



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
FEBRUARY 26, 2014  
CITY COUNCIL CHAMBERS

**AFTERNOON SESSION – 5:00 P.M.**

CITY CLERK'S OFFICE

DATE 2/21/2014 TIME 3:20

SERVED BY

RECEIVED BY [Signature]

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – February 12, 2014
9. PRESENTATIONS
  - a) Proclamation – Santa Fe Culinary Treasures Day – February 26, 2014. (5 minutes)
  - b) Muchas Gracias – Listening Horse Therapeutic Riding Program. (5 minutes)
  - c) Muchas Gracias – Rick Carver, USS Santa Fe. (5 minutes)
  - d) Muchas Gracias – Claudia Borchert. **(Postponed at February 12, 2014 City Council Meeting)** (5 minutes)
  - e) Proclamation – Andrea Bacigalupa Day – February 26, 2014. (5 minutes)
10. CONSENT CALENDAR
  - a) Request for Approval of Memorandum of Understanding – 2014 Day Reporting Program for Juveniles; County of Santa Fe. (Richard DeMella)
  - b) Request for Approval of Professional Services Agreement – Installation of Automated Overhead Track Gate at Bus Yard for Transit Division; Gate-It Access Systems. (Ken Smithson)
    - 1) Request for Approval of Budget Increase – Grant Fund.



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- c) Request for Approval of Change Order No. 2 to Construction Contract – Santa Fe Reservoirs Infrastructure Improvements Project Under Alternate A - Owners Contingency; RMCI, Inc. (Robert Jorgensen)
- d) Request for Approval of Alameda Rain Gardens Program – Construction of Storm Water Improvements Along East and West Alameda Street; Santa Fe River Voluntary River Conservation Fund. (Brian Drypolcher)
- e) Request for Approval of Professional Services Agreement – Water and Wastewater Service Line Protection Program (RFP #14/12/P); Service Line Warranties of America, Inc. (SLWA). (Nick Schiavo)
- f) CIP High Speed Internet Project. (Sean Moody)
  - 1) Request for Approval of Telecommunications Services Agreement; Cyber Mesa Computer System, Inc.
  - 2) Request for Approval of Memorandum of Understanding; State of New Mexico Department of Information Technology.
- g) Request for Approval of Amendment No. 1 to Direct Purchase of Services Vendor Agreement for Senior Services Division; North Central New Mexico Economic Development District Non-Metro Area Agency on Aging. (Ron Vialpando)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- h) Request for Approval of Grant Award and Agreement – State Grants-in-Aid to Public Libraries; New Mexico State Library and Santa Fe Public Library. (Patricia Hodapp)
  - 1) Request for Approval of Budget Increase – Grant Fund.
- i) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_\_.  
A Resolution Relating to a Request for Approval of Second Quarter (Midyear) Budget Adjustments for Fiscal Year 2013/2014. (Cal Probasco)



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- j) **CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_.** (Councilor Calvert and Councilor Bushee)  
A Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Procurement of Seven Heavy Duty Transit Buses. (Jon Bulthuis)
- 1) Request for Approval of Public Project Revolving Fund Equipment Application – Repayment Plan for Procurement of Seven (7) Replacement Transit Buses; New Mexico Finance Authority. (Jon Bulthuis)
- k) **Request to Publish Notice of Public Hearing on March 26, 2014:**
- 1) Bill No. 2014-9: An Ordinance Amending Subsection 6-4.2 SFCC 1987 Regarding Membership Requirements for the City Community Development Commission. (Councilor Wurzburger) (Alexandra Ladd)
- 2) Bill No. 2014-10: An Ordinance Relating to Street Performers on Public Property; Amending Section 23-8 SFCC 1987. (Councilor Calvert) (Zachary Shandler)
- 3) Bill No. 2014-11: 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. (Councilor Wurzburger and Councilor Dominguez) (Sandra Perez)
- l) **CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_.** (Councilor Wurzburger, Councilor Ives and Councilor Bushee)  
A Resolution Supporting the Continuation of the Community Development Process to Revitalize Central Santa Fe and Outlining the Next Steps of the Remike Project. (Kate Noble)
- m) **CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_.** (Councilor Wurzburger and Councilor Ives)  
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. (Kate Noble)



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- n) Arts + Creativity Center. (Kate Noble)
  - 1) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzbarger, Councilor Rivera, Councilor Ives, Mayor Coss, Councilor Calvert and Councilor Bushee)  
A Resolution Directing Staff to Work to Support Development of the Santa Fe "Arts + Creativity Center" as an Economic Development Project to Provide Affordable Live, Work, Creation, Performance, Sales Space for Artists and Creative Businesses in Santa Fe and to Strengthen Santa Fe's Economy.
  - 2) Request for Approval of Professional Services Agreement, Creative Santa Fe, Site Selection and Site Control.
- o) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Rivera, Councilor Dimas, Councilor Calvert, Councilor Dominguez, Councilor Trujillo, Councilor Bushee and Councilor Ives)  
Request for Approval of 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. (Nick Schiavo)
- p) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor 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. (John Romero)
- q) Request for Approval of the City of Santa Fe Comprehensive Annual Financial Report for Fiscal Year Ending June 30, 2013. (Marcos Tapia)
- r) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzbarger, Councilor Bushee, Councilor Dominguez, Councilor Ives, Councilor Dimas and Councilor Rivera)  
A Resolution Relating to Construction Apprenticeship Programs; Establishing an Apprenticeship Development Task Force to Create an Apprenticeship Development Plan for the City of Santa Fe that Will Benefit Santa Fe County Residents and the Santa Fe Construction Industry. (Kate Noble)





# Agenda

REGULAR MEETING OF  
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- s) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzbarger, Councilor Bushee, Councilor Dominguez, Councilor Dimas and Councilor Ives)  
A Resolution Directing Staff to Create and Establish an Annual Award to Recognize and Honor the Accomplishments and Contributions of an Outstanding Woman-Owned Business Located in Santa Fe. (Kate Noble)
- t) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzbarger)  
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"). (Isaac Pino and Marcos Tapia)
- u) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Bushee)  
A Resolution Authorizing A Discount Bus Pass Sale Program For Non-Profit Social Service Organizations Who Purchase Bus Passes In Volume For Distribution To Indigent Clients Who Utilize The City Of Santa Fe's Public Transportation System: Santa Fe Trails. (Jon Bulthuis)
- 11. CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzbarger)  
A Resolution Authorizing the City of Santa Fe Transit Division to Provide Free Rides on All Bus Routes and Santa Fe Ride Vehicles on Election Day, for the 2014 Municipal Election, March 4, 2014. (Jon Bulthuis)
- 12. Request for Approval of Collective Bargaining Agreement Between the City of Santa Fe and the American Federation of State, County and Municipal Employees (AFSCME). (Isaac Pino).
- 13. Request for Approval of Collective Bargaining Agreement Between the City of Santa Fe and the Santa Fe Firefighters Association. (Erik Litzenberg).
- 14. CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Ives)  
A Resolution Authorizing the Establishment of a Community Hospital and Health Care Study Group to Examine the Effects of the Affordable Care Act and Other Changing Conditions on the Effective and Efficient Delivery of Health Care Services to the Santa Fe Community and Delivery of Health Care Services to the Indigent; and Calling on Santa Fe County and Other Health Providers in the Northern New Mexico Region to Join the City of Santa Fe in Such Efforts. (Kate Noble) **(Postponed at February 12, 2014 City Council Meeting – Public Hearing Closed)**



# Agenda

REGULAR MEETING OF  
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15. MATTERS FROM THE CITY MANAGER
16. MATTERS FROM THE CITY ATTORNEY
17. MATTERS FROM THE CITY CLERK
18. 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
- H. PUBLIC HEARINGS:
  - 1) Request from Drury Hotels Company, LLC for the Following: (Yolanda Y. Vigil)
    - a) Pursuant to §60-6B-10 NMSA 1978, a Request for a Waiver of the 300 Foot Location Restriction to Allow the Sale of Alcoholic Beverages at Drury Plaza Hotel-Santa Fe, 228 E. Palace Avenue Which is Within 300 Feet of The Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place, the Episcopal Church of the Holy Faith, 311 E. Palace Avenue and the New Mexico School for the Arts, 275 E. Alameda Street.
    - b) If the Waiver of the 300 Foot Restriction is Granted, a Request from Drury Hotels Company, LLC for a Transfer of Ownership and Location of Inter-Local Dispenser License #2507, With On Premise Consumption Only, from AmRest, LLC, dba Applebee's Neighborhood Bar & Grill, 830 Paseo del Pueblo, Taos, to Drury Hotels Company, LLC, dba Drury Plaza Hotel Santa Fe, 228 E. Palace Avenue.



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- 2) Request from Manitou Galleries for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Beer and Wine at Manitou Galleries, 225 Canyon Road. This Location is Within 300 Feet of the Cathedral Basilica of St. Francis of Assisi, 131 Cathedral Place and the New Mexico School for the Arts, 275 East Alameda. This Request is Art Show Openings to be Held from 5:00 p.m. to 7:30 p.m. on the Following Dates: March 13, April 25, May 24, June 27, July 25, August 21 and September 26, 2014. (Yolanda Y. Vigil)
- 3) 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 29, 2014 City Council Meeting)**
- 4) CONSIDERATION OF BILL NO. 2014-4: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_. (Councilor Calvert, Councilor Bushee, Councilor Ives, Councilor Dimas and Councilor Dominguez)  
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. (Alexandra Ladd)
- 5) CONSIDERATION OF BILL NO. 2014-5: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_. (Councilor Wurzburger)  
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. (Alexandra Ladd)
  - a) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Wurzburger)  
A Resolution Amending the Administrative Procedures for the Santa Fe Homes Program to Reflect the Amendments to the SFHP Ordinance Approved by Ordinance 2014-\_\_\_\_. (Alexandra Ladd)



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- 6) CONSIDERATION OF BILL NO. 2014-6: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_. (Councilor Calvert, Councilor Ives and Councilor Bushee)  
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. (Katherine Mortimer)
- a) CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_. (Councilor Calvert, Councilor Ives and Councilor Bushee)  
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. (Katherine Mortimer)
- 7) CONSIDERATION OF BILL NO. 2014-7: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_. (Councilor Calvert)  
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. (Zachary Shandler)
- 8) CONSIDERATION OF BILL NO. 2014-8: ADOPTION OF ORDINANCE NO. 2014-\_\_\_\_. (Councilor Wurzbarger, Councilor Bushee and Councilor Ives)  
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. (Lawrence Garcia and Zachary Shandler)



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- 9) **Case #2014-08 -- Appeal.** The City of Santa Fe Public Works Department (Appellant), Appeals the December 10, 2013 Decision of the Historic Districts Review Board (HDRB) in Case #H-13-076A Designating the Defouri Street Bridge (Bridge) as Contributing and the January 14, 2014 Decision of the HDRB in Case #H-13-076 Approving the Demolition of the Bridge with Conditions Limiting the Width of the Replacement Structure by Eliminating One of Two Sidewalks and Requiring Side Mounted Bridge Railings. The Bridge Crosses the Santa Fe River at the North End of Defouri Street and is Located in the Westside-Guadalupe Historic District. (David Rasch and Zachary Shandler)

## 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  
February 26, 2014

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>AFTERNOON SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT CALENDAR LISTING		2-5
APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – FEBRUARY 12, 2014	Approved	5
<u>PRESENTATIONS</u>		
PROCLAMATION – SANTA FE CULINARY TREASURES DAY – FEBRUARY 26, 2014		5-6
MUCHAS GRACIAS – LISTENING HORSE THERAPEUTIC LISTENING PROGRAM		6
MUCHAS GRACIAS – RICK CARVER, USS SANTA FE		6
MUCHAS GRACIAS – CLAUDIA BORCHERT		6
PROCLAMATION – ANDREA BACIGALUPA DAY – FEBRUARY 26, 2014		6-7
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – WATER AND WASTEWATER SERVICE LINE PROTECTION PROGRAM (RFP #14/12/P); SERVICE LINE WARRANTIES OF AMERICA, INC. (SLWA)	Approved	7

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2014-16. 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	Approved w/amendments	8-9
CONSIDERATION OF RESOLUTION NO. 2014- _____. A REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATION 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	Postponed to 03/26/14	9-17
CONSIDERATION OF RESOLUTION NO. 2014-17. 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")	Approved	17-19
***** END OF CONSENT CALENDAR DISCUSSION *****		
CONSIDERATION OF RESOLUTION NO. 2014-18. A RESOLUTION AUTHORIZING THE CITY OF SANTA FE TRANSIT DIVISION TO PROVIDE FREE RIDES ON ALL BUS ROUTES AND SANTA FE RIDE VEHICLES ON ELECTION DAY, FOR THE 2014 MUNICIPAL ELECTION, MARCH 4, 2014	Approved	20
REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME)	Approved	20-23

**ITEM****ACTION****PAGE #**

REQUEST FOR APPROVAL OF COLLECTIVE  
BARGAINING AGREEMENT BETWEEN THE  
CITY OF SANTA FE AND THE SANTA FE  
FIREFIGHTERS ASSOCIATION

Approved

23-26

CONSIDERATION OF RESOLUTION NO. 2014-19. A  
RESOLUTION AUTHORIZING THE ESTABLISHMENT  
OF A COMMUNITY HOSPITAL AND HEALTH CARE  
STUDY GROUP TO EXAMINE THE EFFECTS OF THE  
AFFORDABLE CARE ACT AND OTHER CHANGING  
CONDITIONS ON THE EFFECTIVE AND EFFICIENT  
DELIVERY OF HEALTH CARE SERVICES TO THE  
SANTA FE COMMUNITY AND DELIVERY OF HEALTH  
CARE SERVICES TO THE INDIGENT; AND CALLING  
ON SANTA FE COUNTY AND OTHER HEALTH  
PROVIDERS IN THE NORTHERN NEW MEXICO  
REGION TO JOIN THE CITY OF SANTA FE IN SUCH  
EFFORTS

Approved [amended]

26-33



<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<u>EVENING SESSION</u>		
CALL TO ORDER AND ROLL CALL	Quorum	34
PETITIONS FROM THE FLOOR		34-36
APPOINTMENTS	None	36
<u>PUBLIC HEARINGS</u>		
REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR THE FOLLOWING:		
PURSUANT TO §60-6B-10 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE, THE EPISCOPAL CHURCH OF THE HOLY FAITH, 311 E. PALACE AVENUE, AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 E. ALAMEDA STREET	Approved	36-39
IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF INTER-LOCAL DISPENSER LICENSE #2507, WITH ON PREMISE CONSUMPTION ONLY, FROM AmREST, LLC, D/B/A APPLEBEE'S NEIGHBORHOOD BAR & GRILL, 830 PASEO DEL PUEBLOS, TAOS, TO DRURY HOTELS COMPANY, LLC, D/B/A DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE	Approved	36-39

**ITEM****ACTION****PAGE #**

REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/ CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES 225 CANYON ROAD. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA. THIS REQUEST IS ART SHOW OPENINGS TO BE HELD FROM 5:00 P.M. TO 7:30 P.M., ON THE FOLLOWING DATES: MARCH 13, APRIL 25, MAY 24, JUNE 27, JULY 25, AUGUST 21 AND SEPTEMBER 26, 2014

Approved

39

CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014-8. 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

Approved

40-42

CONSIDERATION OF BILL NO. 2014-4: ADOPTION OF ORDINANCE NO. 2014-9. 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

Approved

42-43

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<p>CONSIDERATION OF BILL NO. 2014-5: ADOPTION OF ORDINANCE NO. 2014-10. 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</p>	Approved [amended]	44-48
<p>CONSIDERATION OF RESOLUTION NO. 2014-20. A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM TO REFLECT THE AMENDMENTS TO THE SFHP ORDINANCE APPROVED BY ORDINANCE 2014-10</p>	Approved [amended]	44-48
<p>CONSIDERATION OF BILL NO. 2014-6: ADOPTION OF ORDINANCE NO. 2014-11. 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</p>	Approved	49-57

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CONSIDERATION OF RESOLUTION NO. 2014-21. A RESOLUTION AMENDING THE <i>ADMINISTRATIVE PROCEDURES FOR THE SANTA FE RESIDENTIAL GREEN BUILDING CODE</i> ("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	Approved	49-57
CONSIDERATION OF BILL NO. 2014-7 : ADOPTION OF ORDINANCE NO. 2014-12 . 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	Approved	57-62
CONSIDERATION OF BILL NO. 2014-08: ADOPTION OF ORDINANCE NO. 2014-13. 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	63-66

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
<b>CASE #2014-08. APPEAL THE CITY OF SANTA FE PUBLIC WORKS DEPARTMENT (APPELLANT), APPEALS THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-13-076A DESIGNATING THE DEFOURI STREET BRIDGE (BRIDGE) AS CONTRIBUTING AND THE JANUARY 14, 2014 DECISION OF THE HDRB IN CASE #H-13-076 APPROVING THE DEMOLITION OF THE BRIDGE WITH CONDITIONS LIMITING THE WIDTH OF THE REPLACEMENT STRUCTURE BY ELIMINATING ONE OF TWO SIDEWALKS AND REQUIRING SIDE MOUNTED BRIDGE RAILINGS. THE BRIDGE CROSSES THE SANTA FE RIVER AT THE NORTH END OF DEFOURI STREET AND IS LOCATED IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT</b>	<b>Postponed to 03/12/13</b>	<b>66</b>
<b>MATTERS FROM THE CITY MANAGER</b>	<b>None</b>	<b>67</b>
<b>MATTERS FROM THE CITY ATTORNEY</b>	<b>None</b>	<b>67</b>
<b>MATTERS FROM THE CITY CLERK</b>	<b>Information</b>	<b>67</b>
<b>COMMUNICATIONS FROM THE GOVERNING BODY</b>	<b>Information/discussion</b>	<b>67-70</b>
<b>ADJOURN</b>		<b>70</b>

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
February 26, 2014**

**AFTERNOON SESSION**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on Wednesday, February 26, 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**

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

**Others Attending**

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

**6. APPROVAL OF AGENDA**

Mr. Snyder would like to postpone item 10(u) on the afternoon agenda to the next meeting of the City Council on March 26, 2013, and Item 10(p) until the ENN which is scheduled for this project.

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to approve the agenda, as amended.

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

## **7. APPROVAL OF CONSENT CALENDAR**

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

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

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

**Against:** None.

## **10. CONSENT CALENDAR**

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(g) is incorporated herewith to these minutes as Exhibit "1."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(k)(3) is incorporated herewith to these minutes as Exhibit "2."

A Memo dated February 26, 2014, with attachments, to the Governing Body from Sandra Perez, Interim Human Resource Director, regarding Item 10(k)(3), is incorporated herewith to these minutes as Exhibit "3."

A copy of a proposed amendment to the Resolution regarding Apprenticeship Development, submitted by Councilor Calvert, regarding Item 10(r) is incorporated herewith to these minutes as Exhibit "4."

A copy of an Action Sheet from the Public Works/CIP and Land Use Committee meeting of Monday, February 24, 2014, regarding Item 10(u) is incorporated herewith to these minutes as Exhibit "5."

- a) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING – 2014 DAY REPORTING PROGRAM FOR JUVENILES; COUNTY OF SANTA FE. (RICHARD DeMELLA)**
- b) **REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – INSTALLATION OF AUTOMATED OVERHEAD TRACK GATE AT BUS YARD FOR TRANSIT DIVISION; GATE-IT ACCESS SYSTEM. (KEN SMITHSON)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**

- c) **REQUEST FOR APPROVAL OF CHANGE ORDER NO. 2 TO CONSTRUCTION CONTRACT – SANTA FE RESERVOIRS INFRASTRUCTURE IMPROVEMENTS PROJECT UNDER ALTERNATE A-OWNERS CONTINGENCY; RMCI, INC. (ROBERT JORGENSEN)**
- d) **REQUEST FOR APPROVAL OF ALAMEDA RAIN GARDENS PROGRAM – CONSTRUCTION OF STORM WATER IMPROVEMENTS ALONG EAST AND WEST ALAMEDA STREET; SANTA FE RIVER VOLUNTARY RIVER CONSERVATION FUND. (BRIAN DRYPOLCHER)**
- e) ***[Removed for consent by Councilor Bushee]***
- f) **CIP HIGH SPEED INTERNET PROJECT. (SEAN MOODY)**
  - 1) **REQUEST FOR APPROVAL OF TELECOMMUNICATIONS SERVICES AGREEMENT; CYBER MESA COMPUTER SYSTEM, INC.**
  - 2) **REQUEST FOR APPROVAL OF MEMORANDUM OF UNDERSTANDING; STATE OF NEW MEXICO DEPARTMENT OF INFORMATION TECHNOLOGY.**
- g) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO DIRECT PURCHASE OF SERVICES VENDOR AGREEMENT FOR SENIOR SERVICES DIVISION; NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING. (RON VIALPANDO)**
  - 1) **REQUEST FOR APPROVAL OF BUDGET INCREASE – GRANT FUND.**
- h) **CONSIDERATION OF RESOLUTION NO. 2014-10. A RESOLUTION RELATING TO A REQUEST FOR APPROVAL OF SECOND QUARTER (MIDYEAR) BUDGET ADJUSTMENTS FOR FISCAL YEAR 2013/2014. (CAL PROBASCO)**
- i) **REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO CAPITAL IMPROVEMENT PROGRAM AGREEMENT – FY 2013/2014 WASTEWATER DIVISION PUBLICLY OWNED TREATMENT WORKS REPAIR, REPLACEMENT AND EXTENSION, CONTRACT CIP #947; TLC COMPANY, INC. D/B/A TLC PLUMBING AND UTILITY. (STAN HOLLAND)**
- j) **CONSIDERATION OF RESOLUTION NO. 2014-11 (COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR THE PROCUREMENT OF SEVEN HEAVY DUTY TRANSIT BUSES. (JON BULTHUIS)**
  - 1) **REQUEST FOR APPROVAL OF PUBLIC PROJECT REVOLVING FUND EQUIPMENT APPLICATION – REPAYMENT PLAN FOR PROCUREMENT OF SEVEN (7) REPLACEMENT TRANSIT BUSES; NEW MEXICO FINANCE AUTHORITY. (JON BULTHUIS)**



- k) **REQUEST TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 26, 2014:**
- 1) **BILL NO. 2014-9: AN ORDINANCE AMENDING SUBSECTION 6-4.2 SFCC 1987 REGARDING MEMBERSHIP REQUIREMENTS FOR THE CITY COMMUNITY DEVELOPMENT COMMISSION. (COUNCILOR WURZBURGER) (ALEXANDRA LADD)**
  - 2) **BILL NO. 2014-10AN ORDINANCE RELATING TO STREET PERFORMERS ON PUBLIC PROPERTY; AMENDING SECTION 23-8 SFCC 1987 (COUNCILOR CALVERT). (ZACHARY SHANDLER)**
  - 3) **BILL NO. 2014-11: 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 (COUNCILOR WURZBURGER AND COUNCILOR DOMINGUEZ). (SANDRA PEREZ)**
- l) **CONSIDERATION OF RESOLUTION NO. 2014-12 (COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). A RESOLUTION SUPPORTING THE CONTINUATION OF THE COMMUNITY DEVELOPMENT PROCESS TO REVITALIZE CENTRAL SANTA FE AND OUTLINING THE NEXT STEPS OF THE REMIKE PROJECT.**
- m) ***[Removed for discussion by Councilor Bushee]***
- n) **ARTS + CREATIVITY CENTER. (KATE NOBLE)**
- 1) **CONSIDERATION OF RESOLUTION NO. 2014-13 (COUNCILOR WURZBURGER, COUNCILOR RIVERA, COUNCILOR IVES, MAYOR COSS, COUNCILOR CALVERT AND COUNCILOR BUSHEE). A RESOLUTION DIRECTING STAFF TO WORK TO SUPPORT DEVELOPMENT OF THE SANTA FE + CREATIVITY CENTER AS AN ECONOMIC DEVELOPMENT PROJECT TO PROVIDE AFFORDABLE LIVE, WORK, CREATION, PERFORMANCE, SALES SPACE FOR ARTISTS AND CREATIVE BUSINESSES IN SANTA FE AND TO STRENGTHEN SANTA FE'S ECONOMY.**
- o) ***[Removed for discussion by Councilor Dominguez]***
- p) **CONSIDERATION OF RESOLUTION NO. 2014-14 (COUNCILOR 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. (JOHN ROMERO)**

- q) **REQUEST FOR APPROVAL OF THE CITY OF SANTA FE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDING JUNE 30, 2013. (MARCOS TAPIA)**
- r) **CONSIDERATION OF RESOLUTION NO. 2014-15 (COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR DOMINGUEZ, COUNCILOR IVES, COUNCILOR DIMAS AND COUNCILOR RIVERA). A RESOLUTION RELATING TO CONSTRUCTION APPRENTICESHIP PROGRAMS; ESTABLISHING AN APPRENTICESHIP DEVELOPMENT TASK FORCE TO CREATE AN APPRENTICESHIP DEVELOPMENT PLAN FOR THE CITY OF SANTA FE THAT WILL BENEFIT SANTA FE COUNTY RESIDENTS AND THE SANTA FE CONSTRUCTION INDUSTRY. (KATE NOBLE)**
- s) **CONSIDERATION OF RESOLUTION NO. 2014-16 (COUNCILOR WURZBURGER, COUNCILOR BUSHEE, COUNCILOR DOMINGUEZ, COUNCILOR DIMAS AND COUNCILOR IVES). A RESOLUTION DIRECTING STAFF TO CREATE AND ESTABLISH AN ANNUAL AWARD TO RECOGNIZE AND HONOR THE ACCOMPLISHMENTS AND CONTRIBUTIONS OF AN OUTSTANDING WOMAN-OWNED BUSINESS LOCATED IN SANTA FE. (KATE NOBLE)**
- t) ***[Removed for discussion by Councilor Dominguez]***
- u) **CONSIDERATION OF RESOLUTION NO. 2014-\_\_\_\_ (COUNCILOR BUSHEE). A RESOLUTION AUTHORIZING A DISCOUNT BUS PASS SALE PROGRAM FOR NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WHO PURCHASE BUS PASSES IN VOLUME FOR DISTRIBUTION TO INDIGENT CLIENTS WHO UTILIZE THE CITY OF SANTA FE'S PUBLIC TRANSPORTATION SYSTEM; SANTA FE TRAILS. (JON BULTHUIS) Postponed to the Council meeting of March 26, 2014.**

**8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – FEBRUARY 12, 2014.**

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Bushee, to approve the minutes of the Regular City Council meeting of February 12, 2014, as presented.

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

**9. PRESENTATIONS**

**a) PROCLAMATION – SANTA FE CULINARY TREASURES DAY – FEBRUARY 26, 2014.**

Mayor Coss read the proclamation into the record declaring February 26, 2014, as Santa Fe Culinary Treasures Day. He introduced Secretary Monique Jacobson, New Mexico Secretary of Tourism, gave a copy of the proclamation to each entity, and thanked them for all they do for Santa Fe.

Secretary Jacobsen thanked the City for its participation, with a thanks to the local Santa Fe Culinary Treasure, which truly are treasures for New Mexico and in bringing people to Santa Fe.

**b) MUCHAS GRACIAS – LISTENING HORSE THERAPEUTIC LISTENING PROGRAM.**

Mayor Coss presented a Muchas Gracias certificate to Listening Horse Therapeutic Listening Program, and it's founders, 3 military veterans Gus Jolley, David Mead and David Belaire.

Mr. Mead and Mr. Belaire thanked the City for this honor.

**c) MUCHAS GRACIAS – RICK CARVER, USS SANTA FE**

Mayor Coss said 19 people traveled to Hawaii to welcome the U.S.S. Santa Fe back after 6 months at sea. He expressed appreciation for this opportunity, and read the Muchas Gracias certificate into the record.

Mr. Carpenter thanked Mayor Coss for recognizing the Committee, and said he accepts the Muchas Gracias on behalf of the members of the Committee. He read an email from the crew of the USS Santa Fe, Commander Timothy Poe, thanking Santa Fe for its..

Mr. Carver presented Mayor with a photo commemorating the visit.

**d) MUCHAS GRACIAS – CLAUDIA BORCHERT (Postponed at February 12, 2014 City Council Meeting)**

Mayor Coss presented Muchas Gracias to Claudia Borchert and thanked her for her work on behalf of the City.

Ms. Borchert said it was an honor to work with City.

**e) PROCLAMATION – ANDREA BACIGALUPA DAY – FEBRUARY 26, 2014.**

Mayor Coss read the Proclamation into the record declaring February 26, 2014 as Andrea Bacigalupa Day. He thanked the Sister Cities Committee for its work on behalf of the City.

Carol Robertson Lopez introduced the members of the Committee and thanked them for their work..

Mr. Bacigalupa said he really needs to share this honor with the founders of the Sister Cities relationship with Sorento, noting he is in Sorento this evening. He said there have been a lot of exchanges in years past, and hopefully there will be more. He said he first saw Santa Fe in 1942, and he and his wife moved here in 1954.

Dr. Delgado, the former Sister Cities Chair said the people of Sorento love Mr. Bachigalupa very much, and presented Mr. Bachigalupa with a portrait commemorating the visit.

Councilor Bushee thanked him for everything he has done for the City.

### **CONSENT CALENDAR DISCUSSION**

#### **10 (e) REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT – WATER AND WASTEWATER SERVICE LINE PROTECTION PROGRAM (RFP #14/12/P); SERVICE LINE WARRANTIES OF AMERICA, INC. (SLWA). (NICK SCHIAVO)**

Councilor Bushee noted the last time the City's letterhead went out announcing this program, and asked if we are going to do it differently this time so it doesn't seem in some way, the City is selling something.

Ms. Schiavo said the last time they use a facsimile or a photocopy, and this time we will be providing them with a JPEG, so it will look more professional. He said City Legal and the Public Utilities Department will have control over when the logo will be used, noting it is to be used only a few times a year for promotion, and cannot be used on any invoices, and it just to promote their program.

Councilor Bushee asked if it will be made very clear that this is optional.

Mr. Schiavo reiterated that Legal and Public Utilities will review the letter before it goes out.

Councilor Bushee reiterated she wants to make it clear that this is an optional program.

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

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

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

**Against:** None.

**10 (m) CONSIDERATION OF RESOLUTION NO. 2014-16 (COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE). 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. (KATE NOBLE)**

Councilor Bushee said she appreciates the intent of the ordinance and the task force, but would like to form the task force and let it come up with the proposal. She said for her, "The only stopper is on page 2, line 14, where we will send out small scholarships not to exceed \$5,000 in total." She said total fiscal impact is \$7,700, and said \$5,000 may or may not help, and would be more comfortable if the Task Force would generate the options.

Councilor Wurzbarger said the concept is to build our approach of the past few years in using small amount of incentive funds which goes forward to another step, with the idea of doing more, smaller things than one, big untested thing. She said the Velocity Program reinforces that this is a model than can work.

Responding to Councilor Bushee, Ms. Noble said these funds are from Economic Development funds, \$5,000 of the \$7,700 is for the stipends, and the rest is for the stenographers for the public noticed and recorded meetings..

Responding to Councilor Bushee, Ms. Noble said she would like 5 at \$1,000 or 10 at \$500. She has heard this thing might make a difference in getting people "off the bench to try something." She said the idea is to inject a little momentum in it with these funds.

Councilor Bushee said \$1,000 isn't much for jump starting anything, and "wonders if one lump sum to one particular group idea" would be better. She asked how much we contributed to the AHA Festival .

Ms. Noble said the City didn't contribute anything to the AHA Festival, but we may have contributed through the use of City resources rather than cash.

Councilor Bushee asked if \$1,000 would be sufficient for a "pop-up" event.

Ms. Noble said it helps a lot and it could be the difference in getting something done. She said the intent was to leave the numbers open to see what kinds of proposals we get and then let the EDRC decide those on merit.

Councilor Bushee asked the balance of the fund.

Ms. Noble said it is a part of this fiscal year budget for Economic Development, noting they will run out of money in the Economic Development Fund in about four years.

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dimas, to adopt Resolution No. 2014-16, with the amendments in the packet.

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

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

**Against:** None.

**10 (o) CONSIDERATION OF RESOLUTION NO. 2014- \_\_\_\_ (COUNCILOR RIVERA, COUNCILOR DIMAS, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR TRUJILLO, COUNCILOR BUSHEE AND COUNCILOR IVES). A REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE REPLACEMENT POWER/ENERGY PLAN PROPOSED TO REPLACE 836 MEGAWATTS AT THE SAN JUAN GENERATION 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. (NICK SCHIAVO)**

Councilor Dominguez said he pulled this item to say he supports the intent and the fact that we need to look at alternative and renewable energies, and believes that is the position that most, if not all, of us have taken with regard to the various environmental advocacy legislation which has come before us. He said he received an email, which "alluded to us," from Jody Porter about the validity of the facts in the Resolution, so he decided to look at it more closely, and he has a number of questions.

Councilor Dominguez said the caption asks us to support rejecting PNM's replacement plan, which he hasn't seen, and asked if staff has that available for the Governing Body.

Mr. Schiavo said it is a large document which has been filed with the Public Regulation Commission, and the major points are outlined in the first whereas.

Councilor Dominguez asked if this is a summary of those points, 1 through 7, or is it taken verbatim from the plan.

Mr. Schiavo said these are a summary of those major points.

Councilor Dominguez asked Mr. Schiavo if he summarized them, or if someone else summarized them.

Mr. Schiavo said Councilor Rivera sponsored this and put this work together.

Councilor Dominguez asked again who summarized the points.

Councilor Rivera said they were summarized by several people, including Melissa Byers.

Councilor Dominguez asked Mr. Schiavo if he signed off on the summaries.

Mr. Schiavo said he reviewed the summaries, but he doesn't necessarily sign off.

Councilor Dominguez said, "Then as far as you're concerned, the summary is correct, based on the plan that we haven't seen that has been filed by PNM with the PRC."

Mr. Schiavo said, "Absolutely. This is an accurate summary."

Councilor Dominguez said, on page 3 of the Resolution, lines 8 through 11, there is a reference to Dr. George Thurston, and he isn't questioning his credentials, but how does he know that the analysis and the way it is articulated here is factual.

Mr. Schiavo said he is the City's Energy Specialist, Public Utilities Director, but he isn't a physician and can't question Dr. Thurston's word.

Councilor Dominguez said we should attach the analysis to the Resolution, and asked if we have a copy.

Mr. Schiavo said he doesn't have a copy, but he can get it, and thinks it would be a good idea to attach it.

Councilor Dominguez asked if the replacement power plan, modeled on the New Energy Economy, now exists, which is referenced on 5, line 25 of the Resolution and on page 6, lines 1-2.

Mr. Schiavo said he understands it exists, and heard a piece of it presented at the PUC meeting attended by Councilor Dominguez.

Councilor Dominguez asked if he has a copy of the plan, and Mr. Schiavo said no.

Councilor Dominguez asked if that plan should be attached to this Resolution as well.

Mr. Schiavo said it is up to Councilor Dominguez and the Governing Body.

Councilor Dominguez said, "I would request that that happen, if this is approved, along with the analysis by Dr. Thurston."

Councilor Dominguez said he has concerns. He said we are being asked to make this an official public testimony on behalf of the City, and there are questions and concerns which have been expressed by City staff, which gives him pause. He asked if there has been a public hearing on the New Energy Plan.

Mr. Schiavo reiterated that the only thing he ever heard was the presentation before the PUC at the beginning of this month.

Councilor Dominguez said then this will be City testimony, but the public hasn't been privy to the New Energy Economy plan that exists – there have been no public hearings on that plan.

Mr. Schiavo reiterated that "we have heard a presentation from New Energy Economy on their plan. I don't have anything other than that."

Councilor Dominguez asked if there was a public hearing on that plan, and Mr. Schiavo said no.

Councilor Calvert asked if there has been a public hearing on PNM's plan, and Mr. Schiavo said no.

Councilor Dominguez said so there are a lot of plans out there which haven't had public hearings, including PNM's.

Councilor Dominguez said he wants to understand the process, asking if PNM has to produce a plan.

Mr. Schiavo said yes. PNM has submitted to the PRC "this entire first paragraph. That's their plan to shutter so much coal and bring so much natural gas on line, the first seven bullets..."

Councilor Dominguez said then that is at the PRC and Mr. Schiavo said it is.

Councilor Dominguez asked if the PNM has a public hearing process to look over those points, the plan.

Mr. Schiavo said, "Definitely. Yes. The PRC is going to go through that and anyone who has intervened will have the opportunity to comment."

Councilor Dominguez asked if that has been scheduled.

Mr. Schiavo said the last day to file to intervene is the second week of April, so he would imagine they haven't started any hearings on it.

Councilor Dominguez said, "Then we probably need to do whatever we're going to do here done before it gets to the PRC, but it needs to be correct and factual."

Councilor Ives said, at the appropriate time in our proceedings tonight, he will be sponsoring a Resolution to intervene in that case, so the City becomes a party in that case. He said PNM already has filed with the PRC, so there is an ongoing case. A procedural order has been issued in that case, and he



will be introducing a Resolution for the City to intervene in that case, so we'll become a party and we'll receive all pleadings that are filed, and we can participate as a party in interest. He noted the hearings are scheduled approximately mid-August 2014.

Councilor Dominguez asked if this is intended to be the testimony that will be provided to them for that proceeding.

Councilor Ives said currently the paragraph is phrased, "a copy of the Resolution is directed as official public testimony on behalf of the City of Santa Fe." He said, in its current form, it is intended to be official public testimony, but it isn't necessarily the end of the possible participation of the City in the proceedings and doesn't constitute all of the testimony that the City might choose to file."

Councilor Dominguez said, "It really should say something like, 'official City Council testimony,' because there have been no public hearings on this. He said although we represent the public, but in the spirit of transparency and proper community participation, it seems some of that language might change."

Councilor Trujillo asked how this will work in conjunction with the Resolution which Councilor Ives will introduce. He asked which public hearing will trump, and Councilor Ives and Mayor Coss said that would be the PRC.

Councilor Trujillo said we haven't had due process of public hearings from PNM or anyone else, and we then become a party – how does this affect us now. He said, "You guys are lawyers. Advise me. How does this affect us now, when Councilor Ives introduces this Resolution tonight."

Marcos Martinez, Assistant City Attorney, said, "Once the City intervenes in this matter, then the City can participate before the PRC in hearings, and the PRC is the body that will be making the determination on PNM's application. The City really has no jurisdiction to make any determination on PNM's application on its own. What the City can do, is conduct its own public hearings and determine what is the will of the Governing Body going forward, and what is the recommendation to make in that intervention, in the event that the City choose to intervene in this proceeding. So really, we can only make decisions concerning what is the will of the Governing Body and what is going to be the kind of testimony and position that the City is going to take ultimately in that proceeding, in the event that we intervene."

Councilor Trujillo said, "Okay, so I'm asking you, being that we have not had public hearings, should we have those public hearings, speaking from you as a lawyer. That's all."

Mr. Martinez said, "I think it's up to the Governing Body to determine if public hearings would be helpful."

Councilor Trujillo said he believes all public hearings are helpful, he wants to be sure we are giving the public the transparency to talk about it.

Mr. Martinez said, "In that regard, the public hearing can be helpful in soliciting what is the input from the community, what is the direction the community wants to take in bringing that input to the Governing Body, and then the Governing Body can make recommendations in the intervention."

Councilor Trujillo said then it would go back to the PRC.

Councilor Dominguez said we are going to have a new Governing Body, and we essentially are tying the hands of that new Governing Body with this legislation, and they will have to represent the City collectively via this public testimony, which concerns him. He said he can't explain some of the WHEREAS in the Resolution, although Mr. Schiavo and some members of the public can understand and explain it. He said as the representative of all of the people, he thinks we should take more time in vetting the Resolution.

Councilor Wurzbarger apologized for not taking as much time to study this issue as she normally does, and then agreeing to cosponsor this last week from the perspective that we need to reprioritize the different energy sources. She said, "We particularly need to take a hard stance on coal, and to quote one of the Councilors, 'The devil is in the details'." She will be abstaining because it is so technical, there are two plans, and we haven't received all the information we need. She said she wants the Councilors "to tell me whether or not you understand the rationale of why the claim for undepreciated stranded assets should be denied or reduced."

Councilor Wurzbarger continued, "I don't understand that term, I don't mind admitting it and I apologize. And I would feel that I would need to better understand the difference of the plans and the BE IT FURTHER RESOLVED on almost all the things we're saying in terms of closing Unit 4 SJGS. What does that really mean, I don't know. So I apologize to you as a leader, and I will abstain on this, or I would first make a motion to postpone it. I think it's great we can go forward and give an opinion. I think that's an appropriate path and that would give us the opportunity, including a public hearing, to clarify what it is we're really voting on."

Councilor Bushee said she didn't realize we were considering intervening in this case, and she is interested if those drafting the Resolution for Councilor Ives, has consulted with other potential interveners. She asked if there are other communities or entities interested in intervening. She said whatever we are setting now that we are going to intervene sets a legal record, "and I want to make sure it's solid and broad."

Councilor Ives said he hasn't approached others, but typically in these kinds of proceedings, as significant as the proposal to shut down two of the coal fired units at San Juan, that there will be many interveners. He noted that PNM's power is distributed over large portions of New Mexico, and it is likely that other municipalities, other significant power consumers, various groups involved in the power industry, pro and con, are likely to intervene, as they are standard participants in all these types of measures before the PRC. He doesn't know whether Mr. Schiavo has spoken with others, noting the procedural order came out only about 10 days ago, and people are looking at intervention.

Mr. Schiavo said he would be surprised if the City of Albuquerque, City of Rio Rancho, the Albuquerque/Bernalillo Water Authority didn't intervene, along with the usual players.

Councilor Bushee said she supports the concept, but this concept is based on one model. She wants to know if there are things with which we want to amplify this, or other angles not incorporated. She asked Councilor Ives if he is about to introduce the possibility of intervention tonight.

Councilor Ives said yes.

Councilor Bushee wants this to move forward, but in the right way.

**MOTION:** Councilor Bushee moved, seconded by Councilor Wurzbarger, to postpone this item for one month, to the Council meeting of March 26, 2014, "with one or two public hearings during that time, and solicit input from other energy experts in the field."

**DISCUSSION:** Councilor Ives said he has read PNM's initial filing in this case, and thinks it's reasonably captured in terms of our predicate Whereas's as to what that filing contains. He noted the proposed amendments are based on sitting with PNM and hearing their concerns in connection with this particular measure. He said on packet page 8, lines 12-14, a concern was expressed that the health impacts in our community were meant to be tied directly to the San Juan Generating Plant. And the answer, with regards to lines 12-14, is that "No, that is simply a recitation of the incidents covered in the Santa Fe County and Christus St. Vincent Regional Medical Center, Community Health Profile Study of the incidents of high school students diagnosed with asthma. So just noting that for the record, so it's clear there."

Councilor Ives continued saying, "On packet page 11, a concern is expressed with regard to the statement that the Governing Body opposes PNM's replacement power plan on the basis that it: (1) Will not help the City government meet its CO2 reduction goals, and it certainly goes in some measure toward that end, so it is a matter of degree, so I would certainly suggest an amendment for any consideration of this tonight, so it read, 'Will not help the City government to the degree desired to meet its CO2 reduction goals.' Similarly in paragraph number 2, line 14, where it states, Will not help the City meet its energy efficiency goals, and again, presumably because it will have some beneficial effect in terms of the shutdown of the two coal units, propose to amend that similarly to read, 'Will not help the City meet, to the degree desired, its energy efficiency goals.'"

Councilor Ives continued, "Subparagraph 5, where it says 'It does not provide the best employment opportunities should be modified to state, 'For Santa Fe,' which is certainly the case because the natural gas production plant that PNM is proposing to build in Farmington. Of course, the City of Farmington is not served by PNM, so presumably that might be a more strategically...."

Councilor Calvert said it might be good to add not only Santa Fe, but the State of New Mexico, because the nuclear power they're proposing to fill in also is not going to help the State and the ratepayers who have to pay for this. He asked if he would consider that as a friendly addition, and Councilor Ives said yes.

Mayor Coss said, "I just want to point out that there is a Motion to Postpone. If it was a Motion to Table, it would be non-debatable, so it is just to postpone. So I think you're suggesting amendments that might get in there if it doesn't get postponed."

Councilor Ives said, "Exactly." He said packet page 12, lines 16-18, reads, "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, which should be Counsel, public testimony on behalf of the City of Santa Fe in the case before the Public Regulation Commission. Perhaps we should look at modifying that to change it to read, '*...the City Clerk is directed to forward a copy of this Resolution Commission and General Counsel.*' So we aren't making this official public testimony at this point in time. Clearly if we intervene in that case, there would be long consideration of the position of PNM, as well as other interveners, including the City, in terms of what we feel an appropriate plan really is for the San Juan Generating Unit."

Councilor Bushee said, "I'm keeping my motion to postpone and just giving a month in hopes that we find other interveners and that we can have a cohesive approach to this. I see the amendments and I certainly hope that other Councilors, and even Councilors that are leaving would consider other amendments. I would like to see entities and other communities join in this, and vet this to the best we can."

Councilor Rivera said he introduced the Resolution in an attempt to represent the people of Santa Fe. He would imagine that not many of constituents have looked at the PNM plan. He asked Mr. Schiavo the number of pages.

Mr. Schiavo said, "I don't know. I would assume if it is a typical plan, we're talking multiple binders."

Councilor Rivera said, "Thousands of pages, correct."

Mr. Schiavo said yes.

Councilor Rivera said he is doubtful the constituents will read that lengthy plan, so it is up to us to represent them in a way that will benefit them, and the Resolution does outline PNM's plan, which has been submitted to the PRC. He said, "We met with PNM yesterday, and they had opportunity to look at the Resolution and some of the recommendations have been put forth by Councilor Ives. There weren't very many you see. However, today, they redlined, basically, the entire document in an attempt to stall it just like tonight. To delay this even more, will require additional training for new Governing Body members to be brought up to speed. He said we are the first step in the intervention and once we take that first step, other municipalities and agencies will come on board and agree with what we're asking to put forth today."

Councilor Rivera said Councilor Wurzbarger sponsored a Resolution against bullying. He feels PNM is bullying the City in a way about making threats about what it would do if this Resolution passes. He has never known this Governing Body to back away from anything. This is a good Resolution and the first step in intervening and thinks it should move forward.

Councilor Dominguez said, "I have the utmost respect for my colleague and fellow District #3 Councilor. In previous legislation and tonight, we have articulated that we support the spirit and that we need to protect our environment and do everything possible to make sure we move in that direction. In terms of whether or not the public will read the information, maybe they will, maybe not, but the public needs to be given the opportunity to hear about it. This is a little different than our contracts with our collective bargaining units we're going to be discussing later. This is complicated and sure to be litigated."

Councilor Dominguez said this is "complicated and sure to get litigated." He said we need to make sure it is a strong case in a strong document the Governing Body is providing to the staff, the public and the PRC. He said the spirit of this Resolution is "right on," but we have to make sure that it is factual and it is as solid as it can be.

Councilor Ives said there seems to be concern that the Council is fully informed and discussion of holding a public hearing.

Councilor Bushee said her emphasis is finding other interveners and if it is going to be in concert with what you announced tonight, and Councilor Ives doesn't feel there will be difficulty in finding other interveners. Councilor Ives would like to do the public hearing at the next meeting as opposed to a month from now.

Councilor Bushee asked if it is to be a public hearing at the Council level, or the Committee level.

Councilor Ives said presumably it would be the next meeting of the Council, with consideration at the March 26, 2014 Council meeting.

Councilor Bushee said, "We will have a transition by then, so the same Council won't be voting, so I guess I just gave it two more weeks to get everything together, so I was sticking with a month." She doesn't understand moving it up to two weeks.

Councilor Ives said that is so we can hear it then, as opposed to hearing it immediately before considering it.

Councilor Bushee said, "I want to delay the vote until we are very clear on who is intervening and what else we want to add to this Resolution, so I was giving a month for the action. And we could have that be a public hearing."

Mayor Coss said, "So the action would be in a month, but there would be a hearing at the first and second meetings [in March]."

Councilor Bushee said, "Yes. And we could even make the final Resolution passage be... and we would consider yours as well, those could both be public hearings. Both at the Council level if you want. This is a big issue. This is an important issue. I relate completely to the health effects. This season has been crazy, the allergies, the asthma, and mine included, are just off the chart. But I do want to make this the

most solid case and the most vetted legislation we can and the best it can be. So are you good with that. A hearing in two weeks and then a hearing following the two weeks after that, so we could actually consider both your legislation and this one."

Councilor Ives said, "Perfectly fine, although I would simply note there is no reason not to intervene, but dictate the extent of our participation, but gets us informed, getting copies of pleadings so we can be informed. Just a slightly different focus."

Councilor Bushee said, "I don't need to attach my motion to yours if you don't want it. I saw the two going together somehow."

Councilor Ives said, "By all means, I don't mind public hearings on it. I think it makes sense."

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

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

**Against:** Councilor Rivera and Councilor Calvert.

(t) **CONSIDERATION OF RESOLUTION NO. 2014-17 (COUNCILOR WURZBURGER AND COUNCILOR BUSHEE). 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 BONE ("2008 BOND"). (ISAAC PINO AND MARCOS TAPIA)**

A copy of a proposed amendment to this Resolution, submitted by Councilor Bushee and Councilor Wurzbarger is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez asked Councilor Wurzbarger if she is comfortable with the timing identified by staff on this.

Councilor Wurzbarger said, "I am comfortable with what I think it states, as I recall, because I did talk to Isaac about this earlier, and idea was that the audit could occur as soon as all of the projects are completed, except the one which is for the St. Francis Underpass/Overpass, because that will be years from now."

Councilor Dominguez asked when the last project will be done.

Councilor Bushee said she was told not later than June 30, 2014, and asked Mr. Pino to repeat what he told her earlier.

Isaac Pino, Public Works Director, said, "The last remaining project is a trail project. It's the underpass at St. Francis Drive, the Acequia Trail. And I'm not quite sure when that one is going to be finished, but everything else is pretty well done."

Councilor Dominguez said, "Every park project that was identified in the bond has been done."

Mr. Pino said yes.

Mayor Coss said we are talking about the 2008 bond, because the underpass was in the 2012 bond.

Councilor Calvert said that was a different underpass, the one at Alameda/St. Francis.

Councilor Dominguez said it says, "The Governing Body hereby authorizes, upon completion of all projects, or June 30<sup>th</sup>, whichever occurs first." He said, "So having heard that all parks projects are done, we would actually start that immediately. Is that correct."

Councilor Wurzbarger said in terms of work being finished, that's correct and deferred to the Finance Director to say how soon we could start that process.

Marcos Tapia, Finance Director, said once this is approved, we have to get the task force together to determine what is going to be audited, and the range or depth of that audit. He said, "And your question earlier than you had Councilor, is it going to be six months. Well that is what we're asking the auditors to do. And say, within a month the task force comes together, they come up with a plan, I've got to go out for RFP. Once that happens.... I can see them getting started, maybe as soon as May, but definitely by July 1<sup>st</sup>."

Councilor Dominguez would like to strike the language on line 8 as follows: "... June 30, 2014, whichever occurs first." He said this is saying whenever the process gets started.

Councilor Wurzbarger said that is okay as long as there is clarity that the process won't take 6 months to a year to set a committee. She said it is important the process will begin, upon our approval of this. She said it doesn't have to be completed by June 30<sup>th</sup>, but that the process will begin and a timely report will be given back to the Council in terms of the key decision points that have to be made with respect to the RFP and then on the RFP. She said, "I would think that it wouldn't take more than 2-3 months to have that out, in my own opinion. In concept, do you have a problem with that."

Mr. Tapia said, "I agree with that. It is the task force itself will determine what the criteria is that we will go out for RFP, and I don't see that taking, from this time now, another two months, and I do think that we can begin this audit starting in May."

**MOTION:** Councilor Dominguez moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2014- 17, with the amendment on the desk [Exhibit "6"], with an amendment to strike the language on page 2, line 8, as follows: "... ~~or June 30, 2014, whichever occurs first...~~"

**QUESTION BY SPONSOR AFTER THE ROLL CALL VOTE HAD STARTED:** Councilor Wurzbarger said, "Yes, and I'm sorry, I have a question folks. With that deletion, does that take off the first part that says, "projects being complete." I don't want to get stuck by the one project that hasn't started yet, so by removing that expression did we leave in 'completion of all projects.' And there's one project that's not yet completed, so I don't want that to be a way not to move forward. I apologize, would we not need to strike that whole thing."

Councilor Dominguez said, "I was under the impression that all the Parks projects had been completed, but not the trails."

Councilor Wurzbarger said, "Well that's true, you did say that earlier, so then we may be okay."

Councilor Calvert said, "If you want to be specific, then you could say, 'Upon completion of all projects, except the one'."

Councilor Wurzbarger said she would like this.

Councilor Dominguez said, "So, can we go ahead and restate the motion, Mayor, how do we do this, procedurally, if we've already started voting. Do we have to vote it down and then go again."

Mayor Coss said, "Let's just start again, Yolanda."

Councilor Dominguez said, "Why don't you go ahead and make the motion Councilor Wurzbarger."

**RESTATED MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dominguez, to adopt Resolution No. 2014-17, with the amendment on the desk [Exhibit "6"], with an amendment to delete the reference to "all projects being completed, as well as the June 30<sup>th</sup> date, and substitute, "Upon completion of all projects except the one trail project as stated by Isaac Pino, which is the St. Francis and Cerrillos underpass, and to strike the language on page 2, line 8, as follows: "... ~~or June 30, 2014, whichever occurs first...~~

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "Yes. And please make sure my name is on as a sponsor."

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**END OF CONSENT CALENDAR DISCUSSION**  
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**11. CONSIDERATION OF RESOLUTION NO. 2014-18 (COUNCILOR WURZBURGER). A RESOLUTION AUTHORIZING THE CITY OF SANTA FE TRANSIT DIVISION TO PROVIDE FREE RIDES ON ALL BUS ROUTES AND SANTA FE RIDE VEHICLES ON ELECTION DAY, FOR THE 2014 MUNICIPAL ELECTION, MARCH 4, 2014. (JON BULTHUIS)**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dimas, to adopt Resolution No. 2014-18.

**DISCUSSION:** Councilor Wurzbarger asked if there were suggestions from the Business and Quality of Life Committee, noting there was quite a discussion, but there is nothing in the packet.

Mr. Bulthuis said he received nothing from that Committee.

Councilor Wurzbarger said she wanted to make sure there was no amendment that might be on the desk.

**FRIENDLY AMENDMENT:** Councilor Bushee asked if the Resolution can be amended to say that we will provide free bus rides on election day every year. **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COUNCILORS.**

**DISCUSSION:** Councilor Calvert asked Legal if it is okay with how it was noticed and what we are changing it to say. He supports the Resolution, but will defer to Legal.

Marcos Martinez said, "I believe you're right. Unfortunately, while that sounds like a good idea, the way this is captioned and noticed to the public, suggests it was only going to be a resolution for this particular election. However, nothing prevents a future Council from adopting a Resolution in general in the future that would be appropriately noted.

**RESTATEMENT OF THE MOTION:** Councilor Wurzbarger moved, seconded by Councilor Calvert, to adopt Resolution No. 2014-18, as presented.

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

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

**Against:** None.

**12. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME). (ISAAC PINO)**

Isaac Pino said the City of Santa Fe management team has completed negotiations with AFSCME with a contract that would begin July 1, 2014, and run through June 30, 2017. He said the agreement was ratified by AFSCME members on February 14, 2014. He said the people at the table for AFSCME were

Nick Lovato, President, Mary Ann Seiderer, Vice-President, Jose Garcia, Chief Negotiator, Yodel Catanach from IT and Joe Villarreal. The management team was represented by Vicki Gage, Jon Bulthuis, Matthew O'Reilly and Isaac Pino.

Mr. Pino said, "The agreement includes, the biggest part of the agreement includes a 50¢ per hour raise for AFSCME members that would begin the first full pay period of July 1, 2014. There was a trigger that was inserted in that 50¢ per hour raise, and that trigger was that the gross receipts collections after the second quarter of the current fiscal year had to be \$2 million higher than last year. It's been reported that the actual GRT collection is \$3.06 million higher than last year, so that trigger has been met. The trigger was set so that we could load the raises into the process and into the system so they would become effective on July 1<sup>st</sup>. In years past, they generally don't happen until the end of the first quarter of the fiscal year, but we were reasonably sure the collection of the GRT would stay above \$2 million and it has proven to be that."

Mr. Pino continued, "Part of the pay increase, includes a grand total of \$925,200 for the AFSCME members which includes a \$712,858 base, plus a \$212,342 benefit package, which goes with it. Other financial changes in the contract include a shift differential increase from 75¢ to \$1 per swing shift differential and \$1.50 to \$1.75 for graveyard shift differential. The projected cost is \$42,000. One personal holiday for a projected cost of \$114,000, bilingual incentive pay at \$80,000, and longevity leave at \$134,000. So the total projected cost for this contract is \$1,295,200."

Mr. Pino continued, "The agreement between the City of Santa Fe has been included in the packet. This is the agreement that was ratified by the Union. Mayor and Council, we recommend adoption of this contract by the City Council."

**Nick Lovato, President, AFSCME**, thanked the negotiating team for doing a good job. He said they have been working together to get this done. He said members lost a lot of benefits in the past which was due to some of the members in office at the time. He said we now need your support on this contract.

Councilor Calvert thanked participants, the union and management team, for getting this done prior to the budget process, noting it makes for a more informed budget process. He applauded everybody on the progressive nature of the raise given, noting it will be a bigger percentage for those who make the least amount of money.

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

**DISCUSSION:** Councilor Bushee said she understood there was a request to add something back in, and asked if that was considered.

Nick Lovato, President, AFSCME, said that was for bereavement leave.

Councilor Bushee asked the reason it wasn't added.

Mr. Lovato said they felt a number of days were already approved for annual and sick, but it would be nice to get a couple of days back. He said it was on the table.

Councilor Ives said the Memo indicates the 50¢ per hour raise and indicates the negotiated agreement includes an increase based on a trigger. He asked if the new agreement contains similar triggers into the future, or are we back to parity.

Mr. Lovato said, "Yes it does. It has a trigger in every negotiations for the next two years after this one, but we can do adjustments on that portion when we go through negotiations. That will be language that we can change.

Councilor Ives asked what are the triggers.

Mr. Lovato said, "This year the trigger was if we hit the \$2 million mark which we did, but then it went down a little bit, \$125,000. We still met the trigger because they went up to \$3 million."

Mr. Pino said, "The way we left this particular contract was that it could be reopened for financial articles next year and the following year. So this increase is for the coming fiscal year only."

Councilor Ives asked if we have any built-in triggers for succeeding fiscal years beyond the next one.

Mr. Lovato said those would be negotiated next year and the year after.

Mayor Coss said, "I think all they have is a reopener for wages again next year."

Councilor Dominguez said then we can open for finances next year and the year after, and that's how everyone understands it.

Mr. Pino said, "Right. So we open up this year for next year."

Councilor Dominguez asked if it is just for finances.

Mr. Pino said it is just for finances and what was put in the contract for the next two years after this one.

Councilor Bushee asked if the discussion involved rising health care costs and offsets.

Mr. Pino said no, and we'll just have to wait for the budget for an idea of those costs.

Mayor Coss thanked everybody for reaching the agreement, saying, "It is good to have this in my last City Council meeting." He said the City employees stayed with us through an awful recession, and it is great to see raises and benefits coming back, and to get the relationship on an even keel again. He said, "I really appreciate the work."

Councilor Wurzburger thanked the negotiating teams who pulled this together and continued to do their work at the same time.

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

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

**Against:** None.

**13. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE SANTA FE FIREFIGHTERS ASSOCIATION. (ERIK LITZENBERG)**

Paul Babcock, Assistant Fire Chief, said the City of Santa Fe Fire Department management team has completed contract negotiations with the Santa Fe Firefighters Association, Local 2059 for the fiscal year 2014/2015. He said, "Both management and the union had a productive negotiation with both sides coming to agreement for better working condition and a contract to allow us to provide a better service to the Community." He said 18 articles were opened, with 3 which have a financial impact. He said instead of a 50¢ per hour raise, they did a 3% per hour for the Santa Fe Firefighters Association members. He said the average AFSCME used was 2.97% for the average salary. He said the Firefighters requested a 3% which came on agreement. He said that also comes under the \$2 million GRT or greater for FY 13/14, ending December 31<sup>st</sup> as does AFSCME's contingency.

Assistant Fire Chief Babcock said the second financial impact would increase our minimum manning from 32 to 34, with a financial impact of \$166,000 which is worst case scenario. He said each shift is staffed with 42 members, so there would have to be 5 individuals off on either annual or personal leave, and 3 individuals calling in sick. So it would take 8 individuals before we would have to provide overtime for the coverage of minimum manning.

Assistant Fire Chief Babcock said the third financial impact is a wellness personal holiday. Worst case scenario is \$81,924. He said each member would have to do an annual physical, a firefighter combat challenge exercise, VO2 max as well as a red card pack test. All 4 criteria would have to be met for an individual to be eligible for a second personal holiday. The total impact is \$647,266.

**Carl Schmitt, President, Santa Fe Firefighters Association**, said it was a hard effort, but they worked together to build a contract for the members that will serve the members very well as well as the department needs. He said the base rate increase is increase, noting they used to have the personal holiday and are bringing it back. He said they included a few other things needed to get that. He said it is a good contract, which passed with a 94% approval of the members, so there were really no issues.

Councilor Rivera noted Chief Babcock said at the end of his presentation that the potential financial impact would be \$647,000, but the packet says \$447,000.

Chief Babcock said the difference is just the base pay package of the 3%, which would be \$198,616, which doesn't include the additional benefit package of \$200,000.

Councilor Rivera said then the correct number is \$647,000.

Chief Babcock said yes, reiterating this is the worst case scenario, noting all 140 members of the union would have to meet all of the criteria to get an additional holiday, so it depends on how many meet the criteria for the personal holiday and how many times they would have to hire overtime for the 34.

Councilor Trujillo thanked the Firefighters Association for working to get this done. He asked the status of the Police Officers Association negotiations.

Brian Snyder said they are at impasse.

Unidentified said, "We have been at impasse since November."

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzbarger and Councilor Bushee, to approve the proposed Santa Fe Firefighters Association contract for the fiscal year 2014-2015.

**DISCUSSION:** Responding to Councilor Dominguez's questions about the status of the POA negotiations, Mr. Snyder said, "As I understand it there was a mediation session earlier this week. I have no further details."

Responding to Councilor Dominguez, Mr. Snyder said he can request any details in the current status.

Councilor Rivera said it seems early to go to impasse in November, noting we are barely seeing contracts now. He asked, "Were you legitimately at that point able to..."

Mayor Coss said he would like to take this up after we approve the Firefighters contract.

Mayor Coss thanked everyone for their great work, saying he appreciates the good relationship.

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "Yes. And thank you once again... this is always the easiest negotiation, the Firefighters. I appreciate the work."

**Explaining his vote:** Councilor Rivera said, "Yes, and congratulations.

Councilor Rivera reiterated that November seemed too soon to go into impasse, and asked if there was no legitimate moving since November.

Unidentified said, "It went to impasse in November. We were told specifically there was a flat budget in November, and there was no movement as far as that went. All we were proposing, as a membership, was to go back to four 10's, because our officers are tired and we want to be with our families, and the extension of the take home policy, so we can start bringing in some better qualified laterals. All in total, the total given to us by the City was \$80,000. That it. And that's all we wanted. We weren't asking for raises because we knew we were in a recession, a financial crunch, and acting on good faith, we went forward with that. And there has to be some sort of reciprocity. And we've come to the conclusion that we've met that requirement. And asking for an extra day off so we can be with our families isn't asking for much, it's really not."

Councilor Rivera asked if the previous two unions have different language in their contract specifying that if GRTs are at a certain level, certain things would take place. He is unsure how two unions were informed of one thing and another was informed something completely different.

Mr. Snyder said, "I don't feel comfortable in talking about on-going negotiations and the mediation process of what was discussed in the union negotiation process in a public process."

Unidentified said, "We are at impasse, so it should be available, and it should be public knowledge – since we're at impasse."

Councilor Rivera asked if the contract states that once you go to impasse ...

Unidentified said it can be spoken about publicly, and they haven't forgotten about the community, obviously, but it seems the City has forgotten about its police officers. He said, "We're tired."

Councilor Rivera said he will set up a meeting with Mr. Snyder later.

Mr. Snyder said he will be happy to meet with any one of the Councilors off line.

Councilor Dimas understands mediation is set up.

Unidentified said a mediation day was set up. He said, "We had been at impasse since November, and conveniently the meeting was set up the day before the last Council meeting. So when everybody was met with, as far as their negotiation talks, it was done before ours, which was conveniently set up yesterday, but the mediator forgot about the meeting and didn't show up. But it's all funny to our membership and myself how everybody can go through negotiations, but the Police Department's meeting is set up the day before the last full Council meeting, before the elections."

Councilor Dimas asked if it is set up now, commenting he hopes mediation gets done quickly.

Mr. Snyder said the mediation didn't happen. He didn't realize the jointly agreed mediator did not attend, and he is certain it should be set here very soon.

Unidentified said that is his understanding as well.

Councilor Dimas requested that be done very quickly.

**14. CONSIDERATION OF RESOLUTION NO. 2014-19 (COUNCILOR IVES). A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A COMMUNITY HOSPITAL AND HEALTH CARE STUDY GROUP TO EXAMINE THE EFFECTS OF THE AFFORDABLE CARE ACT AND OTHER CHANGING CONDITIONS ON THE EFFECTIVE AND EFFICIENT DELIVERY OF HEALTH CARE SERVICES TO THE SANTA FE COMMUNITY AND DELIVERY OF HEALTH CARE SERVICES TO THE INDIGENT; AND CALLING ON SANTA FE COUNTY AND OTHER HEALTH PROVIDERS IN THE NORTHERN NEW MEXICO REGION TO JOIN THE CITY OF SANTA FE IN SUCH EFFORTS. (KATE NOBLE) (Postponed at February 12, 2014 City Council Meeting – Public Hearing Closed)**

A letter dated February 26, 2014, in this matter, to the Members of the Governing Body of the City of Santa Fe, signed by Bruce Weatherbee, Tracy Neal, Dianne Harris, Fonda Osborn, Diane Spencer and Steven Farber, submitted for the record by Bruce Weatherbee, is incorporated herewith to these minutes as Exhibit "7."

A letter dated February 26, 2014, to Mayor David Coss and Members of the City Council, from Elicia Montoya, Esq., in this matter, submitted for the record by Elicia Montoya, is incorporated herewith to these minutes as Exhibit "8."

An amendment sheet for this item, submitted by Councilor Bushee, is incorporated herewith to these minutes as Exhibit "9."

An amendment sheet for this item, submitted by Councilor Ives, is incorporated herewith to these minutes as Exhibit "10."

Mayor Coss said there is a letter on the desk suggesting that someone has a conflict of interest, and should identify themselves. He is concerned about this letter, and wanted to bring this to the Governing Body's attention. He would like Mr. Martinez to weigh in, because the letter says, "... a member of your body who via current or previous personal relationship, a professional relationship or through a political contribution, have a relationship with organizations and/or individuals professional associated with organizations which are referred to in the Resolution Authorizing...."

Mayor Coss said he would disclose that he has friends on both sides, whom he has known for 20-30 years. He has been on picket lines with them, and in meetings in the hospital. He said, "If having a friend on one side or the other is going to have me charged with an ethics violation tomorrow, I'll recuse myself now, but I don't understand the ethics ordinance that way. I just think the members ought to take a

look at this, it's signed by 6 people. It says, "We respectfully request that all members of the governing body disclose any such.... relationships with such organizations..." He asked Marcos Martinez if he has a copy of the letter.

Mr. Martinez said, "Yes. I would agree with you that I don't read the Ethics Code quite as broadly as this letter suggests. The purpose of this section of the Code is to prevent representations of private interest, especially in the context of the possibility of receiving some kind of compensation. But, another purpose of the Ethics Code is to use disclosure, as the Mayor has done, to cure any suggestions of undue influence. If you have any other questions, I'd be happy to try to address them. I'm going to be reviewing this letter."

Councilor Ives said, "While I don't believe it to be a conflict under our Code as I read it, my sister-in-law does serve on the Hospital's board. And I certainly do not derive any benefit from that relationship. I will note that a former President of the Nurse's Union, Dolly Lujan, who was in my race for Council when we ran, apparently is related to my wife's family as well. My father-in-law and her husband describe that relationship as somewhere between first and second cousins. I will also say that previously I have had surgery at St. Vincent Hospital, and after my appendix was out, I entered 3 days later with a significant fever, and spent 3 weeks in the Hospital, several CAT scans, exploratory surgery, I have a wicked scar. All my kids have been born there. It is an important hospital within our community. I don't believe, again, any of these are conflicts. But my sister-in-law is sitting right here, Sharon Hickey, and Sharon has served on any number of boards throughout the course of time in public service to the people of Santa Fe. So, I respect her participation there, but it has no influence on what I do on Council in regard to this matter."

Councilor Rivera said the first sentence of the Resolution includes Santa Fe County in the discussion process and asked if it has agreed to participate.

Ms. Noble said no, not at this time.

Councilor Rivera asked if there has been any discussion with them as to whether they would be willing to participate.

Ms. Noble said she has had staff level discussions with the Health and Human Services person at Santa Fe County, and she will take direction from the County Manager. She said, "There, I believe, was a letter circulated to you at the last meeting. The County doesn't seem particularly happy about participating in the process at this point."

Councilor Rivera said then nothing has changed from their initial stance on this and Ms. Noble said no.

Councilor Rivera asked if it is fair to continue to name them in the Resolution.

Mayor Coss said it is a judgment call. He said this is a Resolution and anybody we name can decline to participate, but it doesn't mean we shouldn't proceed.



Councilor Bushee said she would keep them in.

Councilor Dominguez said at the last meeting he asked how we define an "eligible consumer representative," and asked if this is included.

Ms. Noble said they have not arrived at a definitive definition of an "eligible consumer representative."

Councilor Ives said regarding the letter from County, the County indicated that they were still deeply involved at the Legislature on the potential changes to the indigent funding used for that purpose. He said a bill has been reported out, but he hasn't had a chance to look at it. He said he believes the County indicated in conversations, that they were interested in the effect of that as a precursor in participating in any process involving delivery of health care services in the County, and proposed that the City undertake this process to allow that to happen, and asked if that is correct.

Mr. Snyder said he spoke with the County Manager, and that is correct. They are trying to get their finances in order, and are concerned about loss of funds around this discussion, and are interested in finding out what money they lost and their status, and the reason they requested to wait until July 1st.

Councilor Ives said he agrees. He said we have a process that is voluntary and we can ask anybody we would like to participate, but we can't compel anybody except our staff to participate. He said when he considers what we're trying to accomplish, which is a dialogue about health care, including indigent services in Santa Fe, our significant partner has indicated, not that they won't participate, but that they wait until things settle out, speaks a great deal of trying to engage in a process where they're not at the table. He thinks the County is a critical participant in these discussions.

Councilor Ives continued, "The County has been functionally charged in the past with the Indigent Tax and care, and have coordinated with the Hospital and other care providers in the community in this regard. And, not having them here makes it difficult to move forward at all, notwithstanding the fact that the two other parties, for purposes of our discussion so far, the Hospital and the Nurses union still have differing opinions as to how this group should be constituted. His fear is, without any type of agreement by all the significant parties, somebody isn't going to show up and participate because they don't have to. It isn't an indication they don't believe the process is valuable, noting we heard everybody say they thought it was valuable. However, until we get agreement on what we're doing here, if we pass anything, we're chasing somebody off, and we know we've, to some degree, angered the County by proposing this without fully engaging them to this point. This should be an important part of our consideration tonight."

Councilor Bushee said she is encouraged by the thought that we need this dialogue and the premise that the County could join at any time. She said she joined as a cosponsor and she is surprised to hear Councilor Ives' discouraging tone with regard to having this at all. She feels we are very close. She said she hoped to better understand this evening why there is still a concern that any of the hospitalists or doctors contracted with St. Vincent are not wanted at the table. She said the continued communication to her from the constituents is the significant demographic that should be at the table. She asked if someone from the Administration can tell her the distinction. She said she received a disturbing letter from Elicia

Montoya which suggested that Christus St. Vincent requires the physicians to sign an employment contract, which essentially is a gag order that they couldn't disclose any details about their work and working conditions. She said this is just putting places at the table for participation. She is willing to give on who chairs the group and how they are chosen. The concerns expressed to her by constituents is perhaps the doctors are over burdened and the staffing levels need to be examined as part of this discussion. She wants to know "what's what, and why we can't have a couple, or one, if we could, and if it is true that there is a gag order.

Mayor Coss said he doesn't want us to get into Christus St. Vincent personnel management with its doctors and their contracts, commenting he is unsure that is appropriate. He said the good news in all this is that City and our community can learn a lot from this process. He said Christus has offered a doctor to serve who was here and testified at the last meeting, which was rejected by some of the citizens speaking for the union. He said the issue for him is very technical and philosophical. He doesn't want to presume who the 1199 members will appoint, and doesn't want Christus to presume as well. He said Christus has offered a doctor, and still would, but he doesn't want the City Council to impose on Christus St. Vincent and name the employees for them who should be sent to the task force. He said it remains a rub. He said, "I would just say let's proceed and see what happens."

Mayor Coss said, regarding the County, when we catch up and know as much about health care and this hospital as the County does, maybe the County will join. The County has been on this for decades, while this is our first foray into it. He would agree to all of Councilor Bushee's amendments, except for the two hospitalists.

Councilor Bushee said the Mayor keeps referring to the Nurses' union as if they were ones dictating this Resolution. She said her original resolution was in concert with consumers, which she feels we have yet to hear from. She hears from them regularly, and based on those, she wanted to see all kinds of staff represented. She wants to see something happen, and it feels she is giving up on the constituents if she isn't requesting at least one doctor who serves that population, and not necessarily from Christus management side. She still doesn't understand what would be the problem. She asked to hear from Christus management.

Mayor Coss asked Mr. Delgado to speak to this issue.

David Delgado, Board Chair, said this isn't a "we/them" discussion. It was clear two weeks ago that this was about community health care, including all stakeholders. This is now becoming a hospital and union discussion, and said Mayor Coss articulated the correct discussion. This isn't about union negotiations. He said our nurses involved in this discussion are very important. He said they have offered the Chief Medical Staff individual, who is not a management individual, and is elected by all the physicians in the Hospital. They can't think of a better person to put on the study group for a broad discussion of health care.

Mr. Delgado continued saying, to the extent we talk about hospitalists, they will bring the necessary individuals for that particular forum once the agenda is determine. He agrees with the Mayor that at this point, putting hospitalists on it "still does not make sense to us." He said having the Chief

Medical Staff physician makes a lot of sense and is in good faith with what we're trying to accomplish here.

Responding to Councilor Bushee, Councilor Ives said on packet page 5, the listing of participants identifies the Chief Medical Officer or Chief of Staff for Christus St. Vincent as available. The other addition was "two Santa Fe Medical Doctors not considered employees of Christus St. Vincent, to which he would make an amendment, with or without privileges at St. Vincent."

Councilor Bushee said she thinks "we are in agreement."

Councilor Dominguez said, "For the record and I'm not sure, and maybe you can answer this Kate, or you probably can answer this, what is the difference between an M.D. and a Hospitalists."

Mayor Coss said, "Medical Doctors that work at the Hospital are called Hospitalists. I see a lot of nodding of heads."

Councilor Dominguez said he asks so he is clear in the language which is being provided.

Mr. Delgado said there are many different types of doctors that work in and outside the Hospital. Doctors who work within the Hospital are credentialed and privileged in the Hospital. A portion of those doctors are called Hospitalists, which are doctors who are specifically trained to take care of in-patient populations. He said we do agree that they are a part of this discussion, but it should be in line with when we explain to the community the question of Hospitalists and how they are utilized by the Hospital.

Councilor Bushee said many employees use the emergency room as if it were a primary care facility in some way, and are trying to discourage that with health and wellness programs. Her original pitch was to have someone from the Emergency Room. She asked if the Chief Medical Officer would have some affiliation with the Emergency Room operations.

Mr. Delgado said the Emergency Room operation is an integral part of the entire hospital. He said the Chief Medical staff would have an understanding of the challenges and success in the Emergency Room. He said we want a more specific discussion about the use of the Emergency Room which is important. He agrees with Councilor Bushee that the Emergency Room is used as a primary care center. He said to assign individuals to the entire group is very costly for them. He said they will bring the appropriate resources according to the discussion that is going to take place.

Councilor Calvert said, with regard to the County, he shares Councilor Ives' position in that regard. He believes we can build a time frame that would accommodate that participation after July 1<sup>st</sup>. He said what will precede any meetings is the planning phase, and to be sure we take the appropriate time to plan this before "jumping" into it. He said we could push the date somewhat would allow the final report from the Health Policy Commission coming in April-May which would be beneficial for participants moving forward. He suggested on Resolution, page 6, line 20, Item D where we talk about time frames, we do planning and wait the report and don't set any meetings before July 1<sup>st</sup>, so we give the County the opportunity to investigate. It is no guarantee the County will participate, but it would help to get their confidence – win them over to participate.

Mayor Coss said that is a good suggestion, and thinks that's how the County will proceed.

Councilor Rivera asked for information how the Community Sole Provider funding works.

Mr. Delgado noted Bruce Tassin the administrator had an engagement he couldn't change, and apologized he wouldn't be here.

Mr. Delgado said, with regard to Sole Community Provider funding. He said, "At the close of the Legislature, the Sole Community Provider bill went through the House and Senate and approved a 1/12, which was right in between the 1/8 that we would have preferred and the 1/16. So, as it relates to that funding, we lost the trebling relating to the federal funding of that portion between 1/12 and 1/8. So that sets the pool. What happens next, is the Hospital Association will be meeting as early as next week, to develop the process of how to divide that pool. So, Councilor Rivera, that is where we are as far as the amount, so as of tonight, we don't know exactly what that will mean to Christus St. Vincent."

Mr. Delgado continued, "The positive side for us, quite frankly, and to the credit of the County is that there is funding. We were looking at a situation as we headed into this calendar year of potentially, zero funding. It is important to consider the County's involvement. As we mentioned before, there was a tremendous effort in the Community Health Assessment, and one of the first times of a City, County, Hospital and other health care providers to develop the road map into what the community needs from our health care service providers. So if we stay at the bigger level of having this discussion, that is a necessary piece of it. If it is simply about our nursing relationship, that's a smaller piece of it."

Councilor Rivera asked the amount the County gave Christus in Sole Community Provider funding last year.

Mr. Rivera said they received \$4 million in Sole Community Provider funding, which is what the County contributed and then got federal funding on top of that.

Councilor Rivera said then Christus gets a federal match.

Mr. Delgado said it is a 3 to 1 match. He said the concept of sole community provider is going away. He said there is still beneficial federal funding of 3 to 1 which comes from counties to the State and then it is federally funded. He said the Hospital used to get more than \$30 million, so over the past 3 years for the community, we have lost upward of \$75 million in funding. He said that pays wages and stays in Santa Fe, so it is a major economic driver.

Councilor Rivera said this goes back to the importance of the County's participation from the ground level.

**MOTION:** Councilor Ives moved, seconded by Councilor Bushee, to adopt the substitute Resolution No. 2014-19, which is in the Council packet, with direction to staff that we engage in a planning phase to populate this group, and hold the first meetings after the County is involved, which will be on or about July 1, 2014.

**DISCUSSION:** Councilor Ives said this would be a pathway forward and hopefully would get participation by the County, reiterating it is significant. He said the effect of the Indigent legislation has yet to be understood.

Responding to a question, Councilor Ives said, "I think we're okay with the Substitute Resolution as it is in the packet."

Councilor Bushee said she is comfortable with the acknowledgment of Dave Delgado that at the appropriate different forums, the appropriate staff would be made available to flesh-in the discussions. She understands the issues with the County, noting a lot of the people here this evening, were at the Legislature to back-up and support this Hospital. She said nothing either she or Councilor Ives brought forward was ever intended as a "us/versus" them dialogue or setup, nor to have a conflicting relationship. She said there is so much happening in health care. Noting there is always talk about people leaving Santa Fe to go elsewhere for their healthcare. She wants to make our one community hospital the strongest and best it can be in providing health care to the community. She said this has been her tone the entire way. She thinks the City should be in this dialogue, and the reason for what she brought forward.

**FRIENDLY AMENDMENT:** Mayor Coss asked Councilor Bushee if she would like her 10<sup>th</sup> amendment, on page 7, line 3, which states, "... but in no ways shall this prohibit the Study Group from addressing issues perceived to be in the publics' interest and the care of patients." Councilor Bushee said yes. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Ives said nothing in the Resolution keeps people from coming to the hearings/forums and expressing their opinion.

Councilor Dimas said since the County is so essential in the whole thing, what if the County doesn't come to the table and don't participate – is there something built into the Resolution to take care of that, because he hasn't heard that.

Councilor Ives said participation is totally voluntarily, reiterating that we can't compel anybody else, except for staff, to participate in the process. He said we will reach into the community so we hear all the voices. He said, "Can we force them. No. Have they indicate a desire to participate at the right time. Yes."

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

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

**Against:** None.

Mayor Coss moved Items 15 through 18 to the end of the Evening Session

**END OF AFTERNOON SESSION AT APPROXIMATELY 7:45 P.M.**

## **EVENING SESSION**

### **A. CALL TO ORDER AND ROLL CALL**

The Evening Session was called to order by Mayor David Coss, at approximately 8:00 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**

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

#### **Members Excused**

#### **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 the words to "Forever Young," a song by Bob Dylan, entered for the record by Donato Coviello, is incorporated herewith to these minutes as Exhibit "11."

A packet of comments and photographs, entered for the record by Lee Murphy, is incorporated herewith to these minutes as Exhibit "12."

**Donato Coviello** said you are heroes for doing what you do. He said he doesn't like to trash people, "but somebody has to do that job." He said in response to that, he has brought an apology in the form of a blessing written by Bob Dylan. He read the song as a poem. Please see Exhibit "11" for the words to the song.

**Lee Murphy, 4607 Solelito Loop**, entered a packet of pictures and remarks for the record. She read a portion of her handout into the record with regard to issues created by the Buskers on the Plaza.

She said, "I think the police's hands are tied. Freedom without boundaries is anarchy and these are some of the contradictions and examples that she is bringing to your attention. Please see Exhibit "12," for specifics of Ms. Murphy's remarks.

**Stephanie Beninato** said she was here two weeks ago and most of you were in Hawaii, and four of the Councilors denied her appeal. She said this is the third time she's tried to appeal to the City Council and her appeal has been summarily denied. She feels she is being discriminated against as a person of color, and she isn't a tall, leggy blonde and "I don't seem to be able to get an appeal because I don't meet some kind of stereotype." She is an outspoken, articulate person and is deeply concerned about the lack of due process that occurs at the Historic Board, which is the reason she has come to the Council. She said the City's Ordinance which believes is unconstitutional on it's face, allows the City Attorney, not Interim City Attorney to make a recommendation to deny somebody an appeal. She said there is supposed to be a discussion of that, but it was put on the consent calendar and there was no discussion. She said she wasn't notified of the action, and happened to heard about it, because she attended to hear about the impact fees. However, the owner's agent was notified, and he told her today he was here and knew about it. She said, "I've asked that look into that because the Appeals Ordinance says that she, as an applicant is entitled to a meaningful hearing for her appeal. She said she isn't getting that when it is on the consent calendar, no discussion, no notice, and no ability to be heard when you do it at the 5:00 meeting.

Ms. Beninato continued, "You are engaging in quasi judicial actions, and you need to observe minimal due process rights, which means I get a hearing. So I'm asking you again to rescind the vote, and I believe you can do that. I know that the City Attorney who is sitting here tonight has told one Councilor that is not possible, because the permit was already issued. I believe the City has improperly issued that permit, because I have until Friday to go to Court if the City Council will not rescind that vote and give me an appeal. If the City doesn't want to give me an appeal, then I want my \$100 back because you haven't given me an appeal and I'm not paying for nothing. So again, I'm asking that you rescind. And again, when someone gets a permit when the appeal process is on, they are going forward at their own risk. It doesn't mean that the City Council can't reverse their vote, or that I can't go to Court. And at this point, I really do believe if you won't take that action, give me an actual appeal, that you are definitely violating my Civil Rights. So it's not just going to be about due process and please Court, give me some relief, meaning give me back my fees, I'm going to ask for serious consequences because of that. And because I believe that ordinance, and I don't know if that part of the Ordinance, you know about having a discussion, was one of those last minute amendments that got dumped in when Chapter 14 came in, or whether it was actually there. But it's a very serious problem in terms of due process, and I really think that you all need to look at it and revise it, and you need to give me an opportunity to be heard in a meaningful way as the Ordinance requires."



## **G. APPOINTMENTS**

There were no appointments.

## **H. PUBLIC HEARINGS**

### **1) REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR THE FOLLOWING:**

- a) PURSUANT TO §60-6B-10 1978, A REQUEST FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES AT DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE, THE EPISCOPAL CHURCH OF THE HOLY FAITH, 311 E. PALACE AVENUE, AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 E. ALAMEDA STREET.**
- b) IF THE WAIVER OF THE 300 FOOT RESTRICTION IS GRANTED, A REQUEST FROM DRURY HOTELS COMPANY, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF INTER-LOCAL DISPENSER LICENSE #2507, WITH ON PREMISE CONSUMPTION ONLY, FROM AmREST, LLC, D/B/A APPLEBEE'S NEIGHBORHOOD BAR & GRILL, 830 PASEO DEL PUEBLOS, TAOS, TO DRURY HOTELS COMPANY, LLC, D/B/A DRURY PLAZA HOTEL SANTA FE, 228 E. PALACE AVENUE.**

**(Yolanda Y. Vigil)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of February 21, 2014, with attachments, which is in the Council packet. She said there is a letter in the packet from Attorney Linda Aiken explaining that there will be two (2) liquor license requests for the Drury Plaza Hotel-Santa Fe ("DHC"). The liquor license currently being considered is to provide three (3) complimentary alcoholic beverages between the hours of 5:30 p.m. and 7:00 p.m. to hotel guests. This service will be controlled by Drury Hotels Company, LLC, and will occur in the hotel lobby area, which will be the license premises for DHC. The second liquor license request, which has not been received by the City of Santa Fe, will be leased to a company that will operate a hotel restaurant, lounge and provide room service.

Ms. Vigil said there are letters of no objection in the packet from Reverend Adam Lee Ortega y Ortiz, the Cathedral Basilica of St. Francis of Assisi and Kenneth Semon, President of the Episcopal Church of the Holy Faith. She said 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 is recommending that this business be required to comply with all of the City's ordinances as a condition of doing business in the City.

## **Public Hearing**

**Stephanie Beninato was sworn.** Ms. Beninato said her remarks go for all 3 items on the agenda this evening, having to do with liquor licenses, waivers of licenses or restrictions. She said the City could save a lot of time if you would get the Legislature to change liquor restrictions concerning churches, because you always give waivers for that, and the churches don't seem to care any more. This would save the Council an enormous amount of time. She said she believes the New Mexico School for the Arts is going to move, but it is within 300 feet of the school, and yet you have taken Giant to Court because it is too close to a school on the south side of town and you think that's a bad influence. She said this is a bar operating by the school and there is no difference, "and if we care about kids on the south side, we should care about kids in every part of town." She has noticed a large increase in the liquor miniatures downtown frequently. She said during the ARTFEAST last week, people were walking around with glasses of wine – out of one gallery and into another. She said she was helping in the gallery and advised that we have an open container law and they could harm the fundraising event by walking around with the wine. She said it is inconsistent to be taking Giant to Court because it's too close to a school, and then giving waivers to Drury Hotel.

## **The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to grant the waiver of the 300 foot location and allow the sale of alcoholic beverages at Drury Plaza Hotel-Santa Fe, 228 E. Palace.

**DISCUSSION:** Councilor Dominguez asked if this is a license that is coming in from Taos, and Ms. Vigil said this is correct.

Councilor Dominguez asked, "Again, this is something I've brought up before, Marcos, this is a question for you, if you can answer it, or maybe Yolanda, what is our number of licences that we are allowed, and how many do we have."

Ms. Vigil said she doesn't know that number. She understood Assistant City Attorney Alfred Walker was to send him an email or memo, and is unsure if that happened.

Councilor Dominguez said it did, but there was nothing about the quota.

Councilor Dominguez asked the Applicant's representative, "So essentially, as I understand this, because it is next to a church, even though the church has no issues with this, we can still offer a denial, and then obviously you guys will do whatever you are going to do. But the question that I have is.... it is interesting to me that this application is coming before us after project has already been started. And so I'm wondering if this was this part of the business plan that Drury had when they decided to bring their project to the City of Santa Fe."

**Linda [last name unknown], Applicant's Representative**, said, "There is no one present for my client, but just as a general matter I would observe that in liquor license matters, it's not uncommon to get one until it's close to when you are going to start to build."

**Brian Denninger, 18626 Castellani, San Antonio, Texas 78258, was sworn.** Mr. Denninger said, "We have been working on this project, as everyone probably here knows, since about 2008, and it is quite a process to develop a process to develop a process like this in a historic downtown district, and we're tried to do all these thing. Just to support what Linda has said, is this true. Liquor licenses are very expensive in New Mexico, and so we wait until we're close to opening, just because of the expense of the license."

Councilor Dominguez reiterated his question which is whether the liquor license was part of the business plan when you decided to come to Santa Fe.

Mr. Denninger said, "That is correct. This is a full service hotel, four-star in nature which would have all the amenities of a typical hotel, including a restaurant, which that is the second license to come. The first part is the Manager's Reception, 5:30 to 7:00 p.m., after the school is closed, in a very short time, for the hotel guests only. It is on a second floor area, not immediately accessible from the first floor lobby, so I just clarify that. And it is part of the Drury Inn & Suites, and also our Drury Plaza brand program."

Councilor Dominguez asked, "If we deny this license, and the State upholds the denial, does that mean that Drury is out of business."

Mr. Denninger said they have a significant investment in the site and can't walk away from the property.

Councilor Dominguez said policy needs to be established by the Governing Body to deal with some of these situations where we are "getting the license after the fact, whether it's part of the business plan or not, it's almost like holding the Governing Body hostage, maybe not in this case, but in other cases where we've invested all of this time and money in a project, and if you don't give us our liquor license, then the project may not be valid. I just bring that up, because this is the point of discussion, but I'll be supportive of the motion."

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

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

**MOTION:** Councilor Calvert moved, seconded by Councilor Dimas, to grant the request from Drury Hotels Company, LLC, for a transfer of ownership and location of Inter-Local Dispenser License #2507, with on premise consumption only, from AmRest, LLC, d/b/a Applebee's Neighborhood Bar & Grill, 830 Paseo de Pueblo, Taos, to Drury Hotels Company LLC, d/b/a Drury Plaza Hotel Santa Fe, 228 E. Palace Avenue.

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

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

- 2) **REQUEST FROM MANITOU GALLERIES FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION TO ALLOW THE DISPENSING/CONSUMPTION OF BEER AND WINE AT MANITOU GALLERIES 225 CANYON ROAD. THIS LOCATION IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF ST. FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 275 EAST ALAMEDA. THIS REQUEST IS ART SHOW OPENINGS TO BE HELD FROM 5:00 P.M. TO 7:30 P.M., ON THE FOLLOWING DATES: MARCH 13, APRIL 25, MAY 24, JUNE 27, JULY 25, AUGUST 21 AND SEPTEMBER 26, 2014. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Y. Vigil, City Clerk, from her Memorandum of February 21, 2014, with attachments, which is in the Council packet. She noted there are letters of support in the packet from Very Rev. Adam Lee Ortega y Ortiz, Rector, The Cathedral Basilica of St. Francis of Assisi, and Cindy Montoya, Principal, New Mexico School for the Arts.

**Public Hearing**

There was no one speaking for or against this request.

**The Public Hearing was closed**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dimas, to grant the waiver of the 300 foot location and approve/allow the dispensing/consumption of beer and wine at Manitou Galleries, 225 Canyon Road, for Art Show Openings, 5:00 p.m. to 7:30 p.m., on March 13, April 25, May 24, June 27, July 25, August 21 and September 26, 2014.

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

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

**Against:** None.

**Absent for the vote:** Councilor Calvert.

- 3) **CONSIDERATION OF BILL NO. 2013-44: ADOPTION OF ORDINANCE NO. 2014-8 (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 29, 2014 City Council Meeting)**

A copy of Fiscal Impact Report [FIR] No. 2488, City of Santa Fe, is incorporated herewith to these minutes as Exhibit 13.

The staff report on the Substitute bill was presented by Matthew O'Reilly, Director, Land Use Department, from materials in the Packet. He noted there is a corrected FIR on the Governing Body's desks [Exhibit "13"].

#### **Public Hearing**

**Kim Shanahan, Executive Officer, Santa Fe Area Homebuilders Association**, expressed gratitude to Mayor Coss, Councilor Wurzburger and Councilor Calvert, for their 8 years of devoted public service, noting they came in at the peak of 2006, withstood the depression of their industry and are now seeing it come out of that depression. He said the Association stands in support of the proposal. He said Santa Fe is still a long way from recovery, noting there are a number of subdivision which are poised to begin doing work in Santa Fe, most in the realm of affordable housing, and stand in firm support of the proposal. He thanked Councilor Wurzburger for bringing this forward.

**Colleen Dearing, President, Santa Fe Association of Realtors**, said the Association is in support of the Ordinance. She agrees with Mr. Shanahan, that, "It's not over yet. We are struggling and this Ordinance would continue the growth of the business."

**Stephanie Beninato** said she is in opposition to waiving impact fees, noting in the minutes two years ago, Mr. O'Reilly said it would be a \$700,000 hit, but a news article indicates the City lost \$1.5 million. She said some Councilors have been lamenting insufficient funding for parks, and asked them think what this money could do. She said 2 years, it was completely anecdotal as to how this could stimulate the housing industry. There is no hard data that this would stimulate the building industry at all. She said you need hard data, and none has been presented. She said it is about a "feel good emotional" approach. She said affordable housing doesn't pay impact fees, and according to Mr. O'Reilly in the minutes two years ago, that the City can't waive impact fees. She said the City was supposed to supply

that \$1.5 million. She said she and others in the community not in construction, also are having lots of problems and challenges in the economic climate and, "I don't see the City Council helping just the normal, regular citizen in any way. How about waiving half of our utility fees, or something like that, so you can help everyone in the City, instead of just one industry."

### **The Public Hearing was closed**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Dimas, to adopt Ordinance No. 2014-8, with the amendments.

**FRIENDLY AMENDMENT:** Councilor Bushee proposed an amendment to waive the fees only for one more year, a total of two years. **THE AMENDMENT WAS NOT FRIENDLY TO THE MAKER.**

Councilor Bushee said when this was first presented, it was to get rid of the backlog of projects, and asked if we have completed that backlog of projects.

Mr. O'Reilly said he doesn't know that was the sole purpose. It also was to make projects less expensive to construct, hopefully to stimulate the industry, jobs and GRTs for the City. He doesn't know the projects they had in mind when this was adopted, or if these are off the shelf and being built. He said he does have hard facts that since this Ordinance was in place, new residential increased 35%. He said he can say we are now issuing all permits at about 84% of our maximum year ever in 2005-2006. He said the valuation of those permits are much lower than in 2005-2006. These are the facts we've tracked since the Ordinance was Adopted. He suggested asking Mr. Shanahan where we are with planned projects.

Councilor Bushee said it seems as if we are rushing this before the new Council comes in, and said she was looking for a compromise, and she can't support the two full years and can't support this bill this evening and would like to take this one year at a time and is not interested in a two-year approach.

Councilor Dominguez referred to Exhibit "13," page 5, which says, "Net new gross receipts tax revenue that accrues to the City through the direct and secondary economic effects of residential construction has been shown to exceed the amount of uncollected impact fees." He asked if this is the same as what we have in the packet.

Mr. O'Reilly said, "Yes, on packet page 26, that sentence refers to an analysis we did just to try and estimate how some of the benefits might or may not have been to the City, by having the Ordinance in place." He said we have calculated the GRT received from that construction, which was in excess of what it was 24 months before that, and added the associated building permit fees which go directly to the City's General Fund, as well as the secondary impacts that construction brings. He said, "When you add those things in, the amount of the City's share of the GRTs, exceeds the amount we would have collected, had

we been collecting the impact fees. That is not a judgment statement at all, I'm simply reporting the analysis we did to you."

Councilor Dominguez asked if we have a mechanism in place to measure this more thoroughly in the next two years, "not that you haven't done a thorough job now, but if there is anything that you wanted to see, or maybe we should have started earlier."

Mr. O'Reilly said as soon as the Ordinance became effective, we created a new Permit Code type, to track only those programs whose impact fees were reduced to zero under the Ordinance. This is the way we were able to distinguish those permits from those which came before and now coming after. He said they weren't able to, and are unsure how to go about, tracking the reason someone submitted a permit application during that time and whether they made their decision to apply for a permit at that time based on this ordinance. He has only anecdotal information about this. He has heard anecdotally from builders over the past two years that they chose to do this at this time because the impact fees were a factor. He also think people chose who didn't know about this legislation.

Responding to Councilor Dominguez, Mr. O'Reilly said, "Again, anecdotally, I think there were people that made a decision to go forward while the Ordinance was in place, but I can't say how many of them did that, or whether the Ordinance was their only reason for doing so."

Councilor Bushee asked if a one-year review is built in, and Councilor Wurzbarger said yes.

Councilor Bushee said not long ago, Mr. Snyder said we may not be able to bond, and take a look at the categories, "Roads, parks, fire police," noting we have a great need for these things. She wants to be clear that two years is a long time to extend this policy, reiterating she wants to remind everyone of all the needs we do have in this community."

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

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

**Against:** Councilor Bushee.

- 4) **CONSIDERATION OF BILL NO. 2014-4: ADOPTION OF ORDINANCE NO. 2014-9 (COUNCILOR CALVERT, COUNCILOR BUSHEE, COUNCILOR IVES, COUNCILOR DIMAS, COUNCILOR RIVERA, COUNCILOR WURZBURGER, COUNCILOR TRUJILLO AND COUNCILOR DOMINGUEZ). 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. (ALEXANDRA LADD)**

The staff report was presented by Alexandra Ladd from the materials in the packet. Please see these documents for specifics of this presentation.

**Public Hearing**

*There was no one speaking for or against this request.*

**The Public Hearing was closed**

**MOTION:** Councilor Calvert moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-09.

**DISCUSSION:** Councilor Dimas asked if the benefits would extend to any beneficiaries of a veteran, "to be able to use the affordable housing portion of that."

Ms. Ladd said, "No, not for the home purchase. The pre-qualifications part of the process once the home is owned by a qualified homebuyer, and this applies to everybody going through the program. They can leave it to their beneficiaries, who can then be income qualified to assume the lien and continue the ownership of the property."

Councilor Dimas said he thought this was the case.

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

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

**Against:** None.

**Explaining his vote:** Councilor Trujillo said, "Yes, and add me as sponsor."

**Explaining her vote:** Councilor Wurzbarger said, "Yes. Add me as well, please."

Councilor Rivera asked to be added as a sponsor as well.



- 5) **CONSIDERATION OF BILL NO. 2014-5: ADOPTION OF ORDINANCE NO. 2014-10 (COUNCILOR WURZBURGER). 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. (ALEXANDRA LADD)**

- a) **CONSIDERATION OF RESOLUTION NO. 2014-20 (COUNCILOR WURZBURGER). A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM TO REFLECT THE AMENDMENTS TO THE SFHP ORDINANCE APPROVED BY ORDINANCE 2014-10. (ALEXANDRA LADD)**

A proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "14."

A second proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "15."

A third proposed amendment to the ordinance, submitted by Councilor Calvert, is incorporated herewith to these minutes as Exhibit "16."

A copy of *Public comments from the development community, regarding the elimination/retention of the sunset date for the SFHP*, submitted for the record by Alexandra Ladd, is incorporated herewith to these minutes as Exhibit "17."

The staff report was presented by Alexandra Ladd, noting that Councilor Calvert had requested public comment from the development community with regard to the issue of the sunset date, which have been collected [Exhibit "17"], and were distributed to the Governing Body.

Councilor Bushee asked, "How far off are the City and County these days on our ordinances, some of the percentages at a minimum."

Ms. Ladd deferred to Steve Burger, County Housing, to answer the question.

Steve Burger said we are at 15%, so spread across 4 income ranges, the first tier is up to 65% AMI, the second up to 80% of AMI and the third up to 100% of AMI, and the fourth one, which you don't really deal with, is the 100 to 120% AMI.

Councilor Wurzbarger expressed thanks to Ms. Ladd for her efforts, noting this has taken months and months, and we had a lot of input on how this could go forward.

### **Public Hearing**

**Daniel Werwath** said he has worked in affordable housing for the past 10 years and he is very happy with the ordinance, which strikes a smart balance between the two main needs – to serve the needs of lower income folks in the community, but not to take so much from the development community that they can't build houses, which is a hard balance to create, especially in the market over the past 8 years. This bill returns the relationship with private developers and is more about partnership. The Ordinance creates a partnership with private developers who have produced hundreds of units of affordable housing in the community. He said, "Specifically, creating a long term, sustainable ordinance, which developers can plan on going forward is critical." He said if there isn't a 3-4 year window in housing development, you can't plan, borrow money, invest in pre-development stuff. Some of the other changes are really smart in terms of the overall design of the Ordinance. This is the largest asset these people will ever own, their nest egg and it's an important thing. He is in support for these revisions, and thanked the Governing Body for its hard work on this, particularly Councilor Wurzbarger. And congratulations to the members of the Governing Body members who are moving on tonight and for all of their hard work and public service they've given to us over the years, and wished them the best of luck.

**Colleen Dearing, President, Santa Fe Association of Realtors**, thanked the Governing Body for making development projects in the pipeline more viable, and encouraged the City to consider reestablishing the original Affordable Housing Program, where, at a minimum, 11% of the development would be required, and 16% for the higher priced units would be required to be affordable. She thanked Councilor Wurzbarger for her work on this.

**Wayne Nichols** said he is a developer, and "it's rough out there," noting one of his subdivisions was covered by the early HOP program which requires only 11%, and it is doable. He said 30% is an impossible hill to climb, and at 20% it's rough to make the numbers work, unless you are a large company, especially with the income requirements which are set out. He said, "Ideally, back to the old 11%." He said the proposed ordinance is a step in the right direction and he supports it.

**Kim Shanahan, Executive Officer, Santa Fe Area Homebuilders Association** said this has been a long time coming, noting he and Councilor Wurzbarger served on the first Affordable Housing Roundtable in the mid-nineties after Tierra Contenta was underway. He said the City has done amazing things with affordable housing, with a full commitment to it for more than 20 years, and he has been part of this process. He said he has always been a strong supporter of affordable housing, although a lot of people think the homebuilding industry finds it to be onerous. He has always been a strong supporter of affordable housing. He said then Councilor Coss came to the Planning Commission as an advocate for

the 30%, and he spoke in favor of it and helped convince his fellow Planning Commission members that 30% probably was a good number. However, looking back it was wrong, it was not. He said Ms. Ladd has shown us that only 27 homes have been built through the Santa Fe Homes Program. He said we've been working this for 20 years. He said this is the result of 20 years of solid analysis of what can work and/or a process gone too far. He said the Association stands in strong support of the Resolution.

**Kurt Sommer, Attorney**, said he is here in support of this Ordinance. He thanked Councilor Wurzbarger for her time, energy and effort in proposing this. He said it is important to create certainty for the development community. He is particularly in favor of the provisions relating to small developments, 10 or fewer units, and makes sense to create certainty for that development community, particularly in this environment. He said, "It is important to allow for the payment in lieu clarification that you put in the Ordinance. Thank you, I urge you all to support it."

**Mike Loftin, Homewise**, said Kim Shanahan made some really good decisions while he was serving on the Planning Commission. He said Homewise is in support of these changes. He wants to be sure the affordable housing lien stays in place and that we have that affordable housing resource to benefit future generations and the next people that need to buy a home. "We need to be thinking long haul, and to be sure the City has resources to help working people to buy a home." He said, with regard to "that only big builders can do this," and we're fine with this direction, but I think it's just a specious argument. Reducing the amount of affordable housing that Cen-Tex has to provide, doesn't help the small builder." [inaudible]. He said we want the big builders to contribute, so we need to be careful with this. He said we are in a volatile time and the economy is still problematic. "We get that, we all acknowledge that. What we don't want to do though is.... working people are suffering from the economy too. The City should feel very proud that last night, the County adopted a Living Wage Ordinance, much like the City's. I think the City has led, not only New Mexico, but the whole country on the living wage, and also has been a leader on affordable housing. I think we need to make changes, adapt to the economy, on the kinds of things we are doing. We need to be vigilant in the years to come to make sure we are also providing access to affordable housing for those people who aren't making the big wages."

**Stephanie Beninato** said she supports the Ordinance, and thinks the reduction to 20% probably is realistic. She is concerned about the fee-in-lieu, and understands it's only for small developments. She said what has made Santa Fe unique historically, is the mix of socio-economic classes we have had throughout the City, and this is something that can't be legislated. She is afraid that the fee-in-lieu for small developments will mean more high end housing done in small units so they can pay the fee, rather than having someone in a different socio-economic class living in the development. She finds this unfortunate, because the City has made a great effort to keep vacant land for affordable housing City-wide, so there is no ghettoization of affordable housing. She thinks the fee-in-lieu will promote that kind of ghettoization."

### **The Public Hearing was closed**

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor Bushee, to adopt Ordinance No. 2014-10, with the amendments presented.

**DISCUSSION:** Councilor Wurzbarger asked that Mike Shanahan speak to why some small contractors have been squeezed out of the market. She said sometimes it is good to speak to existing legislation, not just the annual review, but taking a critical look at what has been working and what has not, and then change the legislation.

Councilor Bushee would like to hear from the industry experts the reasons some of the small contractors have been squeezed out of the market.

**Mike Shanahan** said when the financial community says, point blank, we won't fund anything at 30%, it leaves it to those who don't need banks to fund its projects. The local banks don't lend us money for infrastructure, model homes and spec homes. The banks hold the purse strings for the small builders, and if they think the 30% could come back, they're saying, 'We're not in'."

**Wayne Nichols** said he knows several people who had small subdivisions in planning, and they just threw in the towel. What Kim said is true – it is virtually impossible in this town, at this time, to get a commercial loan from any of community banks. He said more affordable housing with unintended consequences is to completely undermine the process of affordable housing. He said, "Anything we can do to make it better is good, anything we can do reduce impact fees. There aren't that many who have recourse to the equity markets, so they have the ability to go ahead, while the small guy is burdened by every aspect of the construction, financing and permitting process."

**Unidentified** said we are coming out of the worst recession in the housing industry. He said you have to have a viable project, period. It could be 100% affordable if it is viable.. He said people enjoy his projects more because they know there's a market for it. The hardest part in the housing market was completely over-supplied. He said we're still absorbing that built up of housing stock, and until it is absorbed we'll have a hard time rebounding. Anything below 10 units has been pretty much exempt from this Ordinance. He said we saw incredible deflation in the last recession, which, combined with the financing requirements by the financing industry really hurt. There was a double whammy going on for a small developer who couldn't sustain the deflation of the market in their inventory, while simultaneous increasing capital. He said, "Giving more certainty to this process, and allowing the in-lieu provisions for the small developer is really helpful, and again I urge you to support this process."

**Daniel Werwath** said there are 8 different answers to this question, all of which are a little bit true. He said developing small projects is hard because you don't have economies of scale, noting small "builders don't have the cash on hand or the big money to do big projects." He said we have strong neighborhood protections here, but sometimes those work. He spoke about his own experience, noting going through an ENN process where you don't get to realize your full entitlements and full zone, which are combined with the other factors.

Responding to Councilor Bushee, Mr. Werwath said the non-profits are good at using the funds. He said, "When you're losing lots because a couple of people think you shouldn't have traffic on the road outside their house, that is the soft thing." He said he fully supports the Green Building Code, but it raises the cost, and on a small project, it makes things that much more challenged. He noted the local builders were the ones who paid the price in the last recession. Things like Tierra Contenta were designed to build local capacity and it was sad to see that get lost, but we can build it again, and hopefully we will, with more balanced approaches like this.

**CLARIFICATION OF MOTION:** Councilor Calvert asked if the motion includes the amendments introduced this evening as well as those in the packet, and Councilor Wurzbarger said yes.

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

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

**Against:** None.

**MOTION:** Councilor Wurzbarger moved, seconded by, Councilor Bushee, to adopt Resolution 2014-20, with the amendments.

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

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

**Against:** None.

- 6) **CONSIDERATION OF BILL NO. 2014-6: ADOPTION OF ORDINANCE NO. 2014-11 (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE) . 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) **CONSIDERATION OF RESOLUTION NO. 2014-21 (COUNCILOR CALVERT, COUNCILOR IVES AND COUNCILOR BUSHEE). 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. (KATHERINE MORTIMER)**

A copy of proposed amendments to this bill, submitted by staff, is incorporated herewith to these minutes as Exhibit "18."

A copy of *Social Benefits of Homeownership and Stable Housing*, National Association of Realtors, Research Division, August 2010, submitted for the record by Colleen Dearing, is incorporated herewith to these minutes as Exhibit "19."

The staff report was presented by Katherine Mortimer from her Memorandum of January 7, 2014, with attachments, which is in the Council packet. Please see this document for specifics of this presentation.

Ms. Mortimer said an amendment was proposed at the Finance Committee to apply points if someone piped more than once, and that additional language is in the packet Exhibit "19."

Councilor Calvert said the overriding principle of the Green Building Code has always been to reduce greenhouse gas emissions, and to build in a responsible and sustainable way, especially in view of the situations we face with regard to water and climate change. He said this entails new resources. He

said they modified the existing Green Building Code based on our experience of applying that, as will be the case with any Code, and they are always amenable to changes that fit with the situations we face. He said, with the Remodeling Code, we realized that existing homes are by far the majority of the housing stock. He said we wanted a way to address the existing stock. He said they didn't want it to be onerous. He said this is much less comprehensive because it deals with remodeling, and they went after low-hanging fruit, things which are best practices and have little or no additional cost to achieve a better result. He said these are best practices which are "low hanging fruit" and will benefit the homeowner and the community as well.

Councilor Trujillo asked how much more costly is the graywater pipe.

Ms. Mortimer said the graywater pipe is in the new homes, and there is no requirement for graywater for remodeling.

### **Public Hearing**

**Colleen Dearing, President, Santa Fe Association of Realtors.** She said the Association respects all of the work that went into this legislation. She said the original Green Code for new construction was a lot of work and the homebuilders and stakeholders put a lot of work into that and they want to respect that work. She said, "But we do respectfully request that this be postponed for action tonight. Of main concern to us is Chapter 12 which regards the small remodeling jobs that affect kitchens, bathrooms and basements. The mandates included in the Ordinance for a small remodel job, are building a thermal envelope, air, ceiling and insulation, recessed lighting, high efficiency lighting, boiler supply piping, appliances, gas fired equipment, solid fuel burning appliances HVAC system protection, duct insulation, recycling, universal design shower heads, faucets, water closets, radon control, flashing, ice barrier and architectural features. That's a lot on a small remodeling job. To our knowledge, there has been no cost analysis to determine to what extent additions or remodels, both large and small will be impacted by these new mandates."

Ms. Dearing continued, "Additionally, there's no enabling language to provide a process for home remodelers to be exempted from any of these mandates. There is a concern that increased cost may drive remodelers underground, which may impact the quality and safety of remodeling projects. We do that home ownership continues to be a sound investment over the long term, providing shelter and a larger quality of life. We believe the economy is still recovering, and these new mandates will add financial burdens to homeowners already struggling to make ends meet. We are concerned that homeowners have not had the appropriate opportunity to weigh in on the new mandates. We encourage the Council to slow the adoption of the Green Remodeling Code to ensure that homeowners are aware of these new mandates, the associated additional costs and benefits and are strongly encouraged to share their direct input regarding its adoption."

Ms. Dearing provided a copy of the National Association of Realtor's report on the social benefits of owning your own home to the Governing Body [Exhibit "19"].

**Kim Shanahan, Executive Officer, Santa Fe Homebuilders**, said he appreciates the Council batching these 3 topics together. He said Colleen Dearing has been advocate of green building in all of her work with the Santa Fe area builders, but everything that she read could have come verbatim from the National Association of Homebuilders, who are the safeguards of making sure we don't spend any more on homes than we should, and don't add to costs. He said the template used to develop the Green Remodeling Code was produced by the National Association of Homebuilders, noting Chapters 11 and 12 are virtually verbatim from what was produced by the National Association and approved by the International Code Council. He said these are Codes which generally imply mandates.

Mr. Shanahan continued, "In terms of the timing, Councilor Calvert made the point and it is very clear that when we passed our Residential Green Building Codes in 2008-2009, we knew then, and we asked in the minutes, if you go back to the minutes, you will see that we had said, make sure you bring us remodeling codes too. And we've put it off for a couple of years because of the economy. We then waited for the 2012 version of the National Green Building Standard to be developed by NAHB, because we knew it would have an impact on the work that had been underway in 2010 and 20011. When that came out they reconvened, along with Katherine, to look at the new Code, and make sure it wouldn't be too onerous, and that it wouldn't drive home building and remodeling underground. The Association is aware of that and fears that even more than the Realtors. We are proud of the work we've been able to do with City staff in promoting these things."

Mr. Shanahan continued, saying later this year, Ms. Mortimer will bring forward a new commercial and commercial remodeling green building codes. These have been on the shelf for two years. They also are ready to bring forward to the New Home Residential Green Building Code, noting they fully anticipated to ratchet-down the requirements and "we are due for those due." He said the Homebuilders Association will be "front center," in all of those efforts and will support all of them.

**Wayne Nichols** said he has been a Santa Fe builder for 42 years, and a Realtor for 32. He pioneered and built the first solar subdivision in the country in Santa Fe, so he certainly is a supporter of sustainable green building. He is a strong supporter of the existing Code for clean building and new construction. He has a concern about the Remodel Code and strongly recommends the Council delay approving this tonight, until the City has done the outreach and education to the community as a whole with regard to the implications of the mandates in this Ordinance. He urged Councilors to look closely at what the mandates may mean in terms of cost, professional outside consultation. He said everything Mr. Shanahan is saying is important, but we have not reached out to the community to help them to understand the complexity. He said there is no public awareness of how this will impact the small contractors and the homeowners. He supports the bill, but only after we have increased the public outreach, the public understanding of just what this bill means. He said his concern is that the homeowner will go ahead and do improvements without a permit, which are the unintended consequences we don't want.



**Stephen Bradley** said he is in support of this legislation, and urges the Council to proceed as quickly as possible. He said he is a HUD 203K consultant, a HUD Inspector. He has seen a lot of existing houses in Santa Fe. He said HUD's approach is to improve houses for safety, soundness. He said the green building amendment is an extension of HUD's ideas to the local community in trying to improve health, soundness and safety. He said the sooner we move forward on this, the sooner we will start to improve our housing stock. He said it will be rough initially to get these permits and to get people to understand the complexity of what we're asking them to do. He said "starting is the only way we can move forward."

**Curt Hill, 610 Paseo Corto**, said he is a Real Estate Broker and manager of commercial properties, homeowners and condo associations, and he is a big fan of green building. He deals with a lot of small contractors, and they haven't heard about this. He said he just added 1,000 sq. ft. to his house, and went through a lot of this by choice, and "it's good stuff, but it was difficult." He had to hire an architect, an engineer and do a lot of homework to get it done right. He suggested that this be postponed, and said he echoes Wayne Nichols comments completely. He said this just needs to be brought to the public and bring the small contractors up to speed on this, and let the public know what this truly will cost, because it won't be cheap. He said, "I urge you to postpone and bring it to the attention of the true small contractors in this town."

**Amanda Hathalee, Director, Green Building and Energy Efficiency Programs, Santa Fe Community College.** Ms. Hathalee said she is one of the team who worked for almost 2 years on this Code, noting the committee included Realtors, remodelers, house professionals and other green building professionals. She said they scrutinized and compared Codes adopted by other communities. They spent a lot of time considering what best practices would be in the interest of homeowners. They included only items which would reduce greenhouse gases, water consumption or increase indoor quality. She said, as a member of the Sustainable Santa Fe Commission, she believes the City needs to move forward in our commitment to the Sustainable Santa Fe Plan, and to where other communities already are. She said buildings are responsible for 40% of greenhouse gas emissions, and residential buildings are half of that, and buildings use 70% of the electricity. She said in the intervening years since the City has adopted the Green Building Code, the builders have adopted the new practices and incorporated new ways which are to the benefit of homeowners and the City's commitments. She said she chaired the Historic Green Code Remodel Committee which looked at the Code and mapped it out with historic needs, noting they wrote a white paper on this. She said she has no concerns that this Code will impact the historic neighborhoods.

**Stephanie Beninato** said no one has mentioned owner/builders, and she doesn't believe they are aware of this Code. They will have to hire an architect, an engineer for a very small remodel of 400 sq. ft. She said she had difficulty of how it will be divided out, because there is a square footage and above that there are more requirements. She said it will be really onerous on owner/builders. She said it is inconsistent that you just waived the impact fees benefitting large builders in particular, but then imposed

all these restrictions and costs on owner/builders who will have a hard time understanding what is being asked and knowing what they have to do. She urged the Governing Body to delay action, while you educate the public and get input from people who want to remodel on their own.

**The Public Hearing was closed**

Councilor Calvert noted the blank on page 4 of the Ordinance. He said he is proposing an effective date of August 1, 2014, which would allow time for public education and outreach. It would allow things close to getting in the pipeline to be completed without having to meet the new requirements and upsetting existing plans. It would address the concerns expressed tonight – staff training, education and outreach and allow existing projects to be completed and not be impacted.

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2014-11, with the amendment.

**DISCUSSION:** Councilor Trujillo said he has concerns about this. He said a job of \$125,000 could balloon to \$175,000. He said Ms. Hathalee said there were green building professions on the committee, and asked how many small contractors from Santa Fe were invited to provide input.

Ms. Mortimer said most of the people on the committee were small remodeling contractors in Santa Fe.

Councilor Trujillo asked who they were.

Ms. Mortimer said Phil Duchelle, Ray G, Douglass Moss.

Councilor Trujillo asked if they are “mom and pops.”

Ms. Mortimer said they do one house at a time, and they do remodels primarily.

Councilor Trujillo asked if the committee members were hand-picked, or did you solicit participation from the contractors.

Ms. Mortimer said emails went out to all members of the Santa Fe Area Homebuilders Association, asking them to attend and participation, and let other people know who might not be members. She said they all were public meetings, posted on the calendar of the Association and advertised as an open meeting.

Councilor Trujillo said he doesn't represent the historic side, and represents the South side where the working class lives. He is concerned about the additional cost to a small remodel of a kitchen at \$3,000 to \$4,000, and asked if this will now balloon to \$10,000 to \$15,000. These are his concerns.

Ms. Mortimer said, “There is a very good chance that it would be no or very *de minimus*, is the feedback we've gotten from the builders. The intention was to require good building practices, so when you open a

wall, if it's not insulated, you put insulation in it before you put it back. When you open up a wall and it's not sealed and there's gaps to the outside, you seal it with caulk before you put it back."

Councilor Trujillo said he understands. He said he is concerned that when people come to City Hall, do the paperwork and see what it will cost, that they will go underground and do it themselves. He said this isn't good practice, because our inspectors aren't going out to see this and we could have faulty workmanship.

Councilor Bushee asked if the City is prepared to administer this.

Ms. Mortimer said yes, and asked Mr. O'Reilly if he would like to speak to this.

Councilor Bushee would like to get this on the record.

Matthew O'Reilly said, "We currently are staffing the existing Green Building Code. And when the original bill was put forth, there was an FIR included that talked about the potential need to hire some other FTEs to keep up with this, mostly because there were some FTE's that were scheduled for the original Code that we never hired. Since that time, we have been able to make some personnel changes, and we've been to hire the City's first multi-certified plans examiner who also happens to be a licensed architect. That person has been hired and they have already started. We're very lucky to have her. We're going to hire another person like her, if we can find such a person. With those hires, we will not need the FTE's that were in the original FIR for this Ordinance and we will, given enough time to August 1<sup>st</sup>, be prepared to administer this Code."

Councilor Bushee asked if staff is prepared to walk people through the point system, so they understand how to use it, and the effective date suggested by Councilor Calvert.

Mr. O'Reilly said, "Our staff currently spends a lot of time walking people through the requirements. I think it's been stated earlier that the original Green Building Code went to effect in 2009, that was an adjustment for people to get used to that. We've since made some changes to that Code to make things easier. People really get it now. There still are, from time to time, people who come in that didn't fully understand what it was all about. Our staff spends a lot of time helping them understand that. The way that the Remodel and Addition Code is written, as Katherine has explained it, it's going to be even easier for us to do that in working with those people, and we try to do that every single day. Sometimes we're busy, we couldn't do it that day, but we'll set up a meeting for them to come in and help them through it. There will also be the contractors and the architects out there who figure it out very quickly on their own and don't need our help."

Councilor Bushee asked if there is any one particular aspect that would be more onerous on the smaller remodel. She doesn't see this as huge expenditures, but perhaps more time. In the case where Councilor Trujillo is concerned, they've got it designed, already gone through their architect and won't have an architect on site to oversee. She wants to make sure that we're not creating the need for someone to have

to hire someone, if they can handle it themselves. She asked if he can potentially point out something, commenting graywater doesn't have to happen with a remodel.

Ms. Mortimer said, "The things that are in here are all kinds of best practices for building, so it's hard to say what the additional cost would be. The builders we had at the table said these are things they do already, so in that case, these would not be additional costs. To them, these were things that just made sense." She said she google searched and went to Lowe's and Home Depot to see the difference between a sealed or not internally sealed recessed lighting, and couldn't determine a difference in price, both were around \$20. She has tried to figure out what, if any, additional costs there would be for construction. There might be for someone who doesn't, as a matter of practice, fill up the insulation or seal gaps they see, but that doesn't do the homeowner a benefit and later on they will be paying for that in their heating bill forever.

Councilor Bushee said in the end, this saves the homeowner and the next homeowner that buys that home, and it also creates jobs to some extent. She said it seems daunting when you look at all the charts and possibilities and such. She thinks, if staff is prepared and the effective date is delayed a few months, this seems very doable. She said when we look at the green building code for commercial, we may need to look at some incentives in terms of big cost items, and we can do that with UBC charges and in other ways. She said this just seems common sense.

Councilor Calver said this is the reason for the delayed effective date. He said staff and the committee went to great length to get contractors on the Committee that do this to reassure the rest of them that they aren't going to put themselves out of business. They're not to put requirements to make it so the homeowner won't do it because of the extra cost.

Councilor Trujillo said, "So somebody applies for a permit, they get it prior to the date this goes into effect. Are they grandfathered so none of these things have to take place. Meaning, when an inspector goes over there and sees it and says, wait a minute, according to our new Code, this should have been done. But the person can say, wait a minute my permit was pulled prior to this going into effect, so I'm technically grandfathered-in, right."

Mr. O'Reilly said it would be based on the date you submitted for the permit.

Councilor Dominguez said he has been part of the building industry for many many years, noting his whole family is a part of it. He said some of the concerns expressed by Councilor Trujillo, are concerns brought up in the very beginning when we were going through a Green Code because it's a whole new concept. He said it sounds as if Ms. Mortimer got the whole industry involved for this particular piece that's on the table now. He said there were discussions about remodels when you were contemplating bringing the Green Code to the table.

Ms. Mortimer said staff was directed to develop codes for other building types. She said, "In fact, it stated in the Resolutions that were adopted at the time, that that was to be the first of a family Codes to address all building types eventually."

Councilor Dominguez asked if this went to the Planning Commission.

Ms. Mortimer said it did not, noting it went to Public Works and Finance, and it is not required to go to the Planning Commission because this is Chapter 7.

Councilor Dominguez said he they did have some of this discussion in the beginning when the Code was being brought up, and did outreach to the industry during this iteration of the Code.

Ms. Mortimer said, "Yes. And not just builders, but designers or Realtors, energy raters, green building people who can certify a green building under one of the programs that makes them eligible for tax credit. All of these people were invited, many of them came. The first few meetings were very packed, and is often the case, once you roll up your sleeves and get into the nitty-gritty of Code, you lose people fast. But you get down to a group of dedicated people to whom it is very important, to themselves. They don't want to see regulation come in that puts them out of business, and those were the people that really stuck through it to the end."

Councilor Dominguez said he was concerned about this when the Code first came out. He thinks that staff and the community have demonstrated their ability to wrap their arms around it then, and now.

Councilor Ives said he is a sponsor and intends on voting for the bill. However, a question has been raised with regard to the cost of the new provisions in connection with small remodels such as a kitchen, so many of the conditions that otherwise wouldn't apply would apply for that type of remodel. He said contractors could be asked anonymously to look at the actual remodel cost and what they think the cost would have been, if they had complied with the new requirement, between what it was and what we're asking it to become. He thinks this information can be generated easily between now and the implementation date. He feels that might give folks here the comfort they're seeking on the actual cost impact. He said we have heard that this was designed to ensure there was no significant additional cost, and yet we've had people speak to the fact that this might increase costs significantly. He would like a sampling of 10 contractors and ask them what the difference would have been, so we would have data to give us comfort that we're not asking an excessive amount on contractors and others who aren't sophisticated in doing this as a matter of course.

**RESTATED MOTION:** Councilor Calvert moved, seconded by Councilor Wurzburger, to adopt Ordinance No. 2014-11, with the amendments, and the insertion of the collection of data suggested by Councilor Ives.

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

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

**Against:** None.

**Explaining his vote:** Councilor Trujillo said, "I do want to thank all of you for all the work you did on this. I do have my concerns on it. I know we have good staff, and I know staff is going to work hard to ensure that if there is trouble, people understand that they are going to be able to fix this. I do have concerns with the cost, and I hope, what Councilor Ives said, we can get that information from a contractor who has already done a remodel, give that that to the people, so they can [inaudible] the costs. So I will support this, and I hope this works out really bad."

Councilor Calvert thanked everyone who has participated in the process – the contractors, Ms. Mortimer and Mr. O'Reilly, the Council, leadership and everyone who attended this evening. He said, "I think everybody has a stake in this and we want to make it work for everybody, so we want to hear everybody and respond to their concerns. And so, I just wanted to make that statement. It was a good effort by the people involved on the committee. I really appreciate their hard work, and I think the community will appreciate their work in the future."

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Resolution No. 2014-21, with the amendments.

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

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

**Against:** None

- 7) **CONSIDERATION OF BILL NO. 2014-7: ADOPTION OF ORDINANCE NO. 2014-12 COUNCILOR CALVERT). 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. (ZACHARY SHANDLER)**

Assistant City Attorney Zachary Shandler reviewed the Legislative Summary which is in the Council packet. Please see this document for specifics of this presentation.

Councilor Bushee asked if the definition of "individual contributor," needs to be expanded beyond labor organization, unincorporated association, to include any of the other definitions of "501-whatevers" independent expenditures; and do you see any conflict with what is happening at the national level under Citizens United, and any legal issues to be concerned about.

Mr. Shandler said in Albuquerque, Black Rock was prohibited from making contributions, and that was struck down in Albuquerque. He said, "So this attempt is to look at it a little bit differently, that Black Rock can still make contributions. It just put the burden on the Councilors. And we think it has a better chance of surviving legal challenge under that model there."

Councilor Bushee asked, "Do you have case law to support that."

Mr. Shandler said, "We don't have case law, but we feel that's a better approach from legal, and it has less legal jeopardy to be challenged and overturned, because it is a different approach than the Albuquerque model."

Councilor Calvert said this Ordinance is in response to a Charter recommendation. He said they decided on this approach instead of limiting contributions, to make it the responsibility of the candidate as opposed to the contractor.

Councilor Bushee said she wants it to be broad enough to deal with independent expenditure groups.

Mr. Shandler said, "I think the independent expenditure groups would argue they are not making a contribution to Councilor Calvert. And that might be a point of great further debate, and perhaps the title of this bill might not be the appropriate time to include independent expenditure groups within that definition. But it might be something for the ECRB to give serious thought going forward."

Councilor Bushee said Councilor Ives is bringing something that deals with independent expenditures in relation to public campaign finance. She said, "I just want to make sure here, do you have to include the term non-profit, instead of business and individual. I'm just trying to make sure it is capturing someone who ends up being contracted with the City. So if you've got any other ideas, throw them out there."

Mr. Shandler said, "When we were trying to draft this bill, we tried to include as many of these possible groups that we thought were permissible in J(2). And I don't have further suggestions at this time."

Councilor Bushee said, "So you don't worry about non-profit or anything like that, because we contract with quire a new non-profits."

Mr. Shandler said, "I wouldn't say I don't worry, I would just say that at this time I wouldn't advise adding additional items."

Councilor Bushee asked the reason.

Mr. Shandler said, "I think, because the way the title has been advertised, I guess I would be reluctant to add additional types of organizations or associations not already captured in the proposal."

Councilor Bushee said, "It says City contractors. It doesn't define contractor until you're in the Ordinance, so I'm asking if there is a need. We contract with lots of folks. We've covered the bases for individuals, organized labor, added business or organizational contributor. I'm just trying to amplify it to capture as many entities that we actually contract with. The first one that comes to mind is non-profits. There may be others, but I don't see that as being defined. That's just a definition within the Code, so I would just suggest that as a friendly amendment."

Councilor Calvert suggested that she "hold that thought, hold the public hearing and get back to that."

Councilor Bushee said, "Then I did just want to make sure you told me you feel confident that this could withstand a legal challenge."

Mr. Shandler said, "Yes. I believe it's legally sufficient, could withstand legal challenge."

Councilor Wurzbarger said, "Back to the association. Does this mean, for example the Realtors have money they give to candidates, as does Homebuilders. So, if the Homebuilder Association gives money to a candidate and if the Homebuilder group gives money, and then a contractor, who is a member, then does some work for the City, whether a Park or whatever. Does that mean you don't get to vote on that person's contract. Or what is a distinction between the membership and the Association, or is there any."

Mr. Shandler said, "That question was brought up in front of the ECRB in the context of a union. What if a union made a contribution, but I'm a member of the union. As you can see from the minutes, they found that an interesting puzzle to try to sort through, and I don't think they came up with a definite answer about whether, if you were a member of the union and the union gave a contribution, how to resolve that. I don't know if Councilor Calvert wanted to say anything."



Councilor Calvert said, "I think one thing you might want to talk about is the, I don't want to call it necessarily the 'escape pod,' but by virtue of this, you disqualify everybody on the Council because they got a contribution, there is a provision in here about being able to work around that. That's not exactly on her point, but I think it needs to be said in here as well."

Councilor Wurzbarger said, "I would have a similar question if we pursue the discussion of not-for-profits. It seems to me, at some point, there is a line at which you start disenfranchising individuals who want to support candidates, with or without public financing. And if we go as far as non-profit, we have 750, and we have so many coming in for money through CDBG or whatever. And I'm just confused again about the difference between the larger organization and the individuals, but we'll wait and see."

Mr. Shandler said, "I'll defer to the public hearing and see if that can resolve it, and if not, we'll tackle it once the public hearing is over."

### **Public Hearing**

**Jim Harrington** thanked Mayor Coss, Councilor Wurzbarger and Councilor Calvert for all the help they've given us in our work over the years. He said, "At any rate, we support this bill, but these questions that Councilor Bushee and Councilor Wurzbarger were raising, were discussed. There was an earlier draft of the bill that would have covered labor organizations and non-profits. It entailed a lot of amending of definitions in the Ethics Code. And so, we sort of gravitated toward the "keep it simple stupid" principle, and ended up with a bill simple. As it is now, the third amendment that Zach described is just kind of a cleanup of a definition of the term contributor, and it's not really related to the rest of the bill. By including non-profits and labor organizations in the term contributor, that doesn't affect the scope of this bill that creates the conflict of interest. That only applies to profit making businesses as it is now. And the ECRB discussed this same question of labor organizations and non-profits and sort of did a 'no recommendation' on the thing and passed it along to the Council. But at any rate, it's in its simplest form now. There are more complicated versions that were considered. If you wanted to do that right to expand it that way, it would be a complicated process with probably lots of amendments. But at any rate, we support the bill in its present form and hope you'll give it favorable consideration. And thank you to you three for all these years. Thank you."

**Stephanie Beninato** said she is unclear as to whether or not unions are included in this bill, and Unidentified said no.

Ms. Beninato said, as an analyst she saw a bill like this last year that went through the State Legislature and said, "I believe that it is legally defensible, and it does put the burden on the Councilors and not on the businesses. And I do think it is important that Councilors acknowledge who they're getting money from. Perhaps this will be less of a problem if more people take public financing. I suppose there is seed money you can get from individuals, and that would be where this ethics conflict might come up. No. You're saying no."

Councilor Calvert said, "No, because of the limit on the amount of seed money you can get."

Ms. Beninato said, "Oh, it's under \$250. Oh. Okay. So it wouldn't apply. And you can be slightly influenced by \$100. But you know, again, if you really would sell out for \$100, I don't know what that says about your character. So I think it actually is a start in the right direction. I think associations. You might be able to include non-profits in an association. And I think the big thing is, is the association telling its members to give contributions to the elected official or not. And if a member wants to give a contribution, but it's not directed by the association, then you are not interfering with an individual's right to make a contribution. The idea is to avoid concerted effort, or duplicitous giving by having the owner of a business tell the employees to give, rather than themselves, to avoid having the Councilor have to disqualify themselves from the vote. I think in this form, it's acceptable. I think it would be legally defensible, and again, I am all for trying to get our ethics in a better. I'm just sorry that we can't actually keep PACs out of City elections."

### **The Public Hearing was closed**

Jim Harrington was recognized by the Mayor at the request of Councilor Calvert after the public hearing was closed.

Jim Harrington said, "I should have added that there is a simpler form of amendment that would cover labor unions, but non profits, that we talked about right at the end. If you wanted to try to cover every kind of entity it would be quite complicated."

Councilor Rivera asked Mr. Shandler, if a union was paying its membership an hourly salary to campaign on behalf of somebody, would that be a violation.

Mr. Shandler said, "Obviously that's a point of great debate right now. And I think that it would depend on the fact patterns. But the way I understand your hypothetical and Geno always told me not to answer hypotheticals, but I think he left the room. If it is an independent organization and they're paying their people and they are doing independent member-to-member type of campaigning, or eliciting, that may not be considered a contribution as the Code is written right now. And perhaps that's something the ECRB under their.... one of their requirement is, after the Election, they need to look at the Code, and I've kept a list of up to 16 different things they want to look at, so that might be something they look at as well. But I think currently, right now, under that hypothetical, that would not be considered a contribution to candidate X."

Councilor Rivera said, "If you can add that as number 17, I would appreciate that."

Councilor Bushee said we're almost done with an election cycle, and there are a lot of hypotheticals and unanswered questions. She said Councilor Calvert is leaving us, and asked, "If there a rush to doing this, because we do this better than perhaps we've done some of our past Code revisions, more thoroughly and thoughtfully."

Mr. Shandler said, "I think as Mr. Harrington said, the first two parts, the ECRB gave a positive recommendation. It's that third part they gave a no recommendation. So I would defer to Councilor Calvert if it is a 3-legged stool, or whether it's just the first two parts you want to go forward with, and the third part may need to be studied some more. I'll defer to the policymakers on that."

Councilor Calvert said if you go forward with the whole thing, what he's proposing is an improvement over the existing Code, noting any Code we do can be made better, and we will need a lot more thought and it'll take more time, and so this can be effective immediately. He said it is up to the Council to decide how to approach it. He is suggesting we can move forward with what we have here now, it becomes effective, reiterating that any Code can be improved in the future, but that will take detailed thinking about how to work it.

Councilor Bushee said she agrees something is better than nothing. However, from first hand experience right now, unintended consequences, loopholes are always... she doesn't want to see this move forward and stop there until the next election cycle when there is the ability to test it out. She thinks this could use more work and thought.

Councilor Calvert reiterated it is workable, noting the ECRB will be doing its review after the election and

Councilor Bushee asked if he found other models.

Councilor Calvert talked about the issues and what wouldn't/couldn't hold up in court, said it is unique and there aren't many examples like these.

Councilor Bushee said she is more deliberative when we are making law.

**MOTION:** Councilor Calvert moved, seconded by Councilor Wurzbarger, to adopt Ordinance No. 2014-12.

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

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

**Against:** None.

**Explaining her vote:** Councilor Bushee said, "Yes, but I do hope it stays on their radar screen at the ECRB and continue to flesh it in."

- 8) **CONSIDERATION OF BILL NO. 2014-08: ADOPTION OF ORDINANCE NO. 2014-13 COUNCILOR WURZBURGER, COUNCILOR IVES AND COUNCILOR BUSHEE ). 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. (LAWRENCE GARCIA AND ZACHARY SHANDLER)**

The staff report was presented by Zachary Shandler from the Legislative Summary, which is in the Council packet, noting plastic bags are still banned.

Councilor Trujillo said, "I hate to say it, but I told you so." I want to clarify that we are not mandating that businesses have to charge 10¢ each for the paper bags."

Mr. Shandler said, "If this passes, yes."

Councilor Trujillo said, "I brought this question up during the time we were considering it. I talked to Kelley and I always asked how we can do this. I'm glad we caught it now, because somewhere down the line this could end up costing the City a lot of money in lawsuits. And I'm glad you're changing it, I don't want to see the City get into any trouble. I think we missed the boat. Plastic is plastic, and for some reason we don't see it that way, I'm going to still vote no, just to be consistent with my vote on this, but I'm glad that it was caught Councilor Wurzbarger, I really am."

Councilor Calvert said he understands we will be reviewing this in a year, but hopes the City Attorney's Office and staff looking at other models might come up with an appropriate disincentive prior to the one year mark. He thinks they already are doing that, and he wouldn't wait for a year to review the Ordinance to come up with the disincentive which will work and make this a better law and will fit within the laws of the State of New Mexico.

Councilor Bushee said she was approached about adding "not-for-profit" thrift stores, such as the Salvation Army, because they hand out their food in single use bags, but she doesn't see where to do that. She said it isn't clearly defined. She asked legally if we can make that amendment, but we need the original definition of the exempted entities.

Mayor Pro-Tem would like to go forward with the public hearing and then come back for clarification of this question.

## **Public Hearing**

**Miguel Gallegos, Salvation Army**, said on page 3, line 9 of the ordinance, they do fall under food banks, but right after that they would like to add "non-profit thrift stores," because they recycle all bags that they get donations through from their donation clients. They also hand out is a voucher form for the homeless when they give them clothing through the thrift store. When they leave, whatever bags we may have, we give that homeless person that bag, whatever we recycle. He didn't see that in the ordinance, and he was hoping to add language on page 3, line 9, after food banks and/or non-profit thrift stores. He said when they hand out underwear and socks, it is an issue when they leave the building, if it is raining, because they could get wet.

Councilor Wurzbarger said she would have no problem in adding that language to the Ordinance.

**Joseph Eigner, 6 Marana Drive, Eldorado**, thanked Mayor Coss and the Council for their years of work for the environment. He is a member of Eldorado [inaudible] Recycles. He said although their members live in the County, they do almost all of their shopping in the , so they will be impacted by the bag ban. He said his group strongly supported the ordinance adopted 6 months ago. He said it makes us all rethink our wasteful use of resources from single use, throw-away items, which we use in vast amounts. He said removing the paper bag fee significantly undercuts the Ordinance in their view. They understand Legal found a defect in relation to the fee, but if he is smart enough to discover the defect, we think he'll be smart enough to reinstate the fee in a legal way. Mr. Eigner read an excerpt from an article in *The New York Times* about the bag ban in California, and the acceptance of the ban by the public. He hopes the fee or something similar can be reinstated, and thanked the Governing Body for passing the Ordinance.

**Bo [inaudible] representing Albertson's**. He said he is here to talk about removing the fee. His fear is that they will be people from plastic to paper. He said we will have discussions during the one year period, and they would like to come to the Council to discuss it earlier than one year, noting they do have a lot of cost issues involved with this. He said, "Anything we can do to get together, we would prefer it be done in a lot faster time frame, hopefully within the next two months would be very helpful. And we appreciate you listening to us."

**Joseph Salak** thanked the Council for the Ordinance. He is concerned about the environment, and believes there should be disincentives with regard to the single use grocery bags. He said to ban plastic bags is great, progressive, is important, but to not have a fee involved in the use of paper bags won't help the consumers to bring their own shopping bags which he thinks is important. He supports the Council in its efforts to come up with a way to have disincentives in regard to single bag use.

**Stephanie Beninato** said she is glad we're doing away with plastic bags. She said Albertson's puts one item in a bag and people leave with 10 bags with 10 items. She said paper bags are expensive, and she is concerned about trees. She is very opposed to the 10¢ fees. She recycles and has to pay to recycle newspapers which have to be put in a brown bag. She said at Whole Foods, if you bring in a recyclable bag, you get 10¢ back, or you can donate it to a non-profit. She thinks that's the way to go rather than disincentives which are a burden to people who are on the edge, but not on welfare. She thinks the way to go is to use recyclable bags.

### **The Public Hearing was closed**

Councilor Calvert thinks putting newspapers in a paper bags is a suggestion and not a requirement, and as this moves forward, the Environmental Division may want to change its instructions.

Lawrence Garcia, Environmental Services Division, said Councilor Calvert is correct. They do accept loose papers in the bin. If they will be outside the bin, they asked that they are tied with string or taped. If they are going to put them in a bag, we ask that they put them in a paper bag because it can go into recycling.

Councilor Calvert said it should be on the bottom with heavier items on top to be sure it doesn't get blown around.

**MOTION:** Councilor Wurzbarger moved, seconded by Councilor River, to adopt Ordinance No. 2014-13.

**DISCUSSION:** Councilor Bushee said she would challenge the man from Albertsons because he said he was concerned that people would go back to using paper bags. However, he could voluntarily, 10¢ per bag if you wish, or promote or give away reusable bags. She has come full circle and doesn't want to delay the implementation, but she would like a longer term solution so people will use reusable bags. She hopes we review it sooner than one year from now, so she will support the motion for now.

Councilor Ives said he has looked at the cases with regard to the tax vs. fee issue in the Los Angeles case that was filed and the recent decision. He said it isn't totally clear that we would have had a problem in proceeding with 10¢ as long as it wasn't collected by the City which seemed to be the holding of the court in that case. He asked if we might impose in fairly quick order, a 5¢ charge which is 2¢ less than the testimony that suggested paper bags cost about 7¢ to produce. So we may have an option soon to resolve the issue of litigation. If the City Attorney's office would consider that, he would sponsor a Resolution if it would pass muster. He agrees with those who desire to move it forward much more quickly as possible.

Mr. Shandler said, "As said in the public hearing, the requirement on the Ordinance is not later than 12 months, and it could be done earlier. Also, the gentleman from the Salvation Army, we pointed out there was an expressed exemption. And finally, in response to your question. In the City Business & Quality of Life Committee, there was a discussion about maybe there's not a monolithic approach to the disincentive.

And there was discussion about the City of Austin and the counties in Hawaii that tried different approaches. So it may turn out that it doesn't have to be the tax versus fee dispute as the policymakers continue to review the issue."

Marcos Martinez said he has one amendment which is the citation of the Ordinance that was passed, and beginning on page 1, line 21, the citation should be 2013-29, and throughout the Ordinance.

Councilor Wurzbarger said her motion includes the language we discussed earlier with regard to non-profits.

Mr. Shandler said, "Our advice is you don't need to make that, it's already in there. He was just looking in the wrong place."

Councilor Wurzbarger thanked everyone in Legal for staying with this.

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

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

**Against:** Councilor Trujillo.

**Explaining his vote:** Councilor Trujillo said, "I give kudos to those kids as well for what they want, and I'll say it again. You missed the mark. It's what I never understood. It's a plastic bag ban, but not all plastic bags fall under this. High end store are allowed to give their Gucci bags to the tourists and such. In my opinion you're not treating everyone in the City fairly. And that's something I've always tried to be fair. And just to be consistent with my vote, I am going to vote no, but I'm glad we came to a consensus. This could have cost the City a lot of money in lawsuits. I'm glad somebody was thinking right."

- 9) **CASE #2014-08. APPEAL THE CITY OF SANTA FE PUBLIC WORKS DEPARTMENT (APPELLANT), APPEALS THE DECEMBER 10, 2013 DECISION OF THE HISTORIC DISTRICTS REVIEW BOARD (HDRB) IN CASE #H-13-076A DESIGNATING THE DEFOURI STREET BRIDGE (BRIDGE) AS CONTRIBUTING AND THE JANUARY 14, 2014 DECISION OF THE HDRB IN CASE #H-13-076 APPROVING THE DEMOLITION OF THE BRIDGE WITH CONDITIONS LIMITING THE WIDTH OF THE REPLACEMENT STRUCTURE BY ELIMINATING ONE OF TWO SIDEWALKS AND REQUIRING SIDE MOUNTED BRIDGE RAILINGS. THE BRIDGE CROSSES THE SANTA FE RIVER AT THE NORTH END OF DEFOURI STREET AND IS LOCATED IN THE WESTSIDE-GUADALUPE HISTORIC DISTRICT. (DAVID RASCH AND ZACHARY SHANDLER)**

This item is postponed to the Council meeting of March 12, 2014.

**15. MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

**16. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**17. MATTERS FROM THE CITY CLERK**

Ms. Vigil reminded everyone that Early Voting will end on Friday, February 28, 2014. The City Election is Tuesday, March 4, 2014, and polls will be open 7:00 a.m. to 7:00 p.m. She asked everyone to check the City's website as well as newspapers to verify your polling place, noting we use different polling places than the County. The Inauguration will be on Monday, March 10, 2014, at Greer Garson Theater.

Mayor Coss said Ms. Vigil and staff are working very hard and he is very encouraged with the Early Voting turnout.

**18. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of "Bills and Resolutions scheduled for introduction by members of the Governing Body," for the Council meeting of February 26, 2014, is incorporated herewith to these minutes as Exhibit "20."

**Councilor Dimas**

Councilor Dimas had no communications.

**Councilor Calvert**

Councilor Calvert asked the indulgence of the Council in doing something symbolic and introduced the following:

1. An Ordinance relating to a Commercial Green Building Code; adopting, by reference, the International Green Building Code related to commercial construction and adopting amendments to such Code; and making such other changes as are necessary.



2. A Resolution adopting administrative procedures for the Santa Fe Commercial Green Building Code ("CGBC")

Councilor Calvert said he has two cosponsors because he can't carry these forward, noting the tentative schedule is listed in Exhibit "20," which could change because it is a few months away.

Councilor Calvert wished his wife a Happy 19<sup>th</sup> Anniversary, saying she has made a lot of sacrifices and has done a lot to support him.

Councilor Calvert said he hopes we will have the opportunity to make parting comments on March 10, 2014.

### **Councilor Rivera**

Councilor Rivera asked, regarding Ms. Beninato's Appeal, and asked Marcos Martinez his legal opinion as to whether that can happen.

Mr. Martinez said, "I don't believe the Council can move to rescind the action it had taken with the denial of that appeal. The property has received a building permit and acted on that building permit, therefore the action has been carried out in such a way that a rescission is not an option for the County any more."

### **Councilor Ives**

Councilor Ives introduced the following:

1. A Resolution directing staff to intervene in Case #13-00390-UT that is currently before the New Mexico Public Regulation Commission – in the matter of the Application of the Public Service Company of New Mexico for approval to abandon San Juan Generating Station Units 2 and 3, issuance of Certificates of Public Convenience and Necessity for replacement power resources, issuances and accounting orders and determination of related rate making principles and treatment. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "21."
2. An Ordinance related to the Public Campaign Finance Code, Section 9-3 SFCC 1987; amending Subsection 9-3.4 to establish requirements for candidates to reimburse the Public Campaign Finance Fund when a political committee or independent expenditure group has endorsed and made expenditures supporting the election or defeat of an identifiable candidate.

Councilor Ives said he will be speaking with people in the community involved in these issues including the Neighborhood Law Center, Common Cause, League of Women Voters and others, as the means to try and reinforce the City's participation in public campaign financing.

Councilor Ives said he will save his remarks for the departing members until next week.

### **Councilor Bushee**

Councilor Bushee had no communications.

### **Councilor Trujillo**

Councilor Ron Trujillo introduced a Resolution directing staff to collaborate with local youth service agencies and emergency shelters to explore the options for establishing a "safe place" program that would benefit young people who are in crisis in the Santa Fe Community. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "22."

Councilor Trujillo extended condolences to the family of Father Rivera who passed away this week.

Councilor Trujillo said it has been an honor to serve on the Governing Body with Mayor Coss, Councilor Wurzbarger and Councilor Calvert, for the past 8 years. He said we have done some good work, and may not always have agreed, but he considers them his friends and wants to carry that friendship into the future. He wished them good luck.

### **Councilor Dominguez**

Councilor Dominguez sends congratulations to his nephew, Jose Tapia, who won the State Championship Wrestling at 113 pounds as a Freshman, as a returning State Champion.

Councilor Dominguez extended condolences to the Flores family who lost a loved one this weekend.

### **Councilor Wurzbarger**

Councilor Wurzbarger congratulated her daughter who has returned from Australia engaged, with her fiancé who has just been admitted to PT School at UNM. She said her daughter has returned for her third year in Medical Year, and she comes back with a Masters Degree in Public Health.

Councilor Wurzbarger reminded the public that Tuesday is election day. This Council approved the 9 proposed Charter Amendments which will be on the ballot, which the Charter Commission worked so very hard. She asked the people to very seriously consider their recommendation.

### **Mayor Coss**

Mayor Coss said this is his last meeting after 12 years. He expressed gratitude to the City of Santa Fe, and thanked Carol for always being with him through this time. He will do his thank-yous on March 4, 2014, and hopes the new Governing Body members don't object to that.

Mayor Coss said, "I did want to take time to thank each one of you. I think you've demonstrated again tonight that you are really hard workers, and I appreciate that. And I appreciate all these City workers. And I've come to the conclusion that Melissa and the City workers can do anything, and it's been remarkable to watch. This community does so much, and have always been very very kind to me. And a lot of people say, oh how can you take it. And when you're talking to Santa Feans on the street, 99.99% of them are very kind, and I want to thank them for that."

Mayor Coss said, "And so I can't say thank you enough, but this is my last meeting, and thank you everyone."

### **I. ADJOURN**

There was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 11:15 p.m.

**Approved by:**

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**Mayor David Coss**

ATTESTED TO:

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Yolanda Y. Vigil, City Clerk

Respectfully submitted:

  
Melessia Helberg, Council Stenographer

**ITEM #10-g**

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, FEBRUARY 24, 2014**

**ITEM 9**

REQUEST FOR APPROVAL OF AMENDMENT NO. 1 WITH THE NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT NON-METRO AREA AGENCY ON AGING, VENDOR AGREEMENT #2013-14-60026 FOR A BUDGET INCREASE OF \$55,000

- REQUEST FOR APPROVAL OF A BUDGET ADJUSTMENT REQUEST (BAR) (RON VIALPANDO)

**PUBLIC WORKS COMMITTEE ACTION: Approved on Consent**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		

*Exhibit "1"*

**ITEM #10-k (3)**

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, FEBRUARY 24, 2014**

**ITEM 10**

REQUEST FOR APPROVAL OF 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 (COUNCILOR WURZBURGER) (SANDRA PEREZ)

**PUBLIC WORKS COMMITTEE ACTION:** Approved

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	X		

*Exhibit 12*

## City of Santa Fe, New Mexico

## memo

Date: February 26, 2014

To: Governing Body

From: Sandra K. Perez, Interim Human Resource Director

**Item and Issue:**

Bill No. 2014-11: 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.

**Points of Discussion Held Previously:**

The proposed language establishes a means by which the Governing Body holds itself to the same or higher standard than the employees of the City of Santa Fe.

The City of Santa Fe has two (2) employment policies that touch on Workplace Bullying, the Harassment Prevention Policy and the Workplace Violence Policy. Neither of these policies is applicable to members of the Governing Body as you are not considered employees as found in Chapter 19-3.2 and the personnel rules. A copy of the ordinance and the applicable rule(s) is attached for your review.

Neither of these policies currently lay out a definition of Workplace Bullying. The establishment of a definition by the Governing Body would lay the groundwork for establishing a complimentary policy definition for the employees.

The question related to "Exempt" status employees and whether or not they are covered by these two policies has also been asked. Exempt status employees do not have a property right to their job and, as such, the rules related to due process are not applicable, however, all other policies related to performance and/or conduct is applicable.

The answer as to why "Exempt" status employees must complete the financial disclosure form is found in 1-7.6(B) of the Code of Ethics, "Upon election, appointment, or employment, public officials and department heads shall disclose in writing to the city clerk the information listed..." Department Heads are the only exempt status employees that must complete these forms. A copy of this ordinance is attached for your review.

Lastly, the question related to whether the Governing Body is governed by the personnel rules and/or workplace policies related to use of a vehicle, I have inquired with Risk Management and have discovered that yes a Governing Body member who uses a city vehicle for official business is subject to the procedures found in the Risk Management Vehicle Policy. A copy of said policy is attached for your review.

I am available to address any other questions you may have.

*Exhibit "3"*

D. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

E. Assuring fair treatment of candidates and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, sexual orientation, religious creed, medical condition or handicap and with proper regard for their privacy, and constitutional rights as citizens; and

F. Assuring that employees are protected against coercion for political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the results of an election or a nomination for office.

(Ord. #1983-44, §4; SFCC 1981, §2-2-3; Ord. #1992-10, §1)

### 19-3.2 Positions Not Covered by Chapter.

This chapter covers all positions except:

- A. Officials elected by popular vote or appointed to fill vacancies in elective offices;
  - B. Members of city boards and commissions;
  - C. City manager, directors of departments and employees designated as exempt by the city manager and approved by the governing body;
  - D. Those in the judicial branch of government;
  - E. Those on a professional services contract and those whose employment is temporary, or emergency.
- (Ord. #1983-44, §5; SFCC 1981, §2-2-4; Ord. #1989-20, §2)

### 19-3.3 Reserved.\*

\*Editor's Note: Subsection 19-3.3, Factors of Employment, previously contained herein, has been repealed in entirety by Ordinance No. 1989-20, §3.

### 19-3.4 Prerogatives of Employer.

It is the exclusive responsibility and prerogative of the city to determine the purpose of each of its agencies and departments, to set standards of services to be offered to the public, and to exercise control and discretion over its organization and operations. Nothing in this chapter or rules and regulations shall be interpreted to prohibit the right of the city to make a decision or choice based on other factors not specifically set forth therein. It is the responsibility and exclusive prerogative of the city to direct its employees to take disciplinary action for proper cause, to relieve its employees from duty because of lack of work, lack of funds or for other legitimate reasons, and to determine the



## **RULE 1 DEFINITIONS**

**"Allocation"** means the action taken to assign a position to an appropriate classification.

**"Bona Fide Occupational Qualification"** as used herein "bona fide occupational qualification" means a qualification reasonably related to the satisfactory performance of the duties of a job, and for which there is a factual basis for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety or efficiency.

**"Candidate"** means any person who has qualified under these Rules for appointment to positions in a specific classification.

**"Certification"** means the act of submitting to an employer the names of candidates on a list of eligibles for the purpose of making an appointment to a position.

**"Certified Status"** is acquired by an employee who has successfully completed his/her probationary period and is, therefore, certified to serve in the position which he/she holds.

**"City"** means the City Personnel Service created by the Personnel Ordinance and includes all organizational units and positions therefore covered by the Personnel Ordinance.

**"Classification"** means one or more positions so similar in the essential character of their duties and responsibilities that the same pay range, title and qualification requirements can be applied.

**"Classification Process"** means research and analysis based on comparative duties, responsibilities and qualifications by which appropriate classifications are determined.

**"Classification Reduction"** means a change from a classification with a higher salary range to a classification with a lower salary range.

**"Classified Position"** means a job which requires a regularly assigned combination of duties to be performed by one employee in the City and a position which is not temporary, term or exempt.

**"Demotion"** an employee may, for disciplinary reasons, be changed from a position in one classification to a position in a classification with a lower salary range and pay rate for which the employee qualifies.

**"Department"** means the administrative grouping of Divisions, Sections, Units and Sub-Units under a consolidated designation or body as specified by the current City organizational structure.

**"Department Director"** means the head of an administrative department as specified by the current City organizational structure.

**"Director"** means the Personnel Management and Development Department Director or the Director's designee.

**"Dismissal"** means the involuntary separation of an employee for disciplinary reasons.

**"Employee"** means any authorized and appointed incumbent of a position in the municipal service.

**"Employee Relations"** means all matters that are subject to consultation, negotiation and communication among employees, between employees and supervisors or between the Governing Body and Administrative, supervisory or other employees.

## **RULE 2      GENERAL PROVISIONS**

### **2.10   Rules.**

### **2.11   Prior Rules.**

The Personnel Rules and Regulations in effect prior to July 8, 1989, and all amendments thereto are hereby superseded.

### **2.12   Compliance.**

All persons operating under the provisions of these Rules shall conform to, comply with, and aid in all proper ways in carrying out the provisions of these Rules.

### **2.20   Purpose.**

These Rules are prescribed for the purpose of implementing the Santa Fe City Code 1987 provisions to assure the continuance of the merit system and to provide a modern personnel system, thereby promoting efficiency in the conduct of public business and assuring fair and impartial treatment for all applicants for employment and all employed by the City.

### **→ 2.30   Coverage.**

The Personnel Ordinance and Rules and Regulations cover all employees except:

1. officials elected by popular vote or appointed to fill vacancies in elective offices;
2. members of City boards and committees appointed by the Mayor;
3. the City Manager, director of departments, and employees designated as exempt by the City Manager and approved by the governing body;
4. those in the judicial branch of government;
5. those on Professional Services contract; and those whose employment is of temporary or emergency status.

### **2.40   Duties of the City Manager.**

In accordance with the provisions of Section 2-3-1, 1904, SFCC 1987, the City Manager shall be responsible for the administration of the City personnel system.

### **2.50   Duties of the Director.**

The Director shall administer all personnel activities regarding the Rules and Regulations.

### **2.60   Merit Principles.**

The City of Santa Fe shall govern in all personnel practices and adopts the following merit standards:

during the two (2) years preceding the official act of more than one thousand dollars (\$1,000.) in the aggregate for councilor position and of more than two thousand five hundred dollars (\$2,500.) in the aggregate for mayor position.

*Employer*, in the case of a person who is employed by a governmental entity other than the city, means the governmental department for which the person works.

*Family of an individual* means members of the individual's household, his or her children, step-children, brothers, sisters, parents, step-parents, domestic partner and all persons claimed as dependents on the individual's latest federal income tax return.

*Financial benefit* means any money, service, license, permit, contract, loan, travel, entertainment, gratuity or any other thing of monetary value or any promise of any of these.

*Governing body* means the mayor and the city council.

*Governmental body* means the governing body and any board, commission or committee appointed by the governing body or by the mayor with the advice and consent of the governing body.

*Household of an individual* means all persons whose primary residence is in the individual's home, including non-relatives, who are not rent-payers or employees.

*Official act* means an official decision, vote including, but not limited to items on a consent calendar, recommendation, approval, disapproval or other action which involves the use of discretionary authority.

*Owner of a business* means each of the business's proprietors, partners or holders of more than two percent (2%) of its outstanding stock.

*Public employee* means any exempt, classified, probationary, temporary, term or part-time employee of the city of Santa Fe except the municipal judge, the city manager, the city clerk, the city attorney and the members of the governing body.

*Public official* means the city manager, the city attorney, the city clerk and any member of a governmental body, including the governing body.

*Subordinate of a public official or public employee* means a public employee over whose work for the city the public official or public employee has direction, supervision or control. All public officials and public employees except other members of the governing body are deemed to be subordinates of each member of the governing body.

(Ord. #2005-14, §5; Ord. #2011-8, §2)

#### **1-7.6 Public Officials and Public Employees; Disclosure.**

A. Each public official and public employee shall be given a copy of the Code of Ethics upon election, appointment or employment and shall sign a statement to the effect that the public official or public employee has received the Code of Ethics and understands that the public official or public

employee shall abide by its terms and conditions. The city attorney's office shall conduct an annual review of the Code of Ethics for all public employees.

B. Upon election, appointment, or employment, public officials and department heads shall disclose in writing to the city clerk the information listed below. This information shall be updated every July and shall be available to the public at all times.

- (1) Name;
- (2) Address and telephone number;
- (3) Employer, if other than the city;
- (4) Professional, occupational or business licenses;
- (5) Membership on board of directors of corporations, public or private associations or organizations; and
- (6) Businesses of which he or she is an owner.

C. The information on the disclosures shall be made available by the city clerk for inspection, upon request. In addition, the city clerk shall forward a copy of the disclosure statement for those public employees required to make disclosures to the personnel office for inclusion in the public employee's personnel file. The ethics and campaign review board shall be given copies of the disclosures for its review.

(Ord. #2005-14, §6; Ord. No. 2011-8, §3)

#### **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 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



# **CITY OF SANTA FE ADMINISTRATIVE MANUAL**

Originating Business Unit:

Risk Management/Safety Division

<b>Authorization &amp; Operation of City-Owned and Leased Motor Vehicles Policy</b>	<b>Policy Number</b> 62103-7-3	<b># Pages</b> 14
	<b>Effective Date</b> 06-21-1995	<b>Revision Date</b> 08-3-2011

## **1.0 PURPOSE:**

- 1.1 To have a comprehensive set of rules and guidelines for city employees in the daily performance of job duties which require the use of a vehicle. The use of vehicles may be further addressed by department policies and standard operating procedures. Enforcement of the City of Santa Fe vehicle policy shall be the responsibility of each department.

## **2.0 APPLICABLE TO:**

- 2.1 All operators of city-owned, leased or rented motorized fleet vehicles and/or equipment or employees who use their own vehicles in the performance of their duties.

## **3.0 REFERENCES:**

- 3.1 IRS Regulations for Take-Home Vehicles (Available in Payroll Office)  
3.2 City of Santa Fe Per Diem and Mileage Policy  
3.3 City of Santa Fe CDL Drug & Alcohol Policy  
3.4 Internal Department or Division Vehicle Policies

## **4.0 DEFINITIONS:**

- 4.1 **Driving on City Business:** The use of a motor vehicle to carry out an employee's duties. Driving on City business includes driving a vehicle owned, leased, rented or otherwise controlled by the City, as well as the use of a personal vehicle on City business.
- 4.2 **On-Call:** An assigned time period, outside of an employee's normal work day, where the employee is not required to remain on City premises but must be available to respond and/or report to work when called. Employees that are in on-call status must leave City management a method as to where they may be reached at all times.
- 4.3 **On-Call Vehicle:** A City vehicle, taken home by employees working on on-call status, to respond to public or health & safety emergencies outside the employee's normal work day.

- 4.4 **Proper Class Driver's License:** New Mexico driver's license of the class required for the vehicle being driven. New employees with a valid out-of-state driver's license shall obtain the proper class New Mexico driver's license within 30 days of their date of hire. Persons being hired into a CDL (commercial driver's license) position are required to have the proper New Mexico CDL license in accordance with the job requirement, as a post-offer condition of employment with the City of Santa Fe. The license must be current and valid and have all endorsements required by the type of equipment, the class of vehicle being driven and the load being carried. The license may not have any restrictions that would preclude driving on City business. The appropriate Commercial Driver's License (CDL) is required when driving any CDL vehicle on City business.
- 4.5 **Take Home Vehicle:** An authorized City vehicle taken home daily by an employee to commute from the employee's home to work.
- 4.6 **Commuting:** Use of a City vehicle for travel between an employee's home and main or regular place of work. It does not matter how far the commute is, if work is done during the commute, or if the employee carries work tools or equipment in the vehicle. Commuting between an employee's residence and regular place of business is considered personal use of a City vehicle. Similarly, if an employee regularly works at different locations, commuting between home and the various worksites is still considered a taxable fringe benefit.
- 4.7 **Driving Position:** A job that requires driving a vehicle on City business regularly or occasionally as part of the range of duties. This includes elected officials as well as classified, term, exempt, or volunteer positions requiring driving vehicles on City business. Non-employees, including former employees who are on contract with the City, are not allowed to drive City vehicles.
- 4.8 **Qualified Non Personal-Use Vehicles:** The IRS allows for certain vehicles to be exempted from fringe benefit compensation consideration. That is, their use is deemed to be exclusively for City business purposes. The following types of "Qualified Non Personal-Use" vehicles represent vehicles from a portion of the IRS list that may currently be in use by the City:
- 4.8.1 **Clearly marked police and fire vehicles –** A police or fire vehicle is a vehicle, owned or leased by the City, that is required to be used for commuting by a police officer or fire fighter who, when not on a regular shift, is on call at all times.
- 4.8.2 **Unmarked vehicles used by law enforcement officers –** Use must be officially authorized, the vehicle must be owned or leased by the City, and the law enforcement officers must be full time employees of the City.
- 4.8.3 **Large cargo capacity vehicle –** any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.
- 4.8.4 **Qualified special utility repair trucks –** defined as any truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment or parts if:

- a. The shelves, racks or other permanent interior construction that has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used for anything other than City business, and
- b. The City requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining City services.

4.8.5 Pickup truck – Loaded gross vehicle weight not over 14,000 pounds is a qualified non-personal use vehicle if the vehicle is clearly marked and is equipped with at least one of the following: a hydraulic lift gate, permanently installed tanks or drums, permanently installed side boards or panels materially raising the level of the sides of the bed of the pickup truck, or other heavy equipment, such as an electric generator, welder, boom, or crane used to tow automobiles and other vehicles.

4.8.6 Van – With a loaded gross vehicle weight not over 14,000 pounds is a qualified non-personal use vehicle if it is clearly marked with permanently affixed decals or with special painting or other marking associated with the City of Santa Fe. Additionally, it has a seat only for the driver or the driver and one other person, and either permanent shelving has been installed that fills most of the cargo area or the cargo area is open and the van constantly (during both working and nonworking hours) carries merchandise, material, or equipment used in the employer's trade, business, or function.

4.9 Personal Use: Any use of a City vehicle for non-business related purposes. Commuting is a good example of what IRS terms "personal use" of an employer provided vehicle.

4.10 Temporary Place of Business: According to the IRS, any location where an employee "performs services on an irregular or short-term (i.e. generally a matter of days or week) basis."

4.11 Work Place: The place that is noted in the City's Human Resources and payroll records as the place where an employee regularly performs his or her normal office functions or reports for duty at the beginning of a shift.

## 5.0 POLICY:

5.1 All City vehicles are leased or owned and provided to employees to enable the provision of essential services to the citizens of Santa Fe.

5.2 Assignment of a specific City vehicle is neither a privilege nor a right of any City employee and shall be based on service delivery requirements.

5.3 Employees may not use City vehicles for personal use, other than commuting and qualified non personal-use.

5.4 All assigned City vehicles, other than authorized take-home vehicles, shall be picked up and dropped off at designated City parking areas.

- 5.5 Take-home City vehicle assignments must be reviewed and approved based on established and documented performance measures clearly indicating the public benefits derived from any authorized take-home assignment as illustrated in Section 8.

**6.0 CONDITIONS FOR GENERAL USE:**

- 6.1 **Appropriate License and Training** – All operators of City vehicles shall have a valid driver's license appropriate to the type of vehicle being driven. In the event employees have their State of New Mexico driver's license revoked or suspended, they shall not operate a City-owned vehicle. If an employee with a valid driver's license is required to use an ignition interlock device, that employee will not be allowed to operate a City-owned vehicle. Employees under eighteen (18) years of age are not allowed to operate a City-owned vehicle. Employees shall immediately report every revocation or suspension of their driver's license, or a requirement to use an interlock device, to their supervisor. Any employee driving a City-owned vehicle who does not have a valid New Mexico driver's license will be subject to disciplinary action up to and including termination of the employee.
- 6.2 **Authorized Passengers – Carrying of Passengers Prohibited** – No driver of City equipment shall carry passengers in or on any such vehicles, with these exceptions:
- 6.2.1 Other persons engaged in or advising on matters relating to City services or improvements or City sanctioned events.
- 6.2.2 Other City employees to and from work when those other employees reside in the same general area and work in the same general location as the driver of a City vehicle who has been authorized to have a take-home vehicle. It is important to note that both the driver and the passenger, in this case, must have an authorized take home vehicle form on file and submit commuting documentation as required. Both will be taxed accordingly.
- 6.2.3 Other persons who are being transported as part of an approved City program, *i.e.* citizen volunteers, program participants, City business clients/partners, persons arrested, etc.
- 6.3 **Business/Non-business Uses/Personal Emergency Use** –
- 6.3.1 City-owned vehicles are to be used only for City business or City sanctioned events.
- a. Assigned City vehicles are not permitted to be used for private purposes. Running personal errands, stops at the credit union or banks or any other personal business is prohibited at any time other than authorized break, lunch periods or a quick stop on the way to and from work. Any employee violating these regulations will be subject to disciplinary action.
- 6.3.2 Use of City-owned vehicles on out of state trips – City vehicles shall not to be driven out-of-state without specific authorization of the City Manager, except as noted below. The City Manager, or Public Safety designee, may authorize trips by Police or Fire personnel when such trips would be to the economic or



operation benefit of the City. Signature approval to use a City vehicle for an out-of-state trip must be obtained on the Authorization for Travel form.

6.3.3 Driving City-owned vehicles home during regular work hours prohibited. City employees are prohibited from driving City-owned pool or assigned motor vehicles to their homes during regular work hours with these exceptions:

- a. On approval of supervisor, and if they reside within the City limits, an employee may drive an assigned vehicle home for authorized break or lunch periods.
- b. An employee may drive an assigned vehicle home during his or her regular work hours in an emergency situation, providing the employee has properly informed his or her immediate supervisor of the emergency and received permission to drive a City vehicle home.

6.4 Unauthorized Uses:

- 6.4.1 Any use for personal purposes, other than commuting, qualified nonpersonal-use, or as specified in this policy.
- 6.4.2 Travel or tasks that are beyond the vehicle's rated capability.
- 6.4.3 Transport of hitchhikers.
- 6.4.4 Transport of cargo that has no relation to the performance of official City business.
- 6.4.5 Transport of acids, explosives, weapons, or ammunition (with the exception of Police).
- 6.4.6 Operation of a vehicle under the influence of drugs or alcohol or prescription medication that may impair one's driving ability.
- 6.4.7 Transport of highly flammable material.
- 6.4.8 Transport of any item or equipment projecting from the side, front or rear of the vehicle in a way that constitutes an obstruction to safe driving or a hazard to pedestrians or to other vehicles.
- 6.4.9 When employees are on official City business themselves, transport of other employees to restaurants, cafes, drugstores or to other places that are not in the service of City business.
- 6.4.10 Attending sporting events that are not in the service of City business.
- 6.4.11 Extending the length, possession, and time beyond that which is required to complete the official purpose of the trip.

- 6.4.12 When the assigned employee is on vacation or in training for at least four consecutive days, the vehicle will be parked on City premises in designated parking.
- 6.4.13 Transport of alcoholic beverages or controlled substances of any kind.
- 6.5 State and Local Traffic Laws – All drivers and passengers of a City vehicle must comply with all applicable state and local traffic laws, including but not limited to:
  - 6.5.1 The driver and all authorized passengers shall wear seat belts as required by New Mexico Uniform Traffic Code.
  - 6.5.2 The driver shall possess a valid New Mexico driver's license.
  - 6.5.3 The driver and all passengers shall comply with all state and local traffic laws; the driver shall be personally liable for any criminal or civil penalty incurred.
  - 6.5.4 The driver shall comply with all applicable state and local parking laws. In the event of a violation of such laws, the driver shall be personally liable for any criminal or civil citation penalty issued (including parking violations). All drivers shall notify his or her supervisor of any citations as soon after receipt as possible. All drivers shall provide his or her supervisor proof that such citations have been paid or adjudicated within ten working days of receipt or is in process through the appropriate court system.
  - 6.5.5 Cell phone usage must be limited to a hands free device while the vehicle is in operation, unless specific division policies prohibit cell phone use.
- 6.6 Safe Operations and Use of Equipment
  - 6.6.1 Safety Equipment – All City owned vehicles shall be equipped with proper safety equipment (i.e. first aid kit, fire extinguisher). Larger vehicles shall be equipped with safety triangles to be used in the event of a breakdown. It is the responsibility of the employee to ensure that the necessary safety equipment is in working order, and that they have received the necessary training for their proper use. Procurement of safety equipment is the responsibility of the division. Defensive Driving and First Aid training is provided through the Risk Management/Safety Division.
  - 6.6.2 Safe Operation – The driver shall check the City vehicle before operating to ensure that the vehicle lights, turn signals, brake lights and other safety equipment is functional on the vehicle. If the driver finds any of this equipment is not functioning properly the driver shall report malfunctions to his or her supervisor or to Fleet Management section immediately in order to arrange for repairs.
  - 6.6.3 Maximum Speed – No City-owned vehicle, except Police or Fire responding to emergency or authorized duty calls, shall be driven at a speed in excess of the speed limits established in State Statutes or City Ordinances.
  - 6.6.4 Smoking is prohibited within a City vehicle.

6.6.5 Unattended vehicles are not to be left idling.

6.7 Storage and Parking – Parking of Vehicles – City-owned vehicles shall be parked, when not actually in use, in the City parking lot designated by the division for that vehicle.

6.7.1 Employees are specifically prohibited from parking a City vehicle in other than its approved location.

6.7.2 No vehicle shall be kept at the home of the employee overnight unless the employee has received the appropriate authorization.

## **7.0 GLOBAL POSITIONING SATELLITE SYSTEM (GPS)**

7.1 City units may be equipped with a GPS monitoring device to assist crews in operating efficiently; allow the City to respond more rapidly to customer requests and emergency situations; and provide data to resolve complaints and allegations. Specifically, the systems may be utilized for the following:

7.1.1 Routing optimization: GPS may be used to optimize fixed routes or to provide the most efficient route for dispatching crews to multiple sites during the day. The GPS may be linked to the Geographical Information System (GIS) to facilitate route optimization.

7.1.2 Task duration recording: In order to understand the effort level required to complete tasks, the GPS may record the duration and location of work performed. The GPS may alert supervisors when vehicles or equipment are outside of the specified work area or a task is taking longer than expected.

7.1.3 Fuel, mileage and periodic maintenance tracking: GPS may be used to track fuel usage, mileage and periodic maintenance records. These records may be used to ensure equipment is operating properly; routine maintenance is completed on schedule; and for budget purposes.

7.1.4 Locating equipment and closest unit dispatch : Location information can be used to rapidly and efficiently re-assign resources to new priority work that arises after work orders are distributed.

7.1.5 Emergency operations: in the event of an emergency, management and supervisors may immediately re-route and reassign resources efficiently to emergency sites.

7.1.6 Distress notification: The GPS has a "panic button" which may be used to immediately alert supervisors and emergency personnel of an employee and vehicle location during an emergency.

7.1.7 Complaint and allegation verification: the GPS can be used to address claims made against the City about damage, speeding, accidents, or other incidents. The GPS can record direction, time, speed and other information that may assist in obtaining factual information pertaining to claims or accidents.

7.1.8 Navigational aid: the GPS may be used by operators to locate destination addresses and receive routing options including alternative routing to avoid traffic or road closures. Fixed routes or work order addresses may be downloaded into the GPS to provide navigational direction to field workers.

- 7.2 As with all City equipment, employees are responsible for safeguarding the GPS attached to City units entrusted to them. Tampering, misusing, or disabling GPS equipment will be subject to disciplinary action up to and including termination.

## **8.0 ACCIDENT REPORTING:**

### **8.1 General Rules In the Event of an Accident:**

- 8.1.1 Do not move the injured unless there is clear and imminent danger of further injury.
- 8.1.2 Do not disturb the accident scene or move any vehicles unless there is clear and imminent danger or instructed to do so by a legitimate authority, i.e. Police or Fire Department.
- 8.1.3 All accidents, no matter how minor, shall be reported to the supervisor immediately. If the immediate supervisor is not available, contact the next level supervisor available. If after hours and no such supervisor can be contacted, immediately contact the appropriate supervisor the next day.
- 8.1.4 The Supervisor's Accident Report shall be filled out and forwarded to the Risk Management/Safety Division as soon as all signatures have been obtained.

### **8.2 Personal Injury:**

- 8.2.1 If there is any bodily injury, the employee and the supervisor shall jointly complete the following forms:
  - a. Employer's First Report of Injury or Illness, commonly referred to as the "E-1"
  - b. Supervisor's Accident Investigation Report
  - c. Notice of Accident
  - d. Authority to Release Medical Reports and Information

### **8.3 Motor Vehicle Accident/Collision:**

- 8.3.1 Notify the police and immediate supervisor. If supervisor is not available, contact the division Safety representative.
- 8.3.2 Relate complete and true account of the accident to the investigating officers.
- 8.3.3 Do not discuss liability.

- 8.3.4 Do not move the vehicle unless there is a clear and imminent danger or instructed to do so by a legitimate authority (i.e. police).
- 8.3.5 Do not accept assistance from non-City employees in moving a City unit (i.e. towing) unless authorized by a supervisor.
- 8.3.6 Complete the appropriate forms (as noted above) with your immediate supervisor.

## **9.0 CITY-OWNED VEHICLES – ASSIGNED TAKE-HOME**

The purpose of this section is to ensure the proper use of public funds with regards to any authorization granted allowing employees to commute to and from work in City-owned vehicles.

- 9.1 Authorization – Supervisors are responsible to request assignment of take-home vehicles for designated employees and/or programs by submitting a completed Vehicle Authorization Form to the Office of Risk Management/Safety for recommendation to the City Manager. Take-home vehicle authorizations are not transferable and must be renewed annually and/or when the employee has a change in position status. The Authorization Form should include the following:
  - 9.1.2 The category of assignment, i.e. long-term, on-call, etc.
  - 9.1.3 Explanation of vehicle usage and nature of any personal use authorized, i.e. commuting, qualified nonpersonal-use, etc.
  - 9.1.4 Narrative describing how the specific work assignment meets the policies and criteria for a take-home vehicle program.
  - 9.1.5 Additional data demonstrating the actual number and nature of emergency responses, if emergency responses are being used as justification. Also include an explanation as to why alternative forms of transportation cannot be used to respond to the emergencies or why City-owned assigned vehicles cannot be picked up at designated parking area.
  - 9.1.6 Calculation of savings to the City, if economic justification is used.
  - 9.1.7 Explanation of special vehicle characteristics required to fulfill the work assignment's business purpose, i.e. van, pickup, large capacity, special equipment, etc.
  - 9.1.8 Approval by the requesting Department Director.
  - 9.1.9 Concurrence by the Risk Management/Safety Manager.
  - 9.1.10 Completed Authorization Forms will be routed to the City Manager for final approval, with a copy to the Payroll Supervisor.
- 9.2 Categories of Assignment:

- 9.2.1 Long Term Assignment – The authorization of assigned take-home vehicles may be granted for a period of not more than twelve months, unless re-assignment is approved. Emergency response assignments should be supported by data demonstrating the actual number and nature of emergency responses in the prior year and estimates of future emergency responses. In addition, there must be an explanation as to why an employee cannot use alternative forms of transportation to respond to the emergencies or pick up City-owned assigned vehicles at the designated parking area.
- 9.2.2 Requirement to Respond – “On-Call” – Employees must be on call when taking a City-owned vehicle home and must have primary responsibility to respond to calls. Employees shall leave word as to where they may be reached at any given time and be available to willingly respond to and/or report to work when called.
- 9.2.3 Condition of Employment – Take-home vehicle assignment is permitted whenever an employee’s employment agreement provides for a take-home vehicle, subject to approval by the City Manager.
- 9.2.4 Special Public Safety Programs – Employees who are assigned to public safety programs may be allowed an assigned take-home vehicle, provided it is a fully marked vehicle used for the special public safety programs.
- 9.2.5 Rotating Assignment – Vehicles may be assigned as take-home to a specific division, without being assigned to a specific employee when several division employees share the on-call responsibility. It is the responsibility of the division to track the take-home vehicle assignments. On-call vehicles assigned by the division must meet the following conditions:
- a. Division employees share the requirement to respond “on-call” on a rotating basis.
  - b. The assigned take-home vehicle is appropriately marked and/or equipped to facilitate response (i.e. lights, sirens, specialized equipment).
  - c. The employees participating in the rotating assignment must reside within reasonable distance of anticipated response location. Reasonable distance is defined as: the employee’s home address is within 10 miles of the City of Santa Fe boundaries. Special exceptions may be made with consent by the City Manager.
- 9.2.6 Occasional Overnight Usage – Occasional take-home use of City-owned vehicles is permitted. Such occasional usage of City vehicles may occur when an employee attends a meeting away from the employee’s normal place of work and outside an employee’s normally scheduled workday.
- 9.3 Storage/Parking/Safekeeping of Vehicle and Equipment – Each employee authorized to drive a City-owned vehicle to his or her home overnight is required to provide off-street parking for the vehicle wherever possible while it is parked at his or her home. Failure to do so may result in loss of take home privileges.

9.4 Fringe Benefit/Non-Cash Compensation Value and Taxation – Per IRS regulations, a City-provided take-home vehicle is considered a fringe benefit under federal employment tax laws, and the imputed value of personal use must be included in the employee's gross pay. The value of the personal use is taxable for income and Social Security purposes unless specifically exempted by IRS code. The value of the personal use will be determined by the Finance Department. An employee's use of a City vehicle for commuting to and from work is considered personal use and must be treated as taxable fringe benefit for federal tax purposes. Each employee shall submit documentation as specified in the record keeping and reporting section of this regulation. After receiving the proper documentation, the City will estimate the value of the personal use and report it as employee compensation. This value will be added to the employee's taxable income on the year end W-2 Wage and Tax Statement and will be subject to applicable Social Security contributions and Federal and State withholding taxes. These regulations do not apply to vehicles that are considered to be qualified nonpersonal-use vehicles.

#### **10.0 RECORD KEEPING AND REPORTING REQUIREMENTS:**

10.1 Employee/Department Management – Department Directors must submit Take-Home Authorization forms for all requested assignments for approval. Take-home vehicle authorizations are not transferable and must be re-justified annually. Any work assignment changes that increase or decrease the number of vehicles approved for each program effectively invalidates previously authorized take-home vehicle authority – supervisors must notify Payroll when the total net count of take-home vehicles in their unit changes and must re-justify the take-home authorization using a new form.

#### **11.0 REVIEW PROCEDURES/RESPONSIBILITIES:**

11.1 **City Manager:** The City Manager shall:

11.1.1 Annually review and approve a list of take-home vehicle assignments by department/work unit as recommended by Office of Risk Management/Safety.

11.2 **Office of Risk Management/Safety:** The Risk Management/Safety Division shall:

11.2.1 Review the driving record for each employee in a driving position at least once per year. The employee's driving record must be checked before an employee is promoted, transferred, placed, etc. into a driving position.

11.2.2 Receive, re-evaluate and forward all take home vehicle assignments and in the first week of January each year transmit a list of all take-home vehicle assignments by department and division to the City Manager's Office and Finance Department – Payroll Division.

11.2.3 Evaluate all initial take-home vehicle assignment requests from departments on an as needed basis.

11.2.4 Forward suspension and serious traffic violation documentation to the employee's supervisor.

11.3 **Department Directors:** Department Director or his/her designee shall:

- 11.3.1 Identify all employees who drive on City business and maintain a list of driving positions whether using a City vehicle or their own personal vehicle.
- 11.3.2 Ensure that requests for take-home assignments are consistent with the policies and criteria governing take-home vehicles.
- 11.3.3 Recommend requests for take-home vehicles, after obtaining concurrence from the Office of Risk Management/Safety, and ensure that assignments meet the policies and criteria governing take-home vehicles. Submit completed requests to City Manager.
- 11.3.4 Ensure that all staff newly approved for a take-home vehicle, receive a copy of this policy and a copy of the policies, procedures, and criteria governing take-home vehicle assignments within 30 days of assignment. Employees must be notified regarding the possible tax consequences of being assigned a take home vehicle within 30 days of assignment.
- 11.3.5 Monitor the assignments of all take-home vehicles in their respective departments.
- 11.3.6 Identify designated parking areas for employees to park their assigned cars, with input from the Parking Division for downtown work sites.
- 11.3.7 Ensure wherever possible that assigned vehicles are picked up and dropped off at designated City parking areas.
- 11.3.8 Approve requests for occasional overnight take-home vehicles when usage is no more than once a week on average.

**11.4 Supervisors: Supervisors shall:**

- 11.4.1 Allow only those employees who maintain the appropriate driver's license as well as the City driving permit to drive a motor vehicle on City business. Employees must submit a photocopy of their current driver's license.
- 11.4.2 Immediately remove from a driving position any employee or contracted worker whose license is cancelled, expired, refused, revoked, suspended or restricted in a manner, which affects the employee's ability to drive on City business.
- 11.4.3 Periodically check with each employee in a driver's position to verify that an appropriate license is in the employee's possession.
- 11.4.4 Prohibit any employee without an appropriate driver's license in his/her possession from driving on City business.
- 11.4.5 Notify the Office of Risk Management/Safety when work assignments change the approved take-home vehicle count in their department and re-justify the take-home authorization using a new form.
- 11.4.6 Advise Payroll of any change of status regarding a take-home vehicle.



- 11.4.7 Submit proof of final resolution of employee traffic violations to the Office of Risk Management/Safety after appropriate court proceeding.

**11.5 Employees: Employee shall:**

- 11.5.1 Ensure that the privilege to drive is maintained.
- 11.5.2 Maintain in his/her possession the appropriate driver's license and City driving permit at all times while driving on City business.
- 11.5.3 Maintain vehicle liability insurance in accordance with New Mexico statutes.
- 11.5.4 While driving on City business, comply with all license restrictions issued by MVD.
- 11.5.5 Immediately notify his/her supervisor of:
- a. A change in status of his/her driver's license
  - b. An arrest for a violation of any part of the New Mexico Uniform Traffic Code concerning driving under the influence of drugs or alcohol. No employee will drive on City business after consuming alcoholic beverages of any other substance that may impair driving. Any physical or mental impairment affecting the ability to operate a vehicle safely must be reported immediately to the supervisor.
  - c. Any traffic violation issued while in operation of a City-owned vehicle. The notification must be made immediately, and no later than before the start of the employee's next scheduled work shift.
- 11.5.6 Refrain from driving on City business after there has been a change in status of his/her driver's license, even if the cancellation, expiration, refusal, revocation, suspension or restriction has ended, unless the license has been reinstated. Proof of reinstatement must be provided to the supervisor before driving on City business.
- 11.5.7 Be aware of, understand, and comply with federal, state and local laws and the City policies applying to the operation of vehicles on City business.
- 11.5.8 Resolve violation, or be in the process of working with the Court, within 10 working days and provide proof to supervisor.
- 11.5.9 Pay all traffic fines and appear for a court date, when necessary. Failure to do so may result in a license suspension. A driver's license suspension is cause for loss of driving privileges.
- 11.5.10 Countersign a Request for Assignment of Take-Home Vehicle Form.

**11.6 Human Resources: The Human Resources Department shall:**

- 11.6.1 Secure the valid driving records from the New Mexico Motor Vehicle Division (MVD) for individuals recommended for employment for exempt, classified, or term driving positions as a post-offer condition of employment.

**11.7 Finance/Payroll: Payroll shall:**

11.7.1 In order for Payroll to process the information necessary to compute the vehicle fringe benefit for employees by the established IRS deadline, the reporting time period for each calendar year is January 1<sup>st</sup> through December 31<sup>st</sup>.

11.7.2 For employees that do not drive a qualified nonpersonal-use vehicle, add the value of the commuting use of applicable City take-home vehicles to the employee taxable wage. Calculate the value of the use by using the *IRS Fringe Benefit Valuation Rules*.

11.7.3 Update procedures, forms and processes each year according to IRS tax law changes.

## 12.0 RENTED VEHICLES

12.1 Risk Management Review – The acquisition of all City leased or borrowed vehicles is the responsibility of the leasing division. Prior to the agreement of any vehicles/equipment rental, a request for the necessary insurance must be submitted to the Office of Risk Management/Safety with the vehicle information and the period of leasing.





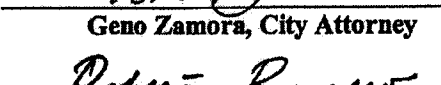
## 13.0 DEPARTMENT AND DIVISION VEHICLE POLICIES

13.1 Departments and divisions may have separate vehicle policies in place, which are in addition to, and shall not supersede this policy. Some policies may also be addressed in collective bargaining agreements, or in federal grant and state regulations.

## 14.0 APPENDIX:

14.1 Take home vehicle authorization form

## 15.0 REVIEW AND APPROVALS:

15.1	PREPARED BY:		9.21.11
		Barbara Boltrek, Risk & Safety Manager	DATE
15.2	REVIEWED BY:		9.22.11
		Dr. Melville L. Morgan, Finance Director	DATE
15.3	REVIEWED BY:		9.22.11
		Vicki Gage, Acting Human Resources Director	DATE
15.4	REVIEWED BY:		9/27/11
		Geno Zamora, City Attorney	DATE
15.5	APPROVED BY:		9-28-11
		Robert Romero, City Manager	DATE

CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2014-\_\_  
Apprenticeship Development

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Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2014-\_\_:

1. On page 4, after "date" *delete* "of passage of this resolution" and *insert* in lieu thereof:  
"the members are appointed"

Respectfully submitted,

\_\_\_\_\_  
Councilor Chris Calvert

ADOPTED: \_\_\_\_\_

NOT ADOPTED: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "4"*

**ITEM #10-u**

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, FEBRUARY 24, 2014**

**ITEM 12**

REQUEST FOR APPROVAL OF A RESOLUTION AUTHORIZING A DISCOUNT BUS PASS SALE PROGRAM FOR NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WHO PURCHASE BUS PASSES IN VOLUME FOR DISTRIBUTION TO INDIGENT CLIENTS WHO UTILIZE THE CITY OF SANTA FE'S PUBLIC TRANSPORTATION SYSTEM: SANTA FE TRAILS (COUNCILOR BUSHEE) (JON BULTHUIS)

**PUBLIC WORKS COMMITTEE ACTION:** Postpone to next PWC (March 24, 2014)

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	RECUSED
CHAIRPERSON WURZBURGER			
COUNCILOR CALVERT	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO			X

*Exhibit "5"*

CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2014-\_\_  
Park Bond Audit

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Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2014-\_\_:

1. On page 2, after "Department" *insert* "a member of the Bicycle and Trail Advisory Committee who is willing to serve,"

Respectfully submitted,

\_\_\_\_\_  
Councilor Patti Bushee

\_\_\_\_\_  
Councilor Rebecca Wurzbarger

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "6"*

Wednesday, February 26, 2014

Dear Members of the Governing Body of the City of Santa Fe,

It was brought to our attention that there may be members of your body who via a current or previous: personal relationship, a professional relationship, or through a political contribution, have a relationship, with organizations and/or individuals professionally associated with organizations which are referred to in the Resolution Authorizing the Establishment of a Community Hospital and Health Care Study Group, as more fully described in Agenda Item # 14, of today's afternoon session of the regular meeting of the Governing Body.

We respectfully request that all members of the governing body disclose any such personal, professional or political relationships with such organizations prior to their participation in the discussion and any possible action on the resolution referred to or any derivative thereof, regardless of the absence of any technical conflict of interest.

Yesterday a member of the Ethics and Campaign Review Board for the City of Santa Fe (a board which derives its membership from your body – Chapter VI, Section 6-16.1 of the City Code), prior to the commencement of any discussion or action on a matter in which he felt there might be even a faintly perceived conflict of interest, felt it his obligation to disclose such. In fact, he recused himself from participation in the matter at hand before the panel of which he was a member.

Certainly each official, elected or appointed, has the prerogative to determine whether an actual or perceived conflict of interest may exist as it relates to that official, but in the interests of the integrity of the body of which such a person is a member, disclosure of any personal, professional or political connections (current or previous) is appropriate.

With thanks for your service to the community,

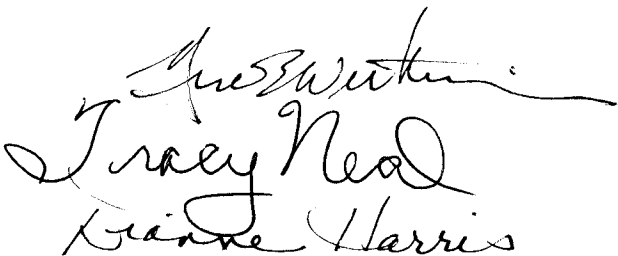


  
Tracy Neal  
Kianne Harris

Exhibit "7"

  
Linda Osborn  
Deane Spencer  
  
Sh. G. Farker

could be further from the truth. How could a physician who has dedicated his or her life to the improvement of the quality of our health conflicted out of a group whose sole purpose is to study healthcare in the City? How could a hospital CEO, CFO, non-physician Board member or other administrator even qualified to give opinions about health care? They are not. Second, if this task force is going to fulfill its mission and study the true state of healthcare in Santa Fe, it ought to include those who actually know information that is informative to the matters being studied. If anyone has a conflict from serving on this task force, it is the administrators of CSV.

An issue has been raised relating to the fact that CSV will not allow its physicians to serve on the task force because CSV requires physicians to sign employment contracts preventing them from disclosing any conditions about their work and working conditions. Though I would love to see whether any such provision could withstand judicial scrutiny or is actually a contract of adhesion, I suppose if CSV is genuinely interested in sharing the "commitment and obligation to improve" the "health status of our community," it would waive that provision of the contract for the hospital based physician allowed to sit on the task force.

CSV made many statements at the Council meeting about the fact that it believes healthcare is shifting to more of an out-patient based system. The bottom line, however, remains that many people need in patient health care and CSV is the sole community in patient provider in Santa Fe. CSV is attempting to dilute the ability of this task force to study the sole in patient option that the tax payers and visitors to our City have. The state of health care for our citizens when they are in patients is the most critical aspect this group must study. If one dentist is bad, we can go to another one. The danger lies in the fact that our citizens have no choice. From a healthcare standpoint and from a jobs standpoint, this is dangerous.

Our City's governing body must do its hard work of questioning the motives of an out of State corporation that has: (1) eliminated healthcare jobs by the dozens; (2) refused to allow questions about why physicians are leaving this community; and (3) refused to allow physicians who are the ones (in addition to the nurses) actually providing the care, to sit on the a group to study health care. That conduct is suspect. By the numbers of providers that are currently losing jobs and leaving our community, CSF will likely be looking to hire many *locums tenens* physicians (temp docs) to fly into and out of our community to provide the care that is currently provided by competent and qualified physicians with ties to our community.

If we allow CSF to dictate to the governing body who is allowed at the table to give opinions about how to improve the health status of our community, the task force will not fulfill its mission and we, as consumers of healthcare and members of this community, will have to hope that our car crashes, heart attacks and catastrophic injuries occur outside of Santa Fe.

The citizens of our great community deserve better. I hope you will seriously consider reducing the number of non-physician CSV representatives on this task force and will require the addition of a single hospital based physician so that this resolution and study group can do meaningful work that has a chance of improving the situation for our citizens.

Respectfully,  
Elicia Montoya

Exhibit "B"

Elicia Montoya  
1244 Camino de Cruz Blanca  
Santa Fe, NM 87505

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Mayor David Coss  
Members of the Santa Fe City Council  
City Hall  
City of Santa Fe

February 26, 2014

**Re: Resolution No. 2014 "Authorizing the Establishment of a Community Hospital and Health Care Study Group"**

Dear Mr. Mayor and Members of the City Council:

I understand the meeting tonight has been moved from a 7:00 p.m. start time to a 5:00 p.m. start time. As a result, I am unable to attend the meeting.

I am one of the many people who spoke at the last Council meeting regarding this Resolution creating the Study Group. As I stated during the meeting, I have lived in this community for most of my life. I testified at the last Council meeting and am writing this letter because healthcare and jobs are critically important to this community and I have serious concerns about the way this Study group is being formed and the fact that those with critically important voices (i.e., physicians), are excluded (with City acquiescence) from the table.

It is hard to turn on the television here in Santa Fe without being inundated with advertisements about the excellence of the physicians at Christus St. Vincent's. Christus St. Vincent's ("CSV") promotes itself and improves its bottom line by advertising how very competent and qualified its physicians are. It is appalling that an out of State Corporation that makes its money on the backs of our physicians has mounted such a fight to resist their inclusion on a "team" that is supposed to study health care in our City. It is very troubling to me as a tax payer, voter and member of this community that we would not take a stand against such conduct.

Since the last meeting on this issue, when it was clear that members of the community felt (and feel) strongly about the inclusion of a hospital based physician on this task force, it is troubling that yet another CSV corporate representative has been added to this study group and no hospital based physician has been added. There were mumblings at the last Council meetings about an alleged "conflict" for CSV based physicians to be included in the Study Group. First, nothing



**CITY OF SANTA FE, NEW MEXICO**  
**PROPOSED AMENDMENT(S) TO SUBSTITUTE RESOLUTION NO. 2014-\_\_**  
**(Hospital & Health Care Study Group)**

**Mayor and Members of the City Council:**

**I propose the following amendment(s) to Resolution No. 2014-\_\_:**

1. On page 4, line 8, after "workforce" *insert* "its ability to provide the best delivery of care to patients, and"
2. On page 4, line 12, after "experts" *insert* "as relates to health care in general and specifically to acute care facilities"
3. On page 5, *delete* lines 4 – 5 and *insert* in lieu thereof:  
"B. The chairperson will be elected by the members of the Study Group. The Study Group shall elect a vice-chairperson."
4. On page 6, line 8, *insert* the following:  
"Two doctors who serve as hospitalists at an acute care hospital"
5. On page 6, line 15, after "matters" *insert* "generally and broadly identified"
6. On page 6, line 16, *insert* a new Paragraph B., as follows:  
"B. Develop sub-committees to enable the Study Group to thoroughly research and address issues and matters generally and broadly identified in the recitals and provisions above."
7. On page 6, *delete* lines 16-17 and *insert* the following in lieu thereof:  
"C. Identify and utilize a third party facilitator who will seek input from members of the Study Group and make recommendations for the format and manner in which the forums and study group planning sessions may be conducted; upon such recommendations the Study Group shall vote to amend and adopt as they determine by majority vote."
8. On page 6, line 21, *delete* "eight" and *insert* "ten" in lieu thereof
9. On page 6, line 23, *delete* "one month" and *insert* "two months" in lieu thereof
10. On page 7, line 3, after "relationship" *insert*:  
", but in no way shall this prohibit the Study Group from addressing issues perceived to be in the public's interest and the care of patients"

**Editor's Note:** *Delete* all references to "Working Group" and *insert* "Study Group" in lieu thereof

*Exhibit "9"*

**CITY OF SANTA FE, NEW MEXICO**  
**PROPOSED AMENDMENT(S) TO SUBSTITUTE RESOLUTION NO. 2014-\_\_**  
**(Hospital & Health Care Study Group)**

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2014-\_\_:

1. On page 5, *delete* lines 4 – 5 and *insert* in lieu thereof:  
“B. The Mayor will appoint the chairperson. The Study Group shall elect a vice-chair person.”
2. On page 6, line 1, after “Vincent”, *insert* “, but who may have privileges at CHRISTUS St. Vincent”

Respectfully submitted,

\_\_\_\_\_  
Councilor Peter Ives

ADOPTED: \_\_\_\_\_

NOT ADOPTED: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "10"*



## "Forever Young"

May God bless and keep you always  
May your wishes all come true  
May you always do for others  
And let others do for you  
May you build a ladder to the stars  
And climb on every rung  
May you stay forever young  
Forever young, forever young  
May you stay forever young.

May you grow up to be righteous  
May you grow up to be true  
May you always know the truth  
And see the lights surrounding you  
May you always be courageous  
Stand upright and be strong  
May you stay forever young  
Forever young, forever young  
May you stay forever young.

May your hands always be busy  
May your feet always be swift  
May you have a strong foundation  
When the winds of changes shift  
May your heart always be joyful  
And may your song always be sung  
May you stay forever young  
Forever young, forever young  
May you stay forever young.

*Exhibit "11"*

Inbox 3574

Junk 98

Mail

Spam

Deleted 15

Outbox

Calendar

Contacts

Documents & Settings

Downloads

File History

Home

Library

Music

Photos

System

Tools

Windows

Work

Games

Maps

Video

Web

Windows

Windows

Windows

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Windows

Windows

Windows

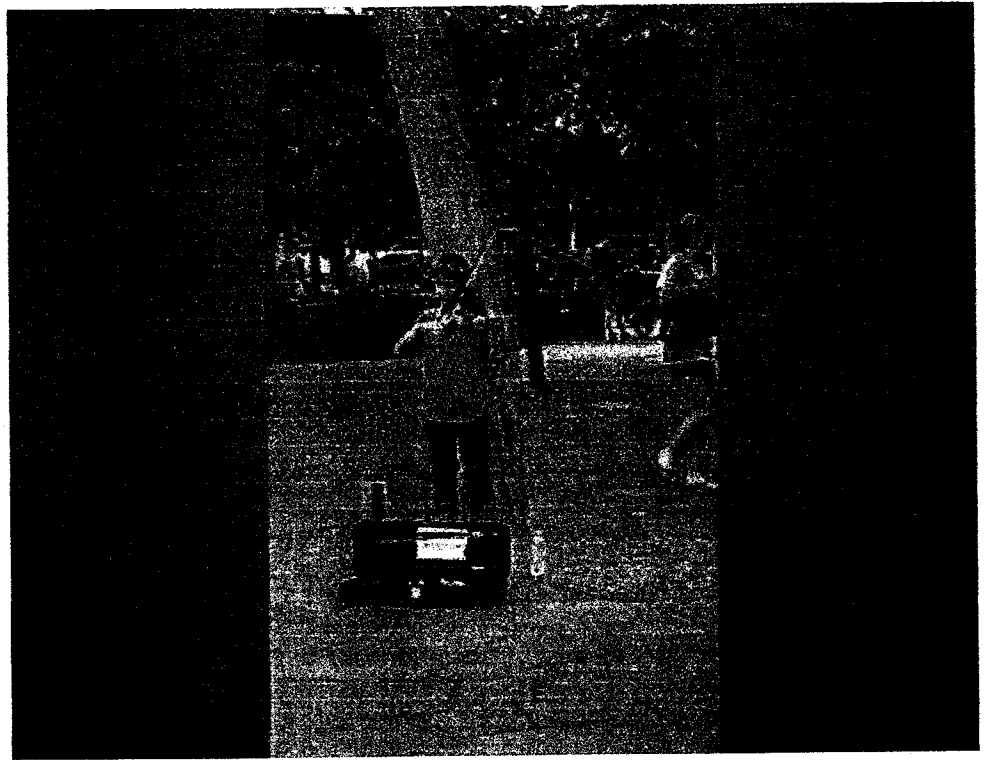
Windows

Windows



Windows

Windows



THIS WAS THIS LITTLE GIRLS 1ST AND LAST DAY  
HER FAMILY IS STANDING NEAR BY TO SUPPORT  
HER BUT BOBBY RAN HER OFF WITH SOME  
EXCUSE ABOUT HIS RIGHT TO BE ON THE  
PLAZA PLAYING WITH HIS GROUP OF MUSICIANS

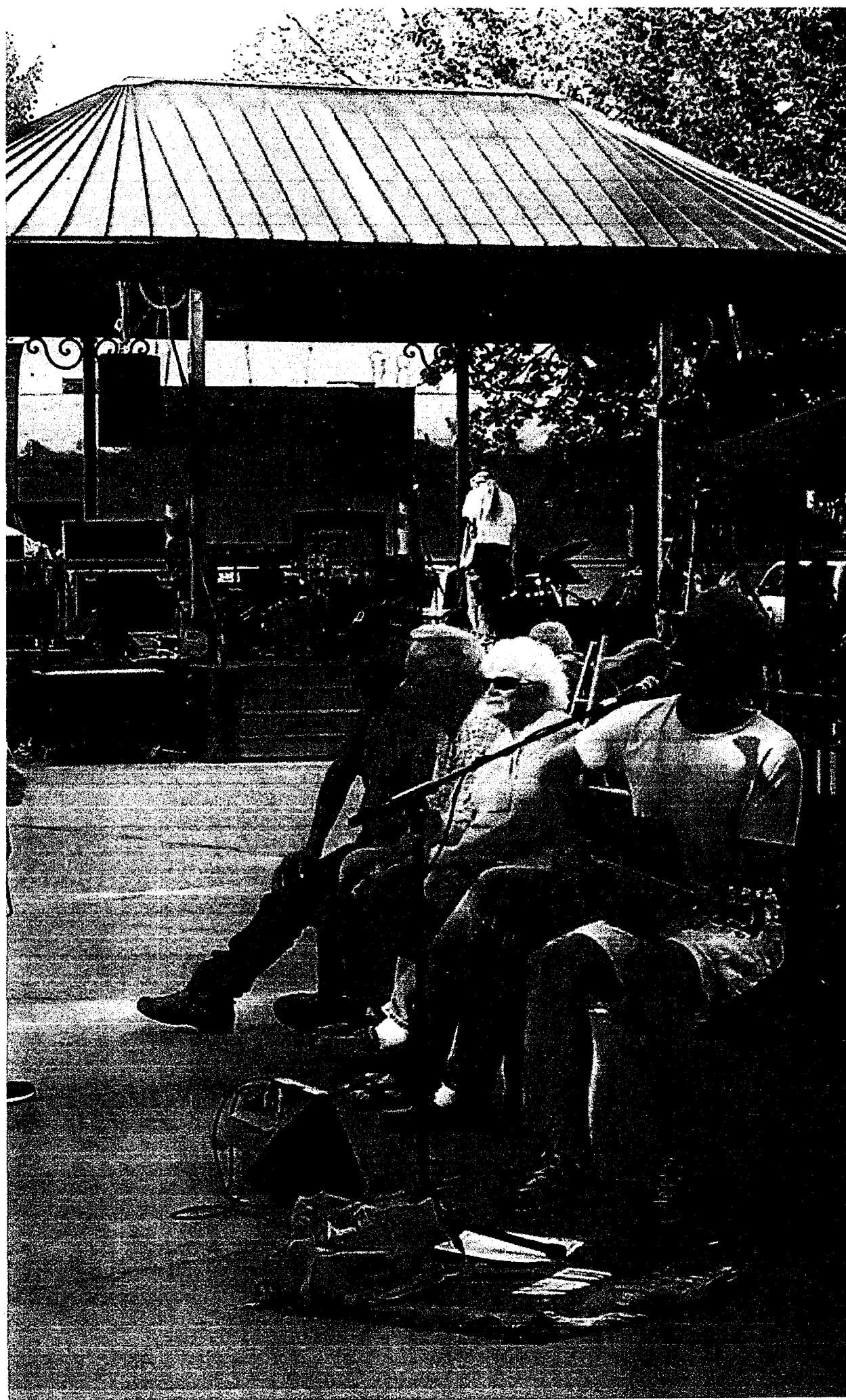
SHE WON'T COME BACK

Exhibit 12

JARED SINGS AS LOUD AS HE CAN. HE IS AMPLIFIED. HE SINGS ABOUT HIS SEXUAL  
FANTASIES AND YELLS HIS FAMOUS SONG "GOD CAN YOU HEAR ME NOW."  
HE IS DISRESPECTFUL TO POLICE, YELLING PROFANITIES AT THEM WHEN TOLD TO MOVE.  
BECAUSE CITIZENS HAVE COMPLAINED - OVER & OVER  
HE REFUSED TO PAY TO ENTER AN EVENT BUT WILL REMAIN DURING EVENTS AND PLAY.  
AND COLLECT TIPS



HE WILL NOT REMOVE HIMSELF EVEN WHEN THE BAND STAND IS TRYING TO DO  
THREE SOUND CHECKS  
THIS PICTURE SHOWS HIM PLAYING UP TO 10 MIN BEFORE 6:00 WHEN THE BAND  
STAND IS SUPPOSE TO BE DOING SOUND CHECKS.  
THE MAIN STAIN HAD TO START LATE <sup>BY</sup> 6:00



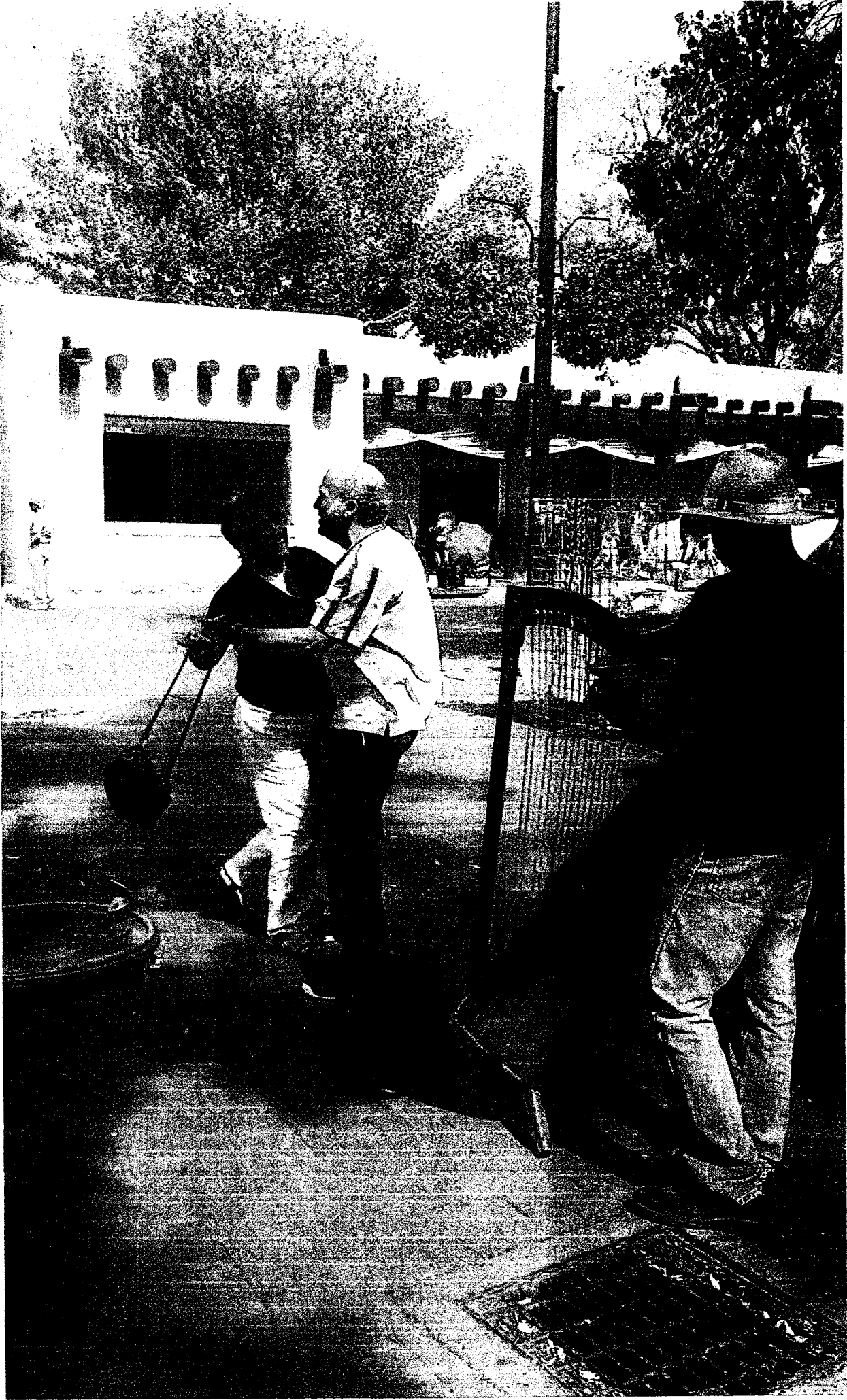
AND HE TOO CLEARS OUT THE PLAZA OF PEOPLE



I HAVE SEEN CROWDS OF PEOPLE STAND AND BOO AND YELL BACK AT HIM  
TO SHUT-UP! JARED COULD CARE LESS. HE'LL ONLY PLAY LOUDER



THIS IS A GREAT EXAMPLE OF A BUSKER WHO CONQUERS THE PLAZA  
HE IS NEVER AMPLIFIED - HIS INSTRUMENT IS CHARMING AND APPROPRIATE FOR  
THE PLAZA - MAKES GOOD TIPS AND PEOPLE LOVE HIM.





KIDS JUST FOLLOW THE LEADERS. SET UP UNDER THE BANK WHEN ITS CLOSED  
ON WEEKENDS - HAVE NO PERMIT AND CANNOT PLAY A SONG MUCH LESS EVEN  
A ~~GOOD~~ TUNE.



Inbox 3590

Junk 95

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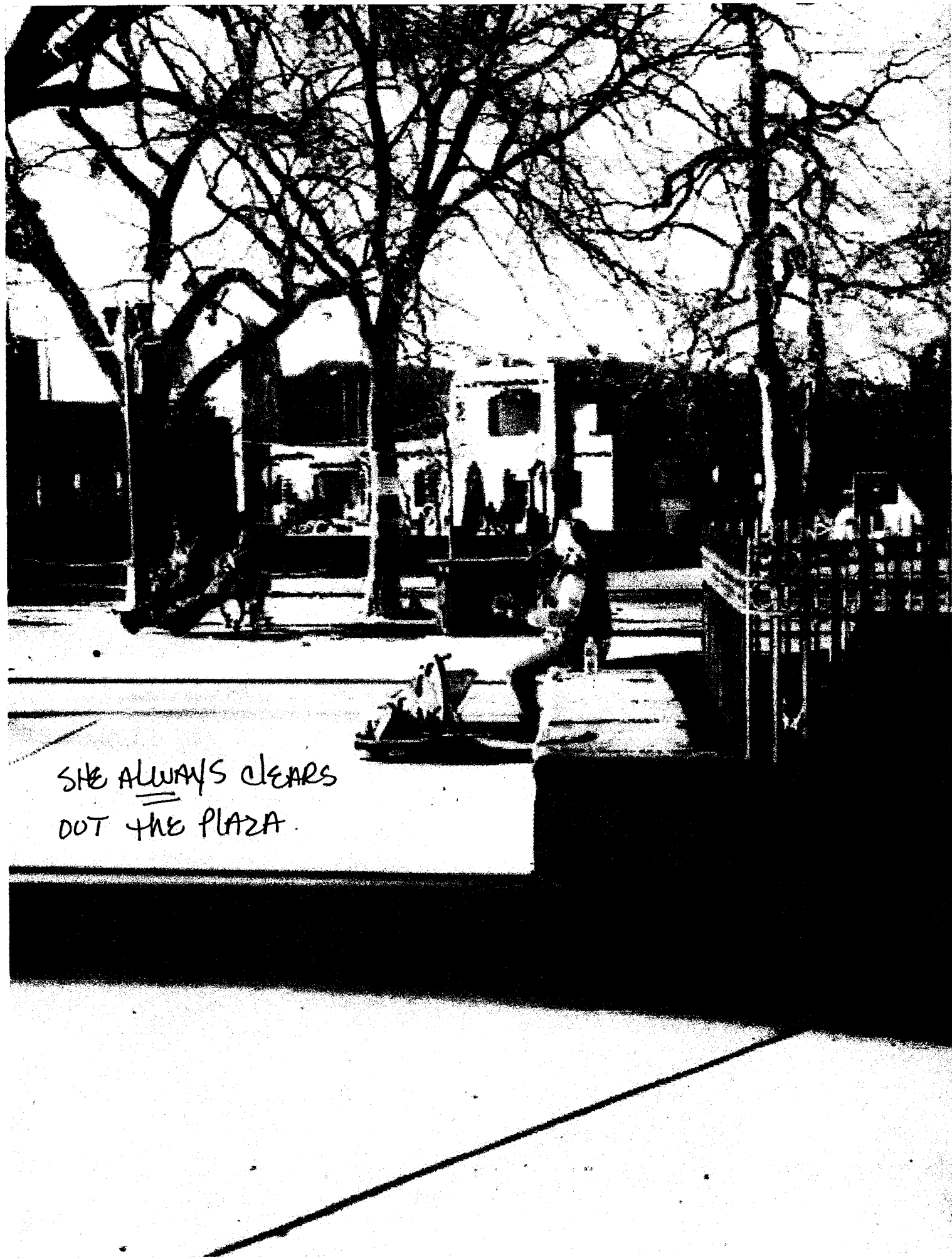
1 attach



View (for details)



THIS girl SINGS NONSENSE - plugs in - AMPLIFIED  
selling her CD's - collecting tip \$ AND is  
SUPER ~~LOUD~~ LOUD. CAN BE HEARD ALL  
OVER THE PLAZA AND BEYOND.  
AND...



SHE ALWAYS CLEARS  
OUT THE PLAZA.

BUSKERS BRING AS MANY INSTRUMENTS AS THEY WANT AND SPREAD OUT OVER  
THEY PLAY AS MUCH AS THEY WANT. THEY BRING AS MANY "BANKING"  
INSTRUMENTS TO SOLICIT TIPS AS THEY WANT. NO RESTRICTIONS ON THEM



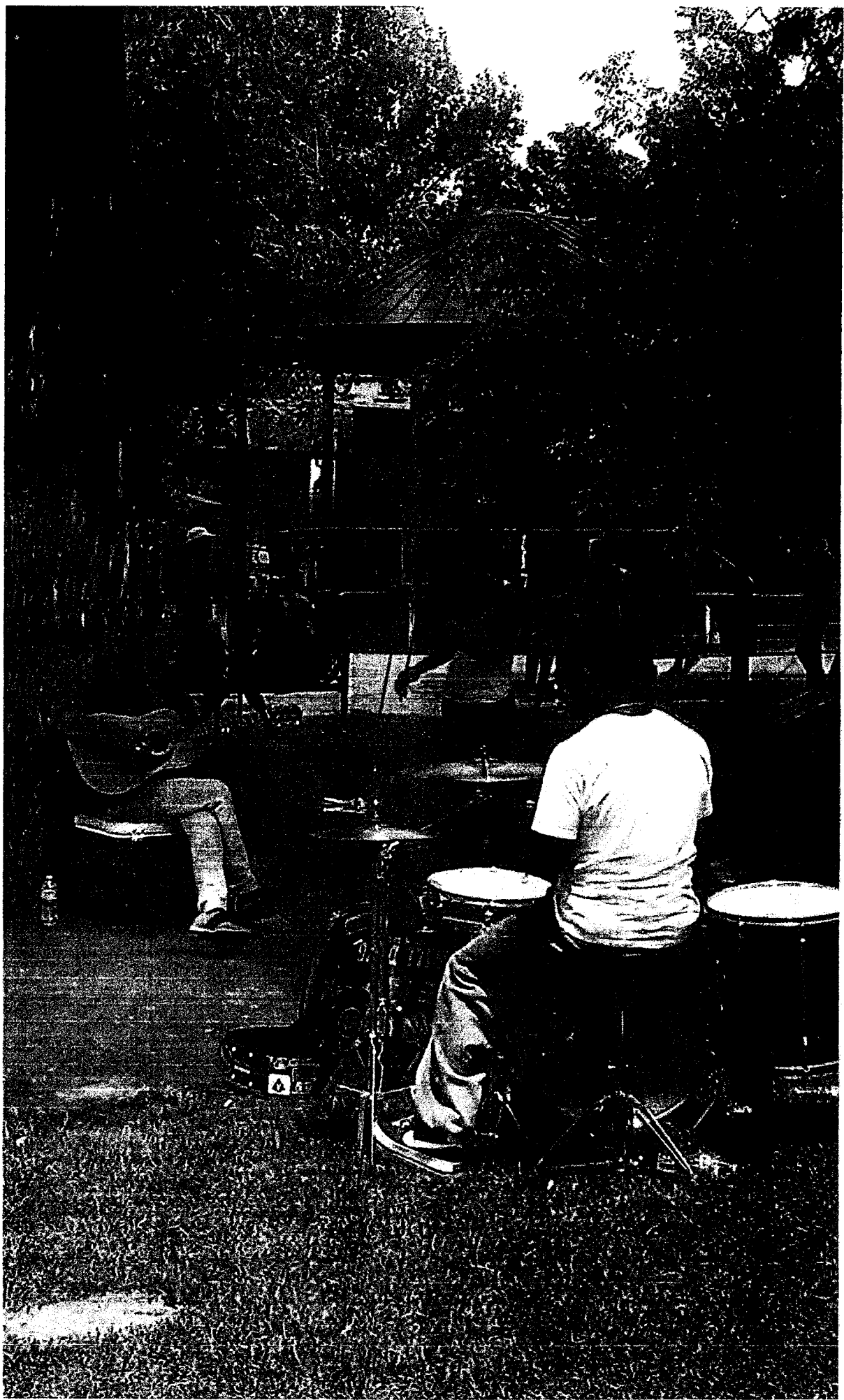
DEEM SET - TAMBOURINES - YOU NAME IT







FROM ONE SIDE OF THE SIDE WALK TO ANOTHER SPREAD OUT





Helmet Busker who sings about vegetables and such.  
she is amplified - LOUD! CAN BE HEARD ALL OVER THE  
PLAZA. Very DISRESPECTFUL to police AND LIES ABOUT  
HOW LONG she is playing in a spot - she STAYS  
6 hours +



Inbox 3592

Junk 95

Spam

Trash

Deleted 15

Recycle

Outbox

Mailbox

Account and security

Play Leigh 15

Calendar

Contacts

Tasks

Notes

My place

Home

My calendar

Settings and more

My calendar

Orders 15

Home

Play book

Home

survival 7

Home

My calendar

Home

My calendar

New video

Home

Documents 10

Home

My calendar

My calendar

1 attach



View side channel

Play video



HELMET/VEGETABLE BUSKER  
CAN BE HEARD FROM THE BANK  
PORTAL TO MONUMENT IN THE MIDDLE  
OF PLAZA AND ...

Inbox 3551

June 85

Deleted 15

ebay Leigh 15

Leigh

1 attach

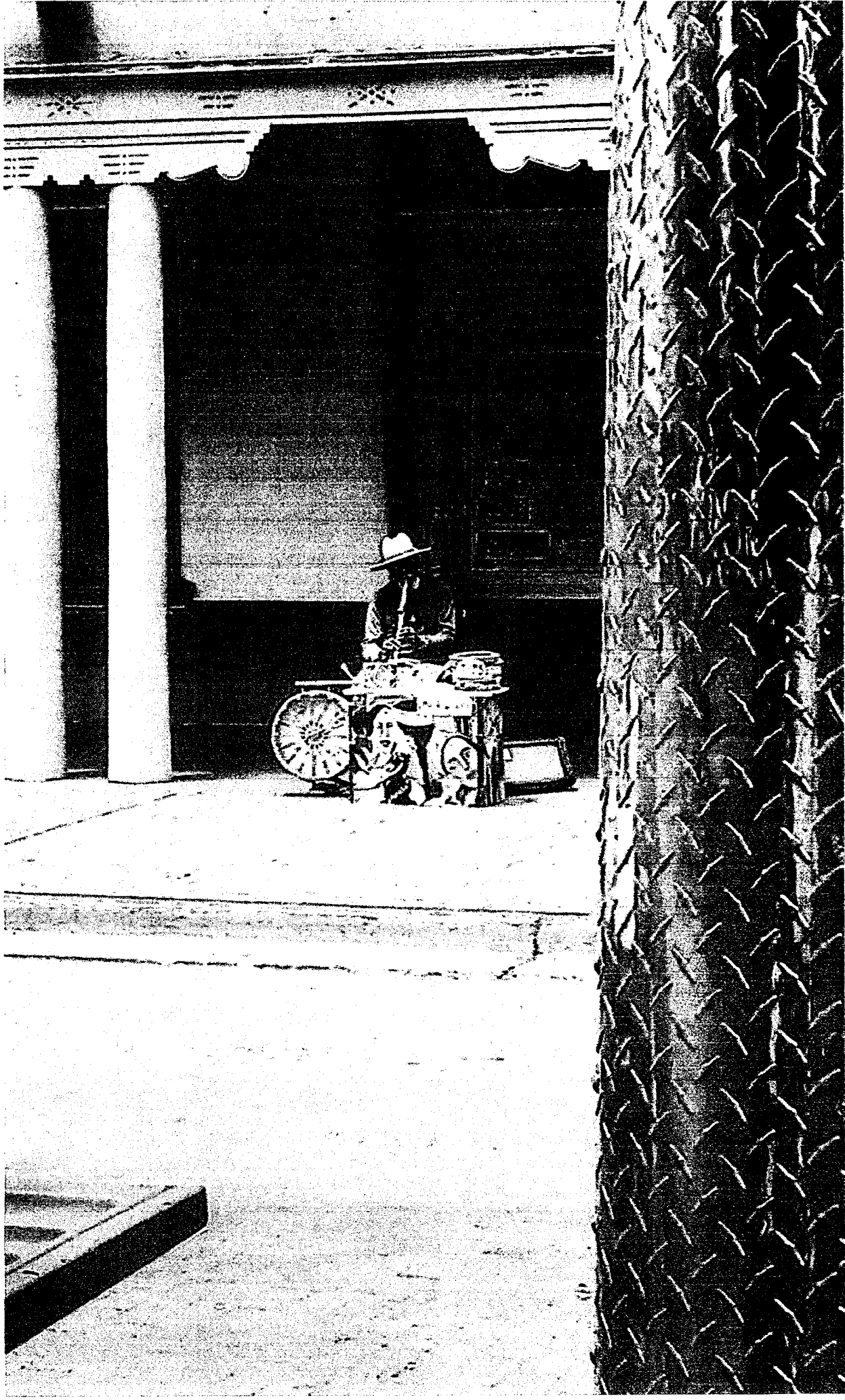
View slide show of

Export to my PC



HELMET / VEGETABLE SINGER  
HEARD CLEAR ACROSS THE PLAZA

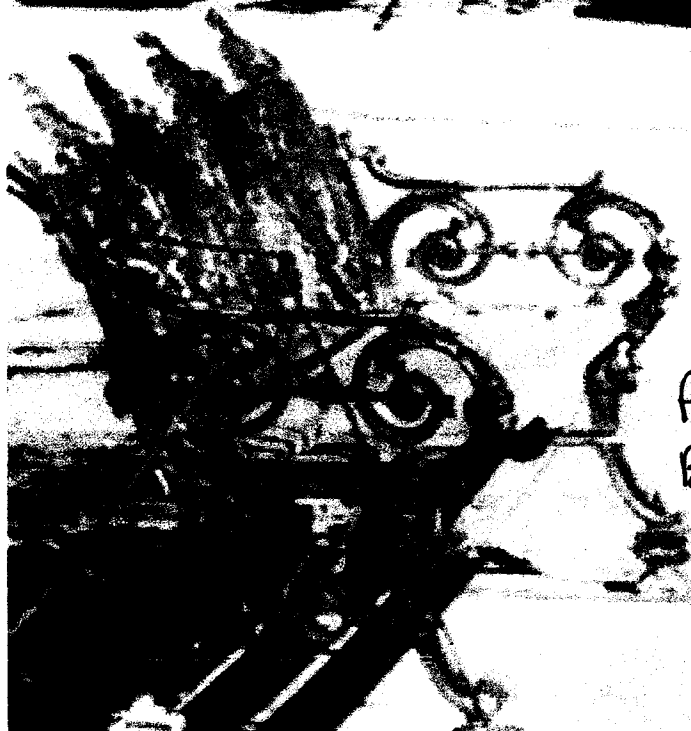
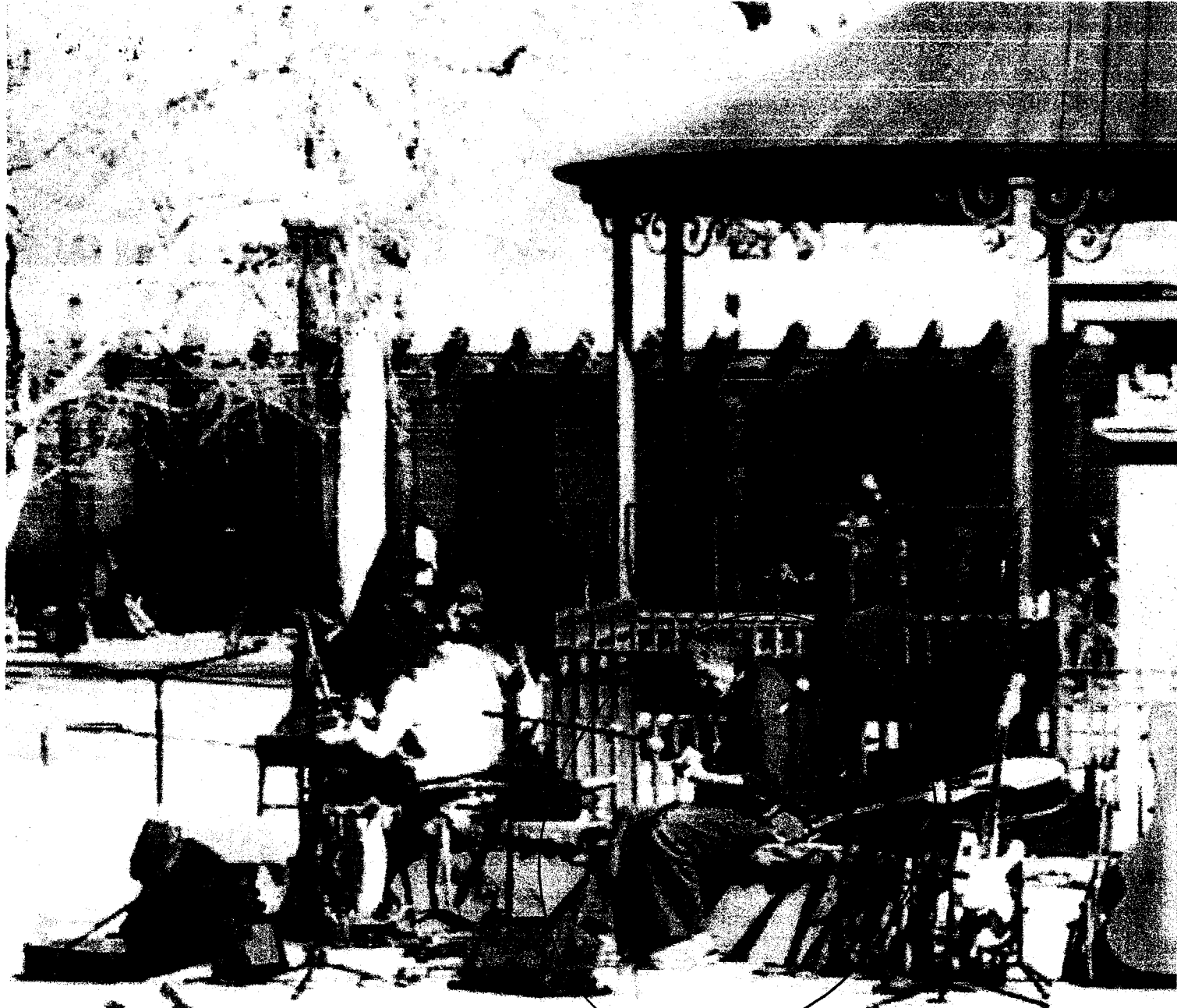
THE COUNTERFEIT FLUTE BUSKER, SETS UP UNDER THE BANK PORCH IN WOODSIDE HILL  
PLAY TRILLS OVER CDS - NEVER PLAYS A "SONG" IS VERY ~~LOUD~~ LOUD. NEITHER THE TOURIST BOSS  
OR THE KETTLE COEN STAND CAN HERE; CONDUCT BUSINESS WITH CUSTOMER



DIS RESPECTFUL TO POLICE OFFICERS. LIES ABOUT HOW LONG HE IS PLAYING IN A SPACE  
STAYS UPWARDS OF 8 HOURS SELLING CDS; COLLECTING TIP MONEY



Police responded to complaints 4 times one day  
The Flute Busker moved across the street from the  
bank right next to us. When the officer left  
he moved right back.  
He is so loud we cannot hear each other or our  
customers.



THE KING OF BUSKERS - Bobby  
 Very Aggressive. Sings ABOUT  
 HIS HATE FOR AMERICA.  
 Plugs everyone in AND ROTATES  
 BUSKER LICENSE SO HE AND THE  
 OTHER CAN STAY IN ONE SPOT  
 ALL DAY - HOUR AFTER HOUR  
 INTO THE EVENINGS



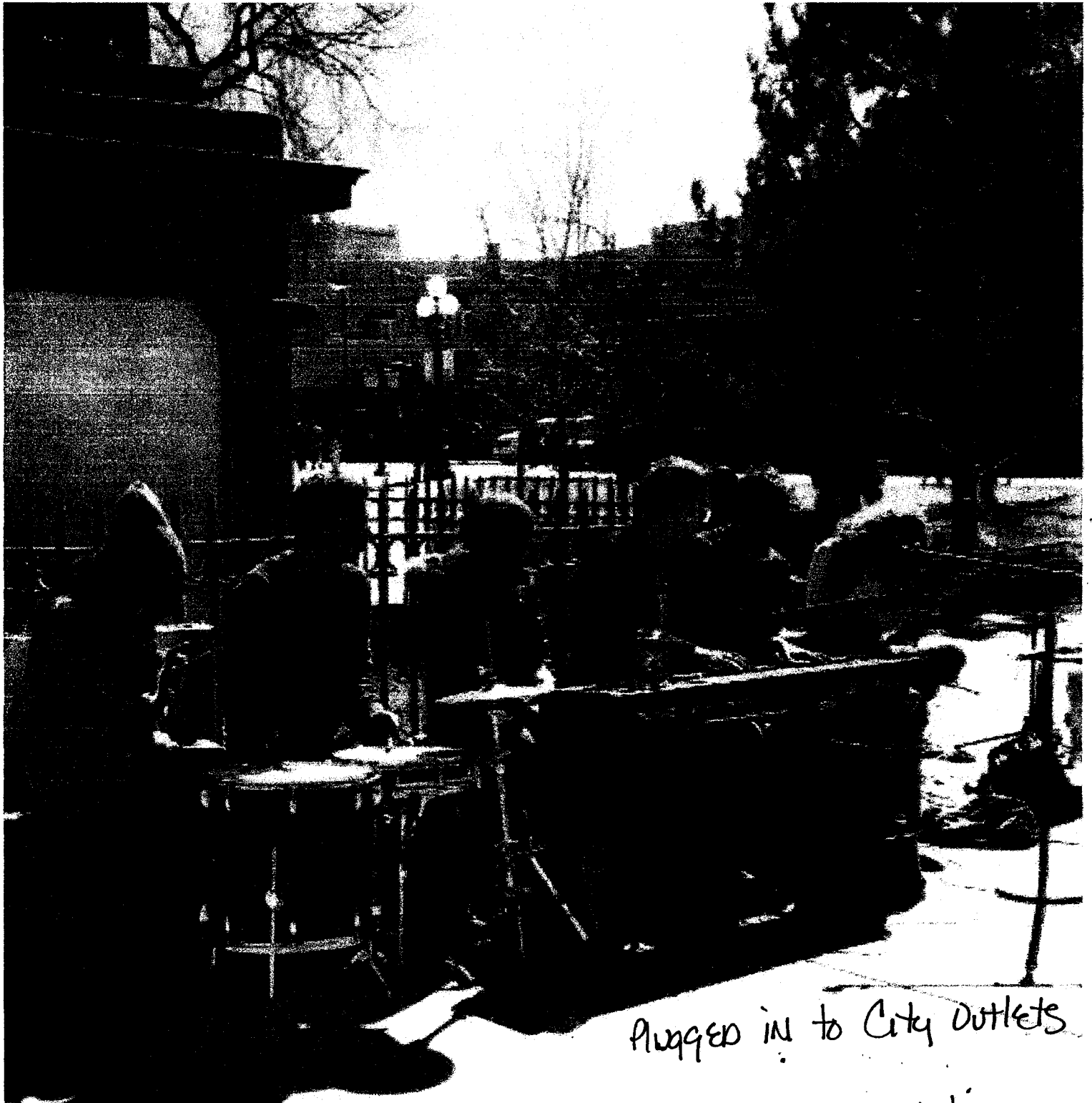
Guitar  
Player

Flute Player

Bobby

ALL SHARING AND ROTATING  
PERMITS IN ORDER TO  
STAY IN ONE PLACE

- POLICE DO NOTHING



Plugged in to City Outlets

New Group with Drums etc... playing while  
Bobby's group is setting up next to them

By the way... when buskers do NOT occupy the  
seats on the monument we actually have  
locals and visitors sitting enjoying the plaza  
Buskers run them off - always!

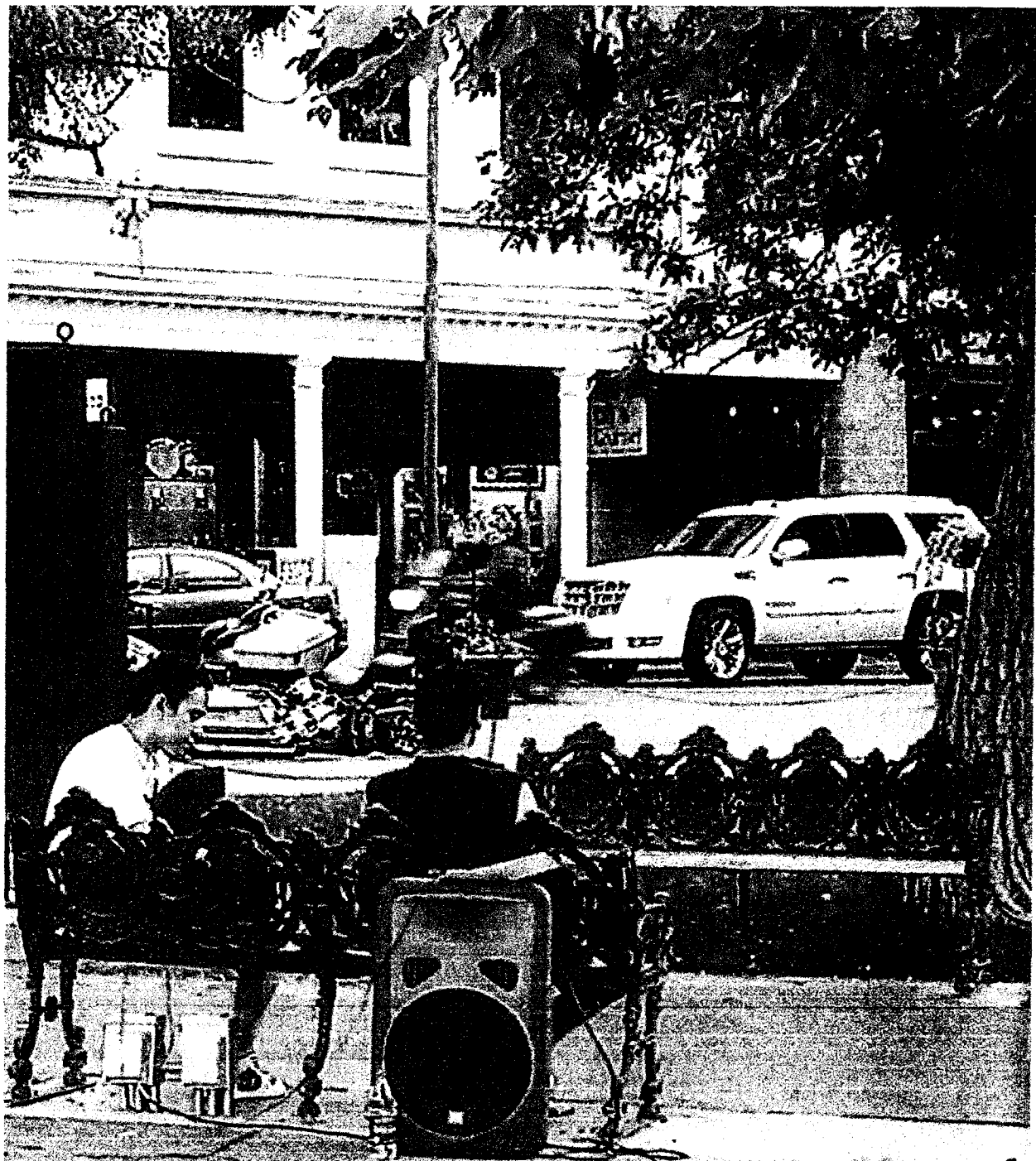




Pedro uses A FOOT TAMBURINE to SOLICIT DONATIONS  
A BUSKER HITS OR TAPS A TAMBURINE 40 TO 60  
TIMES PER "MINUTE". TIMES THAT BY AN HOUR AND  
YOU GET 3,600 TIMES PER HOUR AND IF HE STAYS  
8 HOURS LIKE PEDRO DOES AND PLAYS NON STOP YOU  
ARE TREATED BY ALMOST 29,000 HITS!  
HE ALSO BRINGS XTRA TAMBOURINES SO OTHERS  
CAN JOIN WITH HIM

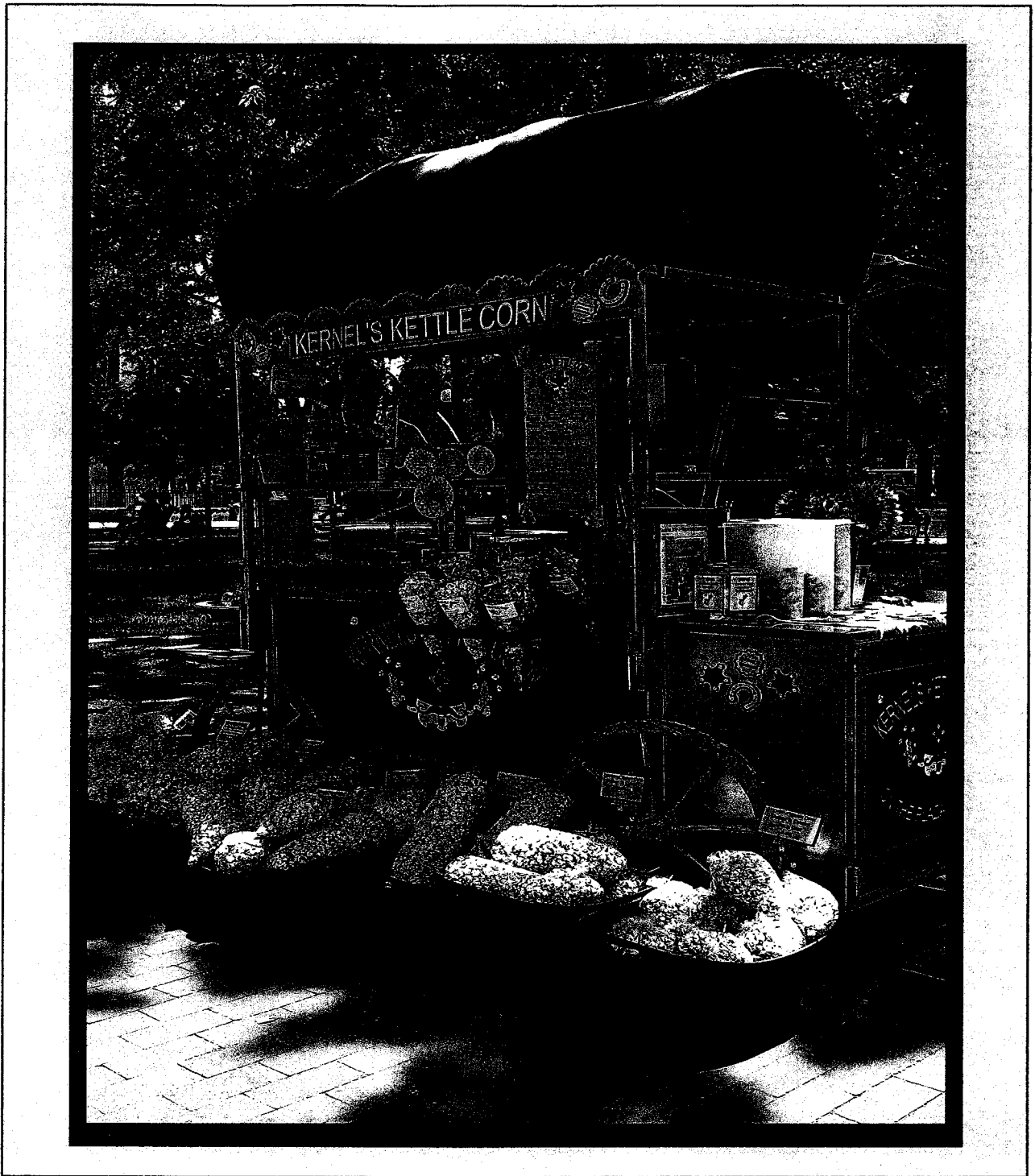






Gilbert, another mate (both in A/C) AND A FEMALE SHARE  
A BUSKERS PERMIT. HE USES HIS AMPLIFIER PLUGGED INTO  
A CITY OUTLET (AS MANY BUSKERS DO). THERE IS MUCH TO  
BE SAID ABOUT GILBERT - HIS RANG SHOT IS ALL OVER THE  
INTERNET. HE IS VERY DANGEROUS & VERY BOLD.  
PLEASE REFER TO COMMENTS IN THE STATEMENT OR ASK  
THE POLICE.

# Kernel's Kettle Corn



## On the Plaza Santa Fe

Michael and Leigh Murphy

505 690-2911

MICHAEL N LEIGH @ HOTMAIL.COM

## City of Santa Fe Fiscal Impact Report (FIR)

ITEM #H-3

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

### Section A.      General Information

(Check) Bill:   X        Resolution: \_\_\_\_\_  
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): 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.

Sponsor(s): Councilors Wurzbarger

Reviewing Department(s): Land Use

Person Completing FIR: Matthew O'Reilly      Date: 2-4-14      Phone: x 6617

Reviewed by City Attorney: *Kelly A. Brennan*      Date: 2/6/14  
(Signature)

Reviewed by Finance Director: *[Signature]*      Date: 2/13/14  
(Signature)

### Section B.      Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The proposed substitute Bill is an extension of Ordinance No. 2012-2 which reduced residential impact fees by 100% for a period of 24 months. Ordinance No. 2012-2 expired on January 23, 2014 and was one of several measures that were approved by the governing body to eliminate barriers to residential construction projects. Other measures approved by the governing body were Ordinance No. 2010-10 and Resolution Nos. 2010-43 & 2011-26, the so-called "Sunset" resolutions that extended the expirations of approved building permits and development approvals; and Ordinance No. 2011-17 that reduced the Santa Fe Homes Program fees and affordable percentage requirements.

The proposed substitute Bill would: 1) set residential impact fees to 50% of their full rate for 24 months (beginning February 27, 2014 and ending February 26, 2016); and 2) return residential impact fees to 100% of their full rate on February 27, 2016.

### Section C.      **Fiscal Impact**

**Note:** Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

#### **1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate:      "A" if current budget and level of staffing will absorb the costs  
                      "N" if new, additional, or increased budget or staffing will be required
- c. Indicate:      "R" – if recurring annual costs  
                      "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

\_\_\_\_\_ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 11/12	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 12/13	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
	All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Total:	\$ _____			\$ _____			

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

a. To indicate new revenues and/or

b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:

1	2	3	4	5	6
Type of Revenue (Reduction)	FY <u>13/14</u>	"R" Costs Recurring or "NR" Non-recurring	FY <u>14/15</u>	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Reduction of Residential Impact Fees\$(129,046)NR\$(387,138)NRResidential Impact Fee Funds\$\$\$\$

Total:

\$(129,046)\$(387,138)

### 3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Adoption of the Bill will result in an estimated decrease in collected residential impact fees of \$129,046 in FY 2013/14 and an estimated decrease in collected residential impact fees of \$387,138 in FY 2014/15, for a total estimated decrease in collected residential impact fees during FY 2013/14 and FY 2014/15 combined of \$516,184. The provisions of the ordinance extend into FY 2015/16 resulting in an estimated decrease in collected residential impact fees of \$774,276 over the 24-month term.

The estimates above are calculated as follows and assume that residential construction continues at the same pace as it did for the first 22 months of the previous ordinance (Ord. #2012-2):

#### Fiscal Year Calculation

(Impact Fees (Not-Collected) (1/23/12 through 11/23/13) = \$1,419,514 = Estimated \$64,523/Month)

<u>FY 2013/14: 4 Months X 50% Reduction X \$64,523/Mo. =</u>	<u>\$ 129,046</u>
<u>FY 2014/15: 12 Months X 50% Reduction X \$64,523/Mo. =</u>	<u>\$ 387,138</u>
	<u>\$ 516,184</u>

#### Full 24-Month Term of Proposed Ordinance

(Impact Fees (Not-Collected) (1/23/12 through 11/23/13) = \$1,419,514 = Estimated \$64,523/Month)

<u>Year 1 (2/27/14 – 2/26/15): 12 Months X 50% Reduction X \$64,523 =</u>	<u>\$ 387,138</u>
<u>Year 2 (2/27/15 – 2/26/16): 12 Months X 50% Reduction X \$64,523 =</u>	<u>\$ 387,138</u>
	<u>\$ 774,276</u>

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### Section D. General Narrative

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The Bill revises Section 14-8.14(E) SFCC 1987.

### **2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

Any incentive effects of the Bill would not be available for residential construction if the Bill is not enacted.

### **3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None.

#### 4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Adoption of the Bill will continue to make residential construction less expensive and will ease the transition to 100% impact fees over a 24-month period. This may be particularly important at a time of continued uncertainty regarding residential construction. Residential construction projects create construction jobs and construction material purchases and generate gross receipts tax revenue for the city. Net new gross receipts tax (GRT) revenue that accrues to the city through the direct and secondary economic effects of residential construction has been shown to exceed the amount of uncollected impact fees.

Adoption of the Bill will reduce the amount of impact fees available for use by the city.



**AMENDED**  
**CITY OF SANTA FE, NEW MEXICO**  
**PROPOSED AMENDMENT(S) TO BILL NO. 2014-5**  
**Santa Fe Homes Program - Fees**

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Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2014-5:

1. On page 17, line 5, after "the", *delete* "primary" and *insert* in lieu thereof: "first position"
2. On page 17, line 9, after "value", *insert* ", through no fault of the seller,"

Respectfully submitted,

\_\_\_\_\_  
Chris Calvert, Councilor

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "14"*

CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO BILL NO. 2014-5  
Santa Fe Homes Program - Fees

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Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2014-5:

1. On page 17, line 25, *insert* the following new paragraph G:  
"G. As a condition of participation in the SFHP, a SFHP home buyer or SFHP manufactured home lot buyer shall agree to fill out a brief questionnaire upon resale of the unit or lot for the purposes of assessing the effectiveness of the SFHP. Such questionnaire shall be included in the administrative procedures and referenced as Appendix E."

Respectfully submitted,

\_\_\_\_\_  
Chris Calvert, Councilor

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "15"*

CITY OF SANTA FE, NEW MEXICO  
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2014-\_\_  
Santa Fe Homes Program – Administrative Procedures

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Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2014-\_\_:

1. Section 12.2 of the Administrative Procedures is amended to *insert* the following provision:  
“As a condition of participation in the SFHP, a SFHP home buyer or SFHP manufactured home lot buyer shall agree to fill out a brief questionnaire upon resale of the unit or lot for the purposes of assessing the effectiveness of the SFHP. Such questionnaire is attached hereto as Appendix E.”

Respectfully submitted,

\_\_\_\_\_  
Chris Calvert, Councilor

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

**PUBLIC COMMENTS FROM THE DEVELOPMENT COMMUNITY REGARDING THE  
ELIMINATION/RETENTION OF THE SUNSET DATE FOR THE SFHP**

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**From:** Daniel Werwath [mailto:dwerwath@gmail.com]

**Sent:** Thursday, February 13, 2014 9:49 AM

I wanted to reach out and share some feeling about the proposed changes to the affordable housing ordinance.

I have thoroughly reviewed both the new ordinance and admin procedures and believe that this is the ordinance that should have passed back in 2005.

This revision strikes a good balance between the needs of the market place and needs for affordable housing production. It lowers the required percentages to a financially feasible level, and includes many other critical fixes that make the ordinance better for consumers, nonprofits, and private developers alike.

There has been talk, starting with the planning commission, that the sunset date be put back in the new ordinance. While some may think that this will "speed up development", this is misguided, and let me explain why.

1. Home starts are not dictated by a beneficial time window in a city ordinance.

This isn't a game of chicken. For large developers, home starts are dictated by market demand, for smaller developers, by having an actual mortgage-qualified buyer lined up so that the bank will provide construction financing. No short-term window in an ordinance is going to supersede these market factors. And even if it did, we don't want people building houses that there aren't buyers for, that's what happened in 2006.

2. Having a sunset date creates uncertainty for developers and investors.

After the carnage from the housing collapse, uncertainty is no longer tolerated in housing development. Development of any scale requires YEARS of planning (not to mention ungodly amounts of time for land use approvals in this town). If developers believe that the rules will change midway through a project, they will likely choose not to undertake that project. Period. This is particularly true for rental housing development. Rental housing, even moderately priced, is our community's greatest need right now. But these projects take three+ years just to plan and (hopefully) get development approvals. There is enough uncertainty built into our development review process as it is, don't create more.

3. As I said quietly in 2005, at the risk of being excommunicated from the affordable housing in-crowd, 30% is not sustainable.

When I was at the housing trust, I did housing development feasibility all day. Even in the non-profit context with discounts and substantial external subsidies, I couldn't make the math work at 30%. The only people who could even possibly come close making 30% projects pencil out are huge scale builders like Pultry/Centex, and even they have never had to comply with the letter of the HOMES

EXHIBIT "17"

ordinance at 30% (because their 30% projects are annexations and have different pricing and program requirements, like affordable units not having garages).

I said it then and I will say it again, 30% of nothing, is nothing. No private developer that I know of has built 30% to the letter of the HOMES regs successfully, and nobody will. The math doesn't work.

4. If 30% could somehow work, it would have intended land use consequences, incentivize the lowest quality home possible, and segregate affordable housing to sprawl at the edge of town, which could be potentially create a de facto violation of federal fair housing laws.

Let's say for a moment that there was a developer (like centex) that could meet the 30%. This is how they will do it. They will buy huge amounts of land, on the edge of town, where there are no bitchy neighbors to lower density. They will create a Phoenix-style subdivision, and then build crap box houses the same as they do in every other western city they work in, its called "value engineering", "replicability" and "economies of scale". They will hire cheap labor from Albuquerque, and just in case you didn't know, they make their own sheetrock, so they don't even have to buy that locally. These will be the only people who can afford to build in Santa Fe and the only place they develop will be in the gap between us and Rio Rancho. Is that smart growth and land use? Is that the affordable housing we want to provide for our hard working citizens? Do we want to segregate affordable housing this way?

5. Lastly, we need to stop jerking around the private sector.

Over the last 20 years, private developers have contributed literally tens of millions of dollars to affordable housing in Santa Fe. They are your partner in affordable housing creation, not some cow to be milked. This is the only sector of the economy where we as a community have decided that private profits need to support community needs. We need to stop jerking developers around, and by that, I mean we need an ordinance that is a fair, balanced and a permanent fix, not another stopgap, gun-to-the-head compromise. Short term solutions and stopgaps are the perfect example of the city being a bad business partner. This is simple, be a good partner.

After years of working on these issues, I couldn't be more exasperated with the idea of turning this ordinance revision into a punt down the field. We've done that enough, it's time for a permanent fix.

Just let go of 30%. Its best for everyone. The City. The private sector. And most importantly, our hard working families deserve decent affordable housing in all areas of town.

The sunset date absolutely undermines the ability for larger scale projects to plan with financial certainty for the future. Planning for large projects can take several years. A sunset date will not "speed up" development, it will stop it. Let's get away from gimmicks and pass a "clean" ordinance.

---

**From:** Sarah Geisler [mailto:sgeisler@homewise.org]

**Sent:** Thursday, February 13, 2014 10:37 AM

**Subject:** RE: Your opinion is needed

Homewise is in favor of Councilor Calvert's proposal extending the sunset date for the 20% reduced requirement rather than making it permanent at this time. We agree that this could create urgency for developers to move projects forward now, stimulating the economy through new construction and creating new affordable homes available to Santa Feans. Further, it gives the City flexibility to review market conditions later and assess if changes are needed at a future time farther away from housing crisis once market conditions have normalized.

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**From:** hank@speedycomputing.com

**Sent:** Thursday, February 13, 2014 12:07 PM

I think having a sunset for the lowered requirements is a good idea since when the economy recovers a 30% requirement may be more appropriate for the need.

---

**From:** Rusty Tambascio [mailto:Rusty@SantaFeEngineering.com]

**Sent:** Friday, February 14, 2014 2:25 PM

**Subject:** RE: Your opinion is needed

We are putting that 20% on middle class family housing, not \$750,000 plus Las Campanas housing. My employees deserve the opportunity to buy a home, but cannot afford it because they are over the cutoff for affordable housing by a few thousand dollars or so. They deserve the right to buy a home and everything we heap onto the cost of a house just hurts them. I'm all for the 10% and always have been, but the additional 20% doesn't work, and I don't know if we will ever see those days again. Inflated appraisals and signature only mortgages are gone, thank goodness. The only builders that can operate under these conditions are corporations like Poulte. Our local developers and builders cannot, so on top of everything else, we are hurting local businesses that pay taxes here, and employ local Santa Fean for a decent wage.

If our firm relied on residential business only, we'd be out of business. 9 Santa Feans would currently be unemployed, and we would not be contributing to the tax base of the City. We do okay with our business now, and if the residential development business came back, that would be nice, but it is not something that I rely on to keep our business going. But I do feel strongly about the ability of the middle class here in Santa Fe not being driven out to Rio Rancho to buy a home. That makes no sense, because they are spending their dollars in Rio Rancho, not Santa Fe.

I would also like to point out that the 30% was set during a time when the valuation of housing was rising rapidly and was reaching unsustainable levels. (And it burst, nearly taking our economy with it.) As we are all aware, lenders have tighten lending requirements, and I don't believe from what I have heard from local builders, that the market rate homes cannot be financed for the cost necessary to cover the extra 20%. And let's be clear, it is the other homes in the development that help bear the cost difference of the 30% affordable units.

I can also state from personal experience that I have not seen an upswing in new subdivision developments coming through my office for design services. The only single family housing project

that we are currently overseeing is the construction inspection on is a project that goes back to 2007. The developer was only able to get financing for construction of the infrastructure just recently, and even then, this development had to be scaled down into several small phases. While the larger national corporations may have the financial capability to develop on a larger scale without traditional financing, the 20% is hurting our local area builders.

---

**From:** James Siebert [mailto:jim@jwsiebert.com]

**Sent:** Tuesday, February 18, 2014 5:21 PM

**Subject:** RE: Your opinion is needed

The lenders need certainty when providing million plus dollar loans. The 20 percent has to be permanent. If the City continues with the 30 percent the majority of the building permit will be on higher end lots platted prior to the affordable ordinance. There are still plenty of those left and they do nothing for housing affordability and in fact create more economic segregation in the community. The 30 percent requirement for local builders who do not have an economy of scale prices the local builder out of the market. The only builders left Santa Fe will be the major national companies.

Thanks for the opportunity to submit comments.

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**From:** Kim Shanahan [mailto:Kim@sfahba.com]

**Sent:** Thursday, February 13, 2014 3:15 PM

**Subject:** RE: Your opinion is needed

20% should be permanent with no sunset. Local bankers have consistently said that they will never finance a project with 30% requirements. Those projects that are building 30% or more now have either negotiated sale price points different than SFHP or finance themselves by non-traditional means because they are non-profit developers or are publically traded national builders.

Having a sunset date with an implied "threat" that things could go back to 30% will not stimulate developers to get going before something terrible happens, instead it will convince the lending community that Santa Fe policy is capricious, unpredictable, and unsustainable and residential development should be avoided at all costs and left to production builders who don't need local banks to finance their projects.

I suspect that most on this e-mail thread will not agree with SFAHBA's position, since there are very few on it who represent the residential development community. It is also important to remember that the top 10% tier that was eliminated was done so because market rate homes sold by Centex had dropped so low that they were competing with the homes Centex was mandated to produce at that tier level and forced to sell. Homebuyers were not buying that tier, even though down payment assistance was available to them, because the homebuyer could buy the exact house at the same price but with no strings attached, like a punitive lien held by the city.

Eliminating the top tier merely eliminated the "break-even" tier. The money-losing tiers are the two tiers that make up the 20% requirement, which are still in place and still serving the segment of population with the greatest need of assistance.

An even more important consideration is to make sure that subdivisions of less than 10 homes continue to not have an affordable housing requirement and that fees in lieu stay at the reduced rate.

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**From:** Mike Loftin [mailto:mloftin@homewise.org]

**Sent:** Thursday, February 13, 2014 4:05 PM

**Subject:** RE: Your opinion is needed

This assertion that banks won't finance a project that is 30% affordable but will finance one that is 20% is complete and utter nonsense. If a project works financially a bank does not care how many homes are "affordable" whether its 0% or 100% affordable. In fact, banks tell us they like our projects more than purely market rate projects because they know there is a stronger demand for more affordable homes than higher end homes.

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**From:** Jennifer Jenkins [mailto:jennifer@jenkinsgavin.com]

**Sent:** Tuesday, February 18, 2014 1:20 PM

**Subject:** RE: Your opinion is needed

I completely concur with Kim and Rusty. Making the 20% requirement permanent is appropriate and necessary considering the current state of the housing market and the lending climate. In order for new residential projects to get built, they have to get financed, which means they have to be economically viable. We should be doing all we can to support LOCAL homebuilders.

COMMENTS FROM THE HOUSING TRUST PROVIDED BY PHONE:

*No problems with making 20% permanent. A homebuyer needs approx. \$35,000 income to be viable; there is a big difference in percentage of AMI for the family of one earning that amount (will be in a higher income percentile) vs. the family of three earning that amount. What is really needed is flexibility across the income tiers to accommodate the needs of different sized families with the same incomes.*



**CITY OF SANTA FE, NEW MEXICO**  
**PROPOSED AMENDMENT(S) TO BILL NO. 2014-6**  
**(Green Code – Residential Addition & Remodels)**

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2014-6:

1. On page 9, after checklist item 802.6, *insert*,

Item #	Green Building Practices	Points
802.6A	Additional graywater connections. (1 point per connection over 1)	4 points max

Respectfully submitted,

\_\_\_\_\_  
Staff

ADOPTED: \_\_\_\_\_  
NOT ADOPTED: \_\_\_\_\_  
DATE: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

*Exhibit "18"*

# **Social Benefits of Homeownership and Stable Housing**

**NATIONAL ASSOCIATION OF REALTORS®**

**Research Division**

**August 2010**

## Introduction

Research has consistently shown the importance of the housing sector on the economy and the long-term social and financial benefits to individual homeowners. The economic benefits of the housing market and homeownership are immense and well documented. The housing sector directly accounted for approximately 14 percent of total economic activity in 2009. Household real estate holdings totaled \$16.5 trillion in the first quarter of 2010. After subtracting mortgage liabilities, net real estate household equity totaled \$6.3 trillion.

In addition to tangible financial benefits, homeownership brings substantial social benefits for families, communities, and the country as a whole. Because of these societal benefits, policy makers have promoted homeownership through a number of channels. Homeownership has been an essential element of the American Dream for decades and continues to be so even today.

The purpose of this paper is to review existing academic literature that documents the social benefits of homeownership. Furthermore, this paper examines not only the ownership of homes, but also the impact of stable housing (as opposed to transitory housing and homelessness) on social outcomes, looking specifically at the following outcome measures:

- Educational achievement;
- Civic participation;
- Health benefits;
- Crime;
- Public assistance; and
- Property maintenance and improvement.

In general, research supports the view that homeownership brings substantial social benefits. Because of these extensive social benefits - what economists call positive externalities - policies that support sustainable homeownership are well justified.<sup>1</sup>

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<sup>1</sup> There is a strong correlation between homeownership with income, education, age, marital status, and several other factors. Therefore, a strong correlation between homeownership and social outcome variables may simply be superfluous in that the correlation is simply capturing the impact of higher income, education, and the like. To isolate the impact solely attributable to homeownership and/or stable housing, it is important to control for factors that are generally present with homeownership (like higher income and older age). Carefully executed research, as documented below, takes these and many other factors into account to isolated the impact of homeownership on social outcomes.

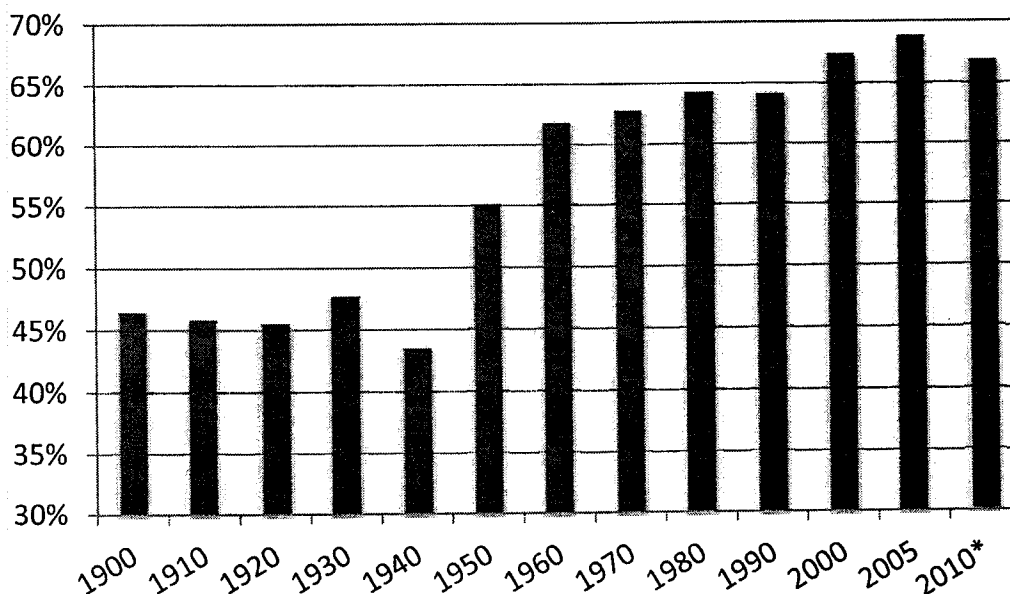
## Trends in Homeownership

The prevalence of homeownership is not universal. Across different demographic groups and even within different regions of the country, the homeownership rate varies widely. Many of these gaps are long standing. Therefore, the social benefits of homeownership differ widely from community to community.

Less than half of Americans owned their homes at the beginning of the 20<sup>th</sup> century (see **Exhibit 1**). Homeownership remained fairly stable until the onset of the Great Depression, during which many homeowners lost their homes. In the subsequent two decades, the homeownership rate rose dramatically with the rate easily topping 60 percent by 1960. Modest gains were made during the 1960s, 1970s and 1980s. However, during the early 1990s, the homeownership rate once again trended upward as mortgage rates steadily declined and the economy expanded at rates not experienced in many years. By 2004, 69 percent of Americans owned their homes – a record high. The homeownership rate has since declined to 66.9 percent as of the second quarter 2010.

### Exhibit 1

Homeownership Rate for Selected Years (1900 – 2010)



Source: U.S. Census Bureau, (\* second quarter 2010)

Minorities have made marked progress in homeownership in recent years (see **Exhibit 2**). But even with these gains, the homeownership rate among minorities still lags significantly behind that of whites. In 2009, fewer than half of African-American and Hispanic households owned their homes. In contrast, more than 74 percent of non-Hispanic whites were homeowners.

A large part of the gap in homeownership among minorities can be attributed to differences in economic circumstances and the age composition of minority populations. Income and wealth

socioeconomic variables<sup>27</sup>. Glaeser and Sacerdote also found a lower incidence of crime victims among homeowners.<sup>28</sup>

From sociological literature on social disorganization, recent research by Miles-Doan showed residential mobility as a contributing factor for the higher violence rate by spouses and intimates.<sup>29</sup> In a similar vein, a recent work by Kubin found that residential mobility is significantly and positively related to homicides.<sup>30</sup>

The results are congruent with sociologists' theories of social disorganization, or a breakdown in social bonds, family and neighborhood association.<sup>31</sup> A high level of social disorganization is said to exist where there is a high level of deviance in social norms and a lack of community to realize common values. Crime, suicide, juvenile delinquency, teen pregnancy and drug usage are all the consequences of social disorganization. The generally accepted causes of social disorganization include poverty, low educational attainment, family disruption, and racial segregation in urban life. In addition, frequent residential mobility is also considered one of the key causes of social disorganization.

For example, one of the first college textbooks on the subject, appropriately titled *Social Disorganization*, mentions crime, unemployment, divorce, venereal disease, illiteracy, undernourishment, and *mobility* and *transiency* (our emphasis) as indications of a disorganized society.<sup>32</sup> In another study Bursik showed the link between mobility and crime.<sup>33</sup>

A stable neighborhood, independent of ownership structure, is also likely to reduce crime. It is easier to recognize a perpetrator of crime in a stable neighborhood with extensive social ties. Therefore, the empirical studies showing a lower crime rate among homeowners and people living in a stable housing environment are consistent with theories on social disorganization.

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<sup>27</sup> Alba, R., J. Logan, P. Bellair. 1984. "Living with Crime: The Implications of Racial/Ethnic Differences in Suburban Location," *Social Forces* 73: pp. 395-434.

<sup>28</sup> Glaeser, E. and B. Sacerdote. 1999. "Why is there more crime in cities?" *Journal of Political Economy* 107: pp. s225-s258.

<sup>29</sup> Miles-Doan, Rebecca. 1998. "Violence Between Spouses and Intimates: Does Neighborhood Context Matter?", *Social Forces*, 1998, pp.623-645.

<sup>30</sup> Kubrin, Charis E., "Structural Covariates of Homicide Rates: Does Type of Homicide Matter?" *Journal of Research in Crime and Delinquency*, 2003, pp. 139-170.

<sup>31</sup> Shaw, C. and H. McKay. 1942. *Juvenile Delinquency and Urban Areas*. Chicago: University of Chicago Press.

<sup>32</sup> Elliot, M. and F. Merrill, *Social Disorganization*, 1941, Harper & Brothers Publishers.

<sup>33</sup> Bursik, R.J., Jr. 1999. "The Informal Control of Crime through Neighborhood Networks," *Sociological Focus* 32: pp. 85-97.

## Homeownership and Public Assistance

We found earlier that housing stability lowers teenage pregnancy. There is vast literature on the link between teen pregnancy and the likelihood of receiving public assistance.<sup>34</sup> Therefore, to the extent that homeownership and stable housing reduce teen pregnancy, one can expect a reduction in the incidence of public assistance among those living in a stable neighborhood.

Furthermore, Page-Adams found that homeowners are better able to adjust after being laid off from a job due to their access to home equity credit lines, and hence, lessening their need for public assistance.<sup>35</sup>

## Homeownership and Property Maintenance and Improvement

Another key benefit received by homeowners is the structural quality of their housing.<sup>36</sup> However, a well maintained home not only generates benefits through consumption and safety, but research has shown that high quality structures also raise mental health.<sup>37</sup>

It is often suggested that owner-occupied housing is better maintained than renter-occupied. In a study by Henderson and Ioannides, the authors argue that landlords cannot distinguish between households that will maintain a rental unit from those that will cause damage. Consequently, landlords charge rents based on the expected level of care that will be taken by renters and households that plan to take care of their dwelling are motivated to become homeowners.<sup>38</sup> Further, homeowners have a financial interest in ensuring that their unit is well maintained and repaired while mobile households may ignore damage.<sup>39</sup> In contrast, Ozanne and Struyk find that including information about the neighborhood and housing structure in estimating statistical relationships causes the owner-occupancy effect to disappear.<sup>40</sup>

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<sup>34</sup> Sawhill, I., 1998. "Teen Pregnancy Prevention," Brookings Institute's Policy Brief #38.

<sup>35</sup> Page-Adams, D., and N. Vosler. 1997. *Homeownership and Well-Being Among Blue-Collar Workers*, Washington University, School of Social Work.

<sup>36</sup> R.D. Dietz, D.R. Haurin, 2003. The social and private micro-level consequences of homeownership. *Journal of Urban Economics* 54 (2003) 401-450 423

<sup>37</sup> G.W. Evans, N.M. Wells, A. Moch, 2003. Housing and mental health: a review of the evidence and a methodological and conceptual critique, *Journal of Social Issues* 59.

<sup>38</sup> J.V. Henderson, Y.M. Ioannides, 1983. A model of housing tenure choice. *American Economic Review* 73, 98-113.

<sup>39</sup> G.C. Galster, 1983. Empirical evidence on cross-tenure differences in home maintenance and conditions. *Land Economics* 59, 107-113.

<sup>40</sup> L.J. Ozanne, R.J. Struyk, Housing from the existing stock: comparative economic analyses of owner occupants and landlords, Working paper 221-10, The Urban Institute, Washington, DC, 1976.

Another early study finds that owner-occupant landlords are more likely to rehabilitate housing dwellings than other rental housing landlords because owners most directly experience the improvements, as opposed to current and future renters or tenants.<sup>41</sup>

Heywood also finds that income impacts the level of maintenance with low-income owner-occupants maintaining their homes less than high-income owner-occupants.<sup>42</sup>

When looking at the different effect renters have on maintenance, research compared differences in price appreciation using the repeat sales technique and found some evidence that renter-occupied housing appreciates less than owner-occupied housing.<sup>43</sup> Finally, a study looking at how much neighbors affect each other provides evidence that the maintenance behavior of individual homeowners is influenced by those of their neighbors.<sup>44</sup>

## Conclusion

Owning a home embodies the promise of individual autonomy and is the aspiration of most American households. Homeownership allows households to accumulate wealth and social status, and is the basis for a number of positive social, economic, family and civic outcomes. Two-thirds of all U.S. households who own their home currently are enjoying these benefits.

The positive social benefits from homeownership and stable housing are compelling. As this paper has shown, there is evidence from numerous studies that attest to the benefits accruing to many segments of society. Homeownership boosts the educational performance of children, induces higher participation in civic and volunteering activity, improves health care outcomes, lowers crime rates and lessens welfare dependency.

Owning a home is different from renting. With the home purchase comes the pride of ownership and the sense of belonging in a community where one has a financial stake in the neighborhood. Perhaps, homeowners are "happier" just from having achieved the so-called "American Dream" -- a sense of accomplishment, a milestone. Also, ownership entails greater individual responsibility. As discussed above, homeownership requires a large (if not the largest) financial outlay of a person's life and often requires the responsibility of a mortgage spanning 30 years. Therefore, it is a long-term commitment, which may alter human behavior.

Given such an opportunity, public policy makers would be wise to consider the immense social benefits of homeownership for families, local communities and the nation.

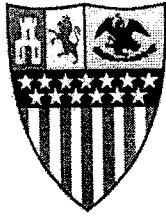
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<sup>41</sup> N.S. Mayer 1981. Rehabilitation decisions in rental housing: an empirical analysis. *Journal of Urban Economics* 10, 76-94.

<sup>42</sup> F. Heywood, Poverty and disrepair: challenging the myth of ignorance in private sector housing, *Housing Studies* 12 (1997) 27-46.

<sup>43</sup> D.H. Gatzlaff, R.K. Green, D.C. Ling, Cross-tenure differences in home maintenance and appreciation, *Land Economics* 74 (1998) 328-342.

<sup>44</sup> Y.M. Ioannides, Residential neighborhood effects. *Regional Science and Urban Economics* 32 (2002) 145-165.



**CITY COUNCIL MEETING OF  
FEBRUARY 26, 2014  
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION  
BY MEMBERS OF THE GOVERNING BODY**

<b>Mayor David Coss</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Patti Bushee</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Chris Calvert</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
Ives Rivera	AN ORDINANCE RELATING TO A COMMERCIAL GREEN BUILDING CODE; ADOPTING, BY REFERENCE, THE INTERNATIONAL GREEN BUILDING CODE RELATED TO COMMERCIAL CONSTRUCTION AND ADOPTING AMENDMENTS TO SUCH CODE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY.	Public Utilities Committee - 5/7/14 Public Works Committee - 5/12/14 City Council (request to publish) - 5/28/14 City Council (public hearing) - 6/26/14
Ives Rivera	A RESOLUTION ADOPTING ADMINISTRATIVE PROCEDURES FOR THE SANTA FE COMMERCIAL GREEN BUILDING CODE ("CGBC").	Public Utilities Committee - 5/7/14 Public Works Committee - 5/12/14 City Council (scheduled) - 6/26/14
<b>Councilor Bill Dimas</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
<b>Councilor Carmichael Dominguez</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>



<b>Councilor Peter Ives</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	AN ORDINANCE RELATED TO THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987; AMENDING SUBSECTION 9-3.4 TO ESTABLISH REQUIREMENTS FOR CANDIDATES TO REIMBURSE THE PUBLIC CAMPAIGN FINANCE FUND WHEN A POLITICAL COMMITTEE OR INDEPENDENT EXPENDITURE GROUP HAS ENDORSED AND MADE EXPENDITURES SUPPORTING THE ELECTION OR DEFEAT OF AN IDENTIFIABLE CANDIDATE.	Ethics and Campaign Review Board – City Council (request for hearing) – 3/26/14 City Council (public hearing) – 4/30/14
	A RESOLUTION DIRECTING STAFF TO INTERVENE IN CASE #13-00390-UT THAT IS CURRENTLY BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION – IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL TO ABANDON SAN JUAN GENERATING STATION UNITS 2 AND 3, ISSUANCE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR REPLACEMENT POWER RESOURCES, ISSUANCES AND ACCOUNTING ORDERS AND DETERMINATION OF RELATED RATE MAKING PRINCIPLES AND TREATMENT.	Finance Committee – 3/17/14 City Council (scheduled) – 3/26/14
<b>Councilor Chris Rivera</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>

<b>Councilor Ron Trujillo</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>
	A RESOLUTION DIRECTING STAFF TO COLLABORATE WITH LOCAL YOUTH SERVICE AGENCIES AND EMERGENCY SHELTERS TO EXPLORE THE OPTIONS FOR ESTABLISHING A “SAFE PLACE” PROGRAM THAT WOULD BENEFIT YOUNG PEOPLE WHO ARE IN CRISIS IN THE SANTA FE COMMUNITY.	Public Safety Committee – 3/18/14 Finance Committee - 3/17/14 City Council (scheduled) – 3/26/14
<b>Councilor Rebecca Wurzbarger</b>		
<b>Co-Sponsors</b>	<b>Title</b>	<b>Tentative Committee Schedule</b>

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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2014-\_\_\_\_\_**

**INTRODUCED BY:**

Councilor Peter Ives

**A RESOLUTION**

**DIRECTING STAFF TO INTERVENE IN CASE #13-00390-UT THAT IS CURRENTLY BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION – IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL TO ABANDON SAN JUAN GENERATING STATION UNITS 2 AND 3, ISSUANCE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR REPLACEMENT POWER RESOURCES, ISSUANCES AND ACCOUNTING ORDERS AND DETERMINATION OF RELATED RATE MAKING PRINCIPLES AND TREATMENT.**

**WHEREAS**, the City of Santa Fe is committed to limiting the creation of greenhouse gasses 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, Resolution Numbers 2009-45, 2011-17, 2012-12, 2013-12, and 2013-12, among others); and

**WHEREAS**, the City of Santa Fe purchases nearly \$3 million dollars of electricity and related services from the Public Service Company of New Mexico (PNM) each year; and

*Exhibit "21"*

1       **WHEREAS**, electricity costs account for nearly five percent of the City of Santa Fe Water  
2 Division's operating budget, and any increases in electric costs are passed onto City water customers;  
3 and

4       **WHEREAS**, in the interest of the health, safety and welfare of the residents of the city of  
5 Santa Fe, the Governing Body desires to intervene in Case #13-00390-UT.

6       **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
7 **CITY OF SANTA FE** that the Governing Body hereby directs staff to intervene in Case #13-00390-  
8 UT that is currently before the New Mexico Public Regulation Commission – In the Matter of the  
9 Application of the Public Service Company of New Mexico for Approval to Abandon San Juan  
10 Generating Station Units 2 and 3, Issuance of Certificates of Public Convenience and Necessity for  
11 Replacement Power Resources, Issuances and Accounting Orders and Determination of Related Rate  
12 Making Principles and Treatment, and to engage outside counsel to represent the City's interest  
13 before the PRC

14       PASSED, APPROVED, and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

15  
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17 ATTEST:

\_\_\_\_\_  
DAVID COSS, MAYOR

18  
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20 YOLANDA Y. VIGIL, CITY CLERK

21 APPROVED AS TO FORM:

22  
23  
24 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

25 *M/Melissa/Resolutions 2014 /PNM Rate Case Intervention*

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2014-\_\_\_\_\_**

3 **INTRODUCED BY:**

4  
5 Councilor Ronald Trujillo

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10 **A RESOLUTION**

11 **DIRECTING STAFF TO COLLABORATE WITH LOCAL YOUTH SERVICE AGENCIES**  
12 **AND EMERGENCY SHELTERS TO EXPLORE THE OPTIONS FOR ESTABLISHING A**  
13 **"SAFE PLACE" PROGRAM THAT WOULD BENEFIT YOUNG PEOPLE WHO ARE IN**  
14 **CRISIS IN THE SANTA FE COMMUNITY.**

15  
16 **WHEREAS, "Safe Place"** is a national youth outreach program that educates thousands of  
17 young people each year about the danger of running away or trying to resolve difficult, threatening  
18 situations on their own; and

19 **WHEREAS, the mission of "Safe Place"** is to provide access to immediate help and  
20 supportive resources for all young people in crisis through a network of sites sustained by qualified  
21 agencies, trained volunteers and businesses; and

22 **WHEREAS, the easily-replicated "Safe Place"** initiative involves the whole community to  
23 provide safe havens and resources for youth in crisis; and

24 **WHEREAS, "Safe Place"** creates a network of "Safe Place" locations — schools, fire  
25 stations, libraries, grocery and convenience stores, public transit, YMCAs and other appropriate

1 public buildings – that display the yellow and black diamond-shaped Safe Place sign; and

2 **WHEREAS**, such locations extend the doors of the youth service agency or emergency  
3 shelter throughout the community; and

4 **WHEREAS**, young people in our City are valued and are more likely to seek help in places  
5 that are familiar and designated as “Safe Place” locations; and

6 **WHEREAS**, young people in crisis in our City could access immediate help and supportive  
7 resources on a nondiscriminatory basis through a network of sites from trained volunteers.

8 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
9 **CITY OF SANTA FE** that staff is directed to collaborate with local youth service agencies to  
10 explore the options for establishing a “Safe Place” program that would benefit young people who are  
11 in crisis in the Santa Fe community.

12 **BE IT FURTHER RESOLVED** that within six months of adoption of this resolution, staff  
13 shall report their findings to the Governing Body. Such findings shall include the fiscal impact for  
14 establishing a “Safe Place” in Santa Fe.

15 PASSED, APPROVED, and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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18 DAVID COSS, MAYOR

19 ATTEST:

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21 \_\_\_\_\_  
22 YOLANDA Y. VIGIL, CITY CLERK  
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APPROVED AS TO FORM:

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KELLEY A. BRENNAN, INTERIM CITY ATTORNEY