts), install pollution controls on Units 1 & 4, and reduce state permit levels for nitrogen oxides and sulfur dioxides; and

WHEREAS, the City of Santa Fe applauds the agreement between Governor Martinez, PNM and the EPA to close SJGS Units 2 and 3, to install pollution controls, and to reduce state permit levels for nitrogen oxides and sulfur dioxides as referenced in the Revised State Implementation Plan;

Exhibit "3"

and

WHEREAS, PNM's replacement power plan submitted to the Public Regulation Commission (PRC) on December 20, 2013, includes the following:

(1) PNM is owner of 50% of units 2 & 3, or 418 megawatts;

(2) The purchase of 78 megawatts more coal from SJGS Unit 4 for 52.5 million dollars;

(3) A certificate of public convenience and necessity to import nuclear generation (134 megawatts) from Palo Verde Nuclear Plant in Arizona for rate-base valuation of $335 million dollars;

(4) The construction of a new natural gas plant (177 megawatts) cited in Farmington despite the fact that Farmington does not have any PNM customers for $189 million;

(5) Possibly construct 40 megawatts of utility scale solar power;

(6) Full recovery of the $205 million dollars in un-depreciated asset for the closure of SJGS Units (also known as "stranded assets"); and

(7) Pollution controls on SJGS Units 1 and 4 for 82 million dollars; and

WHEREAS, climate scientists worldwide are in near-unanimous agreement that the planet is warming rapidly and to a degree that is perilous to human civilization, to numerous species and to the global ecosystem and that the primary cause of that warming is human activity, especially through the accelerating combustion of fossil fuels that create $C0_2$ as a byproduct; and

WHEREAS, according to the 2013 IPCC Report Atmospheric concentrations of $C0_2$, methane and nitrous oxide have increased to levels unprecedented in the last 800,000 years, and $C0_2$ concentrations have increased by 40% since pre-industrial times and every additional release of greenhouse gases diminishes our chances of avoiding catastrophic climate change; and

WHEREAS, further delay in responding to this crisis increases the risk of catastrophic climate change, imminently threatens low-lying coastal areas and land and sea species, threatens water supplies, increases the frequency of severe weather events, reduces the time available and

increases the cost of undertaking adequate responses, and increases risks to the global economy; and

WHEREAS, the burning of coal is the number one contributor to global CO_2 emissions worldwide and in the state of New Mexico is responsible for more than 12 million tons of CO_2 emissions annually; and

WHEREAS, the burning of coal releases toxic pollutants including nitrogen oxides, sulfur dioxides, and mercury that contaminate our soil and water and that are proven to cause serious health conditions such as asthma, lung, and heart disease and cancer; and

WHEREAS, a 2012 analysis by a nationally recognized Environmental Medicine NYU Professor, Dr. George Thurston, found that over the last five years PNM's failure to comply with the necessary pollution reductions at the San Juan coal plant has cost $240 million in public health care costs (asthma, lung disease, heart disease, and hospitalizations); and

WHEREAS, according to the 2013 Community Health Profile Study commissioned by Santa Fe County and CHRISTUS St. Vincent Regional Medical Center, 24% of Santa Fe County high school students have been diagnosed with asthma; and

WHEREAS, the combustion of coal and nuclear energy are the most water intensive ways to produce electricity; and

WHEREAS, the SJGS plant consumes 6 billion gallons of water annually, which is the equivalent to 11,000 gallons a minute; and

WHEREAS, after the water is used, the toxic produced water is stored in large open air pits to evaporate and contaminate our air, and has poisoned groundwater; and

WHEREAS, Governor Martinez has issued a formal drought declaration that encompasses the entire state of New Mexico; and

WHEREAS, according to the U.S. Drought Monitor, one hundred percent of New Mexico was in moderate drought at some point during 2012, with over ninety percent in severe status; and

WHEREAS, communities exist where drinking water supplies are threatened due to the

cumulative effects of drought; and

WHEREAS, the State of New Mexico has suffered through numerous natural disasters associated with the drought, including crop production loss, severe wild fires, and flooding due to severe wild fires; and

WHEREAS, "Drought conditions can create serious problems for many New Mexico communities, farms, ranches, and open spaces. Fire danger is high, water reservoirs run low, and in some cases, we've seen towns like Las Vegas take dramatic steps to reduce basic water consumption in their residents' homes and businesses," said Governor Martinez; and

WHEREAS, individuals and businesses have begun to do their part, but the energy industry has failed to transition to less water consumptive forms of energy generation; and

WHEREAS, the cost of coal is expected to continue to increase due to carbon emissions regulation mandated as part of President Obama's Climate Change Action Plan and Coal Ash Regulation that the Environmental Protection Agency has been ordered to issue; and

WHEREAS, the environmental and human health costs of nuclear energy are well documented; and

WHEREAS, according to the National Cancer Institute, the following diseases can be caused by exposure to radon, uranium, and decay elements of uranium: bronchial and lung cancer, leukemia and other blood diseases, cancer of the bone marrow, stomach, liver, intestine, gall bladder, and kidney, failure of the kidney or liver, psychological disorders and birth defects; and

WHEREAS, nuclear waste requires safe storage for at least 1000 years and permanent storage space is limited; and

WHEREAS, U.S. nuclear plants generate about 2,000 tons of spent fuel a year and since the 1950s, ratepayers have contributed $27 billion to pay for permanent disposal; and

WHEREAS, improper disposal and risk of accidents pose serious environmental and public health threats; and

WHEREAS, beyond these hidden costs, the price per kilowatt-hour of the nuclear energy proposed for the Replacement Power Plan is significantly more expensive than both solar and wind alternatives; and

WHEREAS, the City of Santa Fe Municipal Charter charges the governing body with the responsibility "to secure for ourselves and our children the continuity of our cultural values, our personal freedoms, and our well-being," declares that "[t]he natural beauty of Santa Fe" is "among the city's most valued and important assets," and charges the governing body of Santa Fe to "protect, preserve and enhance the city's natural endowments, plan for and regulate land use and development, manage the city's growth, encourage source reduction," and take such actions as are necessary to do so; and

WHEREAS, the City of Santa Fe has a record of accepting these responsibilities and acknowledging the reality of climate change, probable effects of climate change on our City, and our ability and responsibility to reduce our contribution to the causes of climate change - as evidenced by the City's endorsement of the U. S. Conference of Mayors Climate Protection Agreement; the adoption of the Sustainable Santa Fe Plan (Resolution 2008-93); the establishment of the Sustainable Santa Fe Commission; and the passing of Resolutions addressing these concerns (e.g., Resolutions 2009-45,2011-17, 2012-12,2013-12, and 2013-12, among others); and

WHEREAS, the closure of San Juan Units 2 & 3 presents a critical opportunity to transition away from New Mexico's investment in fossil fuels and nuclear energy and presents an opportunity to rapidly deploy renewable energy technologies to meet New Mexico's energy demands; and

WHEREAS, New Mexico has some of the best solar potential in the country and areas with very strong wind potential as well and the benefits of solar and wind energy production will include CO_2 emissions reductions, better health and environmental outcomes than fossil-fuel or nuclear energy, and can stimulate the creation of jobs in New Mexico; and

WHEREAS, solar and wind are both now cost-competitive energy sources and an alternative

replacement power plan has been modeled by New Energy Economy with 50% renewable energy and without the purchase of any coal or nuclear generating capacity at a lower total cost than PNM's plan.

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

(1) The pollution caused by humans burning fossil fuels is established by scientists as a primary cause of climate change;

(2) The City of Santa Fe Municipal Charter charges the governing body with protection of our city's residents and natural assets; and

(3) a necessary measure to address this problem is to replace fossil-fuel and nuclear energy with renewables that are cost competitive whenever possible.

BE IT FURTHER RESOLVED that the Governing body opposes PNM's replacement power plan on the basis that it:

(1) Will not help the City government meet its CO_2 reduction goals;

(2) Will not help the City meet its energy efficiency goals;

(3) Is not the lowest cost solution;

(4) Is not the best environmental outcome;

(5) It does not provide the best employment opportunities;

(6) Is not the healthiest option for the people of New Mexico and of Santa Fe;

(7) Does not take into account recognized external costs to human health and air quality;

(8) Is a continuation of risky investment practices in unsustainable and costly energy sources that are not in the best interest of the public of New Mexico or the ratepayers of New Mexico; and

(9) Unfairly places the burden of PNM's poor financial planning on the rate payers of New Mexico.

BE IT FURTHER RESOLVED that the Governing Body strongly urges the Public

Regulation Commission to require that PNM's replacement power plan include AS MUCH renewable energy as is technically and economically feasible.

BE IT FURTHER RESOLVED that the Governing Body urges the Public Regulation Commission to require that PNM's replacement power include AS MUCH energy efficiency as is technically and economically feasible.

BE IT FURTHER RESOLVED that the Governing Body urges the Public Regulation Commission to deny or reduce PNM's claim for un-depreciated "stranded" assets.

BE IT FURTHER RESOLVED that the Governing Body urges the Public Regulation Commission to deny PNM's request for money for pollution controls for Unit 1 at SJGS and instead urges the PRC to order the closure of Unit 1 to a date certain, as soon as practicable.

BE IT FURTHER RESOLVED that the Governing Body urges the Public Regulation Commission to set a date certain for the closure of Unit 4 at SJGS, and suggests that it be as soon as practicable, but no later than 2023.

BE IT FURTHER RESOLVED that the Governing Body urges PNM and the NM PUC to consider the real cost of coal produced energy as a matter of public health.

BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this resolution to the Public Regulation Commissioners and General Council as official public testimony on behalf of the City of Santa Fe in the case before the Public Regulation Commission.

BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this resolution to the New Mexico's Congressional Delegation.

PASSED, APPROVED, and ADOPTED this ___ day of _____, 2014.

_____

DAVID COSS, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/2014 Resolutions/Replacement Power – Energy Plan

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-___

INTRODUCED BY:

Councilor Rebecca Wurzburger

AN ORDINANCE

AMENDING SUBSECTION 6-4.2 SFCC 1987 REGARDING MEMBERSHIP REQUIREMENTS FOR THE CITY COMMUNITY DEVELOPMENT COMMISSION.

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

Section 1. Subsection 26-1.21 (being Ord. #1984-19, §3, as amended) is amended to read:

6-4.2 Appointment Terms

A. The mayor, with the consent of the city council shall appoint seven (7) commissioners to the commission. Of the original appointees two (2) commissioners shall serve terms of one (1) year; two (2) shall serve terms of two (2) years; and three (3) shall serve terms of three (3) years; thereafter, commissioners shall be appointed for terms of three (3) years. Commissioners may be removed with or without cause at any time by the mayor.

B. <u>The appointees to the community development commission shall reside in Santa Fe county.</u>

[~~B~~]<u>C</u>. The mayor shall designate a chairman and vice-chairman from among the

Exhibit "4"

commissioners.

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/2014 Bills/ CDC membership

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-___

INTRODUCED BY:

Councilor Rebecca Wurzburger

AN ORDINANCE

RELATING TO THE CODE OF ETHICS, SECTION 1-7 SFCC 1987; AMENDING THE CODE OF ETHICS TO ESTABLISH THAT WORKPLACE BULLYING BY GOVERNING BODY MEMBERS WOULD BE A PROHIBITED ACT AND SUBJECT TO A VIOLATION OF THE CODE OF ETHICS.

BE IT ORDAINED BY THE GOVRNING BODY OF THE CITY OF SANTA FE:

Section 1. Subsection 1-7.7 SFCC 1987 (being Ord. #2005-14, §7, as amended) is amended to read:

1-7.7 Improper Gifts; Improper Transactions; Representation of Private Interests; Conflicts of Interest; and Other Prohibitions.

A. *Improper Gifts to Public Officials and Employees.* A public official or public employee shall not request or receive, directly or indirectly, a gift or other financial benefit, including, but not limited to, travel and accommodations, from any person or entity which, to the knowledge of the public official or public employee, has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed by the public official or public employee, other than a gain or

Exhibit "5"

loss shared with a substantial segment of the general public. If a public official or public employee has received a gift or other financial benefit from a person or entity within the last calendar year and then discovers that this person or entity has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed by the public official or public employee, that public official or public employee shall return the gift or shall be deemed to have a conflict of interest and shall deal with that conflict under the provisions of subsection 1-7.7 L. SFCC 1987. However, nothing in this paragraph A. shall be deemed to prohibit any of the following:

(1) An occasional meal or nonpecuniary gift with a fair market value not to exceed fifty dollars ($50.00) valued in a manner consistent with Internal Revenue Service (IRS) rules.

(a) If relevant to the performance of his or her official duties, members of the governing body, the city manager, the city attorney, or the city clerk may receive an occasional non-pecuniary gift not to exceed two hundred fifty dollars ($250.); however, such person shall report the gift, its value and the provider to the city clerk's office within ten (10) days of receipt of the gift, and such gift report shall be immediately posted by the city clerk, on the city's website.

(b) If relevant to the performance of his or her official duties, a public employee may receive an occasional non-pecuniary gift not to exceed two hundred fifty dollars ($250.); however, such person shall report the gift, its value and the provider to the city manager and the public employee shall obtain the manager's approval prior to receiving the gift, and if approved, such gift report shall be immediately posted by the city clerk, on the city's website;

(2) An award, publicly presented in recognition of public service, having a fair market value not to exceed fifty dollars ($50.00) valued in a manner consistent with IRS rules except for employee of the month recognition or non-profit or civic recognition of a public

employee that does not otherwise violate the Code of Ethics;

(3) A campaign contribution that is properly received and reported in the manner required by Section 9-2 SFCC 1987;

(4) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the state to engage in the business of making loans; or

(5) Compensation for services rendered or capital invested or payment for a sale of property which is normal and reasonable in amount, commensurate with the value of the property sold or services rendered or the magnitude of the risk undertaken on the investment, and in no way increased or enhanced by reason of the recipient's position as a public official or public employee.

B. *Improper Transactions with the City.* A public official or public employee shall not enter into a contract or transaction with the city of Santa Fe during his or her term of office or employment or for a period of one (1) year following the leaving of public office or public employment when the contract or transaction is a result of an official act by that public official or public employee; provided, however, that nothing in this paragraph B. shall be deemed to prohibit a present or former public official or public employee from seeking or obtaining, on his or her own behalf, a city permit, license or service that is provided by the city on the same terms and conditions to a substantial segment of the general public.

C. *Representation of Private Interests.*

(1) A governing body member, the city manager, the city attorney and the city clerk shall not, during his or her term of office or within one (1) year after the termination thereof, accept monetary compensation from a third party for consulting with, representing or advising that party regarding any transaction with the city or matter before the city.

(2) A public employee shall not, during his or her term of employment or within one (1) year after the termination thereof, accept monetary compensation from a third party

for consulting with, representing or advising that party regarding any transaction with the city department that the public employee is or was employed by or any matter before such city department in which the public employee has had or reasonably should expect to have any influence or personal involvement in his or her capacity as a city employee.

(3) A governmental body member, excluding members of the governing body, shall not, during his or her term of office or within one (1) year after the termination thereof, accept monetary compensation from a third party for consulting with, representing or advising that party regarding any transaction with such governmental body or matter before such governmental body in which he or she has had or reasonably should expect to have any influence or personal involvement in his or her capacity as a governmental body member.

D. *Misuse of Confidential Information.* A public official or public employee shall not use or disclose confidential information when he or she knows or reasonably should know that the use or disclosure will or may result in a financial gain or the avoidance of a financial loss on the part of any person or entity other than the city.

E. *Misuse of City Resources.* A public official or public employee shall not use city services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public.

F. *Nepotism.* A public official or public employee shall not perform any act to obtain the employment or to influence the employment by the city of a member of his or her family. No public official or public employee shall serve as the immediate supervisor of a member of his or her family.

G. *Financial Dealings with Subordinates.* A public official or public employee shall not knowingly require, expressly or impliedly, or authorize another person to require that any subordinate of the public official or public employee engage in a non-official financial transaction, including a personal loan or charitable contribution.

H. *Improper Political Campaigning. A* public official or public employee shall not

knowingly request or authorize another person to request that any subordinate of the public official or public employee make a campaign contribution or provide services to a political campaign, and shall not engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or facilities to benefit or assist a political campaign.

I. *City Employment as a Political Reward.* A public official or public employee shall not promise an appointment or the use of his or her influence to obtain an appointment to any position with the city as a reward for any political activity or contribution.

J. *Honoraria.* A public official or public employee shall not request or receive an honorarium for a speech or service rendered in the performance of his or her duties as a public official or public employee. For the purposes of this paragraph J., "honorarium" means payment of money, or any other thing of monetary value, but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service. However, the public official or public employee shall report all such reimbursement to the city clerk within ten (10) days of receipt.

K. *Workplace Bullying by Governing Body Members.* A governing body member shall not intentionally bully any public employee, including the city manager, city attorney or city clerk. For purposes of this paragraph, workplace bullying means intentional behavior intended to create an abusive work environment for a public employee or public employees. Bullying behavior is behavior in the workplace that a reasonable person would find hostile, offensive, and not obviously related to the city of Santa Fe's legitimate business interests. Workplace bullying includes, but is not limited to the following:

(1) Use of disrespectful and devaluing language;

(2) Persistent or constant criticism in front of other persons (including co-workers, vendors, contractors or members of the public) for the purpose of humiliating an employee;

(3) Behavior or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming;

(4) Threats and intimidation, including threats to discipline or terminate a public employee.

[K]L. *Retaliation and Whistleblower Protection.* A public official or public employee shall not be dismissed, threatened with dismissal, or otherwise singled out for retaliation for the reason that the person has filed a complaint of violation of this Code of Ethics or any other violation of a legal prohibition or requirement or has given evidence or participated in an investigation of any such violation. Any act in violation of this paragraph K. shall be deemed a violation of the Code of Ethics. The outcome of the original ethics complaint shall not be deemed relevant to the complaint of retaliation itself.

[L]M. *Conflicts of Interest.* The following shall govern conflicts of interest:

(1) A public official or public employee who has a conflict of interest as defined in subsection 1-7.5 SFCC 1987 shall immediately disclose the conflict in the following manner:

(a) In the case of a member of a governmental body, to the governmental body at a public meeting;

(b) In the case of the city manager, the city attorney or the city clerk, to the governing body at a public meeting, and

(c) In the case of a public employee, to the city manager.

(2) A public official or public employee shall not perform an official act or attempt to influence another person to perform an official act in any matter in which he or she has a conflict of interest.

(3) If compliance with paragraph L.(2) above by a public official or public employee would deprive a governmental body of a quorum for taking necessary action or

would render the city unable to take necessary action on any matter, and it is deemed an emergency, the public official or public employee shall be excused from such compliance when he or she has made the disclosure required by paragraph L.(1) above.

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/Bills 2014/Workplace Bullying (GB)

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-___

INTRODUCED BY:

Councilor Rebecca Wurzburger

A RESOLUTION

SUPPORTING EFFORTS TO RETAIN YOUNGER TALENT AND INVIGORATE SANTA FE'S NIGHTTIME ECONOMY AND CREATING A TASK FORCE TO MAKE ACTION RECOMMENDATIONS TO THE GOVERNING BODY.

WHEREAS, Santa Fe's labor force is shrinking and one known reason for this is that younger workers are departing for other cities and are not being retained; and

WHEREAS, the lack of nightlife has been repeatedly named as a key issue for this demographic; and

WHEREAS, the cost of real estate, an aging population and other factors have led to disproportionately high barriers for a thriving nighttime economy in Santa Fe; and

WHEREAS, music, theatrical performance, dance and other live art forms are critical to maintaining a strong artistic economy in Santa Fe; and

WHEREAS, these art forms contribute to creating vibrant cities for people of all ages and many responsible adults buy beverages and generate the revenue which supports the businesses of nighttime economies; and

Exhibit "6"

WHEREAS, Santa Fe's economic development plan seeks to strengthen and diversify the economy; and

WHEREAS, Santa Fe is expected to have 1,000 residents turn 65 each year for the next 25 years and the senior population is expected to double from 2010 to 2020; and

WHEREAS, many cities are creating plans to address changing demographics and Santa Fe needs a long-term plan to attract and retain younger people as residents, visitors, business owners and workers.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the governing body supports efforts to retain younger people and invigorate the nighttime economy. Such efforts are a priority for the City of Santa Fe.

BE IT FURTHER RESOLVED that:

Section 1. Economic development staff is directed to design and execute a selection process for a portfolio of nighttime economy pilot projects each of which will receive a small scholarship (not to exceed $5,000 in total) to take immediate action to invigorate the nighttime economy and gather information on possible long-term, systemic solutions.

Section 2. The Economic Development Review Committee (EDRC) shall be the selection committee for this portfolio of projects.

BE IT FURTHER RESOLVED, that the Governing Body hereby establishes the Nighttime Economy Task Force ("Task Force").

Section 1. **PURPOSE:** The purpose of the Task Force is to make recommendations on how to invigorate Santa Fe's nighttime economy that will impact in the short, medium and long-term.

Section 2. **DUTIES AND RESPONSIBILITIES:** The Task Force shall:

A. Take a comprehensive look at the issues contributing to a vibrant nighttime economy, including, but not limited to: public policies; transportation; venue space and location availability; alcohol permitting, service and safety; zoning; noise and traffic

concerns; and costs to do business.

B. Develop a set of short-term, low cost solutions to be piloted within the year and used to inform a long-term plan to be presented to the governing body.

C. Develop a set of recommendations for systemic medium and long-term solutions including a plan to build and maintain a vibrant nighttime economy.

D. Explore the possibility of a 'nighttime economy zone' or other solutions to develop and diversify Santa Fe's economy and to address the need for different areas to serve different needs and populations in a growing city.

E. Maintain a private sector perspective and seek to stimulate private sector partnerships and investment.

F. Investigate incentives and ways to lower costs including, but not limited to: the use of city owned buildings, parks and other properties; providing for shared equipment, use of a municipal liquor license, parking ticket waivers; kiosks for listing and other communication.

G. Investigate models for incentivizing and invigorating activity at existing venues and other locations.

H. Report to the City Business and Quality of Life Committee ("CBQL") on a monthly basis on the progress of the Task Force, until a final plan is completed and presented to the CBQL.

Section 3. MEMBERSHIP; OFFICERS; TERM:

A. Within two months of the adoption of this resolution, the City Business and Quality of Life Committee ("CBQL") shall provide Task Force member nominations to the mayor for appointment, with the approval of the governing body.

B. The Task Force shall consist of five to ten members who will represent a diverse constituency surrounding the nighttime economy and may be representatives of

private businesses, artist organizations, non-profits, community activists, local colleges and universities and other organizations.

C. The Task Force shall select its own chairperson from the appointed members.

D. The members shall serve until they complete their duties and responsibilities as set forth above.

E. Members shall serve without compensation

Section 4. **VACANCIES:** Vacancies on the Task Force shall be filled in the same manner as initial appointments.

Section 5. **MEETINGS; DURATION:** The Task Force shall meet at least once per month and shall conduct public meetings in accordance with the Open Meetings Act and adopted city policies and procedures. Unless further extended by the Governing Body, the Task Force meetings shall conclude no more than nine months from the date of passage of this resolution.

Section 6. **STAFF LIAISON:** Economic Development staff shall serve as the liaison to the Task Force.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2014.

_____

ATTEST: DAVID COSS, MAYOR

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/Resolutions 2014/Nighttime Economy

Working Draft
1/28/14

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-___

INTRODUCED BY:

Councilor Rebecca Wurzburger

A RESOLUTION

AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM ("SFHP") TO REFLECT THE AMENDMENTS APPPROVED BY ORDINANCE 2014-___.

WHEREAS, on August 15, 2005, the governing body adopted Ordinance No. 2005-30A, establishing the Santa Fe Homes Program (SFHP); and

WHEREAS, on August 15, 2005, the governing body also adopted Resolution No. 2005-69, the administrative procedures for implementing the Santa Fe Homes Program; and

WHEREAS, the governing body has amended the administrative procedures for implementing the Santa Fe Homes Program by Resolution No. 2007-99, Resolution No. 2008-73, Resolution no. 2009-74, Resolution 2010-49 and Resolution 2011-36; and

WHEREAS, on February 26, 2014, the governing body adopted Ordinance no. 2014- __ SFHP Fees (20%); and

WHEREAS, the governing body desires to amend the SFHP administrative procedures to reflect the amendments approved by Ordinance No. 2014 - __.

Exhibit "7"

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the SFHP administrative procedures, attached hereto as Exhibit A are amended to reflect the amendments approved by Ordinance No. 2014-__.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2014.

_____

DAVID COSS, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/2014 Resolutions/SFHP Admin Procedures

Working Draft
1/29/14

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-____

INTRODUCED BY:

Councilor Rebecca Wurzburger

A RESOLUTION

REPEALING RESOLUTION NO. 2013-80 THAT CALLED FOR A THIRD-PARTY INDEPENDENT AUDIT OF THE 2008 PARKS, TRAILS AND OPEN SPACE BOND; AND AUTHORIZING A SPECIAL EXTERNAL AUDIT OF THE ENTIRE EXPENDITURE OF 2008 PARKS, TRAILS AND OPEN SPACE BOND ("2008 BOND").

WHEREAS, on August 27, 2013, the Governing Body adopted Resolution No. 2013-80 which directed staff to audit, as part of the City's regular annual external financial audit, all projects funded by the 2008 Bond and completed by the end of FY 2013; and

WHEREAS, the completion of various 2008 Bond projects involving the expenditure of funds did not all occur by the end of FY 2013; and

WHEREAS, the audit called for in Resolution 2013-80 has not yet occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Resolution No. 2013-80 is hereby repealed.

BE IT FURTHER RESOLVED that the Governing Body hereby authorizes, upon completion of all projects, a special external audit of the entire expenditure of the 2008 Parks, Trails and Open Space Bond.

Exhibit "8"

Section 1. The City of Santa Fe Internal Auditor shall collaborate with staff from the Public Works Department and Finance Department and a member of the City of Santa Fe Audit Committee to:

(a) Develop "agreed-upon procedures" that the special audit would be conducted under; and

(b) Select an external auditor.

For purposes of this section, *"agreed-upon procedures"* mean an engagement where the client specifies procedures and the accountant agrees to perform those procedures.

Section 2. The Audit Committee shall be included in the process during the development of the "agreed-upon procedures" and shall review the final version prior to engaging an external auditor.

BE IT FURTHER RESOLVED that the findings of the audit shall be made available for public inspection.

BE IT FURTHER RESOLVED that staff is directed to:

1. Collaborate with the City of Santa Fe Audit Committee to establish an audit policy related to City of Santa Fe bond issues; and
2. Present the proposed policy to the Governing Body for approval.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2014.

_____

ATTEST: DAVID COSS, MAYOR

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

1 *M/Melissa/Resolutions 2014/Park Bond Audit*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2014-___

INTRODUCED BY:

Councilor Rebecca Wurzburger

A RESOLUTION

SUPPORTING THE CONTINUATION OF THE COMMUNITY DEVELOPMENT PROCESS TO REVITALIZE CENTRAL SANTA FE AND OUTLINING THE NEXT STEPS OF THE REMIKE PROJECT.

WHEREAS, the City of Santa Fe has repeatedly recognized the importance of the St. Michael's Drive area in many ways, including the City's investment in the property that is home to the Santa Fe University of Art and Design, the adoption of numerous resolutions including: 2008-112, 2011-18, and 2012-22 and through the support of the REMIKE Demonstration event held in September 2012; and

WHEREAS, revitalization of the area is critical to the evolution of Santa Fe into a city with different centers of commerce, culture and community; and

WHEREAS, the St. Michael's Drive area includes the population center of Santa Fe (according to the 2010 census) and key educational institutions like De Vargas Middle School, Santa Fe High School, Santa Fe University of Art and Design, and the planned Higher Education Center of the Santa Fe Community College; and

Exhibit "9"

WHEREAS, CHRISTUS St. Vincent Regional Medical Center and the surrounding businesses provide valuable medical services and form a significant employment center and engine of job creation in the region; and

WHEREAS, numerous other businesses and community organizations are invested in the area; and

WHEREAS, at Cerrillos Road and St. Michael's Drive all four City Council districts connect; and

WHEREAS, the Santa Fe Metropolitan Planning Organization identified St. Michaels Drive for further study in the Santa Fe Metropolitan Transportation Plan 2010-2035; and

WHEREAS, the residential neighborhoods bordering both sides of St. Michael's Drive have Median Household Incomes that range between $23,260 and $38,405 and are just 44% and 73%, respectively, of the U.S. Median Household Income of $52,762, for the same period,, thereby qualifying these areas for the designation of "economically distressed"; and

WHEREAS, the community development process thus far has brought forward the importance of addressing the road, traffic and safety issues as well as the zoning and business environment issues; and

WHEREAS, the REMIKE report identifies key action items designed to catalyze revitalization in the area.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body supports the continuation of the community development process to revitalize central Santa Fe and outline the next steps of the Remike project.

BE IT FURTHER RESOLVED that an interdepartmental staff team shall bring forward the following action items:

1. A plan to mobilize one or more catalytic projects to jump start revitalization in the area that may include development of housing, commercial, retail and/or green space,

and a slate of incentives to support the selected proposal which may include city investments, fee waivers and/or allocation of other city resources as well as a special designation of zoning for economic development purposes.

2. A draft overlay district to be implemented in phases which may include development incentives such as fee waivers and allocation of other city resources as well as a special designation of zoning for economic development purposes.

3. Investigation into taking control of a section of property currently leased to Santa Fe University of Art and Design.

4. A traffic study to be used for attraction and justification of federal and state funding for road and transportation improvements.

5. Recommendations on funding and integrations with the priorities of the Santa Fe Metropolitan Transportation Organization.

6. A demonstration project on safety improvements for the crossing of St. Michael's Drive at Llano Street.

7. A working partnership with the New Mexico Department of Transportation on all relevant issues including the crossing at the Rail Trail, the intersection of St. Michael's Drive and Cerrillos Road, ongoing maintenance and service of St. Michael's Drive, public transportation and more.

8. A land survey of the area to include all relevant factors such as the infrastructure, buildings and utilities on both sides of the street.

9. Working partnerships with key private sector partners which leverage investment and effort.

10. A draft ordinance to galvanize business in the area through creation of pop-up businesses and provision for temporary uses of existing spaces.

11. Mobilization of an incentivized selection of creative professionals, in partnership

with the Arts Commission, to create mobile business and/or parklet facilities, to be utilized in this and other areas, as recommended in the REMIKE Report

12. Mobilization of an incentivized selection of creative professionals to create an identity for the area as a vibrant district and provide a foundation for the formation of a district business association.

BE IT FURTHER RESOLVED that all actions should include outreach and work to improve adjacent neighborhoods for relevant factors including; increased safety for pedestrians and bicyclists, access to improved community services in the area; access to resources to enhance economic success and mobility; preservation and expansion of affordable housing assets; and preservation of existing families and neighborhoods.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2014.

_____

DAVID COSS, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/Resolutions 2014/Remkie Project

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-____

INTRODUCED BY:

Councilor Chris Calvert

AN ORDINANCE

RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987.

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

Section 1. Subsection 23-8.1 SFCC 1987 (being Ord. #2009-50, §2) is amended to read:

23-8.1 Legislative Findings.

The governing body of the city of Santa Fe finds that:

A. Street performers enhance the character of the city of Santa Fe; and

B. Street performers are professional entertainers whose livelihood comes from gratuities received; and

C. Street performers have a right to perform on public property

D. Street performers gather crowds who are entertained by their widely varied and creative performances; and

E. At some locations that street performers choose to entertain there is not enough room

Exhibit "10"

for a crowd, therefore, public safety matters occur because sidewalks, passageways, streets or entrances to buildings are blocked; and

F. Conflicts among street performers, between street performers and local businesses and sponsors of permitted events often arise because of the proximity of the street performers to other street performers, local businesses, or permitted events; and

G. Conflicts occur because the sound level of a street performance may interfere with other street performances, business dealings or other permitted events; and

H. In order to [~~facilitate and encourage~~] allow street performers, there is a need to establish regulation and licensing standards for street performers related to the times and public locations for street performances, distance requirements, public safety and compliance with current ordinances.

Section 2. Subsection 23-8.2 SFCC 1987 (being Ord. #2009-50, §3) is amended to read:

23-8.2 Purpose.

The purpose of this section is to [~~ensure the ability of street performers to perform~~] support responsible street performances in public spaces and to promote harmony among street performers, local businesses, permitted event sponsors, residents and visitors to Santa Fe by:

A. Addressing public safety concerns; and

B. Balancing [~~the interests of the street performers~~] street performances with interests [~~those~~] of the local businesses, permitted event sponsors, residents and visitors to Santa Fe; and

C. Establishing regulation and licensing standards for street performers.

Section 3. Subsection 23-8.3 SFCC 1987 (being Ord. #2009-50, §4) is amended to read:

23-8.3 Definitions.

As used in this section:

Perform or performance means entertainment such as, but not limited to reciting or singing, acting, dancing, miming, pantomiming, playing a musical instrument or performing a theatrical or literary work.

Street performer means an individual who performs, as defined herein, on public property within the city of Santa Fe and accepts gratuities from others.

Section 4. Subsection 23-8.4 SFCC 1987 (being Ord. #2009-50, §5) is amended to read:

23-8.4 Business License Required.

A. Street performers shall be required to obtain a city business license in accordance with Section 18-1 SFCC 1987, which may be applied for each calendar year.

B. Only one (1) member of a street performer group is required to obtain a business license, unless a member or members of the group also perform individually, then that member or those members shall be required to obtain an individual business license.

C. A street performer who performs for no more than one thirty (30) day period per year may obtain a short term business license.

D. Street performers shall pay license fees in accordance with subsection 18-8.10 SFCC 1987

E. At all times street performers shall have available and display the performer's business license, and have available proof of identification for review by the city.

Section 5. Subsection 23-8.5 SFCC 1987 (being Ord. #2009-50, §6, as amended) is amended to read:

23-8.5 Regulations.

Street performers may perform on public property within the city of Santa Fe, but shall comply with the following regulations.

A. Street performers shall not block, in whole or part, or cause the blocking, in whole or

part, of any sidewalk, passageway, street, alley, or entrance to a building. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. A police officer shall not ask the performer to leave the location unless other reasonable means of restoring the public safety have been exhausted.

B. Street performers may accept contributions of money or property at their performance, in exchange for representations of their own work, except that street performers shall not exchange any type of food product or vegetation, on public property. Street performers shall not sell goods or wares on public property at a fixed price except for audio or video recordings.

C. Street performers shall not perform on private property unless permission is granted from the property owner.

D. Street performers shall not infringe on events for which a city permit has been issued so as not to detract from the stated purpose of the permit including, but not limited to, Indian Market, Spanish Market, Fiesta Arts and Crafts, Fiesta and midday or evening performances at the bandstand on the Plaza. Any performance at such events shall only be with the written permission of the sponsor and provided the performer has received a special event vendor license [~~provided that a copy has been filed prior to the event with the police department~~].

E. Use of fire, spray paint or aerosol in performances is prohibited.

F. Street performers shall stay at least one hundred fifty feet (150') away from other street performers.

G. The sound level from street performances shall be kept at such a level that other street performances are not disturbed. The sound level shall not be plainly audible one hundred (100') feet away from the performance site. A performer or group of performers may use sound battery powered portable amplification as long as this sound level is not exceeded. A performer or group of performers may not use public power sources or portable generators.

H. Street performers shall remain at one location no longer than two (2) hours and shall not

return to that location for two (2) hours, availability of the location permitting.

I. Street performers shall perform no earlier than 8:00 a.m. and no later than 9:00 p.m. [~~11:00 p.m. Sunday through Thursday and 1:00 a.m. on Friday and Saturday nights except at city parks and recreation areas, where the curfew is 10:00 p.m., Sunday through Saturday, in accordance with subsection 16-13.6 SFCC 1987.~~]

Section 6. Subsection 23-8.6 SFCC 1987 (being Ord. #2009-50, §7) is amended to read:

23-8.6 Other Compliance.

The conduct and behavior of all street performers, unless more specifically provided for herein, shall be in compliance with the Santa Fe City Code 1987, which includes more specifically:

A. Subsection 10-2.4 — Noises Prohibited;

B. Subsection 10-2.5 — Zone District Noise Levels; Maximum; Correction;

C. Subsection 23-4.2 — Solicitation on Public Property; and

D. Subsection 23-4.8 — Blocking or Obstructing of Sidewalks.

Section 7. Subsection 23-8.7 SFCC 1987 (being Ord. #2009-50, §8, as amended) is amended to read:

23-8.7 Criminal Enforcement; Penalty; Administrative Enforcement.

A. *Criminal Enforcement by the Municipal Court:* [~~The police department shall enforce the provisions of Section 23-8 SFCC 1987.~~

~~(1) Upon the first violation of the provisions of this section, the police may issue a written warning to the person violating this section.~~

~~(2) Upon a second and subsequent violation by the same person, the police shall issue a citation.~~

~~(3) Any street performer who violates any provision of Section 23-8 SFCC 1987 or any other city ordinance shall, upon conviction, be punished in accordance with the~~

~~provisions of Article 1-3 SFCC 1987.~~]

(1) The police department may evaluate whether the street performer:

(a) has a valid license;

(b) is performing according to distance restrictions;

(c) is abiding by the audible standards; or

(d) is abiding by any provision of this section or any provision of the SFCC 1987.

(2) If the police department concludes that a verbal warning is not enough to correct the conduct, the police department may issue a criminal citation for municipal court that shall, upon conviction, be punished in accordance with the provisions of Article 1-3 SFCC 1987.

B. *Administrative License Enforcement by Finance Director.*

[~~(1) If a street performer is in violation of any provision of this section or any provision of the SFCC 1987; or is operating in a manner contrary to the public welfare, then the city finance director may, in his discretion and upon reasonable evidence:~~

~~(a) Send the street performer a notice of violation specifically stating:~~

~~(i) The nature of the violation;~~

~~(ii) Whether there are past due license fees; and~~

~~(iii) If there are past due license fees, order that the past due license fees, plus a penalty that is double the amount due, be paid immediately, upon receipt of the notice;~~

~~(iv) If the fee and penalty are not paid, the provisions of this section or other provisions of the SFCC 1987 are not complied with and the operation contrary to the public welfare is not discontinued within fifteen (15) days after receipt of the notice, the street performer shall surrender his~~

~~business license to the finance director and the license shall be placed in suspension until a hearing is held before the finance committee for consideration of revocation of the business license; or~~

~~(b) If the street performer's action creates an immediate and imminent danger, immediately place the business license in suspension until a hearing is held before the finance committee for consideration of revocation of the business license.~~

~~(c) Any notice of violation shall specify the date, time and place of the hearing by the finance committee in the event the violations are not corrected. The street performer shall appear before the finance committee to show cause why the business license should not be revoked.~~

~~(2) If, at the hearing before the finance committee, the street performer fails to show cause why the business license fee should not be revoked, the finance committee shall issue a cease and desist order revoking the business license. Such cease and desist order shall prevent the street performer from performing on public property, for a period of one (1) year from the date of the hearing.~~

~~(3) The hearing before the finance committee shall not be less than thirty (30) days after the notice provided in paragraph B(1), above, is mailed, via certified mail, to the address listed on the street performer business license application.~~

~~(4) An appearance may be made by counsel and the street performer charged with violating this section may present evidence and call witnesses to show cause why his license should not be revoked.~~

~~(5) Any street performer aggrieved by the decision of the finance committee may submit to the governing body a written petition for appeal. Such petition for appeal shall:~~

~~(a) Be submitted to the city clerk's office within thirty (30) days of the date the action appealed was taken by the finance committee.~~

~~(b) Set forth that such proceedings or assessments were in error in whole or in part, specifying the grounds of the appeal.~~

~~(c) Be on the agenda of the next regularly scheduled meeting of the governing body, during the evening session. Verbal or written notice shall be given to the appellant at least five (5) calendar days prior to the meeting of the governing body.~~]

(1) The police department may evaluate whether the street performer:

(a) has a valid license;

(b) is performing according to distance restrictions;

(c) is abiding by the audible standards; or

(d) is abiding by any provision of this section or any provision of the SFCC 1987.

(2) If the police department concludes that a verbal warning is not enough to correct the conduct, the police department may file a written complaint with the finance director, separately or concurrently with actions taken under Section 23-8.7(A). This will start the administrative process to revoke the street performer's license.

(3) The police department may also temporarily seize a street performer's license immediately if the performer is causing any immediate and imminent danger to the public. The license, if seized, shall be attached to the written complaint.

C. *Administrative Licensure Due Process by the Finance Director*

(1) The finance director, upon receipt of a written complaint, shall send the street performer a notice of violation and a copy of the written complaint via certified mail to the address listed on the street performer's business license application as well as a courtesy copy to the police department. The notice of violation shall state:

(a) the nature of the violation;

(b) whether there are past due license fees;

(c) if there are past due license fees, order that the past due license fees, plus a penalty that is double the amount due, be paid immediately, upon receipt of the notice;

(d) date, time and place of an order to show cause hearing before the finance director, or designee and the hearing must be held within fifteen (15) business days of receipt of the complaint;

(e) that an appearance may be made by counsel and the street performer charged with violating this section may present evidence and call witnesses to show cause why his license should not be revoked; and

(f) that the police department may, but is not required to send, an officer to testify at the hearing and the Finance Director may give the written complaint its due weight based on the factual circumstances of the matter.

(2) If, at the hearing the street performer fails to appear (absent written submittal of a request for a five (5) business day continuance) or show cause why the business license should not be revoked, the finance director shall issue a cease and desist order revoking the business license and shall timely send a copy to the street performer via certified mail as well as a courtesy copy to the police department. Such cease and desist order shall also prevent the street performer from applying for a new license for a period of one (1) year from the date of the hearing.

(3) Any street performer aggrieved by the decision of the finance director may submit to the governing body a written petition for appeal. Such petition for appeal shall:

(a) Be submitted to the city clerk's office within thirty (30) days of the date the action appealed was taken by the finance director.

(b) Set forth that such proceedings or assessments were in error in whole

or in part, specifying the grounds of the appeal.

(c) Be on the agenda of the next regularly scheduled meeting of the governing body, during the evening session. Verbal or written notice shall be given to the street performer at least five (5) calendar days prior to the meeting of the governing body.

D. *Performing Without a License; Enforcement by the Municipal Court.*

(1) If the police department has temporarily seized a license under Section 23-8.7(B)(2), and the street performer continues to perform without a license and the police department concludes that a verbal warning to stop is not enough to correct the conduct, the performer shall be deemed guilty of a petty misdemeanor and subject to arrest.

(2) If a street performer never obtained a license under Section 23-8.4, and the street performer continues to perform and the police department concludes that a verbal warning to stop is not enough to correct the conduct, the performer shall be deemed guilty of a petty misdemeanor and subject to arrest.

APPROVED AS TO FORM:

_____

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

M/Melissa/Bills 2014/Buskers Rewrite 1_28_14

From Stefanie Beninato

Code/historic violations. Denial of due process and equal protection

600 Galisteo St

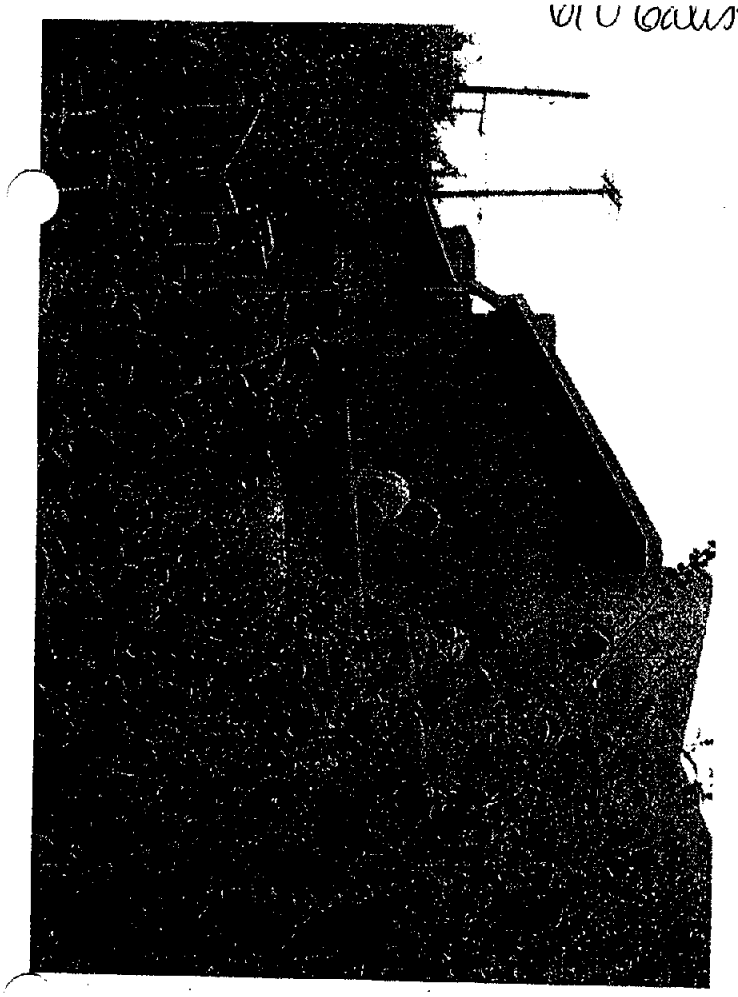
The city is allowing the owner of 600 Galisteo to violate 14-5.2B 12 and
13. It is in danger of falling onto my property. IMG5366 and 5367. Ms Brennan lied when she said you cannot see the wall from the street. IMG 4297
She lied when she said this wall is involved in my lawsuit. The lawsuit has to do w/ damage to my home. The wall in question is entirely on 600 Galisteo St property. IMG 5397 (my house wall on L; 600 on R)

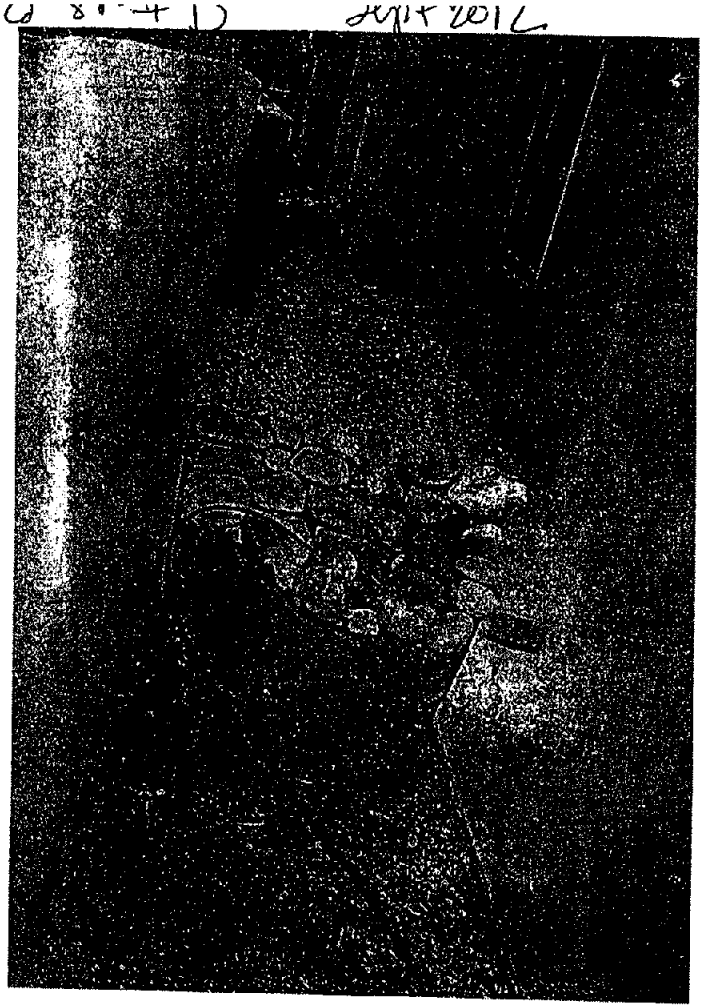
Ms Brennan also lied about city inspector's not finding the wall. Ms Brennan has told staff that NO ONE in the city can speak to me apparently about anything, Obviously this is a denial of due process. Even litigants according to state law get to talk to staff. Litigants are only prevented from speaking to heads of dept about the litigated matter without the city atty being present or giving permission....WHen will Ms Brennan be removed and an ETHICAL lawyer put in her place?
>> PLEASE TAKE ACTION
>> Stefanie Beninato
>> BTW Matt OReilly unilaterally decided no more petitions from the floor at H Board meetings. He is advising citizens to come to Council meetings OBviously each citizen may need more than 2 min to explain some problem that could and should be dealt with through that board. Democracy at its best...!!!

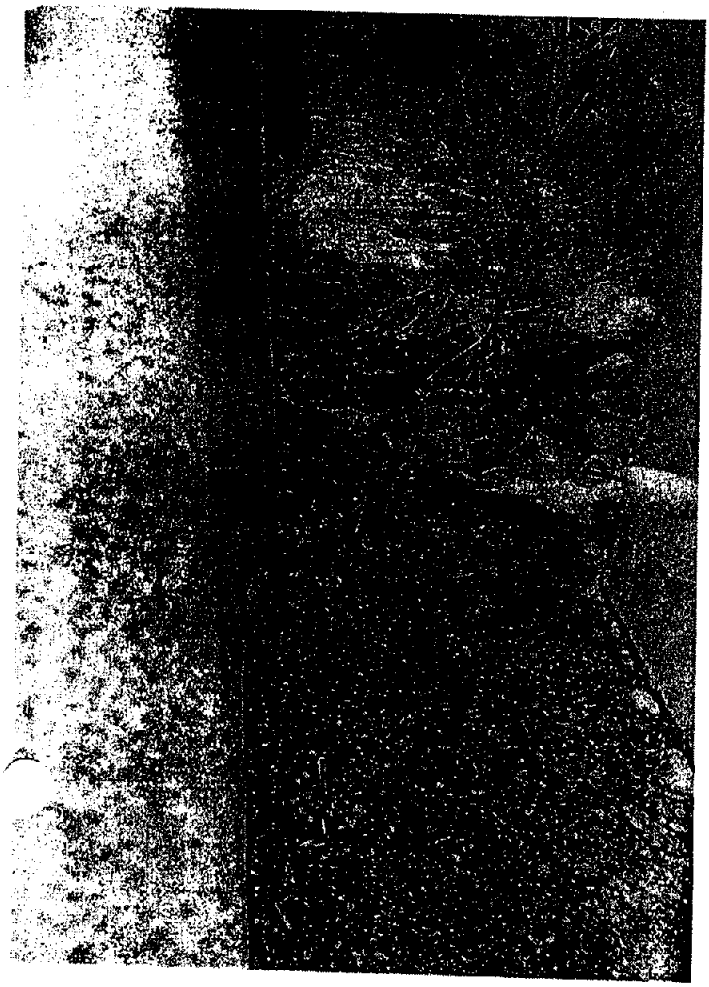
610 Galisteo #B

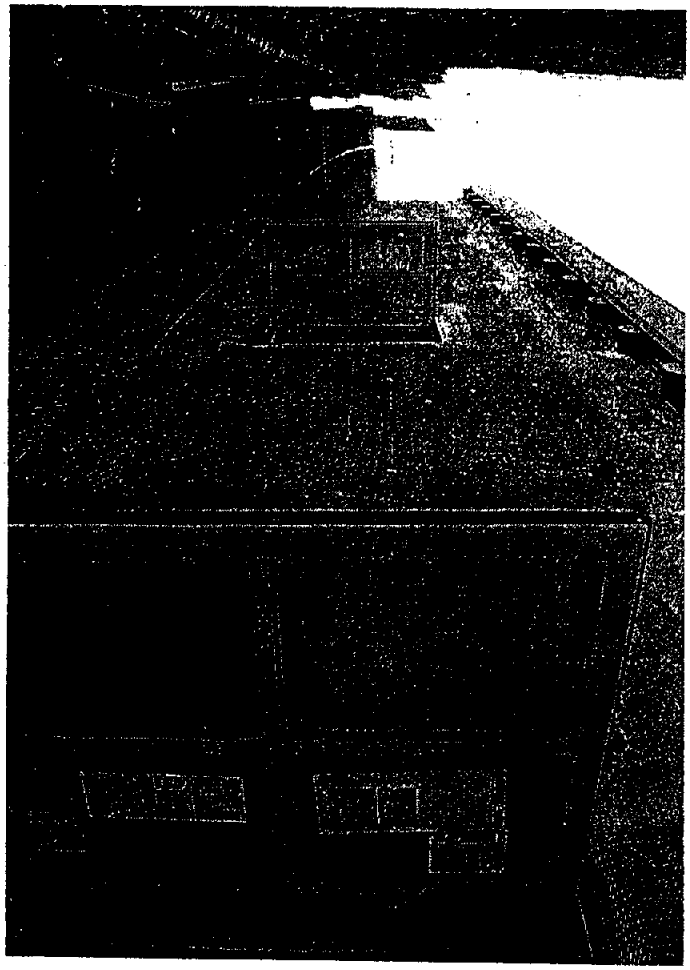
I am attaching pics of situation at 610 B Galisteo St. I will need to send it in 2 emails. Again the wall in question has nothing to do w/ my lawsuit for damages to my
home in 2011. The city improperly issued a permit in 2011 because this land and the exterior walls of any structure are owned by the condo association....The permit only shows one/3 owners applying for the permit. The permit violates 14-5.2 B 11 and 12; and 14-5.2D c and d re Primary facades not being added onto and any additions being 10 ft bk. It also 14-10.3A violates and results in loss of non conforming status. Ms Brennan has said they had a permit to change the grade. The permit in 2011--the only one dealing w/ grade says it will be lowered. Ms Brennan has said the damaged wall is not mine. This is a bold outright lie.
The change in grade produces increased water on my wall and in my driveway in violation of terrain management and state case law. PLEASE TAKE ACTION. My due process rights are being trampled by Brennan and OReilly who has consistently refused to do anything.

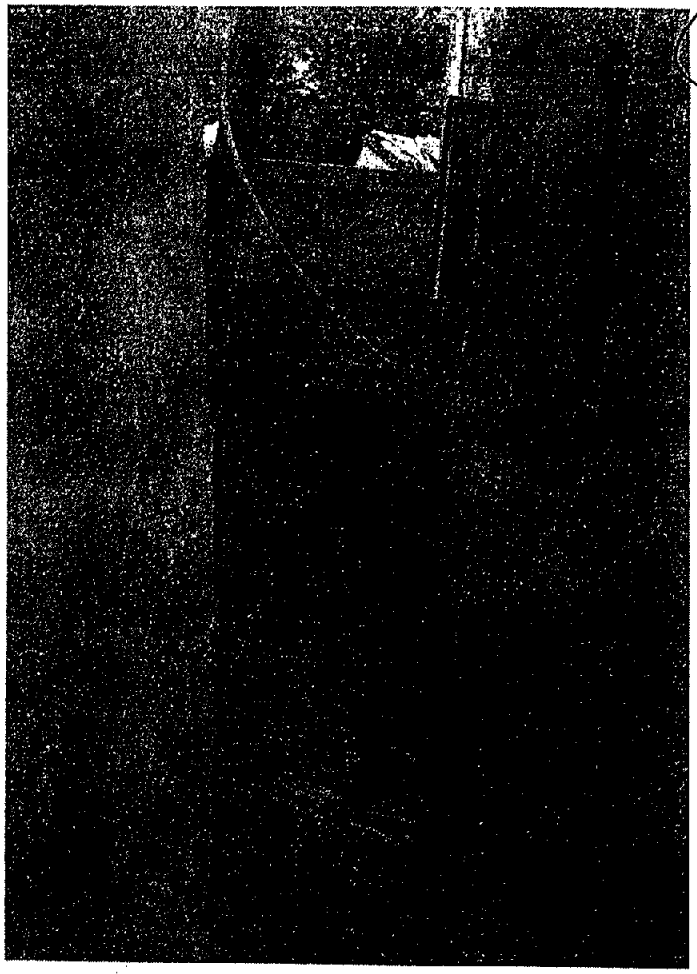
Exhibit "11"

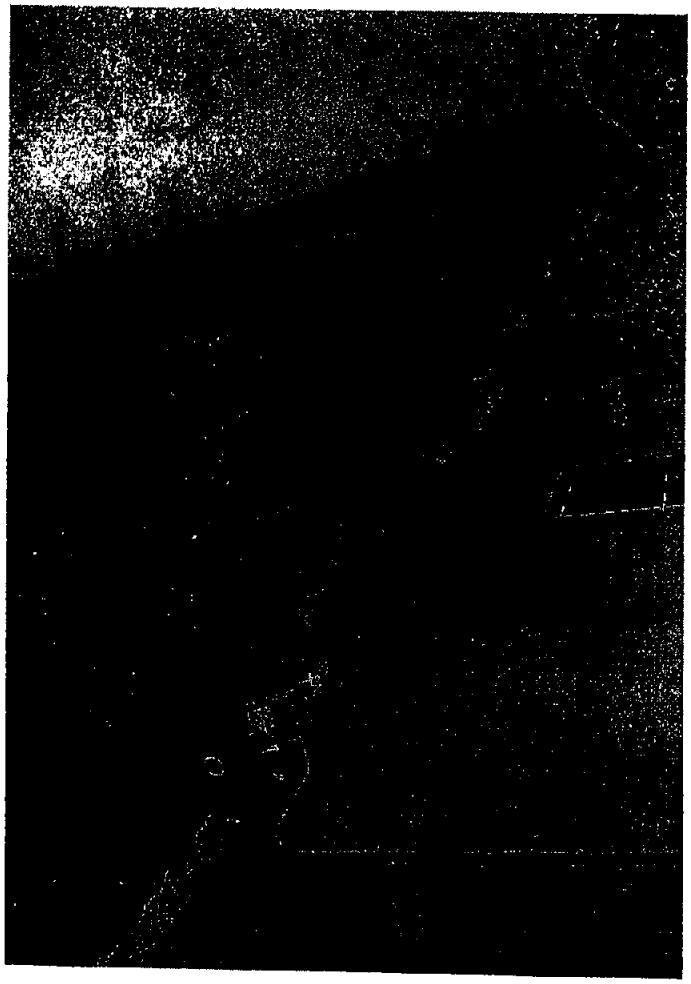


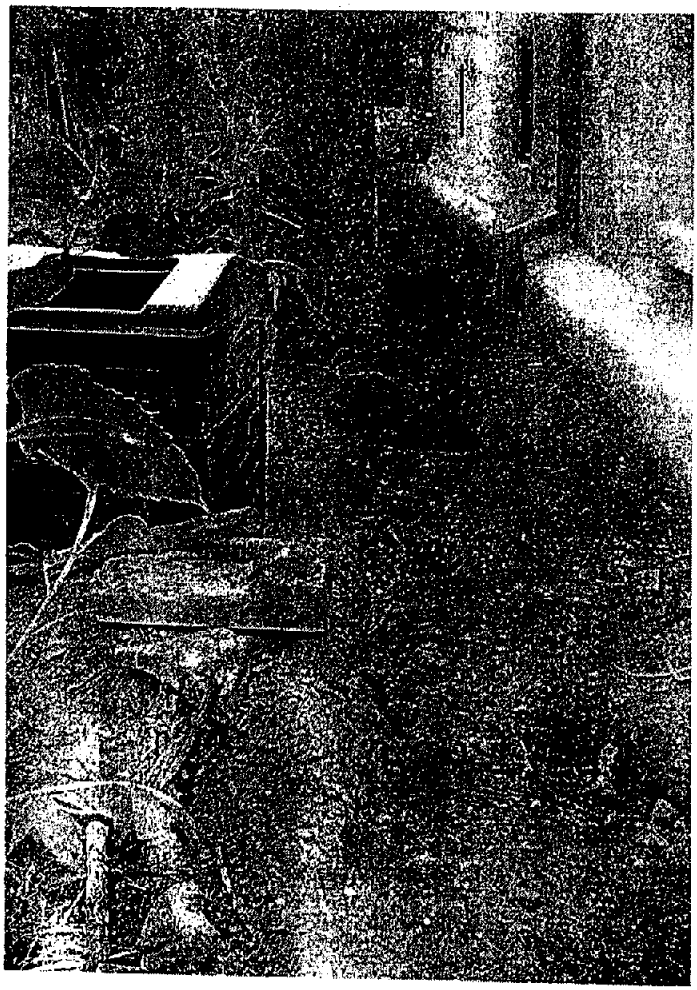


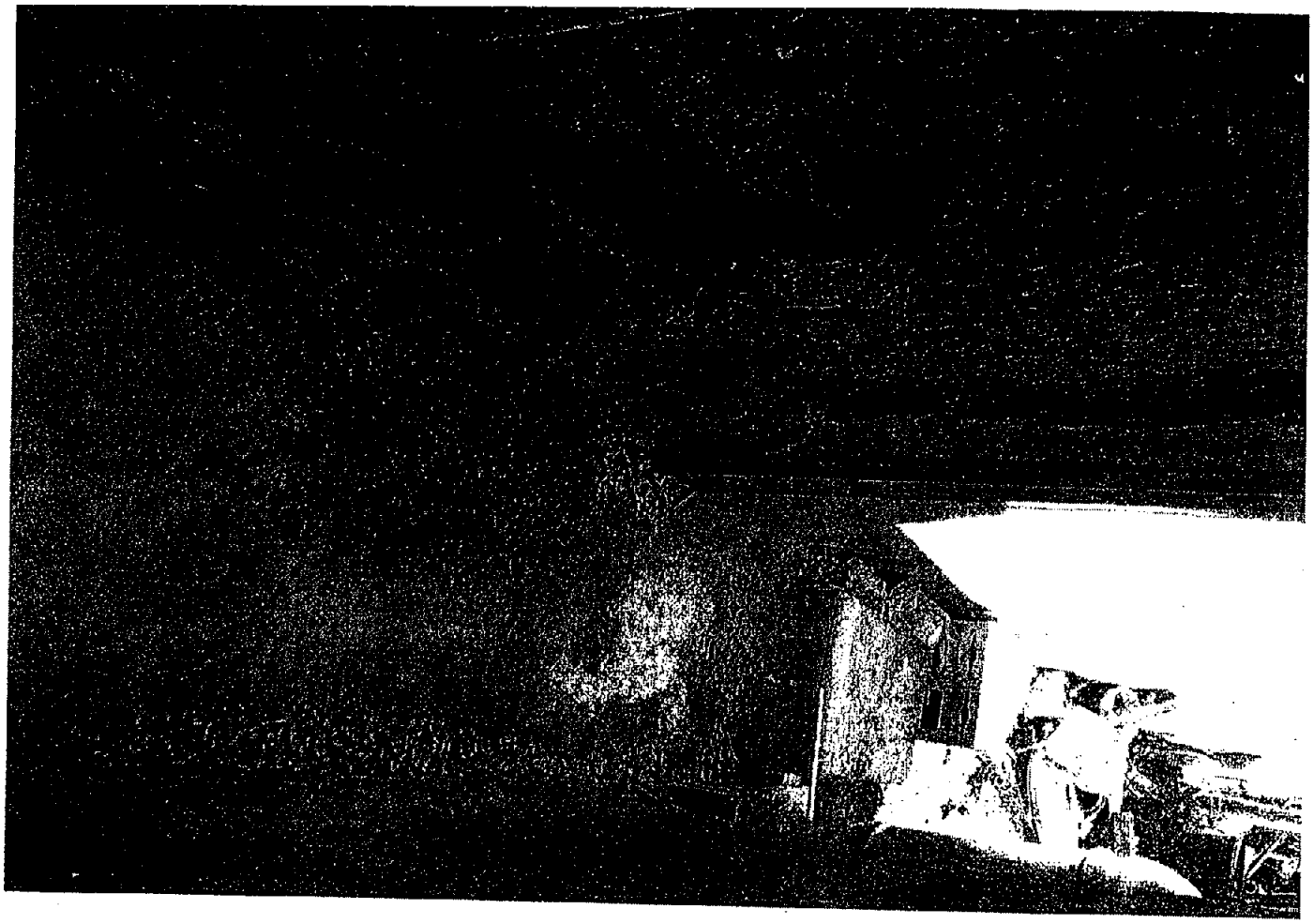












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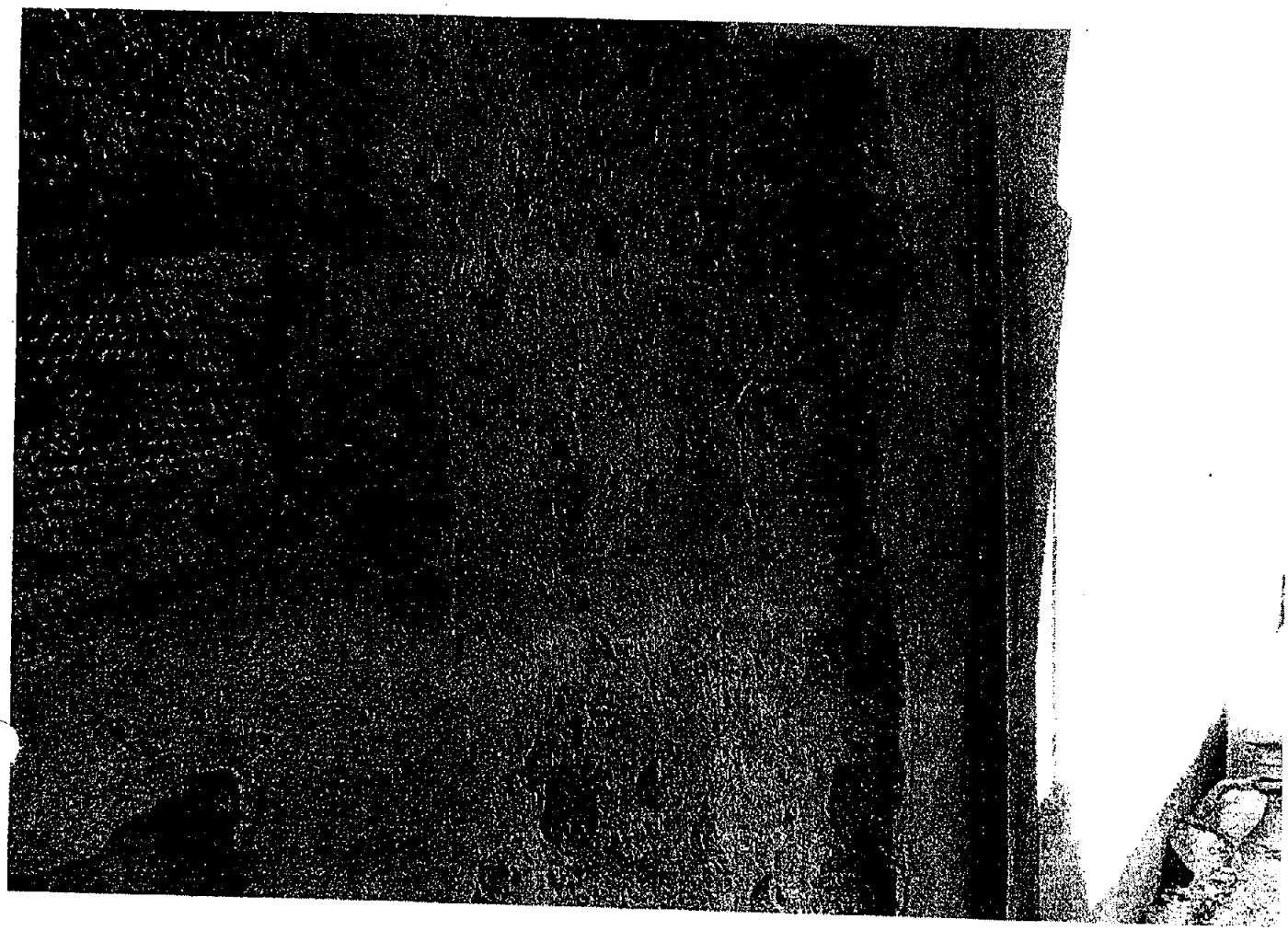

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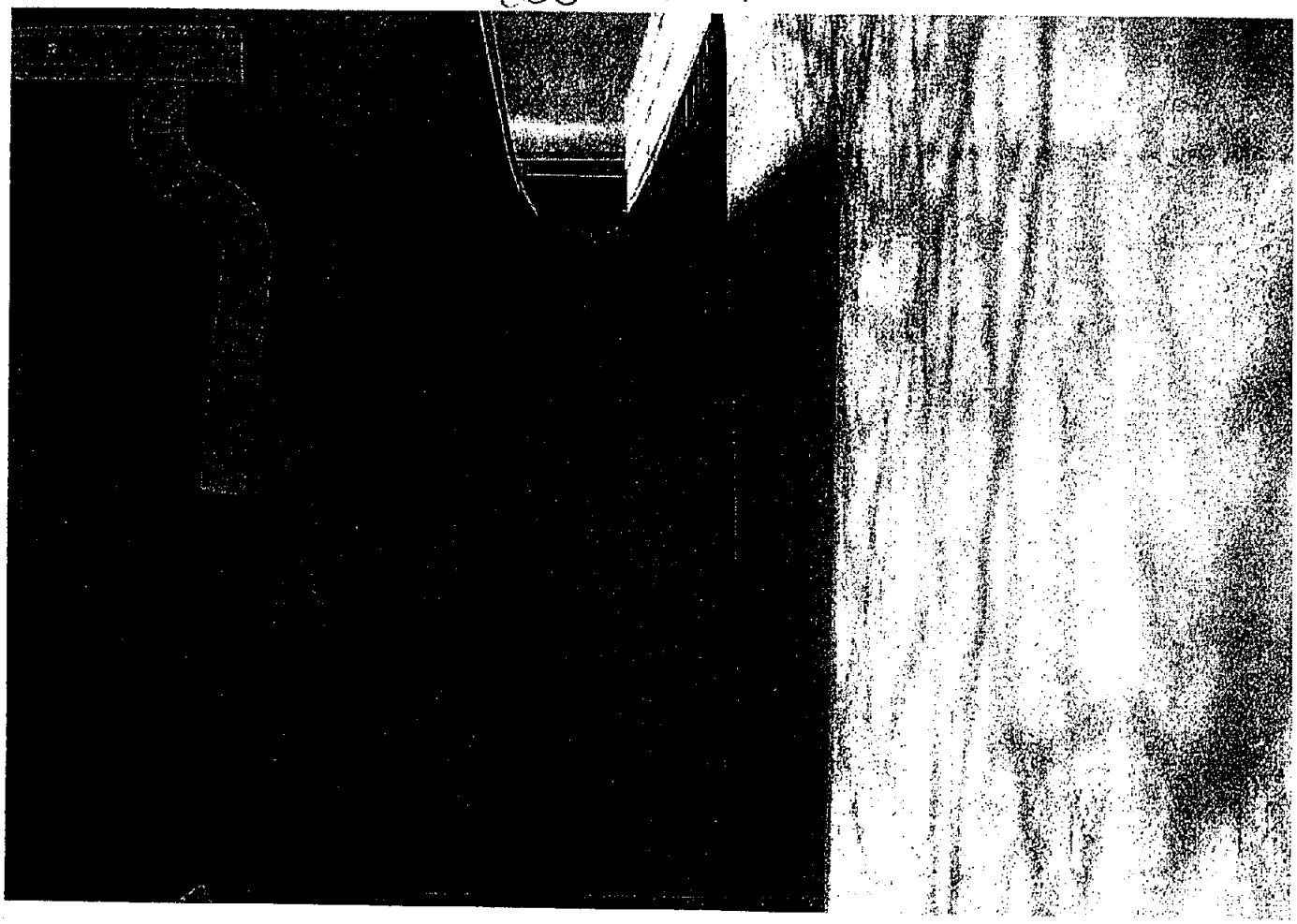
KCU Galloway



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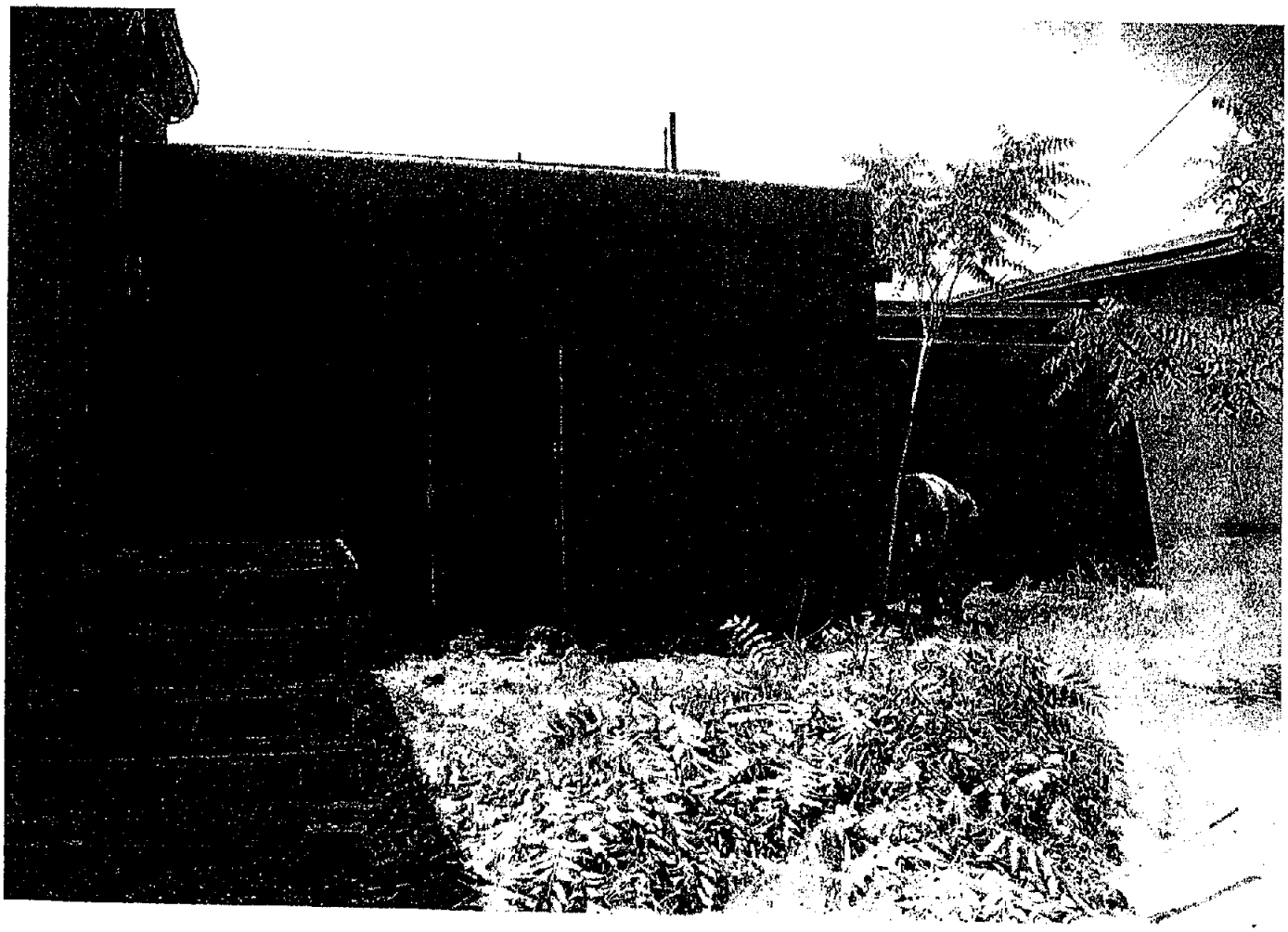

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