City of Santa Fe

Agenda

REGULAR MEETING OF
THE GOVERNING BODY
MARCH 12, 2014
CITY COUNCIL CHAMBERS

CITY CLERK'S OFFICE
DATE 3/7/2014 TIME 4:20p
SERVED BY
RECEIVED BY

AFTERNOON SESSION – 5:00 P.M.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. APPROVAL OF CONSENT CALENDAR
8. APPROVAL OF MINUTES: Reg. City Council Meeting – February 26, 2014
9. PRESENTATIONS
10. ORGANIZATIONAL SESSION

    a) EXECUTIVE SESSION:

        1) In accordance with the New Mexico Open Meetings Act §10-15-1(H)(2) NMSA 1978, Discussion Regarding Limited Personnel Matters, Amendment Extending the Term of the May 29, 2013 Contract of Brian K. Snyder as City Manager. (Kelley Brennan)

        2) In accordance with the New Mexico Open Meetings Act §10-15-1(H)(2) NMSA 1978, Discussion Regarding Limited Personnel Matters, Appointment of Yolanda Y. Vigil as City Clerk. (Kelley Brennan)

    b) Request for Approval – Amendment Extending the Term of the May 29, 2013 Contract of Brian K. Snyder as City Manager .

    c) Request for Approval of Appointment of Yolanda Y. Vigil as City Clerk.

    d) APPOINTMENT OF MAYOR PRO-TEM

    e) APPOINTMENT OF PARLIAMENTARIAN (NO VOTE REQUIRED)

f) APPOINTMENT OF CITY COUNCIL COMMITTEES

11. CONSENT CALENDAR

a) 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 at February 26, 2014 City Council Meeting) **(Postponed to March 26, 2014)**

12. Legislative Update. (Mark Duran)

13. MATTERS FROM THE CITY MANAGER

14. MATTERS FROM THE CITY ATTORNEY

15. MATTERS FROM THE CITY CLERK

Canvass of Election Results – March 4, 2014 Regular Municipal Election

16. COMMUNICATIONS FROM THE GOVERNING BODY

EVENING SESSION – 7:00 P.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. SALUTE TO THE NEW MEXICO FLAG

D. INVOCATION

E. ROLL CALL

F. PETITIONS FROM THE FLOOR

G. APPOINTMENTS

H. PUBLIC HEARINGS:

1) Request from Marble Brewery for a Small Brewers Off-Site A Liquor License to be Located at Marble Brewery Tap Room, 505 Cerrillos Road, Unit A105. (Yolanda Y. Vigil)

2) Request from Palace66, 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 Chez Mamou, 217 E. Palace Avenue, Which is Within 300 Feet of The Cathedral Basilica of Saint Francis of Assisi, 131 Cathedral Place and the New Mexico School for the Arts, 275 E. Alameda Street.

   b) If the Waiver of the 300 Foot Location Restriction is Granted, a Request from Palace66, LLC for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only) to be Located at Chez Mamou, 217 E. Palace Avenue.

3) Request from Santa Fe Café, 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 Santa Fe Café, 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 Location Restriction is Granted, a Request from Santa Fe Café, LLC for a Transfer of Ownership and Location of Inter-Local Dispenser License #2746 from El Camino NM, LLC, dba El Camino Cantina, 122 Paseo del Pueblo Sur, Taos, to Santa Fe Café, LLC, dba Santa Fe Café, 228 E. Palace Avenue.

4) Request from the National Dance Institute of New Mexico for a Waiver of the 300 Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcoholic Beverages at the NDI Dance Barns, 1140 Alto Street, Which is Within 300 Feet of Aspen Community Magnet School, 450 La Madera. (Yolanda Y. Vigil)

5) **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)

6) Presentation and Public Hearing Regarding PRC Case #13-00390-UT – 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. (Nick Schiavo).

a) 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. (Councilor Rivera, Councilor Dimas, Councilor Calvert, Councilor Dominguez, Councilor Trujillo and Councilor Bushee) **(Postponed at February 26, 2014 City Council Meeting)**

b) CONSIDERATION OF RESOLUTION NO. 2014-____. (Councilor 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.

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.

MINUTES OF THE
REGULAR MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
March 12, 2014

AFTERNOON SESSION

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Javier M. Gonzales, on Wednesday, March 12, 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 Javier M. Gonzales
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera
Councilor Ronald S. Trujillo

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

6. APPROVAL OF AGENDA

Councilor Dominguez asked, on the Evening Agenda, to sever Items 6(a) and (b), and create a new Item #7 from Item 6(b).

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

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

7. APPROVAL OF CONSENT CALENDAR

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

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

a) **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 at February 26, 2014 City Council Meeting) (Postponed to March 26, 2014)**

This item is postponed to the City Council meeting of March 26, 2014.

8. APPROVAL OF MINUTES: REGULAR CITY COUNCIL MEETING – FEBRUARY 26, 2014.

MOTION: Councilor Bushee moved, seconded by Councilor Dominguez, to approve the minutes of the Regular City Council meeting of February 26, 2014, as presented.

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

9. PRESENTATIONS

There were no presentations

10. ORGANIZATIONAL SESSION

A copy of *City Council Appointments*, March 2014, is incorporated herewith to these minutes as Exhibit "1."

a) EXECUTIVE SESSION

1) **IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(2) DISCUSSION REGARDING LIMITED PERSONNEL MATTERS, AMENDMENT EXTENDING THE TERM OF THE MAY 29, 2013 CONTRACT OF BRIAN K. SNYDER AS CITY MANAGER. (KELLEY BRENNAN)**

2) **IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT §10-15-1(H)(2) NMSA 1978, DISCUSSION REGARDING LIMITED PERSONNEL MATTERS, APPOINTMENT OF YOLANDA Y. VIGIL AS CITY CLERK. (KELLEY BRENNAN)**

MOTION: Councilor Dimas moved, seconded by Councilor Rivera, in accordance with the New Mexico Open Meetings Act §10-15-1(H)(2) NMSA 1978, to go into Executive Session for discussion regarding limited personnel matters, (1) an amendment extending the term of the May 29, 2013 contract of Brian K. Snyder as City Manager; and (2) the appointment of Yolanda Y. Vigil as City Clerk.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

The Governing Body went into Executive Session at 5:10 p.m.

MOTION: At 5:40 p.m., Councilor Bushee moved, seconded by Councilor Rivera, to come out of Executive Session, and stated that the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None

b) **REQUEST FOR APPROVAL - AMENDMENT EXTENDING THE TERM OF THE MAY 29, 2013 CONTRACT OF BRIAN K. SNYDER AS CITY MANAGER.**

MOTION: Councilor Ives moved, seconded by Councilor Dimas, to approve the amendment extending the term of the May 29, 2013 contract of Brian K. Snyder as City Manager, in accordance with the discussion in the Executive Session.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

c) **REQUEST FOR APPROVAL OF THE APPOINTMENT OF YOLANDA Y. VIGIL AS CITY CLERK.**

MOTION: Councilor Ives moved, seconded by Councilor Dimas, to approve the appointment of Yolanda Y. Vigil as City Clerk, in accordance with the discussion during the Executive Session.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

d) **APPOINTMENT OF MAYOR PRO-TEM**

Mayor Gonzales appointed Councilor Peter N. Ives to serve as Mayor Pro-Tem.

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve the appointment of Councilor Peter N. Ives as Mayor Pro-Tem.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

e) **APPOINTMENT OF PARLIAMENTARIAN (NO VOTE REQUIRED)**

Mayor Gonzales said Councilor Peter N. Ives will continue to serve as the Parliamentarian.

MOTION: Councilor Bushee moved, seconded by Councilor Trujillo, to approve the appointment of Peter N. Ives as Parliamentarian.

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

f) **APPOINTMENT OF CITY COUNCIL COMMITTEES**

Mayor Gonzales made the following appointments to City Council Committees:

1) **FINANCE COMMITTEE:**

Councilor Carmichael Dominguez, Chair
Councilor Ron Trujillo
Councilor Joseph Maestas
Councilor Signe Lindell
Councilor Christopher Rivera

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

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

2) **PUBLIC WORKS/CIP & LAND USE COMMITTEE:**

Councilor Ronald S. Trujillo, Chair
Councilor Carmichael Dominguez
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Bill Dimas

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

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

3) **PUBLIC UTILITIES COMMITTEE:**

Christopher M. Rivera, Chair
Councilor Joseph M. Maestas
Councilor Patti J. Bushee
Councilor Peter N. Ives
Councilor Bill Dimas

MOTION: Councilor Trujillo moved, seconded by Councilor Lindell, to approve these appointments..

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

4) **BICYCLE AND TRAILS ADVISORY COMMITTEE**

Patti J. Bushee, Chair.

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

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

5) **BUCKMAN DIRECT DIVERSION BOARD**

Councilor Joseph M. Maestas
Councilor Carmichael Dominguez
Mayor Javier M. Gonzales, Alternate

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

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

6) **CITY BUSINESS AND QUALITY OF LIFE COMMITTEE**

Councilor Signe I. Lindell, Chair
Councilor Peter N. Ives, Vice-Chair

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

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

7) COMMUNITY DEVELOPMENT COMMISSION

Ronald S. Trujillo, Chair

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

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

8) MAYOR'S YOUTH ADVISORY BOARD (CITY COUNCIL LIAISON – NON-VOTING)

Councilor Ronald S. Trujillo

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

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

9) PUBLIC SAFETY COMMITTEE

Councilor Bill Dimas, Chair

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

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

10) REGIONAL JUVENILE JUSTICE BOARD

Councilor Bill Dimas

MOTION: Councilor Maestas moved, seconded by Councilor Trujillo, to approve this appointment.

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

11) REGIONAL TRANSIT DISTRICT

Councilor Patti J. Bushee

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

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

12) SFMPO TRANSPORTATION POLICY BOARD

Councilor Signe I. Lindell
Councilor Patti J. Bushee
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives, Alternate

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

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

13) SOLID WASTE MANAGEMENT AGENCY JOINT POWERS BOARD [SWMA]

Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Bill Dimas

MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to approve these appointments.

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

14) TRANSIT ADVISORY BOARD (not required to have a Councilor)

15) WATER CONSERVATION COMMITTEE

Councilor Peter N. Ives, Chair

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to approve this appointment.

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

12. LEGISLATIVE UPDATE (MARK DURAN)

Mark Duran congratulated the newly elected Mayor, Javier Gonzales and Councilors Signe Lindell and Joseph Maestas, along with re-elected Councilors Ron Trujillo and Carmichael Dominguez, on the very very special inauguration ceremony on Monday night. He said it had a very special aura, and the emotion was special. He said he looks forward to working with this Governing Body.

Mark Duran presented information from his Memorandum of February 21, 2014, which is in the Council packet. Please see this Memorandum for specifics of this presentation.

Mr. Duran said overall the City was very successful, commenting we may want to discuss how to establish priorities for next year. He thanked Brian Snyder and Celeste Valentine for their outstanding support. He gave a tremendous thank you to our local Legislative delegation as well, for their work on Santa Fe issues..

The Governing Body commented and asked questions as follows:

- Councilor Dominguez thanked Mr. Duran for the report, for his hard work, and for keeping him in the loop via email during the session to update him on what was happening. He thanked the local Legislative delegation as well. He asked Mr. Duran to talk about HB-16, the Liquor Tax distribution to the DWI grant fund, which he understands was approved.

  Mr. Duran said it was passed and signed by the Governor. He said last year, the City's package proposed to move forward with a local option alcohol tax, but it didn't get it passed. He said one of the by-products of the failure, was that Representative Carl Trujillo introduced a bill after its defeat to appropriate more of the alcohol tax funds to go to the DWI grant fund. He introduced the same legislation this year, and it was tough getting it through House Appropriations, but we were able to get it done with Representative Varela's help, so this bill was a reconciliation of what was supposed to occur originally.

- Councilor Dominguez asked if we "bumped" the General Fund and what was the percentage of increase.

Mr. Duran said HB-16 will incrementally increase funds to the prevention programs, through a long schedule over a number of year. They changed it from a one time appropriation in FY 2015, and spread it over a number of years.

- Councilor Maestas said as you know, we need to make sure we fully obligate any existing capital outlay funds allocated to the City. He asked if that has been done – are there any stale, unobligated capital project funds from past projects.

  Mr. Duran said we always have the opportunity to include projects in the reauthorization bill during the Legislature for any stale project funds. He said the current and former City Manager and staff, Isaac Pino and David Chapman work with DFA in this regard.

  Mr. Duran noted we received more than $1 million for senior centers across the City in capital outlay, so the City got about $2.3 million in capital outlay. He said the Airport, the shade structures and other two projects were in HB 55 which is Severance Tax bond funds, and those bonds will be issued in May-June 2014, and then we will receive those funds. The money for senior facilities is general obligation bond funds which will go to the voters for approval in November, and if approved, those bond proceeds will be available in January 2015. He said the City has done a very good job spending funds for projects, and we have had no reauthorization, so the City has no stagnant projects.

- Councilor Maestas said there could be stagnant projects in other local governments, and those funds can be reauthorized by the Legislature. He said capital outlay funds are at a premium, and we should pull out all stops to find stale funds and get it reauthorized for the City, and not be subject to veto by the Governor.

- Councilor Maestas said municipal tax reform is a big issue, and now is the time for us "to be bold and think big about this and strive for comprehensive reform." He said the City should get going on a comprehensive, aggressive tax reform package for cities. He said instead of focusing solely on hold harmless, he wants to think bigger, get the New Mexico Municipal League ("NMML") on board to support a broader tax reform package. He said perhaps the counties might be interested in going along with us as well.

  Councilor Bushee asked if we know what the County is going to do in terms of implementing GRT increments, and said she thinks should try for collaboration on that.

  Mr. Duran said he is unaware if the County has plans to implement any of the tax increments. He said he would imagine the County is taking a "wait and see," attitude. He thinks 2015 will be a big year since it is a 60-day Session. He said the idea of the NMML was to get short term fixes and then to work on something much bigger and broader in the next 60-day session.

- Councilor Bushee would like the NMML and Association of Counties to "pow wow" on this, noting the tax reform is a significant issue for both entities. She spoke with Representative Carl Trujillo who told her that Representative Jim Trujillo was introducing a bill to reinstate some of the hold harmless distribution language, but that went nowhere. She believes we have to go forward with tax reform "top to bottom." She said it would be good for our Finance team, the Association of Counties and NMML to talk with us, and perhaps hold a study session to talk about the direction we should go in this regard.

- Councilor Ives thanked Mark Duran for the work he does on behalf of the City at the Legislature, and to the Legislative delegation for its support and continued efforts on behalf of the City.

- Councilor Ives asked if there was any consideration given to parity in the legislation as to how funds will be distributed. He said we need to pay close attention in the next Session with an eye to ensuring those funds are coming back to the City for the programs which are so critical.

- Councilor Trujillo thanked Mr. Duran for his work at the Legislature. He asked, with regard to the appropriation for shade structures, if there were restrictions on how the money is spent.

  Mr. Duran said the language in the ICIP was the language with which they moved forward in obtaining capital outlay funds. He said, "Whatever language is in there, either the flexibility or restraint in regard to that money."

  Mr. Snyder said there is no specific designation for deposit of these funds, but he will work with Parks and Recreation to get the designated areas of focus.

- Councilor Trujillo asked if there were stipulations on the kinds of vehicles which can be purchased with the funds for senior centers.

  Mr. Duran there are stipulations, and there is a process followed by the New Mexico Aging and Long Term Services Department, noting it is a more strict structure, and they match the money with specific types of vehicles, where the vehicles will be, etc.

- Councilor Rivera echoed our thanks to our Legislative delegation, as well as to Mr. Duran, noting Mr. Duran spends long hours, even weekends during the Session. He said it is good to have a familiar face representing the City throughout the process, commenting he is sure City staff was involved as well to testify at committee hearings. He said, "Thanks to everyone that was involved, and for your hard work."

- Mayor Gonzales said, as suggested by Councilors Bushee and Maestas, we need to discuss a working group among ourselves with regard to developing a more focused and strategic tax reform at the Legislature. He said we need to get a working group within City Hall to determine where we want to go, and Mr. Duran being a part of that group to suggest what we can accomplish in the 60-day Session. He said a lot is about expanding the tax base, and looking at ways to look at

personal income versus some of the shared GRTs. We have to come up with a roadmap of what we believe we need, and from there begin to build coalitions around the State – Las Cruces, Albuquerque and other cities. He wants to develop an interim strategy for going forward, and hopefully the NMML is part of that. He asked Mr. Snyder to help develop the structure.

Responding to the Mayor, Mr. Duran said the Legislative Interim Committees will be meeting in May, so we need something by May.

- Councilor Maestas said the NMML policy development process begins this summer, and he would suggest a more robust concurrent process of our own as well, and to work through the NMML policy development process to see if we can make some helpful changes to support the City's overall strategy.

- Councilor Bushee said Las Cruces is working on a strategy and we might collaborate with them.

Mayor Gonzales said we probably need one of the City's attorneys to staff the working group, and asked Ms. Brennan to work with Mr. Snyder in this regard to make a recommendation, and he will start setting some time to get this done. He believes it would beneficial to invite Senator Wirth to the early session who has some ideas on this, along with other legislators who have interest in this regard.

13. MATTERS FROM THE CITY MANAGER

There were no matters from the City Manager.

14. MATTERS FROM THE CITY ATTORNEY

There were no matters from the City Attorney.

15. MATTERS FROM THE CITY CLERK

A copy of the Canvass of Election Results for the March 4, 2014 Regular Municipal Election, entered for the record by Yolanda Y Vigil, is incorporated herewith to these minutes as Exhibit "2."

Canvass of election results – March 4, 2014 Regular Municipal Election.

Yolanda Y. Vigil, City Clerk, entered the canvass of election results into the record [Exhibit "2"]. She noted the numbers changed slightly from those on Election night, because there were some hand-counted and tallied ballets, as well as one ballot in lieu of an absentee ballot.

MOTION: Councilor Maestas moved, seconded by Councilor Dimas, to approve the official Canvass of the election results for the March 4, 2014 Regular Municipal Election, as presented.

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

16. 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 March 12, 2014, is incorporated herewith to these minutes as Exhibit "3."

Councilor Dimas

Councilor Dimas introduced a Resolution authorizing the establishment of a LEAD Policy Committee and LEAD Case Coordination Subcommittee to ensure the efficient and ethical operations of the LEAD Santa Fe Program. A copy of the Resolution is incorporated herewith to these minutes as Exhibit "4."

Councilor Dimas congratulated the Santa Fe High Demonettes for winning their first game last night in the State Tournament, noting at one time he coached the Demonettes. The Demonettes will be playing tomorrow morning at 9:45 a.m. against Valencia, and wants to see everyone at the game to support the Demonettes.

Councilor Dimas said "Go Lobos," noting they play tomorrow at 8:30 p.m. on CBS, Channel 221 in the Mountain West Tournament in Las Vegas, Nevada.

Councilor Dimas thanked the Mayor for allowing him to stay in the same seat in the Council Chambers.

Councilor Maestas

Councilor Maestas said he has no bills to introduced, but he wants to say he is glad to be a part of the team. He is hearing incredible words, such as team, open door access. He has met some of the City staff. He said this is where the "rubber meets the road," and is excited to do his part, work hard and work with the Councilors. He said this Council isn't concerned about District boundaries, and want to provide seamless services to our citizens, which he also wants to do. He said he is excited to be working with an exciting new Mayor, and this truly is a new era in the History of Santa Fe, and said we're going to move the City forward together.

Councilor Bushee

Councilor Bushee asked to be a cosponsor of Councilor Dimas' LEAD Resolution.

Councilor Bushee said, although she won't be introducing the bill tonight, she will be working with Councilor Lindell on a single stream source on recycling. She said the draft report will be going to the Public Utilities Committee soon.

Mr. Snyder said he understands that Lawrence Garcia, Interim Division Director, received the report last week, is in the process of reviewing the report and will be coming before the Public Utilities Committee in April.

Councilor Bushee would like an update, suggesting she, Councilor Lindell and Mr. Schiavo can sit and discuss where are on the three initiatives she brought forward, a few months back. She requested a copy of the draft report.

Councilor Ives

Councilor Ives said he would echo the remarks about the excitement of moving forward with the Council on the City's business, and is truly looking forward to doing that. He appreciates Mayor Gonzales' vote of confidence in him to act as his Pro-Tem, and will do his best to live up to that confidence, and always acting on behalf of the best interests of the people of Santa Fe..

Councilor Dominguez

Councilor Dominguez thanked Yolanda Vigil and staff for the latest campaign cycle, and all City employees for "hanging in there." He said transition is tough, but the employees need to continue to be patient, but they will be moving forward.

Councilor Dominguez said it is time to Redistrict, and in light of the Charter Amendment which was approved, he is introducing a Resolution relating to the redistricting.

Councilor Dominguez introduced an Ordinance relating to redistricting; creating a new Section 6-18 SFCC 1987, to establish an Independent Citizens' Redistricting Commission; amending the Santa Fe Election Code, Section 9-1 SFCC 1987, to require that the Independent Citizens' Redistricting Commission shall review and revise the City of Santa Fe District boundaries at least every ten years; and making such other changes as are necessary.

Councilor Dominguez said he is okay with the Finance Committee meeting on March 17, 2014, but has no problem in adjusting the date if necessary.

Councilor Dominguez welcomed the new Mayor, and congratulated him in getting things done, and to continue the energy he brings. He congratulated the newly elected and re-elected Councilors, and looks forward to working with them. He said, "My motto is to try to be hard on issues, but soft on people, so if I get a little hard on people, just bop me over the head and remind me about that." He hopes to have some spirited conversations and to continue to work hard.

Councilor Lindell

Commissioner Lindell had no communications.

Councilor Trujillo

Councilor Trujillo introduced the following:

an Ordinance relating to Tournament Fees and Adult League Fees at the MRC and City sports fields; amending Subsection 23-4.12 SFCC 1987 to establish Tournament Fees, amend the Adult League Fees and to include Youth League requirements to be consistent with Subsection 23-7.5 SFCC 1987; amending Section 23-7.5 SFCC 1987, to establish Tournament Fees and to amend the Adult League Fees; and making such other stylistic and grammatical changes that are necessary. A copy of the Ordinance is incorporated herewith to these minutes as Exhibit "5."

Councilor Trujillo said he wants to make it clear that this Ordinance has nothing to do with Youth League Fees, and is strictly about the Adult Leagues.

Council Trujillo thanked Yolanda Vigil and staff for the great job on the election, as usual. He said he looks forward to working with the newly-elected Councilors, saying, "it's going to be fun." He said, "Mayor, I look forward to the next four years.

Councilor Rivera

Councilor Rivera congratulated Mayor Gonzales and the newly-elected Councilors, and welcomed them aboard, as well as a welcome back to reelected Councilors Dominguez and Trujillo. He thanked Yolanda Vigil and her staff for their hard work, saying the seamlessness of the election proved that. She is doing a great job as always, and "keep it up." He congratulated Councilor Ives on being appointed as Mayor Pro-Tem. He thanked Mayor Gonzales for allowing him to be a part of the ceremony on Monday.

Mayor Gonzales

Mayor Gonzales thanked all of the Councilors, commenting that the spirit and mood is exciting, as well as in true partnership to move the City forward. He looks forward to working alongside each of the Councilors. He said, "I occupy a place on the org. chart, but I view all of us being equal in leading the City, and I look forward to your contributions as we go forward in addressing many of the challenges." He thanked Yolanda Vigil for a job well done. He said it is incredible how she ran the election, as well as Monday night, which was very memorable for him and his daughters and family. He thanked her for making it very very special. He thanked Mr. Snyder for the past two days, and for doing his best to see that he gets caught up.

Mayor Gonzales said he has asked Brian Snyder to help him arrange a series of brown bag lunches with employees around the City, to go on a listening tour and spend some times with employees to hear their ideas on things we can do better, challenges they feel we have, and just wanting to be able to listen to some of their concerns and ideas.

Mayor Gonzales said he also is going to try to find time to go out with the PD, Fire Department and solid waste collectors, to go on the front lines to see what the employees are dealing with daily.

Mayor Gonzales said he will be putting together an Energy Task Force to develop an energy strategy for the City, commenting we need to take our Sustainability Plan to the next level, especially when it comes to energy, and will be visiting with the Councilors individually to get that underway.

Mayor Gonzales said he also will be developing an Education Task Force to focus on how we can align the City concurrently with the schools, Santa Fe University and the Santa Fe Community College. One of the things he worries about is the Santa Fe University and Community College beginning to offer degrees which compete with one another. We need to make sure there is no duplication of degrees, and the degrees they are producing are being mapped into our community.

Mayor Gonzales will be developing a jobs council and an economic development committee, and he will work with Councilor Lindell in forming that. He said the idea is to start bringing more citizens into the process of developing strategies and plans in the area of the environment, education and the economy. He will be working within those committees through each of the individual structures to adopt Resolutions and Ordinances, if needed. The idea is to start elevating the discussion in each of these critical areas. He will be asking the Councilors where their "passion" is to serve in these areas and to help lead the discussion and bring forward the solutions that we know will help make us a better City.

END OF AFTERNOON SESSION AT APPROXIMATELY 6:25 P.M.

EVENING SESSION

A. CALL TO ORDER AND ROLL CALL

The Evening Session was called to order by Mayor Javier M. Gonzales, at approximately 7:00 p.m. Following the Pledge of Allegiance, salute to the New Mexico Flag, and Invocation, Roll Call indicated the presence of a quorum as follows:

Members Present
Mayor Javier M. Gonzales
Councilor Patti J. Bushee
Councilor Bill Dimas
Councilor Carmichael A. Dominguez
Councilor Peter N. Ives
Councilor Signe I. Lindell
Councilor Joseph M. Maestas
Councilor Christopher M. Rivera

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

Donato Coviello thanked the Mayor for talking with him yesterday. He said he remembers the small conversation about personal responsibility, and he was moved then and now by the Mayor's acknowledgment about a citizen not relying on government, and doing things that are needed. He said he is bringing a pie to the Governing Body because, Friday, March 14, 2014, is Pi Day, noting the previous Mayor and the Governor proclaimed Pi Day. He said additionally, both houses of the Legislature unanimously passed Resolution for Pi Day New Mexico. He said in Santa Fe and New Mexico, we have the best arts and science and love to share food. He said Pi Day was started 40 years at the Exploratorium in San Francisco. The natural play on words of Pi and Pie come together in this celebration. He said the younger generation acknowledge Pi Day from education from the math class in grammar school, celebrating Einstein's birthday on March 14th. He spoke about how Pi Day is celebrated in Denver, Atlanta, all of which benefit charitable organizations. He said this year they are partnering with local restaurants to donate a pie and the money raised goes directly to the Food Bank, noting the celebration will be on Friday at Cerletti Park. Mr. Coviello presented the Governing Body with a homemade, prize winning hot vegetable pie in honor of Pi Day.

Stephanie Beninato said it appropriate there are so many people in the audience that care about PNM and its lack of alternative energy us, and those who ran encouraging solar use and the development of alternative energy. He said 25% of the City's building have solar on them, unfortunately there is a lot of waste of energy. She said the air conditioning has been running at the pool area at Salvador Perez pool since February, which is a total waste of energy. It is freezing in the pool area. She spoke with Liz Roybal who said she is having difficult getting the physical plant people to change the settings. She doesn't believe it is difficult to turn a thermostat on and off. The vents to the roof at Genoveva Chavez have been stuck open, and it is freezing. They have been able to close the vents and it is now very hot in there. She said she is more concerned about the intense cold in the pool area at Salvador Perez, and asked the Governing Body to help Ms. Roybal by having someone in the physical plant do something about it.

David Weiniger said he applauds the Council for making the rule about encouraging reusable bags, and he has been using goat-feeding bags which are sturdy and handy, and presented a bag to the Mayor and each of the Councilors. Mr. Weiniger thanked the school students who came to encourage the Council in this regard. He said, "It's the right thing to do." He said it makes Vera and himself proud to live in Santa Fe.

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

1) REQUEST FROM MARBLE BREWERY FOR SMALL BREWERS OFF-SITE A LIQUOR LICENSE TO BE LOCATED AT MARBLE BREWERY TAP ROOM, 505 CERRILLOS ROAD, UNIT A105. (YOLANDA Y. VIGIL)

DISCLOSURE: Councilor Maestas said, "In consultation with our City Attorney, Ms. Brennan, I want to disclose that I have an interest in a family business that owns an inter-local dispenser liquor license in Espanola that is currently for sale. As a result, I will be recusing myself from voting on any inter-local license transfer request until the family license is sold, since there is some possibility that that outcome of this body's vote may affect the value of the family license. I will also be recusing myself from any discussion this body may have about inter-local licenses generally. Since Item H(3) on tonight's agenda includes an inter-local license transfer request, I will recuse myself from both Items H(3)(a) and (b)."

The staff report was presented by Yolanda Vigil, City Clerk, from her memorandum of March 6, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet, noting the business is not within 300 feet of a church or school. She noted there are staff reports in the packet regarding litter, noise and traffic. Staff is recommending this business be require 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, "We have restrictions on the sale of alcohol in the south side of town, but we have no kind of alcohol distribution plan in and around the downtown. And just the items here on tonight's agenda show again there is more and more alcohol availability downtown. I know it is a tourist district, but there are people like myself who are residents who go downtown and use downtown. I see a lot of single shot bottles down there. I see broken glass from beer bottles down there. There's not enough police presence. If we're going to have all this alcohol available at restaurants, then I'm going to ask that the City, at least, consider having more police presence, and really that they start looking at how many liquor licenses really are in the downtown and how many that we really want in the downtown. Thank you."

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Ives, to approve the request from Marble Brewery for a Small Brewers Off Site A Liquor License to be located at Marble Brewery Tap Room, 505 Cerrillos Road, Unit A105, with all conditions as recommended by staff.

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

For: Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Absent for the vote: Councilor Bushee.

Mayor Gonzales noted the public approved the ability for the Mayor to vote on all items, but that won't go into effect until May 5th, so he won't be able to vote on all items before the Council until that time.

Councilor Bushee arrived at the meeting

2) **REQUEST FROM PALACE66, LLC FOR THE FOLLOWING: (YOLANDA Y. VIGIL)**

a) **PU8RSUANT 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 CHEZ MAMOU, 217 E. PALACE AVENUE, WHICH IS WITHIN 300 FEET OF THE CATHEDRAL BASILICA OF SAINT FRANCIS OF ASSISI, 131 CATHEDRAL PLACE AND THE NEW MEXICO SCHOOL FOR THE ARTS, 75 E. ALAMEDA STREET.**

b) **IF THE WAIVER OF THE 300 FOOT LOCATION IS GRANTED, A REQUEST FROM PALACE 66, LLC FOR A RESTAURANT LIQUOR LICENSE (BEER AND WINE ON-PREMISE CONSUMPTION ONLY) TO BE LOCATED AT CHEZ MAMOU, 217 E. PALACE AVENUE.**

The staff report was presented by Yolanda Y. Vigil, from her memorandum of March 6, 2014, with attachments, to Mayor Gonzales and City Councilors, which is in the Council packet. She noted there are is a letter in the packet from the Reverend Lee Ortega y Ortiz of The Cathedral Basilica of St. Francis of Assisi stating they have no opposition to the request. She said the applicant has contacted the New Mexico School for the Arts but has not received a letter stating their position on this request. She said in the packet there are staff reports regarding litter noise and traffic. Staff is recommending 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 she has the same comments as she had previously, and additionally, it would seem the City could save an enormous amount of time getting waivers by going to the Legislature get the State to change the law regarding the 300 foot rule regarding churches, because the waivers are granted routinely, and the churches generally don't seem to be too bothered by the waivers.

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Bushee, to grant the request for a waiver of the 300 foot location to allow the sale of alcoholic beverages at Chez Mamou, 217 E. Palace Avenue, with conditions as recommended by staff.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None..

MOTION: Councilor Trujillo moved, seconded by Councilor Dimas, to grant the request from Palace 66, LLC, for a Restaurant Liquor License (Beer and Wine On-Premise Consumption Only), to be located at Chez Mamou, 217 E. Palace Avenue.

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

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

Against: None.

Absent for the vote: Councilor Maestas.

3) **REQUEST FROM SANTA FE CAFÉ, 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 SANTA FE CAFÉ, 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 LOCATION RESTRICTION IS GRANTED, A REQUEST FROM SANTA FE CAFÉ, LLC, FOR A TRANSFER OF OWNERSHIP AND LOCATION OF INTER-LOCAL DISPENSER LICENSE #2746 FROM EL CAMINO NM, LLC, D/B/A EL CAMINO CANTINA, 122 PASEO DEL PUEBLO SUR, TAOS, TO SANTA FE CAFÉ, LLC, D/B/A SANTA FE CAFÉ, 228 E. PALACE AVENUE.**

The staff report was presented by Yolanda Vigil, City Clerk, from her memorandum of March 6, 2014, with attachments, which is in the Council packet. She noted the business 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. She noted 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 from Kenneth Semon, President of the Episcopal Church of the Holy Faith, 311 E. Palace Avenue. She said the applicant has contacted the New Mexico School for the Arts but has not received a letter stating their position on this request. She said there are staff reports in the packet regarding litter noise and traffic. Staff is recommending 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 she would make the same statement for Item H(4), so she won't have to be sworn again. She feels the City needs an alcohol distribution plan City-wide, and not just on one side of town, and there needs to be a change in the 300 waivers for the churches. She said it is unfortunate that the New Mexico School for the Arts hasn't weighed-in on this issue.

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Lindell, to grant the waiver of the 300 foot location restriction to allow the sale of alcoholic beverages at Santa Fe Café, 228 E. Palace Avenue, with all conditions as recommended by staff.

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

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

Against: None.

Recused: Councilor Maestas.

MOTION: Councilor Dimas moved, seconded by Councilor Trujillo, to approve the request from Santa Fe Café, LLC, for the transfer of ownership and location of inter-local Dispenser License #2746, from El Camino NM, LLC, d/b/a El Camino Cantina, 122 Paseo del Pueblo Sur, Taos, to Santa Fe Café, LLC, d/b/a Santa Fe Café, 228 E. Palace Avenue, with all conditions recommended by staff.

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

Against: None.

Recused: Councilor Maestas.

4) **REQUEST FROM NATIONAL DANCE INSTITUTE OF NEW MEXICO FOR A WAIVER OF THE 300 FOOT LOCATION RESTRICTION AND APPROVAL TO ALLOW THE DISPENSING/CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE NDI DANCE BARNS, 1140 ALTO STREET, WHICH IS WITHIN 300 FEET OF ASPEN COMMUNITY MAGNET SCHOOL, 450 LA MADERA. (YOLANDA Y. VIGIL)**

The staff report was presented by Yolanda Vigil, from her memorandum of March 6, 2014, with attachments, which is in the Council packet. She noted there is a letter in the packet from Danny Pena, Principal at Aspen Community Magnet School, stating there is no opposition to this request. Ms. Vigil said there is also a letter in the packet from Carl Gruenier, Santa Fe Public Schools, stating the Schools will refrain from issuing a decision regarding opposition or non-opposition to this request.

Public Hearing

There was no one speaking for or against the request.

The Public Hearing was closed

MOTION: Councilor Dimas moved, seconded by Councilor Rivera, to grant the waiver of the 300 foot location restriction and approval to allow the dispensing/consumption of alcoholic beverages at the NDI Dance Barns, 1140 Alto Street.

DISCUSSION: Councilor Dominguez said this is the second time the Santa Fe Public Schools have not given us a determination of their position on the licenses..

Ms. Vigil said it has been more than 1-2. She said over the past 1½ years, the Schools have not taken a position in favor of or against these requests.

Councilor Dominguez asked that this be indicated in the record.

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

5) **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)**

A Memorandum prepared March 6, 2014 for the March 12, 2014 Council meeting, with attachments, from Kelley Brennan, Interim City Attorney and Zachary Shandler, Assistant City Attorney, in this matter, is incorporated herewith to these minutes as Exhibit "6."

A series of photographs of the subject site, entered for the record by David Rasch, is incorporated herewith to these minutes collectively as Exhibit "7."

A hand drawn map of the subject site, entered for the record by Zachary Shandler, is incorporated to these minutes as Exhibit "8."

A matrix of the site, which includes *Current Bridge, Application and With Conditions*, in this matter, entered for the record by Zachary Shandler, is incorporated to these minutes as Exhibit "9"

A copy of *HDRB PROPOSED SITE PLAN Passenger Vehicle Street Analysis*, entered for the record by Erik Martinez, is incorporated herewith to these minutes as Exhibit "10."

Two color photographs of the subject site, entered for the record by Erik Martinez, are incorporated collectively herewith to these minutes as Exhibit "11"

A copy of the Memorandum, Exhibit "6," which has been highlighted by Karl Sommer, attorney for Historic Guadalupe Association, entered for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "12."

A copy of the relevant definitions section of ADA Chapter 1: Application and Administration, of the Americans with Disabilities Act, entered for the record by Karl Sommer, is incorporated herewith to these minutes as Exhibit "13."

A copy of *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations – Final Report and Recommended Guidelines*, FHWA Publication Number HRT-04-100, September, 2005, U.S. Department of Transportation, Federal Highway Administration, regarding Pedestrian and Bicycle Safety, entered for the record by Lenny Kenyon, is incorporated herewith to these minutes as Exhibit "14."

A copy of *Public Information Meeting, Defouri and Guadalupe Street Bridges Project*, Project #MAP 7649 (901) Control #L500056, January 31 2013, The Louis Berger Group, Inc., entered for the record by Suby Bowden, is incorporated herewith to these minutes as Exhibit "15."

DISCLOSURE: Councilor Trujillo said, "Before we get into any discussion on this, I just want to let it be known that between the years of 1992 and 2002, I did work for the Bridge Maintenance Section of the New Mexico Department of Transportation which oversees all bridges throughout New Mexico, and

from the years of 2002 to 2005, I oversaw all MAP projects through the New Mexico Department of Transportation that pertains to what's going to happen here, but I no longer work in those departments, so there is no conflict of interest. I just wanted this to be stated."

Questions by the Governing Body Prior to the Public Hearing

- Councilor Bushee said she is unfamiliar with any other situation where the City staff has appealed a decision of the Historic Districts Review Board [HDRB]. She asked Mr. Shandler if he is aware of any other such case.

  Mr. Shandler deferred to the City Attorney, since he has been here only a short time.

  Ms. Brennan said, "I'm not familiar with one. I will say that for a long time, you may recall, that the Department of Public Works did not take City projects to the Historic Districts Review Board. More recently, they have, and they do have the authority under the State law and our Ordinance to appeal."

- Councilor Bushee asked which particular staff is bringing this appeal forward.

  Mr. Shandler said, "It is the City Public Works Department."

- Councilor Bushee asked, "No person, just the Department."

  Mr. Shandler said, "That's my understanding, yes. And staff has also told me that approximately 6-7 years ago, there was a similarly situated appeal regarding a particular wall, I believe on Paseo de Peralta."

- Councilor Bushee said there is further recourse for people to take things to District Court, and asked if that would be under the powers of the Public Works Department.

  Ms. Brennan said, "Yes, although that action would have to be authorized by the Governing Body."

- Councilor Bushee said, "This particular action does not need the authority of the Governing Body to allow them to appeal."

  Ms. Brennan said no.

Staff Report

Zach Shandler, Assistant City Attorney, presented the staff report in this case, from his Memorandum prepared March 6, 2014 for the March 12, 2014 meeting of the Governing Body, and Exhibit "9". Please see Exhibit "6" and "9" for specifics of this presentation.

Mr. Shandler described the appeals process under the administrative procedures in Resolution No. 2011-24. Mr. Shandler said, "Since this is a *quasi judicial* proceeding, the public must be sworn in, and since it is an appeal based on the record, all comments should be limited and focused on the two issues that were appealed. The issues on appeal are set out fully in Exhibit "6."

Mr. Shandler said David Rasch is here for technical purposes only, and if you have questions about policy, the Public Works methodology and their plans, those need to be directed to Erik Martinez.

David Rasch and Erik Martinez were sworn.

Councilor Dominguez asked if what they have right now is a side mounted rail or a top mounted rail, commenting "It's a side mounted rail isn't it."

Mr. Shandler said, "Correct, currently it is a side mounted rail. If the Interim City Attorney wants to make sure that my record is perfectly clear, the City Code requires 5 feet and the ADA is 4 feet, but that can be relaxed down to the ADA of 4 feet."

Councilor Maestas said he works with the federal government, and knows there's a process in which, as a condition for governments to receive federal funding, they have to self certify that they are in compliance with certain federal laws, including the ADA. He asked the consequences of non-compliance with the ADA. He said he is sure the City has a condition for receiving federal funds, of any kind, and to self certify its compliance. He asked Mr. Shandler to briefly discuss the consequences of non-compliance with the ADA, and why our City is relaxed from ADA requirements.

Mr. Shandler said Mr. Martinez would like to talk about this first, and then he'll fill in, in terms of the requirement.

Mayor Gonzales said Mr. Martinez can answer Councilor Maestas' question, "then a question from Councilor Bushee, and we will then go to Mr. Martinez's testimony."

Erik Martinez, Public Works Department, was sworn. Mr. Martinez said, "Under our funding agreements with the DOT, they do rely on the federal requirements as minimums. In our research, what we found is that the current federal minimum for sidewalk width is 48 inches or 4 feet. The current City Code requires 5 feet, so our current Code exceeds the federal minimum. In the part of the City Code that Mr. Shandler pointed out, it indicates that the Governing Body has the authority to look at innovative street designs, and that is the section of the Code that would allow the Governing Body to approve a 4 foot sidewalk width, and I hope that answers your question a bit."

Councilor Bushee said, "So that we're clear, is it still in the works that we're going to have a separate pedestrian and/or bicycle bridge or crossing nearby this bridge crossing, this automobile bridge crossing."

Mr. Martinez said currently, that hasn't been determined, noting another project is in the works studying the Santa Fe River Trail from St. Francis Drive to Don Gaspar. This idea is in the 1995 Santa Fe River Corridor Master Plan.

Councilor Bushee understands there have been recent presentations, with Brian Drypolcher as the staff person, who represented there would be a crossing, and asked "how far away from the Defouri Street Bridge Crossing, at least in the proposed plan, it is."

Martinez said the "Corridor Master Plan actually shows that bridge in the vicinity of the Defouri Street Bridge on the western side. It crosses from the sidewalk along Alameda southeasterly to the Defouri Bridge, along that corner, along Alto Street. Again, a master plan isn't a dictate. It's an idea that we will investigate and vet through the same public process."

Councilor Bushee said she understands there is funding in place for the pedestrian crossing.

Mr. Martinez said that funding was made available as part of the voter approved General Obligation Bond for Parks and Trails.

Councilor Bushee said, On the chart, there is an additional western sidewalk of 5 feet, and with that in the plan from Public Works, the entire 41feet encompassed the 5 foot sidewalk that was rejected by the H-Board, is my understanding. And that 5 foot sidewalk was how we were going to then have bicycles and pedestrians cross the actual Defouri Street Bridge."

Mr. Martinez said the original plan is part of the Defouri Street Bridge getting through the 5 foot sidewalk as presented. "And that's where the difference within the H-Board's decision came in, is they rejected that."

Councilor Bushee said, but the appeal is trying to put the sidewalk back.

Mr. Martinez said, "That's right, in accordance with City Code."

Councilor Bushee said, "I just want to be clear. There is a proposed pedestrian crossing very nearby for bicycles and foot traffic. And your plan will include a 5 foot sidewalk on the western side of the Defouri Street Bridge that would be initially proposed for bikes and pedestrians."

Mr. Martinez said that is correct, it is part of the current proposal.

Councilor Lindell said, "Councilor Bushee asked you the distance that that crossing was from the current DeFouri Bridge, and I didn't hear your answer on that."

Mr. Martinez said, "It is somewhere in the vicinity of the western side of Defouri Bridge, I don't have a specific distance. It's in the vicinity of the southwestern corner of the Bridge between Defouri and Alto Street. That's where the Master Plan represents that crossing, and there's not a specific design or distance that we know of to date."

Mayor Gonzales asked Mr. Rasch to move forward with his testimony, any new or relevant information.

Presentation by David Rasch, Historic Preservation Division

David Rasch welcomed the new Mayor, and said he looks for his guidance in future years. He said, with the technical difficulty with the overhead, he handed out black and white images [Exhibit "7"] of what he was going to show on the overhead in color.

Mr. Rasch said, "If you look at Item A, this is an aerial photograph of the vicinity, and you notice this cross shaped thing on the street with the dots, that is the applicable streetscape to which the H-Board wants to make sure that any structures harmonize. The bridge is just south of that cross center. That is where the Defouri Street Bridge is. So the streetscape along Defouri is 600 feet to the south. You see that it crosses Agua Fria and it dead ends in front of a building. And then east/west, it goes 600 feet in both directions. And on the eastern side, you notice that it does also include the intersection of Guadalupe and Alameda. So, therefore, the Guadalupe Street Bridge is also within this applicable streetscape. You can see, just by the aerial photographs, that the Guadalupe Street Bridge is quite significantly larger than the Defouri Bridge."

Mr. Rasch continued, "I also wish I could show you the color, because if you look at the southwest section of the applicable streetscape, which I'm pointing to now, the buildings along that street frontage, are the front of this Alto/Agua Fria neighborhood, and you'll hear a lot about this. But those buildings along that street frontage are significant or contributing historic buildings, and in the following photographs, you'll notice there's also not a sidewalk in that location. It's a very different part of the streetscape than the remainder of the applicable streetscape."

Mr. Rasch continued, "Items B and C, those are side photographs of the existing bridge. You'll notice that the understory of the Bridge is hand-hewn rock, and the upper section is cast concrete. Therefore, that is why staff did not think that bridge had enough historic integrity and recommended non-contributing status. Once you look at Item D and E, you're looking at the streetscape. Item D is standing in that dead end north road, looking south across the bridge. As you look at the bridge on your left side, you see the yellow public notice. Where the stop sign is, is the right side of the bridge, on Item D. And the left side, you notice the bridge has a wider sidewalk, and beyond the bridge, by the Guadalupe Church there is also a wide sidewalk there. Notice on the right side of the bridge by the stop sign, that sidewalk is very narrow, and then further up the street is where those significant and restored buildings are, that lack of sidewalk."

Mr. Rasch continued, "Item D, you're looking north across the bridge toward the dead end where we just were. On your left side, notice there's no sidewalk. You also have that very narrow sidewalk on the bridge. On the right side, we have a nice wide sidewalk on the bridge, and then behind us, the sidewalk next to Guadalupe Church."

Mr. Rasch continued, "The staff did recommend non-contributing status for the bridge. The Board disagreed, and made it a contributing structure. So therefore Public Works is required to get an exception to demolish the contributing bridge. Staff recommended approval of the exception request. The H-Board granted the exception request. So really, from Historic staff"s point of view, the issue of contention is the new design of the bridge, although Public Works is also contesting the contributing status."

Councilor Maestas said the City adopted a complete streets philosophy, which is meant to be a context sensitive application to street design. It is meant to find a happy medium with the community character, and the function and safety of it. He heard a term "innovative street design," as an exception to our standards. He asked, "Can you explain what relation, if any, this has to the complete streets principles that this Governing Body has adopted, and should we be speaking the same language. Am I missing something here."

Mr. Shandler said, "Under City Code, there is language which says, '*To better achieve the intent of Section 14-9.2, which are the demonstrative illustrations of what streets should look like and sidewalks, the Governing Body may consider and approve innovative street design that are not included among the street types and street sections shown or describe in 14-9.2, that provide adequate pedestrian and bicycle facilities as well as necessary transit facilities.*' Mayor, members of the Council, I'll probably have to defer to Mr. O'Reilly if he is able to answer that question. Mr. Martinez then, go ahead Mr. Martinez."

Mr. Martinez said, "Yes, our MPO, Metropolitan Planning Organization, has adopted a complete streets philosophy in designing our street network, and I guess simply, what that means is all users are included and considered in the design of that transportation system that we're designing. So pedestrians, bicyclists, motorists are inclusive in that process. It's a little bit separate in a way from the context sensitive design approach, but that's part of what we consider in looking at different options for street design, including City Code and the like. There are constraints that limit what we can do, whether it be right of way, utilities, adjacent buildings, infrastructure, that limit us in our options. In the case of the Defouri Bridge, we are not limited by those options. So we basically have the ability to look at all users on all sides of the street, within the street, for this particular structure."

Councilor Trujillo said, "This hearing is technically saying, it's not about demolishing it right. What I just heard now, with the way the H-Board said it, we can demolish it. It's dealing with what they're going to building. I just want that clear right now, right."

Mr. Shandler said both parties agree the bridge should be demolished.

Councilor Rivera said he has heard discussions about an additional pedestrian bridge. He asked if we know how close the current pedestrian bridge is from the Defouri Street Bridge now.

Mr. Shandler said, "Currently there is a pedestrian bridge that spans the Santa Fe River in the area, at Closson Street. It's further west of Defouri Street. The pedestrian bridge discussed earlier is not yet built. It's proposed in the Master Plan, in the area between Campo and Defouri Street in the vicinity of the bridge."

Councilor Rivera asked how far the Closson Street pedestrian bridge is from the site we're considering.

Mr. Martinez said he doesn't have that information and doesn't know.

Councilor Bushee said, "The Closson Street bridge may be fine for pedestrians that are well bodily able, but it's a zig-zag thing, you can't heft your bike across it. It's not really a great pedestrian or bicycle crossing.

Councilor Rivera said he understands, and was trying to determine the distance between the two right now. He asked the cost differential between improving the Closson pedestrian crossing, versus designing, constructing and putting a completely pedestrian bridge near the Defouri Bridge.

Mr. Martinez said they haven't looked at this yet.

Presentation by Public Works Department, Appellee

Mr. Martinez said Desirae Lujan is passing out some illustrations to the Councilors [Exhibits "10" and "11"]. He thanked the Mayor and Governing Body for hearing the testimony today.

Eric Martinez, Director, Roadway and Trails Engineering Division, Public Works Department, introduced Desirae Lujan, Project Engineer, and Rich Rotto, Engineer, Lewis Berger Group, the Engineer of record for the project, and with whom the City contracted project designs. He noted the City Attorney has summarized the regulatory issues quite well [Exhibit "6"]. He wants to touch quickly on the 3 important technical issue about the Historic Board's design recommendations.

Mr. Martinez said, "The first has to do with a side mounted rail system, which inevitably helps reduce the overall width of the bridge. Engineers don't take lightly stamping engineering designs that are not up to current standards. So in the case of bridge railings, there are two distinct engineering standards. One being the use of a crash-worthy bridge rail is required, and that the minimum rail height for rails in an urban environment for pedestrian and bicycle safety is 42 inches."

Mr. Martínez continued, "Now projects such as these, rely upon the New Mexico DOT's approved rail systems which do meet current standards. And it's sort of a menu of choices, if you will. And one may ask, well why can't an Engineer just design a special rail system in this case, and the short answer is that with that design, it requires a lot of testing, an incredible amount of funds and time to analyze its crash-worthiness, so that's why we rely on this already pre-approved menu from the DOT."

Mr. Martinez continued, "So, although the DOT does have a side mounted, approved rail design, it is only 36 inches high. So it lends itself to more rural environments, but not for urban use where we have pedestrians and bicycles. Our engineer, Mr. Rotto went a step further in his research and looked nation-wide at rail systems, and spoke with transportation officials in other states. And we could not find a side mounted rail system that would accommodate our needs on this particular bridge. So we did a lot of research and background in trying to locate something to move this effort forward."

Mr. Martinez continued, "The second technical issue about the Historic Board's decision, is that there are some fundamental traffic operation and safety issues. In your handout [Exhibit "10"] is a trending analysis of passenger cars turning off Alameda onto Defouri Street. If you look closely on the upper right portion of that page, this represents a design without a sidewalk and with only a rail on the western side of the bridge. There is a dashed line which represents a swift vehicle path, that is very close to the end of the bridge rail, so the operation of that type of design could result in a vehicle potentially clipping that rail. The next diagram shows a vehicular path with the proposed sidewalk in place, the illustration with the two shaded gray areas on both sides of the bridge. This illustrates that, with the sidewalk, it provides a sufficient buffer to keep vehicles from getting close to the bridge rail. So, from a traffic and operational safety standpoint, that is the better option."

Mr. Martinez continued, "So lastly, the Board's recommended design also would result in different elevations of the bridge rail on either side. So if you look at the following illustration that has a section view of the bridge before, and then with the Historic Board's recommendations, it shows one bridge rail higher than the other. It's an esthetic thing, and it may not be significant, but it's worth mentioning. The more important thing to note, like Zach mentioned, is that our funding agreement with the DOT terminates at June 30, 2014. So it is important to try to maintain our critical path in developing this project, and ensure the City utilizes every dollar of funds which were granted to the City."

Mr. Martinez continued, "So lastly, if the Governing Body wishes to proceed with staff recommendations, and reduce both sidewalks to 4 feet, as the Legal analysis discusses, staff feels this would be an acceptable compromise. We respect the Governing Body's decision as to how it decides to proceed, and we stand for more questions, if you have any."

Mayor Gonzales asked the project cost.

Mr. Martinez said, "We are estimated the actual structure to be roughly $500,000, but that inevitably could increase as we get into more of the fundamental and detail of design. Those are some rough numbers of just the bridge, not including ancillary costs such as traffic control.

Mayor Gonzales asked the source of funds for the bridge.

Mr. Martinez said the City has a State grant of $150,000, for which we have to provide a match of $50,000. He said, "We spent a portion of that currently. In order to get reimbursed for the full portion, we have to continue with our design. It's on a reimbursement basis, so the City has to spend money first, and then we get reimbursed for what we expend later."

Mayor Gonzales asked, "If it is approved tonight, what is the timeline to complete design and go to construction."

Mr. Gonzales said, "Currently, we're trying to get this design sufficiently wrapped-up to meet the June deadline. Conceivably, we could go out to bid in late summer or early fall, if the funds are sufficient to award a construction project. We are actively looking for more funds to be able to fill any shortfall that we might project as we start projecting as we start estimating in more detail."

Councilor Dominguez said, "I have heard two things. One is that your proposal meets City Code. And also, because of some technical engineering safety issues, that this is being brought forward. Is it primarily because we want to comply with City Code, or is it because of the safety issues."

Mr. Martinez said, "It's all of the above. We want to make sure we're complying with our engineering guidelines, City Code, and that what we are designing is safe and operated as intended."

Councilor Dominguez said you also said the City Code exceeds a federal requirement, and Mr. Martinez said that is correct.

Councilor Dominguez said, "If we meet the federal requirement, you still wouldn't be able to resolve the safety issues that you've identified."

Mr. Martinez said, "By providing sidewalks on both sides we would be able to resolve that operation and safety issue."

Councilor Dominguez asked it that would meet City Code.

Mr. Martinez said, "With the 4-foot sidewalks on each side that the government could allow."

Public Hearing

Mayor Gonzales gave each person 2 minutes to speak to the issue.

All persons speaking were sworn *en masse*.

Chris Benson, Don Quoxite, said he is in favor of the appeal, and he understands the complexity of the issues on both sides, and the desire to maintain the integrity of the architecture and the sale of the City. He is the parent of two boys and his concern is with the safety of our thoroughfares, particularly for children. One of his sons was run over by a truck while he was riding his bicycle in downtown Santa Fe two years ago. One of the reasons that happened is that there is a great deal of traffic going through this relatively small City at a fairly high clip. It is difficult to find equally navigable thoroughfares for pedestrian and bicycle use. One of the nice things about this bridge is that it forms a pathway from the South Capital Area to the pedestrian and bicycle trail, the River Trail, along the Alameda. He feels the bridge itself isn't historically significant, is not a beautiful or impressive artifact of Santa Fe's history, rather it is a functional bridge built fairly recently, and the City's desire to improve it and make it more safe and navigable is commendable, and he wants to speak in favor of that.

Karl Sommer, P.O. Box 2476, Santa Fe, representing the Historic Guadalupe Association, said they will have several presenters and have narrowed it to 5 so people aren't repeating themselves and others. 5 of them will speak to various aspects of the application. Mr. Sommer distributed Exhibits #12 and #13. He said he will need more than the allocated time, and will try to keep his presentation as short as possible.

Mr. Sommer said, "I'm going to go over the overview of this decision, point out to you some of the discrepancies which have been put in front of you by staff, related to illegal requirements, and then I'll turn it over to Lenny who is with our group. You are here tonight on a very serious matter for this town, and that is, it is the goose that lays the golden egg. It is the character of this town as to its history, and not just from style and the way it looks. Our Ordinance, your Ordinance, and what makes this town special is that we believe that the character of this town is important."

Mr. Sommer continued, "And we've passed Ordinances, in a Historic Preservation Ordinance and a Styles Ordinance, both of which are implicated in this case. You can trust the Historic Design [Districts] Review Board to make determinations under your Historic Preservation Ordinance, and that is to whether an item, structure or feature of the downtown is historically important and their criteria. And Mr. Rasch has pointed out to you that a contributing structure doesn't have to have all the characteristics, but it has to have some elements that are important. And the Design [Districts] Review Board has struck the perfect balance. They have not told Public Works, you can't take this bridge down. They have not said you can't do what you want to do completely. They would like to take the bridge down."

Mr. Sommer continued, "The Historic Design [Districts] Review Board recognizes it needs to be fixed, but they said let's follow the process. What is the process. First question, is this a contributing, or significant or non-contributing structure. They made a determination based on the age and characteristics of this bridge. And they said, yes it's important. What were the items they said were important. That it is narrow, and that feature of this bridge is enough to make it contributing, because that is a vital

characteristic of this particular District. Narrow streets. So they said, okay, we find it contributing, but we'll let you take it down if you ask for exception, if you maintain the element that we're talking about that is important."

Mr. Sommer continued, "What happened at Public Works wasn't, let's see what the regulations say, and see if we have to design something. They designed the bridge some time ago, and then they came forward and asked how we make it work under our ordinance. That is backwards, and anyone that has done work with the City, knows you go and say, what are the regulations. And then you say, is this is a contributing structure. They struck the perfect balance. They said, we're going to follow our process, follow the designation and let you do what you need to do which is replace the bridge, but you must, you must maintain that element which is important to this District and that is the width of this bridge, as well as the style."

Mr. Sommer continued, "So, they struck a perfect balance and in front of you tonight is the question of, one, is it contributing in your opinion, because that is being appealed. And you must ask yourself the same question they asked. We hope that you will find that this is characteristic of this District. If you find that it's contributing, then the process says that the H-Board, and you all, apparently have the ability affect it's design. Let's go a little bit through that."

Mr. Sommer said, "I've handed out to you, two interesting documents. The first one is the Memo for tonight from staff [Exhibit "12"], the second one are the regulations from the ADA [Exhibit "13"]. This was to be before you at the last meeting, and it got tabled [postponed] as you know. Before that meeting, I met with the City Attorney's Office and I met with Zach Shandler. And I said, hey there's this discussion about the SHPO, which is the State Historic Preservation Office, and you all have skipped over that in your Memo, and I said, I'm just bringing it to your attention so you can address it."

Mr. Sommer continued, "Well they did address it and I've highlighted for you in this Memo, the red blocks, those are my blocks. Those are the additions to the memo from the last meeting. You have new arguments tonight from staff. Lets go through them, because they don't address the singular issue that I raised specifically. If you got to Page 3, you'll see Items, 3,4,5,6 and on the next page 7. Those are arguments that were not in the previous memo, and most of them deal with money. Money at the back end of a project that was designed before they looked at the regulations. That is not a basis for your decision either as to whether this structure is contributing, or two, whether the imposition of the condition is not allowed. And I ask you to look at each one of those carefully, and you will see they don't go to this argument."

Mr. Sommer continued, "The second element which is really important and which is new. You hear tonight for the first time, Public Works budged on their design. We're now down to 4 feet on the sidewalk. If you look at the way this was designed, the first argument made is City Council, your Ordinances say that the width of roads got to look like this, and they went through all of the pictures. There isn't one picture that has a 14 foot lane with 5 foot sidewalks. These lanes are 14 feet wide. Why are they 14 feet wide, because they need to be 14 feet wide from a safety standpoint. That is the addition

that City staff wanted, and then they took from other elements of that and added 5 foot sidewalks on 14 foot lanes. There is no diagram in the City's Ordinance that says you have to have 14 foot lanes with 5 foot sidewalks."

Mr. Sommer continued, "And you know what we have tonight for the first time, is an innovative design project. That's what we heard for the first time tonight, and that's in paragraph... it says, 'In accordance with the Code provisions, only the Governing Body has the authority to approve innovative street design for a City street project like the project.' That's never been brought in front of you. You weren't asked about this innovative street design until tonight. You weren't asked about whether 14 feet with 5 foot sidewalks, which is not shown in the project pictures and the City Code was approvable by you. That cafeteria approach to design is not allowed by Code. What the Code requires and federal law requires, is once you determine a structure in a District like this is historic."

Mr. Sommer continued, "And if you look at the definitions on page 2, this is right out of the ADA. They cited these regulations, they said, well all right, if you look at the first one, this is clearly a facility because it's a route for vehicles, right, so we're talking about a facility. You go to the next definition, you ask yourself, well what is a qualified historic building. In the first memo they gave you last time, they said this doesn't qualify for the National Historic Register. That's not the question. The question is whether or not it has been as historic under appropriate local law. This bridge has been designated contributing under our Historic Preservation Ordinance as a historic structure, therefore, this section of the ADA applies. If it applies, the State Historic Preservation Office has to make a call. And that call is, in the modifications and in this case, it's the complete disruption, are you preserving the element that is important historically. That call has not been made, but we know that it's not being preserved. We know the bridge is wider and that the Historic Design Review Board has said, we want you to preserve that."

Mr. Sommer continued, "In summary, I know I've been long, let me just summarize. The process that the Board followed is required by law, they struck the perfect balance and they came to a conclusion that allows Public Works to do what they need to do, which is replace the bridge. The second thing is, the design that you're being told must be done, doesn't have to be done. They've taken a cafeteria approach to the design in the first place, now they're telling you, oh we can go to 4 feet. Well, why not one sidewalk on one side. This is an innovative project design, it's approvable by you. Why not."

Mr. Sommer continued, "And what you got handed out tonight for the first time, these drawings have not been put out in the public before. No one has had an opportunity to analyze the safety requirements. And I ask you to look at it critically. I'm not an engineer, I know that you're an engineer, I know that you're a lawyer, so you have an excuse. Look at this critically and ask yourself, is that the only design. I can draw an arc and show a car going into the side of the bridge with any design I want, and I can put it on a piece of paper say, you know, we must do this to avoid an accident."

Mr. Sommer continued, "Well this is the first time we've seen it."

Mayor Gonzales asked Mr. Sommer to wrap up.

Mr. Sommer said, "I will. If you move this gray block up, you solve the problem. I'm not a design engineer, but I'm telling you there's more than one solution. I thank you very very much for your time."

Mayor Gonzales said Mr. Sommer said there would be additional individuals to speak, and asked if they are all in order.

Mr. Sommer said they are in order.

Mayor Gonzales said, "I'm going to ask the individuals following Mr. Sommer to please, we're going to be strong on the two minutes, so make sure you present additional information that he did not present."

Dwayne Moncheski, 533 Alto, said his comments are in regard to public safety. He said, "The whole point of replacing this bridge is to increase public safety. However, the City's plan to add a second 5 foot sidewalk on the west side of the bridge is unsafe. It will create a dangerous situation for pedestrians, the handicapped and anyone using that sidewalk, and it is unnecessary. Let me explain. At the intersection of Defouri Street and Alameda, there is a stop sign. This is where we would logically want pedestrians and the handicapped who are heading south toward the Church or the Railyard, to cross Defouri Street, which they must do at some point to get to the only usable sidewalk on Defouri, which is on the east side paralleling the church. By creating an ADA compliant sidewalk on the west side of the bridge, we would encourage pedestrians coming from the west to turn onto the bridge and cross on the west side, then when they get to Alto Street, they will need to cross Defouri at one of the two corners of Alto and Defouri to get to the only sidewalk, and that is alongside the Church."

Mr. Moncheski continued, "Obviously, there is much greater risk of an accident at a crossing where there is no stop sign. Furthermore, coming from the south, Defouri Street goes downhill steeply, right before that intersection, so the drivers can't see what's going on in the intersection until they are almost upon it. If a driver from either direction has to stop for a pedestrian, traffic will back up either on the bridge or on Defouri. Another dangerous situation. For the bridge to be as safe as possible, we need to go with the H-Board plan and have only one ADA compliant sidewalk on the east where there is a stop sign at Alameda. Pedestrians will cross Defouri Street there, because the only alternative on the west would be to cross the bridge by walking or rolling on the street."

Lenny Kenyon, Alto Street, said, "What I wanted to do is, I brought pictures for the overhead, oops, so I'll try to pass them onto you. But what I wanted to do is to show you pictures of the context of what this bridge is and how the neighborhood operates, and how a lot of our regulations really can't apply because of the physical limitations of the neighborhood being as old as what it is."

Mayor Gonzales asked Ms. Kenyon to please pass out the pictures.

Ms. Kenyon said, "Yes, I'll show them to you and then I'll pass them on."

STENOGRAPHER'S NOTE: There was only one copy of the color photographs, which Ms. Kenyon gave, one at a time to the Governing Body to pass around, and the photographs were never entered for the record.

Ms. Kenyon said, "This one block away from the bridge. This is the corner of Alto and Closson, and as you see, we have a very nice ADA ramp that cannot cross the corner, because there's no sidewalk on the corner and can't make it pass the utility pole that's in the middle of the sidewalk. So this is an example of a very good idea, a very good regulation, but it's really not exercisable in the neighborhood. This is the actual intersection of the bridge. You can see another ADA ramp, and that sidewalk ends there at Defouri Street, so the only way to go is up Alto Street and that sidewalk is too narrow for wheels traffic. The other thing to note is that there is a sidewalk on 'this' side of Alto Street, however it goes a very short distance."

Ms. Kenyon said, "This distance goes into the bottleneck which narrows to one lane of traffic, so about where the van is illegally parked, it narrows to the point that it will force wheeled pedestrians into the middle of the road. And in the middle of the bottleneck, all pedestrians are in the road, because there literally is no sidewalk left. So the proposal to put the sidewalk 'here,' on the edge of the bridge doesn't serve a particularly good purpose, because we refer it to as the ADA sidewalk to nowhere. You will either cross the street to where no sidewalk exists, or you'll turn a corner and take a sidewalk to a limited amount of time and then you'll be thrown into the street. So I don't see that it's really going to serve the purpose it's intended to."

Ms. Kenyon continued, "One of the things that I wanted to talk about, and I'll move as quickly as possible is the intersection that 'Dwayne' had talked about, is an uncontrolled intersection. It's really not controlled by any lights or stop signs. And the federal highway administration did a public study in 2005 that studied uncontrolled intersections and the nature of the safety and the crash hazards to pedestrians. And one of the conclusions it had is it attempts to mitigate the hazards to pedestrians by putting in crosswalks, did not specifically change any of the factors. In other words, it made no change in the crash risks or pedestrian accidents."

Rick Martinez, 725 Mesilla Road, said he doesn't live in the neighborhood, but he is here as a pedestrian and a bicyclists. He did attend the meeting on the River Trail which is being proposed on site, and the pedestrian/bicycle trail bridge is being located about 50 yards just west of the Defouri Bridge, and it comes onto the south end of Defouri bridge. He said, "I went there the other day with my bike, parked it there, and the length of the bridge, as it is now, is still going to be 41 feet. And so I sat there on my bicycle, trying to cross, no cars stopped for me. You put someone there on a very very busy pedestrian trail that we're building there, and put somebody in the middle of the road, they're not going to have time, especially when you put a wider bridge there. We're asking for trouble if we're looking at it that way. I

think if we're looking at designing a trail right there, especially at the south end of the Defouri Bridge, we're really asking for trouble with that. I'm here also on the part of the Neighborhood Network, and the quality of life is very important, the character of the neighborhood is important, as it is with every neighborhood in town. Look at Richards Avenue, you don't want to see that road open up to that. That's going to change their whole quality of life there too. You always want to look at the quality of the neighborhood at the same time. You want to make sure you protect that quality of the neighborhood the best you can. This is a big precedent, because they brought up Delgado Street Bridge, and if Delgado Street goes, we're going to have a big fight again. And this sets a precedent of what happens in the future. I hope you guys uphold the H-Board's decision, and really look at the pedestrian/bicycle trail, because I think it's really asking for trouble there.

Suby Bowden, Architect and Planner working in the Guadalupe District for 29 years, so she works with regulations and codes every day. She said, "And I believe that both of your departments are properly directing you today. And I do believe there is a compromise before you, which has been included in two handouts to the public that I'll present to you in just a moment. Public Works is properly following health, safety and welfare regulations and being concerned about large trucks crossing over sidewalks when they make big swings. The H-Board is proper in telling you this the only remaining narrow bridge in the City of Santa Fe. We have Brother's Bridge which is pedestrian only, and if you go to the end of Acequia Madre where it touches Canyon Road, we have extremely narrow roads. What has not been discussed tonight... we've discussed ADA, but what has not been discussed is the ADA has a Historic Preservation Code. It is specifically for historic districts. It allows you the right to make changes based on continuing continuity of history. I have not sat with the H-Board, and sat with Public Works to pull out the direct clauses, but it does give you options."

[STENOGRAPHER'S NOTE: Later in the meeting, Ms. Bowden provided a copy of the report of the public information meeting regarding the Defouri and Guadalupe Street Bridges project, prepared by the Louis Berger Group, Inc., for the record [Exhibit "15"].

Ms. Bowden continued, "In that regard, there are many questions tonight about the bike bridge and its proximity. So if you go to this public information package presented by the Louis Berger Group in Public Works on January 31, 2013, presented again at the Historic Styles Board. In the first time, you will find an example of the El Parque Del Rio Master Plan. And what I basically did was use my pen, and I looked at the scale of the distance between the Defouri Bridge and the new Pedestrian Bridge. It's the equivalent to walking across Guadalupe Street at Alameda. Short distance. It does give you, therefore the option, if you choose to not have a second sidewalk, the combination of the proximity of the new bicycle and pedestrian bridge, the distance across Guadalupe, and it could give you the right, therefore, through the ADA Preservation Sidewalk to not have a second sidewalk if you pursue that further. However, I think the Public Works Department is correct. There are large trucks coming in and out of this precisely because Public Works has chosen to narrow roads all through the Guadalupe District. They have raised bumper curbs between lanes all the way down Guadalupe. And in that process, a lot more traffic is going down Defouri. I think it's fundamental to our problems right now. Because people coming out of the Church on

Sunday can no longer go to Guadalupe and turn left toward the River. We could always reopen that again. It would take less traffic off Defouri that currently is heavily loaded every Sunday for the Church. And the Church is sort of the silent party here that has a heavy pressure on widening this bridge."

Ms. Bowden continued, "However, my last comment is, this is the only package I have, but I'll pass it out to you, is if you go to the proposed alternatives by Louis Berger, one of the largest road planners in our State, they gave us Concept 1, and Concept 1 is your compromise. Concept 1 gives you two 12-foot lanes, not 14 foot lanes, two 12-foot lanes. And they told us at the ENN and they told us at Historic Styles that all three of these concepts met legal standards. So that cuts 4 feet off the bridge right there. We're getting closer to what the H-Board wants. They're also showing 5-foot sidewalks. You've been told by your Public Works Department tonight you can have two 4-foot sidewalks and it still gives room for trucks to pass. That cuts another 2 feet off, and you're now 6 feet narrower."

Mayor Gonzales asked Ms. Bowden to please wrap up quickly.

Ms. Bowden said, "And the last item is side-mounted rails. There are side-mounted rails all over the country that meet highway standards, so we can reach for that and get that. And you could basically use concept 1, two 12- foot lanes, two 4-foot sidewalks, side mounted rails and you are at a 34 foot bridge, and the H-Board has asked for a 33 foot bridge, and it's been approved by Public Works and Lewis Berger. So I'm going to pass this out to you [Exhibit "15"].

Gregory Ross, attorney, 532 Alto Street. Mr. Ross said, "For the City to exempt itself from its own self-imposed ordinances and the Americans with Disabilities Act, would be the height of hypocrisy. For this Board to deny the appeal, would be an endorsement of the Historical Review Board's comments that, for 8 years, the Historical Review Board has disregarded any law or any ordinance that it did not want to comply with, and that, 'We do not care about the laws.' That's Karen Walker. Both Karen Walker and Frank Katz have made a public campaign of writing letters to the editors outside of the judicial and the Council's process. I truly believe that failing to expand the bridge to a size that is safe for all members of the community is a prime example of the Me Generation's Not In My Backyard policies that have made living in the City's center accessible only to those that are vastly wealthy and vastly idle."

Mr. Ross continued, "I ask the Honorable Mayor and this Council to consider this generation, the younger generation, and the generations for years to come that are going to use that bridge and benefit from its safety and to endorse the plan that has been put forth by the City, the well thought-out plan that complies with the ADA, with the zoning, with engineering specifications. I thank you for your time, and ask you, even if you have to make a difficult decision in the face of a lot of verbal opposition, to please vote the right way for the City and the future. Thank you very much."

Dealy Jackson, 1967 Otowi Road, said she is here to hope the City also will follow safe guidelines in considering the bridge. She understands there is a proposal for a bike bridge, but she thinks proposals are similar to the weather. She said, "I stand here as a mother who has watched her child almost be hit by a car as we were crossing the sidewalk to another side of the street. And I'm concerned. Imagine I'm a tourist now, I've never been to Santa Fe. I walk down the street, I turn up Defouri, I just need to be able to find a safe place to get out of the way of traffic, so I feel the bridge proposal now, if you look at it from a stranger's point of view, also is the much safer way. And I think you guys will find a satisfactory way to wrap this up for everyone. Thank you."

Marilyn Bane, President of the Santa Fe Neighborhood Network, .said she is speaking on behalf of the Network this evening. She said is neither vastly wealthy or vastly idle. She said she is very concerned about this and for the quality of life in that area. She said we all are concerned, first and foremost about safety, and the reason the H-Board made the recommendation it did. She said a wider bridge is not going to be safer, and all it means is bigger trucks are going to go over it and they are going to shoot straight up there and go straight to REI off West Alameda. She said it is true that much of the problem has been created by the over-design and over-engineering to the Guadalupe Street Bridge, which "truly has been over-engineered." She does not believe the solution to this is to make the bridge wider.

Ms. Bane continued, "It needs to be taken down, commensurate with the neighborhood and the Neighborhood Network strongly recommends that you listen closely to the neighbors and their concerns." She said there is another bridge, the Delgado Street Bridge, which will be troublesome in the future and which also is a very narrow bridge. We need to continue to worry about safety and the H-Board put a great deal of thought into the plan. She said one sidewalk, given the proximity of the bike and pedestrian bridge going in is the way to do this, and we encourage you to do that."

Raymond Herrera, 379 Hillside Avenue. He said people ask him what business he has in the area, and he tells them "Santa Fe is mine, all parts of Santa Fe I'm concerned about." He said what upsets him with the proposed plan and Public Works, is that they have tried to "shove this down our throats." He said he asked at the very first ENN meeting he asked the reason the H-Board wasn't involved, and they said the H-Board doesn't have anything to do with this. He told them it is in the Historic District and they still said "more or less, so what." He said he called David Rasch and asked the reason there wasn't a representative at the meeting, and he told me he didn't know anything about this.

Mr. Herrera continued, saying these guys have had the original plan from the beginning, and they wiggle around saying they changed it, but they haven't changed the concept of what they wanted to do originally. He said, "My position is that they weren't truthful from the beginning and wanted no input from the neighborhood. And this is a historic district. Hopefully, this new Council will focus on preservation,

because after all, that's what Santa Fe is about. I am about the only local Santa Fean that attends H-Board meetings, any meeting that has to do with preservation. And it sort of aggravates me that no one cares. I care, because Santa Fe is my City. I live on the east side, but I'm not rich and famous, and I do care about my City and I hope you oppose the appeal."

Arthur Firstenberg, 247 Barela Streets, said he lives in the neighborhood. He said, "On page 3 of the packet, Item #5 under Design Decisions, the Staff Memo says that the parties' original dispute was 33 feet versus 41 feet. That is false. Most of the neighbors wanted the bridge kept at its present size, 30 feet. The H-Board's decision was a compromise between the Public Works Department and the residents of the neighborhood. The dispute had 3 aspects: 12 foot lanes vs. 14, 1 sidewalk versus 2, side mounted railings versus top mounted. The ADA also has been discussed, the public rights of way accessibility guidelines can be found on the access board's website – it says proposed Public Rights of Way Accessibility Guidelines. They were proposed in 2011 by the Access Board, but have not been adopted by any federal agency or not in the Code of federal regulations."

Mr. Firstenberg continued, "On page 2 of the packet, the Staff Memo says the only reasons the H-Board gave for designating the bridge as contributing are that it maintains the character of the neighborhood and is 54 years old. That is also untrue. The H-Board adopted 9 other findings, including that the stonework of the bridge is historic. The H-Board's findings make sense. On page 65 of your packet, Finding No. 22, they said the decision "will retain a 5-foot wide sidewalk on the side of the bridge, that connects to the only sidewalk found on Defouri Street. On pages 58-59, there was extensive discussion with the applicant about side mounted railings, and everyone concluded this is a valid option. On page 52, the Applicant testified at the hearing that their main reason for widening is because they can. I heard that also today. "Other bridges didn't have room to widen, but it could be done here. There were no physical constraints to justify why it could not be widened."

Mr. Firstenberg continued, "I urge the use of common sense. A wide bridge resembling the Sandoval Street Bridge doesn't belong in our old, narrow Historic District. The applicant also testified, "Wider vehicles such as delivery trucks were in the design, that's also on page 52 of the Hearing. That is one of the reasons the residents didn't want the road bed widened. Large delivery trucks presently can enter our neighborhood via Agua Street. We do not want to encourage them to enter via Defouri Street where people walk their dogs. Thank you very much."

John Pen LaFarge, 647 Old Santa Fe Trail, the new President of the Old Santa Fe Association, and he is here on behalf of the Association. He said, "We would like for you to uphold the decision made by the Historic Design [Districts] Review Board." He has seen this happen time and again over the decades, where something is designed, in this case a bridge, that has no context to it. He said engineers are wonderful at solving problems, but are very poor about putting the problems into a context. And this problem is driven both by engineering and by the need or the desire to spend money. Both the engineering and the money to be spent are inflexible rules and irrelevant to the situation and the

neighborhood. There was just an election, and one of the City Charter amendments that was passed was protection of the neighborhoods. This is now part of the City Charter. Now, what are you to do then. What you should be doing is protecting this neighborhood by a bridge that is consonant with the neighborhood and the neighborhood scale. The context of this bridge, engineering and money spent is important, and the context here is the preservation of the scale of the neighborhood and of the bridge. The ADA has been mentioned. I wish to urge again that the idea of the ADA and the federal regulations came into being after the Historic District Ordinance was passed, and therefore are subject to the Historic District Ordinance and may be and should be modified by the Historic District Ordinance. I ask you to uphold, we ask you to uphold, please the smaller, narrower bridge passed and approved by the Historic Design Review Board."

Stephanie Beninato, P.O. Box 1601, Santa Fe, said she is a professional historian who has worked in historic preservation for over 30 years. She is on both the City and the State list of approved historians to do this type of research. She contests some of the statements made about the H-Board, about them being consistent and fair. She has observed them consistently, and has seen arbitrary and capricious decisions made on a regular basis by the H-Board. The decision to make this a contributing structure, in her opinion, does not meet the standards for contributing. They ignored their Staff's Report that said it was not a contributing structure. And when they want to uphold the Staff Report then the staff is "god," and when they don't, they totally ignore the staff, and don't give a reason for ignoring the staff report which is required under due process requirements, court case. This isn't about preserving the bridge, because it will be totally demolished, so there will be a new structure. Even in a historic remodel, the requirement is that you have to go to the existing standards."

Ms. Beninato continued, saying Alameda Street is quite wide, and there has been development on Alameda, including more units at the affordable housing located less than a block from this bridge. There is a lot of traffic coming off Alameda. She said we need the [inaudible] to be safe. She walks and bicycles in the area, and the one foot sidewalk on one side is extremely hazardous. She said you can't wheel someone in a wheelchair on a four foot width. She said the side mounted rails makes the sidewalk useless for somebody in a wheelchair. The proposal to make 4 foot sidewalks is better, and a pedestrian and bicycle bridge is speculative. We're spending a lot of money and we should get a bridge that is safe and meets current standards. She said trucks aren't going to turn on Alto Street, and already are using Defouri Street. "And excuse me, but Agua Fria is about as narrow as any of the other streets in the area, so to say trucks should go down Agua Fria doesn't make it any safer."

Reverend Trien-Tri Nguyen, Pastor of Our Lady of Guadalupe Church, said the Church is next to the bridge, and with him is Joe Gonzales, President of the Parish Council. He said they are concerned for the safety of people coming to the Church. Every Sunday, they have 4 services, and 4 masses on Saturday in the summer. He said Monday-Friday there are 200 children attend the religious education classes at the Church, so that is 150 cars in and out. He said it is very dangerous in the area for people to

turn from our parking lot to the left or right, and it's very dangerous. He said the children and youth sometimes use the bridge, which is dangerous for them as well. "We ask you to consider the importance of safety for us at Our Lady of Guadalupe Church. We're very concerned about safety."

Joseph Gonzales, 1923 Kiva Road, President Parish Council, said the focus has been on safety all along, and the second speaker this even made a point that there was no reason to have a sidewalk on the west side, because once they got south of the River they would have to cross Defouri to get on the other side of the sidewalk. He said in fact, the neighborhood is being put in jeopardy in the proposed designed, because they only way they can enter on foot, or a bicycle, or a wheelchair under that proposal would be to cross the bridge on the east side, and cross the road on the south side to get back onto Alto Street. He doesn't see how that provides for the safety or security of the neighborhood..

Mr. Gonzales continued, saying he wants to talk about the future. He asked if we presume the kinds of pedestrians we have now will exist in the future – will we have greater numbers, or different kinds of vehicles for mobility impaired, hearing impaired, the sight impaired, and what access will they have. He said, "I just want to leave you with this. You've heard about the past, Historic Design Review, and from the residents about the present. My question is who, other than you, Mayor and Council, speak for the future. Thank you."

The Public Hearing was closed

Mr. Shandler said, "Given the late hour, I waive closing arguments. We stand open for questions."

The Governing Body commented and asked questions as follows:

- Councilor Trujillo asked said he was going to ask if trucks use the bridge to get to Sanbusco Plaza, but that is pretty much yes, right.

  Mr. Martinez said, "Currently, with the condition of the bridge as it is, there is a posted weight restriction on the bridge which has been in place since about1990."

- Councilor Trujillo said everybody wants this bridge replaced. He has been under the bridge and the [inaudible] is really bad. He's seen some of the reports from the DOT, and said we're talking safety here. He said, "It won't be any of the Councilors' consciences." He said we want to do something that benefits all of the citizens, and he is hearing a new pedestrian bridge is going to be built 50 feet away. He asked the cost to build that bridge.

  Mr. Martinez said, "Roughly, going off memory, I would say that a pre-fabricated pedestrian bridge is roughly $100,000."

- Councilor Trujillo said then it is a pre-fabricated bridge, and asked if that would be allowed in the Historic District. He said, however it goes, when the bridge comes to fruition to be built, we're going to have the same people here – either they want the bridge or they don't want the bridge. He would rather see a bridge built that can accommodate traffic, pedestrians and bicycle flow on both sides, rather than spend an additional $100,000 to build something 50 feet away that technically is going to accomplish the same thing as building this.

  Mr. Martinez said, "We do have some experience with that. Back in 2006, there were proposals to place pre-fabricated pedestrian bridges across the River in the vicinity of Galisteo and Sandoval Streets, and those ideas were nixed by the H-Board."

- Councilor Trujillo said there are a lot of streets in his District that aren't ADA compliant. He asked how this will affect us as a City – could we be fined.

  Mr. Martinez said all he can do is speculate based on past experience where the City has been challenged for ADA issues, and it has gone through the Federal Department of Justice, which typically will rule in favor of the complainant. So there have been cases like that in the past, but he is unsure there would be one in the future if we didn't put sidewalks on both sides, commenting this is a difficult question to answer.

- Councilor Trujillo said, regarding the funding, if we don't get this started, there is a good chance we will be out $70,000.

  Mr. Martinez said it is sixty-some thousand dollars.

- Councilor Trujillo said, "Having overseen these projects, when projects aren't getting done, he DOT is allowed to pull the money and give it to another City, and that's exactly what probably will happen if this isn't moving forward. The NMDOT will pull the funds and give them to another City that is ready for a project. So my concern is dealing with the safety of the bridge, the pedestrian and anybody using the bridge, and at the same time building a bridge that is functional for everything, instead of having to spend another $100,000 to build another bridge. This something we need to look at in the future."

- Councilor Dimas asked if a traffic study been done on this intersection and this bridge. He is particularly concerned about big trucks.

  Mr. Martinez asked what kind of study he is talking about..

- Councilor Dimas asked if there is any consensus about how much more traffic it will attract, or if it will draw more traffic, and if so will big trucks be more likely to use that street as the result of the bridge.

Mr. Martinez said he knows of no analysis which indicates there would be an increase in traffic. He said the testimony is speculative that there would be. He said, "The fact is, the designs we specifically looked at are only for passenger cars. The turning movements are to accommodate only a passenger car. So in the context, there was a lot of discussion about engineers don't design in the context of the neighborhood. We heard that during the initial meeting, and we did investigate looking at what would be required to accommodate a delivery vehicle, a school bus, a transit bus, a fire engine. And what we went back to was the passenger car, and that's what we currently have in place, and what we are recommending as far as the design."

Mr. Martinez continued, "It is also worth noting that, with the passenger car analysis and the proposed design we're looking at, there is no encroachment into oncoming or adjacent lanes which is currently the case right now. So, from the sense of analyzing traffic, we did look at that part. We did not add additional lanes to the bridge or to the roadway. I suppose another option for the Council to consider at some point, is looking at a truck ban for the roadway, and that would put in place what is there now, although the current ban is for weight restriction because of the structure's current condition."

- Councilor Dimas asked if there is a way we can put in place weight restrictions so we could keep large vehicles or trucks off that bridge and going into the neighborhoods.

  Mr. Martinez said he believes there already are truck bans ordinances, and doesn't know if there have been changes to the Ordinance to not allow that anymore, but some have been done in the recent past, and perhaps that is a question for the City Attorney.

  Ms. Brennan said she can't speak to truck bans, but she thinks they can be imposed under Code, but she has no details about that.

- Councilor Bushee said there is a truck ban on Agua Fria.

- Councilor Trujillo said if the bridge can handle so many hundred thousands of pounds, how can we put a weight ban if the bridge has been built to hold that weight. He can understand a truck ban, but we can't say that the bridge can't handle this kind of weight when it was technically build as a super structure to handle that kind of weight.

  Mr. Martinez said a truck ban can be imposed on a roadway itself, not necessarily as part of the structure. He said it does indicate by weight no vehicles larger than 5 tons.

- Councilor Trujillo said he understands that for streets, but putting it on a bridge is another matter when it was built for that weight, and belives it could be challenged.

Mr. Brennan said these are two different things, and believes we have truck bans on many streets, and this is over the bridge, and thinks that is the distinction that would be made.

- Councilor Maestas said we've heard compelling testimony regarding safety and the need for us to be sensitive to the context of this situation, and that is the reason the option for compromise intrigues him. He said, "I don't think we ought to be replacing a bridge and creating additional safety hazards, nor should we be jeopardizing the City's compliance with ADA.

- Councilor Maestas said, regarding the 4 foot sidewalk option and the sweep analysis we did, it really doesn't matter as long as we have two 14-foot lanes, the sweep analysis will work just fine with the compromise.

  Mr. Martinez said that is correct.

- Councilor Maestas said, "If we were to take action on a compromise, we would rule that the bridge is non-contributing, but we would have to declare the 4-foot sidewalk option as an innovative street design. Would that have to be part of our action, if we were to take action on the compromise."

- Mr. Shandler said, "Yes. If you are going to do the innovative street design, you have to make a finding on the record."

  Ms. Brennan said, "I just wanted to add that you would have to make a finding that the 4-foot width accommodated the pedestrian needs, which would include the ADA needs."

- Councilor Maestas said, "In closing, I don't think the funding situation should be a major concern. I realize it's taken a lot of time to get to where we're at today, but we should factor in all the necessary public involvement, all the coordination with appropriate boards, and not be compelled to make a decision because funding is in jeopardy. So, whatever decision I make, it's not because of the funding situation. I just wanted that for the record. Thank you."

- Councilor Lindell said she wants clarification on some items. She said, "With the demolition and the rebuilding, we are retaining the stone work, as exists. Correct. I'm seeing heads going up and down. Yes."

  Mr. Martinez said, "Councilor Lindell, yes. We're preserving the stonework on the outer ends of the channel and removing the center pier, so that the structure spans the entire length of the river channel."

- Councilor Lindell said, "Secondly, this was from the packet, Mr. Herrera had talked about keeping the channel the same size. Is that correct."

Mr. Martinez said that is correct.

- Councilor Lindell said, "Okay. So we've established that. In looking at the compromise that was brought forth by the H-Board, we're really not very far away in this. We're both at 14-foot driving lanes, which is a safety issue that we're addressing. And there was a woman that testified tonight that took the words right out of the my mouth, 'the sidewalk to nowhere.' I've been across that bridge hundreds of time. And I think that if you do cross that bridge on the side with the extremely narrow sidewalk, you have nowhere to go on a sidewalk, other than to cross the street then, where there is no stop sign. And I think that's an extremely important situation – to get over to the sidewalk on the Church side. So I don't think we're very far apart here."

  Councilor Lindell continued, "And as far as the rails go, the side mounted rails, the information that Suby Bowden brought forth to us tonight indicates that the side mounted rails should not be a problem. So I think eliminating the sidewalk on the west side makes perfect sense to me, because it goes to nowhere. I don't know why we would incur the expense of putting a 5-foot sidewalk on that side. So, with those comments, I'll yield the floor, Mayor."

- Councilor Ives said, "I too, am intrigued by the closeness of where the two parties have landed in this discussion, and I did have one question that I was hoping for some guidance on. On packet page 35, page 2 of the Findings of Fact and Conclusions of Law by the Historic Districts Review Board, numbers 9, 10 and 11, are the three provisions relied upon to find that the structure was contributing. The first is that it 'meets the age requirement of 50 years old.' The third, number 11, is that, 'because of the stone work being historic and represents historic architectural design qualities.' And I appreciate the clarification that that is being preserved, because I was curious about that."

  Councilor Ives continued, "The second one gives me a little more pause. It says, 'Under Section 14-12.1, the bridge falls under the definition a contributing structure because its small scale and size maintains the character of the Historic District.' And when I look at some of the visuals that we have received, both looking from the north to the bridge, and then further up Defouri Street, as well as looking down Defouri Street across Alameda, it certainly appears that the street above the River section, where the bridge lies, as well as the streetscape on the other side of the bridge, are both wider than the actual bridge area. And I don't know that you can give me any clarification as to what the Historic Board meant by small scale in size, given the apparent expansion of the street on either side of the Bridge. And indeed given the compromise at 14 feet in terms of driving lanes, again, I'm having a hard time understanding how, based on the second factor, this is a contributing structure."

Mr. Shandler said, "Councilor Ives, in Finding #8, right above there, 'Testimony at the hearing established that the character of the historic district is that this district is small, has slow speeds on its streets and is an intimate, walking and talking neighborhood'."

- Councilor Ives said, "I suppose, again just struggling with the visuals suggesting that is what we hang our hat on, in terms of determining it's a contributing structure, because it doesn't seem to have significant impact, given those visuals. I'm also curious, because I think that sidewalk, if there were a sidewalk on the west side of the bridge, it actually does connect to the sidewalk going up Alto Street, so it doesn't quite go to nowhere. If you were trying to go up Defouri Street, then it doesn't continue on the west side of Defouri Street, admittedly at least until further up, but it does seem to connect to somewhere, so potentially has a purpose in that regard."

- Councilor Ives continued, "I was noting too that.... and as I understand we're being asked to decide two questions. One, whether it is a contributing structure, and then whether the design criteria would be approved.

  Mr. Shandler said that is correct.

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, with the choices in our packet, that we conclude that the bridge does not meet the definition of a contributing structure, and conclude that the HDRB erred in requiring exceptions, but did not err in imposing the conditions.

EXPLANATION OF MOTION BY MAKER: Ms. Lindell said, "In explaining my motion, what I'm saying is the bridge is not a contributing structure. However, the conditions that the H-Board proposed, that compromise is what I am proposing. So it would be the 14 foot lanes and with no sidewalks on the west side."

Councilor Bushee said she has to talk about the appeal part of it too.

Ms. Lindell said, "So denying the appeal."

POINT OF ORDER: Ms. Brennan said, "Point of order. Granting the appeal on the status decision and denying the appeal on the design.

RESTATEMENT OF THE MOTION: Councilor Lindell moved, seconded by Councilor Bushee, based on the choices in our packet, that we find that the bridge does not meet the definition of a contributing, find that the HDRB erred in requiring exceptions, but did not err in imposing the conditions, and therefore structure, and conclude that the HDRB erred in requiring exceptions, but did not err in imposing the conditions, therefore granting the appeal on the status decision, denying the appeal on the design, and upholding the conditions of the H-Board for the bridge.

DISCUSSION: Mayor Gonzales said, "So, granting the appeal on the status."

Ms. Brennan said, "In other words, it would not be contributing, if I understood the Councilor.

Mayor Gonzales said, "And upholding the conditions of the H-Board for the bridge. So basically, if it is adopted as is, design work for the bridge would go in accordance with the H-Board's recommendations that it would proceed forward."

POINT OF ORDER: Ms. Brennan said, "This would require a finding that an alternative street design accommodates pedestrian needs, because she is removing a sidewalk on one side.

FRIENDLY AMENDMENT TO SEVER THE ISSUE. Councilor Dominguez would like to sever the two points and vote on them separately. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Dominguez said he wants to support the first part of the motion, and potentially vote against the second part of the motion.

CLARIFICATION OF THE VOTE: Ms. Brennan said you are voting on the status and a yes vote would be to grant the appeal that it does not have contributing status.

VOTE ON GRANTING THE APPEAL ON THE STATUS DECISION (A) The motion was approved on the following Roll Call vote:

> **For**: Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.
>
> **Against:** Councilor Bushee.

EXPLANATION OF THE SECOND PART OF THE MOTION: Ms. Brennan said the second part of the motion is to deny the appeal, finding that an innovative street design is acceptable and accept the conditions of the H-Board.

DISCUSSION: Councilor Maestas said, "Mr. Mayor, just two points. I think when we are discussing sidewalks, it's not just where pedestrians are going to go. Pedestrians are provided refuge from traffic, that's why the two sidewalk concept is a concept that I support. And the other is, I think we've seen some graphic drawings showing that when you have two sidewalks, it best accommodates turning traffic, and does provide the pedestrian refuge. I understand it may not make sense in terms of where people are going, but it provides and maximizes pedestrian safety, but I still feel there is a compromise on the width of the sidewalks that is ADA compliant, so I will not be supporting this motion."

Councilor Ives said, "As I look at what is there now, and what is proposed in the various photographs that we've seen, I do see two sidewalks, although we have one that we all could agree is certainly not a safe sidewalk at 1 ft. 9 in., and I suspect that there are probably lots of folks that are on that side of the street c coming from Alto and going down to Alameda, who probably use that as a passing sidewalk. So I am probably in favor of trying to maintain what I think is the feel of that neighborhood by having two sidewalks. But I am certainly satisfied that if a 4-foot sidewalk complies with ADA requirements, 4-foot sidewalks on either side, and therefore be able to accommodate pedestrian and other traffic on both sides of the street as a safer alternative, which, based upon what's there now, appears to be most in keeping with what is there."

Councilor Bushee said, "I'm just going to speak to the pedestrian and bike crossing aspect. Right now, we don't have a bicycle lane on that section of Alameda, so you are forced to ride on the sidewalk if you're a kid. But if you are an adult and take your life in your hands, you right along the way where there is no bike lane. And so, if you're a bicyclist, you're going to ride along and zoom right into the Defouri Street Bridge, so you are still going to be in the 14 foot lane, you're not going to be up on the sidewalk. We are still going to need a bike and pedestrian crossing. If people think this is somehow saving money, you should have voted against the $2 million underpass at St. Francis and West Alameda if you want to save $2 million, but that's another discussion."

Councilor Bushee continued, "So, what I would suggest that we really consider this option, this motion. I think it preserves the safety of the lanes and one 5-foot sidewalk. I don't believe the other sidewalk is necessary. It's also a pretty steep incline from a bicyclist perspective, right there at Defouri Street at the entrance, and a crossing that is going to be grade level from the River, and then you're going to have a little downhill stretch on Alto. To get up Defouri is going to be what we're going to need to do anyhow. So much of the City of Santa Fe is not even close to ADA compliant. The concerns everybody mentioned about ADA compliancy... I mean 4-foot sidewalks are the ADA minimum, so we're not out of compliance there."

Councilor Bushee continued, "I have a real concern that we're.... this false perception of safety by adding another sidewalk on the west side of Defouri Street. I think it is that, a false perception. Having gone in that area in so many different ways, as a pedestrian, bicyclist, motorist, I think the biggest concern I have as a motorist is trying to get out from Defouri Street to Alameda. It's a blind entry. It's dangerous. I mean it's dangerous for cars. I think you're complicating the situation with adding that sidewalk. I think a bicyclist now is going to be forced into the lane even closer where you didn't have that sidewalk on the other side, on the west side, it was easier to kind of just hug that and be in the lane. Now, you're going to have this 5-foot sidewalk, you're widening the whole bridge. You're inviting traffic. I'm certainly going to be bringing forward a truck ban. I'm kind of reading the writing on the wall here where this is going. I still think it's a false sense of safety."

Councilor Maestas said, "Can you address, Erik, lane balance. I think Councilor Bushee is talking about, well this is going to create lane imbalance in that cross street. Can you address any lane balance issues. I think you know what I'm talking about, right, kind of a consistency in cross sections. Can you address what you are proposing and how it addresses lane balance."

Mr. Martinez said, "Thank you Councilor Maestas. Actually, Councilor Ives alluded to the same thing earlier. I'm glad you pointed that out again, because to illustrate the balance and the character of the area, we do have an illustration here. It was provided in the H-Board packet, but I don't think it's in your packet, that demonstrates all the dimensions of the adjacent roadways from curb to curb. We have currently a 24 foot width from curb to curb on Defouri Bridge. Across the street on the other side, at Water, we have 29 foot curb to curb width. On the south end, we have a 29 curb to curb width on Defouri. Further south from beyond the Church, we have a 32 foot curb to curb width. On Alto Street, we have a 24.7 curb to curb width. Our proposed design would be 28 feet curb to curb width, with the addition of the wider bulb-out near the Church entrance, to maintain that 28 foot curb to curb width consistency throughout. So I'm glad you pointed that out, because that is an important aspect."

Mr. Martinez continued, "The other important aspect is there is currently sidewalk along Alto Street along West Alameda this proposed sidewalk would connect to. So there's some connectivity that would apply here."

VOTE ON DENYING THE APPEAL ON THE DESIGN AND UPHOLDING THE CONDITIONS OF THE H-BOARD FOR THE BRIDGE (B). The motion failed to pass on the following Roll Call vote:

For: Councilor Bushee and Councilor Lindell.

Against: Councilor Maestas, Councilor Rivera, Councilor Trujillo, Councilor Dimas, Councilor Dominguez, and Councilor Ives.

MOTION: Councilor Maestas moved, seconded by Councilor Trujillo, with regard to the design decision, to uphold the appeal and approve the design as an innovative street design and accept the recommendations from Public Works, with one modification, that the two sidewalks would be 4-feet, instead of 4-feet; and to direct staff to prepare Findings of Fact and Conclusions of Law reflecting this decision..

FRIENDLY AMENDMENT: Councilor Dominguez would like to amend the motion to have a finding that this design is ADA compliant. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE GOVERNING BOARD.**

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

For: Councilor Maestas, Councilor Rivera, Councilor Trujillo, Councilor Dimas, Councilor Dominguez, and Councilor Ives

Against:. Councilor Bushee and Councilor Lindell.

Explaining her vote: Councilor Bushee said, "Again, this is a better approach than two 5-foot sidewalks, but I really find it unnecessary. And I would like to then inform us quickly about the pedestrian bridge possibility. I'm going to vote. I know this is going to pass, but you know, I think we need a truck ban very quickly.

Break 9:40 to 9:50 p.m.

6) PRESENTATION AND PUBLIC HEARING REGARDING PRC CASE #13-00390-UT – 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) 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 (COUNCILOR RIVERA, COUNCILOR DIMAS, COUNCILOR CALVERT, COUNCILOR DOMINGUEZ, COUNCILOR TRUJILLO AND COUNCILOR BUSHEE). (Postponed at February 26, 2014 City Council meeting)

Items 6, 6(a) and 7 [6(b)] were combined for purposes of presentation and public hearing, and Item 7 was voted upon separately.

The Legislative Summary of the proposed Resolution, submitted for the record by staff, is incorporated herewith to these minutes as Exhibit "16."

An article by Stephen Lacey, *Greentech Solar*, dated March 4, 2014, *This is What the Utility Death Spiral Looks Like*, entered for the record by Allan Sindelar, is incorporated herewith to these minutes as Exhibit "17."

Mayor Gonzales asked, in view of the late hour and that tomorrow is a school day, to allow the young people in attendance to speak first. He gave each person 3 minutes to speak.

Jose [inaudible] thanked Councilor Ives and Councilor Rivera for their leadership in bring forth this Resolution, and to consider intervene in the case going forward. He is a local hip-hop artist in New Mexico and an active member of Earth Care Youth Allies, noting this is an youth organization striving for sustainability and social justice. As a citizen of the world, he is concerned about the future as well as the world in which his siblings and their children will be living in the future. He said, "We must take care of this world God provided us with, because were put on this earth to help and sustain it. This resolution will not only improve our environment, but will also create jobs for many residents in New Mexico. We must start to think about the future habitants of the world, and how what we do today is the outcome of tomorrow. Please pass this resolution.

Jose introduced his brother, Alfredo Martinez and Jose and Alfredo performed a song Jose wrote about protecting the environment. He said they go by the Dual Brothers, and he just launched an album a month ago.

Ariana Padilla said she is a student at Monte del Sol Charter School, and is a member of Earth Care Youth Allies for Sustainability. She said young people from all over Santa Fe come together to talk about the issues occurring all around us and come up with ways to create social and environmental justice and we take action, which is the reason she is here tonight. She said PNM is shutting down half of its San Juan power plant, thanks to the pressure the people have been putting on them and the force of the EPA. She said this is good, but their ambition is to replace half of the power plant with even more coal and more nuclear plants in Arizona with a tiny big of solar energy in comparison. They are doing this because it's cheaper, but it's not. Millions of dollars will be invested, in a way wasted, on the development of the project as well as on the environment and our health. She said "tons" of carbon and other harmful contaminants are released into the atmosphere polluting what is vital to our survival, causing asthma, lung and heart disease. PNM also claims the money that would have been earned from these closed units should be added onto those who pay electricity bills, which is pretty much all of us, since it is a monopoly, and see this idea as paying themselves back.

Ms. Padilla continued, "The solution to this issue is using an energy source that is friendly to both our bank accounts and our environment. The energy source creates jobs and only affects climate change in a positive way. Renewable energy provided by solar and wind power. She said states throughout America are embracing the benefits of green energy. Why can't we do this here. It's crazy the other states have more solar than New Mexico. PNM uses water, pollute it, make it into energy and we're in a drought. This is important to me, because renewable energy will safeguard the future of the youth of today and our posterity will be safeguarded and bright. With 330 days of sunlight, power will be brought to the people."

Shendena, Junior at Academy for Technology and the Classics, said she is here representing Earth Care as a member of Youth Allies. They are pleased, as a group concerned about sustainability and our environment, they are pleased with PNM's plan to shut down the San Juan Generating Station's Units 2 and 3, and to reduce the levels of nitrogen oxide and sulphur dioxide allowed by the State. However, they are concerned about PNM's replacement plan, because they are heading back in the direction they came from. How does it make sense to replace coal power with more coal power. They are also turning toward energy sources, nuclear from Arizona and natural gas, which are equally as bad for our environment and for our health. Nuclear and coal are more expensive than solar and wind, and also consume huge amounts of water where solar and wind don't consume any."

Shendena continued, "There are enormous financial, environmental and health effects with nuclear and coal, while there are none with solar and winds. Nuclear and coal contribute immensely to climate change, pollute the land, air and water, and cause illnesses such as cancer and lung disease. She said, "The condition you leave earth in is my future. I don't want to have to explain to my kids what you did to the earth. I want my future to be healthy and for generations to come. Instead of putting more strain on the earth, do the right thing and put less." She thanked the Governing Body for their support of the Resolution to intervene, and they support Councilors Rivera and Ives' resolution to oppose PNM's replacement plans and their request for stranded assets. "We demand an alternative be pursued that is based on clean, affordable and renewable Energy."

Connor said he also represent Youth Allies. He said at PNM's website it says, "PNM has long acknowledged the importance of addressing climate change in an environmentally meaningful and cost-effective way. Being environmentally friendly and reducing climate change doesn't mean jut reducing CO2 emissions, it also means reducing anything which may impact the environment in a negative way. He said nuclear energy may not emit CO2, but it does produce high levels of radiation which is contained. However, time and again, we have heard corporations and government say, 'it won't fail,' or 'won't ever break.' He cited Fukushima and Chernobyl as examples that they "can and will eventually fail," which is catastrophic to the environment.

Stephanie Rodriguez, said they are representing the [inaudible] program at Capital High School and support the Resolution as presented. She supports the resolution because of the impact it could have on her life and on the environment. She said she and her colleagues support the Resolution. She said if this continues, there will be a 25% loss of all species of life on the plant due to global warming on a global basis. She believes our clean air is no longer clean, due to the burning of coal produced by PNM. Many

came to New Mexico to cure tuberculosis caused by companies on the east coast. She said, "Now companies like PNM are causing tuberculosis, lung disease and asthma. If we don't stop their harmful actions, then who well. She said we are the next generation and it's time we put a stop to this issue before it's too late.

Alan Hernandez, Junior at Capital High is concerned about this issue, which affects the environment as well as us. The environment is being mistreated by those who decide to pollute the air which c an cause health problems to New Mexico. He said PNM produces 58% of our energy from coal, along with tons of pollutants that can cause asthma, lung and heart disease, as well as cause climate exchange. PNM uses 58% of coal, 20% nuclear, 14% gas, 6% wind, and 1% utility-owned solar energy and 1% distributed solar energy. He said the coal fired power plant uses 8 billion gallons of water a year. Water is extremely important in New Mexico. PNM has paid fines of $6.9 million dollars for 60,000 air quality violations at the San Juan Coal plant. He said over the past 5 years, PNM has failed to stop pollution control at San Juan Coal Plant, costing the people up to $240 million in total healthcare expenses, which involves hospitalization, emergency room visits, [inaudible] and other kinds of emergency procedures. This issue is costing people money and is endangering the lives of men. It is unacceptable and those are encouraging this solution expect us to pay for their mistakes.

Blanco Ortiz, Junior, Capital High, said she is in support of the Resolution because it the best for our community, and because I love my community. PNM is being forced to close half of its San Juan Plant. She said they are claiming that who pay electricity bills will have to pay them back for half of what they lose. This means electricity bills will go up and "I firmly believe this will make the poverty in New Mexico go up as well." PNM is requesting unearned profits of $205 million to get back the profits it would have earned in a year. They polluted our air and now we have to pay for it. This is not right. Her household is a single mother with 3 girls, and they barely have enough to make ends meet, and this will impact them in a very negative way as well as their neighbors. She said passing the Resolution will create more jobs which we have been trying to do. She said, "We are losing our youth. Most are leaving New Mexico to do environmental sciences in other state. This does not make sense to me. Why create jobs somewhere else, when we can create them here. Why can't New Mexico be leading the movement. It's time for New Mexico to switch to solar and wind energy. We are here with a group of people who care deeply about our future, on behalf us and Capital High and our community, we ask you to consider the people and intervene with PNM's replacement power plant."

Amarante Ryan works with the Adelante Program which provides services to about 1,300 of the youth here in regards to homelessness and a lot of people who end up with them is because of a disconnect. He presented a poem, *A Song to the Sun* in his Native American language.

Public Hearing

Presentation by Nick Schiavo

Nick Schiavo said at the last City Council meeting, questions were asked about this Resolution. Councilor Dominguez requested a copy of PNM's replacement plan, and he has provided that to Councilor Dominguez, noting it is about 700 copies. He will get copies for other Councilors and the Mayor in an electronic format. He said Councilor Dominguez asked that the study done by NYU Professor George Thurston be attached to the Resolution, and he emailed that to the Governing Body this afternoon.

Mr. Schiavo said Councilor Dominguez also asked if the alternative replacement power plan could be forwarded, and he has provided a copy to the Governing Body via email this afternoon. He said Councilor Bushee asked if there are other interveners in this case. He spoke with the PRC this afternoon, and as of this afternoon the interveners are Southwest Generating Operating Company, LLC, New Energy Economy, Inter-west Energy Alliance, New Mexico Green Chamber of Commerce, P. Corey, Nan Winters, F. Michael, E. Overture, C. Noble and [inaudible].

Mr. Schiavo presented a brief summary of PNM's Plan. He said, "PNM's proposal that is currently before the New Mexico PRC is related to the federal rule aimed to improve visibility in federal wilderness areas and parks by 2064. A federal plan for compliance with that visibility provision of the Clean Air Act is currently in place. In mid-2012, PNM and the New Mexico Environment Department and EPA began looking at alternatives to this plan. The result was an agreement announced in February 2013 that would lead to the closure of the four units by the end of 2017 at the San Juan Generation Station. PNM is part owner of the San Juan Generating Station, along with 8 other utilities. Because this new plan requires PNM to replace its share of the two units with something else, in late December, it filed a replacement plan with the New Mexico PRC. This also is required to get approval to retire 2 units since they are still functioning units."

Mr. Schiavo continued, "The plan should position the company well to comply with coming future carbon regulations. PNM's plan effectively balances their resource mix, and will be less risky and less costly to New Mexicans by reducing their carbon footprint."

Mr. Schiavo continued, "So in short their plan. Currently they have 50% ownership in Units 2 and 3, that's 418 MW (megawatts), through this plan, would be retired in January 2018. The company would exchange 68 MW of capacity between Units 3 and 4 to keep its retirement to a total of 340 MW. That number is the amount PNM believes it can retire while keeping replacement costs below the federal plan currently in place. 134 MW of existing nuclear generation from Palo Verde Nuclear Plant in Arizona, with proposed rate base is a lower cost than other viable alternatives. The installation of less expensive selective non-catalytic reduction technology on the remaining units 1 and 4 for $82 million as opposed to selective catalytic reduction technology at an estimated cost of approximately ten times NCR technology.

Mr. Schiavo continued, "Other replacement resources that include 177 MW of gas generation to be located at the existing San Juan Generating Station site, which reduces the need for siting and other similar permits to locate that plant, and also provides access to existing transmission lines. 40 MW of new solar capacity at a total cost of $82 million. Full recovery of the $205 million in unrecovered prudent investment for the closure of Units 2 and 3, so as to avoid increased capital costs in the future which will result in higher customer rates."

Mr. Schiavo continued, "Status of the plan, PNM as discussed, requires Public Regulation Commission [PRC] approval, but also requires certain approvals from the EPA. The plan currently is before both the PRC and the EPA. The EPA is expected to provide a decision by December and the PRC decision could occur by December. Public hearings at the PRC are scheduled for August."

Mr. Schiavo continued, "In conclusion, PNM stated the goal has been to balance environmental benefits with affordability and reliability, while minimizing the economic impact to the State. It believes the proposal currently before PRC and EPA accomplishes this goal."

Mr. Schiavo briefly presented the statement from **New Energy Economy**.

Mr. Schiavo said, "In August 2011, the EPA issued a final rule imposing pollution controls on PNM's San Juan coal plant in order to bring the coal plant into compliance with the Clean Air Act. Regional Haze requirements. The EPA found that the San Juan Coal Plant was impairing air quality and visibility in other states. The EPA also said that San Juan is one of the largest sources of nitrogen oxide pollution in the U.S. Further, EPA noted that the haze produced by San Juan was affecting visibility at 16 National Parks and Wilderness areas, and impacted tourism and public health."

Mr. Schiavo continued, "A settlement was reached between Governor Martinez, PNM and EPA to instead, shutter half the San Juan Coal Plant and put pollution controls in the other half of the plant. In December, PNM filed a plan, I won't go through again what the plan is. Both parties agree what was filed. PNM seeks full payment from customers for capital invested in the San Juan Units 2 and 3, $205 million that will be retired at the end of 2017, plus profit on those assets for 20 years at 11.4% rate of return.

Mr. Schiavo continued, "Included, but not seeking approval in this case, is 177 MW gas plant built in Farmington, 40 MW solar facility. There are concerns about coal cost increases; cost of global warming pollution as we see more and more impacts drought, forest fires; carbon regulation; coal ash regulation; health costs associated with burning coal, asthma, lung disease, heart disease and more; significant water consumption; concerns about nuclear cost increases; cost of nuclear energy is expensive, imported from 600 miles away; inefficient line loss power via transmission; no jobs for New Mexicans; environment and health concerns from mining uranium and disposal of nuclear waste; and significant water consumption."

Mr. Schiavo continued, "Investing in solar, wind and energy efficiency for the replacement of power plan, instead of coal and nuclear, makes economic sense, is fiscally conservative, provides significant local jobs and reduces risks from coal and nuclear cost and negative environmental accidents and destruction. Further, we can reduce our negative health outcomes."

Mr. Schiavo continued, "I've taken a look at PNM's filing, and I've reviewed HEM 11 which actually covers the proposed increase. HEM 11 provides the estimated impact for all the rate classes, and in the interest of time will cover only residential and the rate classes that affect the City."

Mr. Schiavo continued, "So what's being proposed in PNM's filing. They provide a scenario where a customer using 600 kWh per month will see an $87.91 increase, and that represents about an 11% increase. The average for Santa Fe County is about 560 kWh, so it's a pretty active number. City-wide, I took a look at the different rate classes we currently have and we can expect about a 7% increase. We spend about $6 million between all the City facilities and Buckman Direct Diversion [BDD], so that equates to about a $420,000 increase per year."

Mr. Schiavo continued, "The other thing that was noted and it's noted in New Energy Economy, their current filing does not include the additional rate increases to ratepayers. Beginning in 2016, that will result, if the PRC approves PNM's proposed new 40 MW La Luz peaking plant, or any other increased costs elements of its claim cost of service when PNM files its next rate case, now expected at the end of 2014 or 2015."

Mr. Schiavo turned it over to Mariel Nanasi of New Energy Economy, to make a 5 minute presentation, followed by PNM to make 5 minute presentation.

Mayor Gonzales said Mr. Schiavo entered into the record that both New Energy Economy and PNM have stated, so if you can avoid redundancy and what was already stated in the record, and keep to any new additional information, we would appreciate it.

Presentation by New Energy Economy

Mariel Nanasi, Executive Director, New Energy Economy, said this is the most strategic energy moment maybe in our lives we are facing right now. What is happening is, as you know, PNM is closing half the coal plant and the question is, what is the replacement power. This is an opportunity to change course. We know that what we have done so far has brought us climate change. We've had record breaking wildfires, extreme drought and it's only going to get worse. Now, we have the opportunity to shift that, if we invest in renewables instead of more of the same that got us in the mess. Then we have an opportunity to reduce the chaos that is coming for our children. That is why I'm here. That is why I am the Executive Director of New Energy Economy, because when I learned about the urgency of climate change, I thought, I've got to shift what I'm doing to focus full time on this."

Ms. Nanasi continued, "I want to focus on one thing, besides what you've already heard tonight, and I would just say [inaudible here because Ms. Nanasi moved away from the microphone]. This is a question of environmental justice. The people who live under the toxic shadow of the coal plants and past uranium mining, and current uranium mining, are paying the price. President Nixon called the Navajo Nation and the area surrounding it, an energy sacrifice zone. This is what we're doing to the most precious among us, out children. We're causing them to need a pump to breathe. What kind of responsible adults are we if we are changing the chemistry of the air allowing PNM to spew these toxins, nitrogen oxide, sulphur dioxide, mercury, particulate matter. Out bodies cannot assimilate that, and that's why we have the asthma rates that we do in New Mexico. It's higher than the national average."

Ms. Nanasi continued, "We are paying the price. PNM externalizes those health costs, and we pay those prices. We did a study, and that is a study that Nick gave you, that was in 2008 dollars. That was $240 million every 5 years that we are paying in asthma, lung disease, strokes, heart disease. Climate instability is unfolding simultaneous to an economic instability. They are linked. We see sharpened inequality between rich and poor. PNM is setting record earnings. They made $100 million this year, 2013, $100 million in 2012, at the same time they sent 168,000 disconnect notices to New Mexicans and shut off service for more than 17,000 people. From the time of our worst recession in 2008 to 2012, average residential rates went up 41% for average residential rates, which definitely benefitted PNM's executive pay which rose 68% in our worst recession time. So this is a crucial matter of economic justice and environmental justice."

Ms. Nanasi continued, "I just want to end with one very important thing and that is the question of stranded assets, because we've talked about coal, its harm, nuclear which is crazy, it's 600 miles away, it's inefficient, it's the most expensive energy. We could talk about it. We'll deal with that in the case. But I wanted to talk to you, the last thing, is about stranded assets. Here's the concept. Unit 2 and 3 are being closed. It's on PNM's balance sheet, they want to make the profits they were going to make until 2053, and make us pay for it. So, they've gambled on coal, they've lost, it's a terrible investment, and it is spread amongst us to pay their bill. Wouldn't you like it, if when you make mistakes, other people had to pay. That's not fair. That's not just. We could do better. We could have solar. We could be a solar exporter in Santa Fe. I ask you to support this Resolution. I ask you to intervene in the PRC case, and we could make Santa Fe a solar capitol of the world."

Presentation by PNM

Matthew Jaramillo, Public Service Company, said, "I've been asked to provide new information on PNM's proposal to replace power from two units of the San Juan Generating Station, and to get the needed approval to retire those two units. This information will help you consider a Resolution tonight that asks for your endorsement to approve a plan above our plan. I hope what I share this evening in helping you consider a second Resolution, now Item H(7), Councilor Ives' Resolution, as a better alternative, which I'll get to in a few minutes."

Mr. Jaramillo said, "Like New Energy Economy we have five minutes to tell you why you should support our plan, and we are confident that our plan is the best plan and meets the City's goals to reduce carbon and add more renewable energy to the system in a responsible manner. I also believe that a five minute snapshot does this Council a disservice. Thousands of hours of analysis and work went into the development of our plan, and summarizing that in 5 minutes is a little like watching a movie trailer, and then trying to write a detailed explanation of what you just saw. Now you can see it's a very long movie trailer. It's a very complicated process and a very long finding."

Mr. Jaramillo said, "We are responsible for planning to meet the energy needs of our customers, long term. We develop a plan that minimizes costs and risks, while assuming reliable service over a 20-year span. And in our modeling, we have gone over thousands and thousands of models to come up with the proposal that you see in front of you. We have the responsibility to protect the environment, a duty we hold as one of our company's most valuable, important missions. And I want to repeat that. We have a responsibility to protect the environment, and it is one of the most important missions that our company follows."

Mr. Jaramillo continued, "It is important to note that we meet or exceed compliance with every applicable environmental rule and regulation. Like you, and probably everyone in this room, we share the belief we should reduce carbon, and I think that has been noted already this evening. And we agree that the expansion of renewable energy and energy efficiency are two ways that we can do this. It is also true that nuclear does not produce any greenhouse gas emissions, and we are very proud of our environmental record."

Mr. Jaramillo continued, "Between 2011 and the end of this year, we will have invested $190 million in utility scale solar, and by the end of this year, we will have one million solar panels throughout our service territory. One million. And that doesn't include what we have that's customer owned that we have been able to put on through incentives. And that does not include the wind generation and the geothermal that we have on our grid. And through our energy efficiency programs customers have taken advantage of, we have rebated more than $30 million since 2007. And our programs have saved almost 400,000 metric tons of carbon dioxide. And these programs were made possible through energy efficiency legislation that we have supported throughout the years."

Mr. Jaramillo continued, "Also, like Nick alluded to, the plan we have filed with the PRC continues this effort and significantly reduces seven different emissions that he failed to mention. 60% reduction in nitrogen oxide, 67% reduction in sulphur dioxide, 50% reduction of particulate matter, 44% reduction in carbon monoxide, 51% reduction in volatile organ compound, 50% reduction in carbon dioxide, 50% reduction in mercury, and 50% reduction in water usage. And the plan we have filed with the PRC continues this effort to significantly reducing these emissions."

Mr. Jaramillo continued, "And as you can see by the folks I have here to my left, PNM is a home grown company, even though we are located in Albuquerque. We employ and have employed thousands of Santa Feans throughout the centuries of our existence. And all of our children here in this room breathe the same air and drink the same water as everybody else in this room. And the well being of our citizens is important to us, as it is to everybody else in this room."

Mr. Jaramillo continued, "I cannot speak to the analysis supporting the alternative plan by New Energy Economy, but we are interested in seeing whether it has followed the level of rigorous analysis, and verifiable supporting data like our plan. For example, will it show carbon will actually go down, as fossil fuels are used to back up when solar and wind are not working. Or will it increase, as it did in Germany. That is an example of what we want to avoid. A well intentioned decision that has unwelcome consequences, actually could derail the City's carbon goals. We appreciate the City considering taking a position in this debate, but if the City ultimate you to take a position, we do encourage to follow the intervening process. The City can best accomplish this by intervening and fully participating in that regulatory process."

Mr. Jaramillo continued, "Over the next several months, many parties and their experts will pore over out filing and scrutinize every single detail. There is no doubt there will be alternative proposals by the interveners that Nick alluded to earlier, and there are a number of perspectives, and we think this is the best forum for Santa Fe's concerns and voice to be heard. Being part of a fully open and transparent PRC process guarantees a venue for all voices to be heard. Councilor Ives does have this Resolution on behalf of the City of Santa Fe, and that is the appropriate venue to give the City its voice. Through this process, we believe our plan will clearly demonstrate that it is best for the environment and best for our customers, because that is our first and foremost obligation. The serious climate issues facing our planet and our need for energy are far too important to be addressed here in 5 minutes, and it sounds like I've gone over. But the voices of the City of Santa Fe are too important to be a rushed judgment. When the City of Santa Fe has an important role to play, the intervening process is that venue. And I really appreciate and thank you for the opportunity to address you today."

Mr. Jaramillo continued, "If you have any technical questions, I have with me tonight Gerard Ortiz, Vice-President of Regulatory Affairs who is also a local Santa Fean, and Patrick J. O'Connell, Director of Resource Planning. They actually are the ones that are responsible for this, so if you have any questions pertaining to this, these gentlemen would be happy to answer any questions and concerns you have."

The Governing Body commented and asked questions as follows:

- Councilor Rivera thanked Mr. Jaramillo from PNM, and New Energy Economy for their presentations. He asked what is PNM's current cost of coal.

Patrick J. O'Connell, Director of Resource Planning, said the current cost of coal is about 5 cents per kWh. It is our lowest cost resources.

- Councilor Rivera facts now or on the horizon that will increase those costs.

Mr. O'Connell said there is always a discussion of potential carbon legislation, but it hasn't taken form. He said, "Our plan would actually pass the standards suggested by President Obama."

- Councilor Rivera asked how the coal ash is disposed of.

Mr. O'Connell said it is being used to fill in a previous surface coal mine, so it is being used to restore the surface.

- Councilor Rivera asked how you prevent leakage into the soil and into the water.

Mr. O'Connell said the coal ash is being placed in ground in an existing coal mine, so the runoff from that doesn't leak into the groundwater.

- Councilor Rivera said, "Okay. Just in general then, the coal ash you're not using, how do you prevent it from getting into the water or into the soil itself."

Mr. O'Connell said the coal ash is placed back to where the coal had been mined in the past. It's dry, and doesn't leak into the water or the soil, it's placed on top of it, and is covered with another layer of dirt.

- Councilor Rivera said, then it doesn't seep into the water or into the soil when it's been rained on or anything like that.

Mr. O'Connell said no.

- Councilor Trujillo asked if Palo Verde 3 is owned by PNM.

Mr. O'Connell said PNM owns 10.2% of Palo Verde 3, so yes.

- Councilor Rivera asked how much does it cost to produce electricity at Palo Verde 3.

Gerard Ortiz, Vice President, PNM Regulatory Affairs, said it is approximately $68 per MWH, or 6.8 cents per kWh.

- Councilor Rivera asked the age of the Palo Verde plant.

Mr. Ortiz said it came on line in 1986, so nearly 30 years.

- Councilor Rivera asked the maintenance costs at Palo Verde.

  Mr. Ortiz said he doesn't have that information available this evening.

- Councilor Rivera asked Mr. Ortiz to explain the risks from the Palo Verde Plant, if any..

  Mr. Ortiz said, "The first point I would make is that it is a zero emission facility, so in terms of reducing greenhouse gases, it's excellent, so there is no carbon risk related to it. There is spent fuel that is stored. But, I would point that, whether PNM brings Palo Verde into rate base or not, Unit #3 will operate. Any risk that is associated with nuclear fuel is not because of PNM's plan, that plant will operate. What it does provide is a low cost, reliable source of energy for our customers.

- Councilor Rivera said, "It's more expensive than coal, is it not."

  Mr. Ortiz said, "It is slightly more expensive than coal, yes sir."

- Councilor Rivera said, "You said coal was 5 cents. How do you compare nuclear to that."

  Mr. Ortiz said, "Well, I said that Palo Verde 3 is approximately 6.8 cents, so it's a little higher than coal, yes sir."

- Councilor Rivera what are the benefits to New Mexicans and Santa Feans and ratepayers of importing nuclear power from Arizona.

  Mr. Ortiz said, "There are significant benefits from bringing Palo Verde 3 into the rate base. The first one I mentioned is it absolutely reduces our exposure to greenhouse gas and other future carbon regulations because there is none. The other thing it does, It provides an extremely reliable source of affordable energy. It's available around the clock to our customers. That is a big advantage. It's already up and running, there's no risk associated with the construction of it, it's fully permitted through 2046, so it's a reliable source of energy that is affordable for the long term for our customers."

- Councilor Rivera said, "Again, regarding leakage of ash into water and into the soil. A few years back, in Dan River in Tennessee [North Carolina?], there was a huge leak that caused some severe contamination. If that happened in the San Juan area, how would PNM deal with that."

  Mr. Ortiz said, "I'm not familiar with the issue, the specific occurrence you're referring to, so I simply can't comment on it. I do that we have done some work on our water recapture system, and so we have addressed that. We are very sensitive to potential environmental harm."

- Councilor Rivera asked, "Is the water that is used there contaminated."

  Mr. Ortiz said, "No sir, it's not. I heard that earlier. And a point I would make is that PNM has reduced our water consumption since 2004 by more than 20%, so we are very sensitive to our water uses. It's not really contaminated. What you do when you produce energy is you burn coal, that creates heat, you heat water that's running through tubes, that creates steam. The steam then goes through a turbine, that spins the turbine that spins the generator, and the generator then creates electricity, so I'm not quite sure how the water is contaminated. A lot of the water we use up there is also for cooling, we recirculate it. That water would not be contaminated either, so I was curious about that."

- Councilor Rivera asked, "So what happens to it after it is used – it goes back into the River..."

  Mr. Ortiz said, "We recirculate a lot of it. Some of it is lost through evaporation in our cooling towers."

- Councilor Rivera asked if they have storage ponds.

  Mr. Ortiz said yes.

- Councilor Rivera asked if that is clean water.

  Mr. Ortiz said I actually am not familiar with that.

  Mr. O'Connell said,, "San Juan is a zero discharge facility, which means we don't discharge any water from the facility. After the water flows through the process, as Mr. Ortiz described, it sits in ponds and is eventually evaporated."

- Councilor Rivera asked if that is clean water.

  Mr. O'Connell said, "When it evaporates. Certainly. Yes."

- Councilor Rivera asked, "Would you drink out of that."

  Mr. O'Connell said the water you're talking about is evaporated, so it's kind of difficult to drink it. I know that San Juan employees fish in it.

- Mayor Gonzales said, "I'm guess I'm trying to understand the question though, is when the water is returned to the ponds, is there some type of requirement that it is at some level of drinking or it's been taken to a certain point where it's considered safe by EPA standards."

Mr. O'Connell said, "The concept is to allow the water to evaporate, and so any residue that is left is collected on a liner safely, so it can be collected later and disposed of cleanly and safely. All that evaporates is the H2O."

- Mayor Gonzales said, "So we don't know what the state of the water is when it goes into the bond."

Mr. Gonzales said, "But is it by any measurements or any standards that you have to meet that require a certain measurement of its cleanliness."

Mr. O'Connell said, "I don't believe so, because we're not discharging the water. The water is in a closed loop system."

- [Councilor Bushee's question here is inaudible.]

Mr. O'Connell said, "I'm not familiar with the details of where the disposal goes, but what I do know is that it disposed of safely and cleanly, and in compliance with all regulations."

- [Councilor Bushee's question here is inaudible]

Mr. O'Connell responded, "Not in my operation, but PNM is a large organization, we just don't have that expert here this evening."

- *[Councilor Bushee's question here is inaudible, but I think she asked Mr. O'Connell to get back to her with this information.]*

- Councilor Ives said he has a few questions. He said he believes everyone appreciate that PNM is looking to shut down units 2 and 3. There is a great sense of satisfaction, and would compliment you on these efforts. And in occasional discussion, he likes to think of what "we" are doing is to try to help "you" see that setting down more is going to make more sense, and how you do the replacement energy. He said, "Certainly you've probably sensed already tonight that it really matters to the people of Santa Fe, but again, appreciate the shutting down of the two units. Also appreciate the work that is being done to promote greater energy efficiency and weatherization, all sorts of things, the great programs that PNM does provide."

- Councilor Ives said a figure was mentioned earlier of $205 million as the amount of undepreciated investment in Units 2 and 3, that are at issue in this most recent filing. Is that an accurate statement of that figure.

Mr. Ortiz said, "You are correct."

- Councilor Ives said, "In terms of from whom PNM will seek to recover those undepreciated assets investment. Are PNM shareholders being asked to bear any of that burden, or is the proposal to pass it all through to the ratepayers."

  Mr. Ortiz said, "The proposal is that it be recovered from existing customers. And the reason for that is that those are costs that customers currently are paying. PNM could have elected not to settle the case. We could have proceeded to install SCR's on all 4 units. The cost for that would have been greater. The emission reductions would not have been significant and there really have been *status quo,* and those units would have been good to run for a long time. PNM found a lower cost solution, even with customers continuing to pay the $205 million. So, from that standpoint, PNM made a decision to shutter those two units. It's a less expensive alternative. And the way regulation works, if there is a regulatory disincentive because the company must see cost savings when we find a lower cost solution, that would send a curious message to the Company, Councilor."

- Councilor Ives asked, "In terms of the proposal to bring in additional Palo Verde power, who.... are ratepayers in California currently covering the cost of that energy production."

  Mr. Ortiz said, "No sir. Currently PNM owns 10% of Unit #3 as a non-jurisdictional resources. We sell that energy into the wholesale market. We basically sell it to whoever the buyers are. We do it in the wholesale market. It brought tremendous value to our portfolio. It actually reduced the cost of our portfolio by proposing to bring it into jurisdiction."

- Councilor Ives said, "In terms of the sale of that energy on the open market, is PNM authorized to pass through all of its depreciation and costs of having built that facility in connection with Unit #3 that you reference."

  Mr. Ortiz said, "No sir. Currently not. Currently all of those costs are borne by the shareholder. It's a non-jurisdictional asset. We are proposing to bring it into jurisdiction. At that point, the cost of depreciation, these O & M associated with it would be in our retail rates. But at the same time, that relatively low cost energy would be supplying our customers."

- Councilor Ives asked, "Why is it currently borne by PNM shareholders."

  Mr. Ortiz said, "Because the Commission ordered it to be removed from rate base in the late 80's or early 90's. At that time, PNM had excess generating capacity, that's no longer the case."

- Councilor Ives said, "And so it was not included in the rate base because of PNM's excess generation capacity at that time."

  Mr. Ortiz said, "Yes sir."

– Councilor Ives responded, "But this proposal now would, in fact, allow it to become part of the rate base, so you're functionally shifting that cost to New Mexico ratepayers."

Mr. Ortiz said, "Yes sir, but the point I would make about that is, if the Commission allows us to bring it in at the price we have proposed, it will be a net benefit. It will lower costs to customers, compared to what they otherwise would be."

– Councilor Ives said, "As I understand it, the submission that PNM made, and I think you were just referring to the fact that it was a negotiated settlement. Am I correct in that.

Mr. Ortiz said, "Yes sir. The settlement allows us, by which we will retire two units of San Juan, that was resolving an issue related to the Clean Air Act Regional Haze between the EPA and the State of New Mexico. It was an agreement that was reached by the PNM and the State of New Mexico. The EPA has called this a model for how these issues should be resolved going forward."

– Councilor Ives asked, "Just out of curiosity, how were ratepayers represented in those settlement negotiations.

Mr. Ortiz said, "Ratepayers are always represented in those kinds of settlements by PNM. The cost to install the SCR's, the equipment on the 4 units at San Juan that the EPA originally ordered, would have cost nearly $1 billion. They would not have reduced any emissions. Well they would have reduced NOx a little bit, but they were really aimed at visibility requirements. Those costs would have been very expensive for our customers to bear, and so PNM was incented to look for a lower cost solution. And fortunately, with the help of the State, we were able to find one."

– Councilor Ives said, "Again, I don't mean to criticize. Obviously everybody supports the shutting down of units 2 and 3, although I may have to think about the statement that PNM was representing the ratepayers there, as a somewhat non-traditional circumstance perhaps, in my mind."

– Councilor Ives said, "Let me also ask, in terms of the State Implementation Plan, when that was being structured, and again, it was representing ratepayers in that, or is that functionally what we're talking about here.

Mr. Ortiz asked Councilor Ives if he is talking about the State Implementation Plan or the Revised State Implementation Plan.

– Councilor Ives said, "I think first the SIP and if there's a distinction with the revised, that would be helpful."

Mr. Ortiz said the State Implementation Plan would have installed SMCR's on all four units at San Juan, so it would have been less expensive. The EPA found that it did not meet the regional haze requirements, and therefore they adopted the fifth, which were the four SCRs. That would have been a more expensive solution to customers. And if I may elaborate, when we look at the present value over the 20 year planning horizon, the fifth, which was the four SCRs would have been $780 million more expensive our customers than the plan that we proposed. And so I guess Councilor, with all due respect, I would hold that out as evidence that PNM was in fact concerned about our customers."

- Councilor Ives said, "I don't mean to imply that you are never not concerned about your customers. In terms of the pollution controls to be placed on Unit 1, when are those to be put on, according to the new filing."

  Mr. Ortiz said, "The SMCR equipment on both Unit 1 and Unit 4, Councilor, are covered by the tem sheet, the settlement. And I believe we have 13 months from the time the EPA finally approved the rule, but no earlier that January 2016. We are hopeful the EPA will stick to the schedule they initially identified, and that in fact, yes NCRs will be installed on both Units 1 and 4 by January 2016."

- Councilor Ives said, "I'm a little confused why PNM is placing the new Natural Gas Generation facility in Farmington, in part because my understanding is that Farmington is not part of your rate base, that is, you don't provide power to Farmington. Is that correct."

  Mr. Ortiz said, "We don't provide power to Farmington, but there are many considerations that are taken into account when one is siting a power plant. You want it to be close to a source of fuel, in this case, a natural gas pipeline. You want to have access to the bulk power transmission system, so you can import the power and deliver it wherever you need to. So, from a siting point of view, San Juan works well, because we do have access to the gas system, and to the transition system. And from Four Corners, we can deliver it anywhere on our system. It would be unusual for any utility to have all of its generation exclusively within its service territory."

- Councilor Ives said, "I know, based on materials provided by PNM, it sounds as if the primary consideration was keeling jobs in Farmington.

  Mr. Ortiz said that certainly was a consideration.

- Councilor Ives said, if the energy is transmitted from the Farmington area back into the service jurisdiction territory there are line losses to be anticipated, and asked if those calculations have been done, and if so, what are they.

Mr. Ortiz said yes, the line losses on their transition system are between 3 and 4%, and as a point of reference, across the transmission system it's 3-4%, but when you transmit energy across a transformer, such as the one serving this building, it's 2%. So, relatively speaking, the line losses for the transmission system aren't really great.

- Councilor Ives asked the comparative line loss, based on transportation of natural gas to a site closer to your customer base, or would you anticipate any line loss of gas from a pipeline delivering gas if the facility was located within your territory.

  Mr. Ortiz said he would not. He said San Juan is the producing basin, so there is less gas loss.

- Councilor Ives asked, regarding the proposed La Luz plant, because that isn't part of your rate structure, when can we anticipate a potential request for a rate increase based on the La Luz coming on line.

  Mr. Ortiz said, "You are correct. La Luz isn't part of the replacement portfolio. We need it for operating reasons, we need it for transmission support. And La Luz, in and of itself, wouldn't be the cause necessarily for a rate case. When a utility is considering a rate case, we look at all of our costs, our revenues in total. It's pretty seldom a single plant would cause a rate increase. Nonetheless, we've announced publicly that we anticipate filing a rate case later this year for new rates to be effective, possibly in January 2015.

- Councilor Ives thanked him for his patience in answering his questions and appreciates him coming tonight to share PNM's points of view, and applauds many of PNM's efforts at greater efficiency, as well as shutting down the units proposed to be shut down.

- Councilor Bushee asked if PNM is required to calculate health costs into the equation.

  Mr. Ortiz said, "We are not, and it would be exceeding difficult to calculate. I have heard New En Energy Economy figures before, but I have also seen an American Lung Association Study that finds that both Farmington and Santa Fe have some of the cleanest air in the country. And so I cannot dispute the rate of asthma in New Mexico, but I would suggest that we have studies that show that our outside air is very clean."

- Councilor Bushee asked if there were ever a catastrophic event at a nuclear power plant, who would pay for cleanup.

  Mr. Ortiz said, "I can't answer that definitively. The last big issue we had at in the United States was while much of the nuclear power plants were being constructed, and the design standards were modified in response to that incident."

- Councilor Bushee said, "Okay, so that's not really posed to you are a utility. Okay, I think you kind of answered it. As far as all the environmental issues we're trying to get at with this Resolution, and maybe ask this question of Matt, personally to him, but why would PNM be interested in us intervening in this case, and not so interested in this Resolution. What's the objectionable part of this Resolution."

  Mr. Ortiz said, "If I may, we have spent thousands of hours developing our plan. It has 900 pages of support behind it. And I very much appreciate that the City of Santa Fe would like to take a position on the issue, but frankly, the best way you could do that is to intervene, be part of the process and hear not only what PNM and our experts say, hear what the other experts say, and actually dig into the various alternatives and see if they stand up to the same rigorous analysis that we've performed. I'm confident that our plan is the least cost. I'm confident our plan is the least risky and the best plan. But, when I look at that filing, I'm very familiar with it. I can't explain it to you simply in 5 minutes and it would be unfair for me to ask you to endorse it, because there's too much behind it. I haven't seen New Energy' Economy's plan. Maybe it has the same level of analysis behind it, but I guess my reticence, Councilor, is that there is a lot of data there to consider. And if you really want to take a position, I would suggest the better course of action is to get involved in the case, hear not only what PNM has to say but what the other experts have to say, look at the evidence and then come to a decision."

- Councilor Bushee said she is looking at a slightly modified version of the Resolution, and I have handed a copy out to you all. But what I would say, is that I don't know that the Resolution asks us to adopt their plan, New Energy Economy's plan over your plan. I think what we're asking for, at least the part that really matters in any of these resolutions to me is what we resolve to do. And we're resolving to do.... one of the most tangible things that we can discuss here tonight, is the fact that we would like you to minimize the financial impact to the New Mexico ratepayer. What's hard for us to understand, at least as someone who is charged with trying to protect the citizens of Santa Fe in whatever way we can..... you have a claim for undepreciated stranded asset costs. I know that's going to go before the PRC and I know that our intervening case will give us a place at the table, but the concern really is, I mean, why do we have to start with the highest cost. And we know that it's clearly, directly going to the ratepayer, not to your shareholders. So how do we move you all there. You're saying intervene, that's the only way to do it."

  Mr. Ortiz said, "But ma'am, our plan is not the highest cost, our plan is the lowest cost. Now, there may be issues specifically with stranded cost from your perspective, but as I pointed out, what PNM could have done is simply gone ahead with the SDR's. That would have been $780 million more over 20 years, and this never would have come forward. PNM shareholders should not be penalized for finding a lower cost solution. Regulation, and that's the world I live in, works best when the interests of the shareholders and the customers are aligned. Encouraging a utility and rewarding a company for selecting the least cost solution is good from a regulatory perspective. It makes sense from a regulatory perspective."

Councilor Bushee said, "I don't really have an answer to that, so I don't have any more questions right now, thank you.

Mayor Gonzales said he was reminded by Councilor Dominguez that there is a Council rule which calls for meetings to end at midnight, so we are going to try our best to finish before midnight. However, if not, he understands we have the provision to be able to past midnight by a vote to suspend the rules.

Speaking to the request

All those speaking were sworn en masse

Mayor Gonzales said this is just a hearing on the Resolution and there will be no action on that, but Item H(7), a request to intervene does require action. He said people can speak to both items, but the only action the Council will take tonight, if it chooses, is on the intervention. He said he will allow each person 1½ minutes to speak to this request.

Fred Sisneros, 16 Zorito Court, said he is not here to argue in favor or against PNM or New Energy Economy. He said, "In fact, I don't really have a dog in the fight, because I haven't read that 700 page document. I neither support nor oppose the plan, other than to say it deserves intense technical review in an appropriate forum, given that it's the result of involved negotiation with the US EPA and the State Environment Department. I know it's a highly technical and complex issue, which has been publicly addressed only through a few brief presentations both for against. Is the appropriate venue for such consideration, particularly on an action that may have major long term impacts on our community and the entire region. I view it somewhat unfair for any interest group to ask Councilors to vote on an issue on which they or their constituents may not be fully informed, and which may have such far-flung ramifications." He said these are complex issues demanding thorough, informed though regardless of one's position. He said the New Energy Economy is earnest in pursuit of alternative renewable energy technology which he support. The proposals are lacking about particulars about specific generation technologies or a blend to ensure a stable and adequate power supply, and how it impacts seniors, people on fixed and limited income residents. It is one thing to develop theoretical models around such issues, but a 'different animal' to develop long term policies to address all the issues facing New Mexico. The City should participate in the most effective way possible. Protect the interests of our City. There is a lot to lose here, if this isn't thought out completely."

Chip Chapelle, Chair, Santa Fe Chamber, said his thoughts are consistent with Mr. Sisneros'. The point is this is a fairly complex, elaborate plan, and when the business community was briefed by PNM, it seemed thoughtful in consideration of costs and environmental issues. He said the business community wasn't briefed about alternative plans, so it is had to comment on that. He said it would seem the City should consider intervening because of the complexity of the issues. He said, "But to consider one

power source, such as solar or wind, as an alternative to coal and nuclear is much more complex than just feeling that's the correct thing to do. I think everybody is in favor of renewable energy issues, imbedded costs, cost to deliver, cost that gets pass to the rate base, which is complex, and the reason it needs to go through the PRC environment."

Allan Sindelar, Founder, Positive Energy Solar, Santa Fe entered a document for the record [Exhibit "17"]. He wants to speak to the more distant future. He receives regular newsletters on global issues related to renewable energy and utility issues. In this week's *Renewable Energy Focus* there was an essay by the senior editor. He has provided a copy to the City Clerk. Mr. Sindelar read excerpts from this article, *This is what the Utility Death Spiral looks like*. Please see Exhibit "17" for specifics of this article.

Mayor Gonzales said, "The minute and a half goes really fast, so move to some of the quick points that are salient to the matter."

Wendy Volkman said transition is possible and imperative. She is here to support the Resolution because there is no good argument for endangering our host plant. We need energy solutions which are conducive to life. What is the health argument for pollution, the business argument for having to clean up all this pollution and for eventually rendering the planet uninhabitable. We're being asked to change, the plant is being asked to change, the paradigm shift is before us and it's time to embrace the future and make choices that are conducive to live where we live, and we need PNM to move to renewable energy for the best environmental and job outcomes. She thanked those supporting the Resolution.

Naomi Green said she is a mom and her son works at Ski Santa Fe in the winter and last summer for Kokopelli and Santa Fe Rafting. She said before each season he says he hopes he has a job if there's snow or water. She said this is impacting all of the people in our community that depend on those industries, as well as those people who come here. She is a psychotherapy working with the most vulnerable of the population. She said the Intergovernmental Panel on Climate Change is the gold standard in understanding the effects of climate change on human beings. The report states an estimate 200 million Americans will be exposed to serious psychological distress from climate related events and incidents, and goes on to say that 70 million children, 50 million elderly and 35 million low income people will suffer disproportionally in terms of physical and psychological stress. Her last point is that 60 million of people will face additional challenges. She said, "We are the Saudi Arabia of sun and solar, and what else could we possibly be putting our money into."

Larry Sonntag, New Mexico Business Coalition, said they are not an advocate for or against PNM, and wants what's best for all New Mexicans – an improved economy and a friendlier business environment which grows the private sector. The first gentleman who spoke pointed out that the issues

are very complicated, has gone on for 5 years, and you can see the complexity of this issue. The proper venue for that discussion is the PRC. With regard to H(7), before you intervene, you need to check your checkbook first. He said it will be a costly endeavor if you do decide to intervene.

Carla Sonntag, Executive Director, New Mexico Utilities Shareholders Alliance, the group about which you have been speaking. They have thousands of shareholders in New Mexico, and 1,000 living in Santa Fe. She said the Alliance opposes the Resolution, because they would rather see you get involved in the case in a broader way than spending a few minutes tonight talking about it, and trying to make an informed decision. The case has been going on for a long time, which originated over visibility, not health benefits, or detriments. And yet, the plan being proposed has a huge benefit in cleaning the air. It is a complicated case that has gone on for years and involves PNM, the State of New Mexico and the federal government. She urges you to oppose the Resolution, get involved in the case, intervene in a meaningful way, look at all the facts. The Alliance supports PNM's plan and believe it did its due diligence in looking out for the ratepayers. The original plan was $1 billion we would be paying and is much less now and the air will be much cleaner. It is worth looking into.

Reverend Holly Beaumont, Organizing Director, Interfaith Worker Justice New Mexico, a network of people of faith who advocate for workers' rights and economic justice. They also want New Mexico to be business friendly, but we need to attract economic engines which provide good jobs with good pay, and produce products which benefit New Mexicans, rather than asking workers to sacrifice their health and well being for a paycheck. These industries have been transforming The Land of Enchantment into a wasteland. There are alternatives to all these forms of energies. These industries are as powerful as they are dangerous, dinosaurs belonging to a different time in history. We need a new vision for the people of New Mexico by looking at what we have here. We don't need to be bringing in coal or looking at nuclear energy. We need to use the resources that have been given to us, which is solar. She asked the Governing Body to look at Germany and the National Renewable Energy Act they passed in 2000 that has been so successful in getting people to transfer to solar that it canceled plans to produce 3 nuclear power plants, and created 170,000 jobs and made Germany the center for solar on the entire planet.

Unidentified. She said PNM had to stop operating 2 units of the plant because of air pollution. It makes no sense to replace that power with the same fuel that shut it down. She said no forward thinking energy plan includes coal because it pollutes and releases greenhouse gases, and the scientists are clear – we have to leave fossil fuels in the ground. She said PNM "wants more nukes." We see articles in the New Mexico. She said when you read that there are 500 toxic, abandoned uranium mines on the Navajo Nation, when you read WIPP is leaking, you read about the Cerro Grande Fire or even Fukushima, you ask why you would invest any more in the nuclear industry when you have alternatives. We have a responsibility to change course, be bold, support the Resolution and intervene.

Mayor Gonzales reminded those speaking to keep the information provided to the Council to something new which hasn't already been stated.

Sharon Argembright said she is a mother, grandmother and nurse. She went to Farmington to try to find out about this first hand, and found a little community "down wind." She said coal ash destroyed this little town, noting there were vacant houses and for sale signs. She saw one child in the neighborhood riding a bicycle. She said the ground was gray and the vegetation was denuded. There were nice houses but nobody lived. She asked what goal ash is going to childrens lungs and hearts. She wants to do something, noting she installed geothermal heat in her house, a solar panel to generate it, all renewable. She is paying it forward, and asked the Governing Body to ask PNM to pay it forward for our children.

Elizabeth Dunn said she is glad PNM was forced to close two plants and we can use solar and wind in New Mexico. However, she understands PNM wants to replace these units with nuclear generated electricity from its plant in Arizona with more coal from the other units of San Juan and building a new natural gas fueled generating plant. She said they may also include a small amount of solar. She is assuming the City Council will oppose PNM's replacement plan. It is not the lowest cost solution and it definitely is not the best environmental outcome. She said nuclear is "insane" because of the potential for accidents and storing nuclear waste. She said the Japanese can no longer eat the food growing on their land or in their water. She is a grandmother and doesn't want her grandchildren growing up where natural disasters are a major part of life. She asked the Governing Body to maintain our enlightened leadership and commitment to environmental solutions and vote for New Energy Economy's Resolution to be forwarded to the PRC. Vote for Santa Fe's enlightened vision. 75% renewables.

Mayor Gonzales reminded those speaking to keep the information provided to the Council to something new which hasn't already been stated.

Unidentified said he has been at PRC hearings as an attorney, and issues raised and positions taken by PNM is challengeable. He said we heard tonight that low cost nuclear was coming on at 6.6, but we can get wind from Eastern New Mexico at 4.4 cents per kWh, so nuclear is more expensive, noting solar is at 7.3 cents, but it is going down regularly, and includes the possibility for many more jobs for Santa Fe and the area. He said he thinks San Juan uses 6 billion gallons of water annually, 11,000 a minute. It's true they don't release dirty water, they put it ponds and it evaporates so that comes from the San Juan and Chama Rivers so we do lose it, even though it isn't dumped back into those same water systerms, which is a huge lose in face of a drought. He said we're asking you to intervene and challenge what PNM is saying, that's all we're asking you to do.

Regina Wheeler, CEO, Positive Energy Solar, 120 Solana, said this is an incredible company that has produced important jobs attracting people that contribute to the community. The business was founded in Santa Fe, and is a graduate of the Business Incubator 17 years ago, which now has 55 employees. They have a living wage with a base of $13.00 per hour. They are committed to equity, so executives make less so everybody in the company can make more. They make a lot of community contributions as well. She talked about Santa Fe's investment in renewable energy education and growing the work force. She said Positive Energy Solar presents to schools and provides grants for solar schools

and non-profit organizations as well. They appreciate the support of the Governing Body for the Resolution and in intervening in this case.

Randy Sadwick, employee at Positive Energy, said the U.S. Constitution tried to define freedom, but that was really defined by slavery. He said our livelihood is going to be defined by fossil fuels because it will get us or we'll take charge of our life. He talked about the disaster at Fukushima and the pollution of the ocean. He said in the United States in 2013, the percentage of renewable energy, total capacity added was 36%. He said this plan targets 9%. He said renewable energy costs for utilities is much much lower than residential at about 3.5 cents per kWh. He said you heard the other numbers, so you have a context for this. He believes we need to spend more time on this issue, because it's important and so fundamental to our livelihood. He supports the Resolution and the intervention.

Keith Burks, 35 year PNM employee, said he is also a citizen and ratepayer. He said he wishes the youth were still here to hear the two points he wants to make. One, is that we are your neighbors, not the evil empire, and we work for a company that supplies electricity, and spend a lot of cold nights keeping the lights on. He said they volunteer for United Way, read to children at elementary schools on our own time, and do a lot in the community. He wants the youth to understand we are not evil people. He said the one thing that hasn't been brought up yet is, "We are held by the PRC and the State to supply enough electricity, to produce enough electricity for everybody in Santa Fe and in the State in our coverage area. My point is any solar and any wind, we wish we could add a lot more, but any of it is duplicate. Because, if we have 3 days of show, we better have enough power for everybody, there's not going to be any wind or sun, so we need 100% power produced from somewhere. So anything we add in solar and in wind is duplicate power to what we have to produce, and no one has said that tonight. And if you want to duplicate all the power, we're all for it, but it would costs customers twice as much. The bottom line is we're trying to serve the customer with cheap power."

Christina [inaudible], Editor, Ecosource Magazine, said she sees innovation and sustainability in Santa Fe, artists, farmers, architects, innovating in how they build for a sustainable future. She respects a lot of what PNM said tonight, but when they say things like "this is the least risky option," and "this is the lowest cost option," she wants to know what that means. She said what is at risk here is our planet, our health, our children, jobs in New Mexico. She was an educator in New York, and they used the word "floor" instead of the "ground." When she spoke to New Mexico people about this, she said, "How much do you believe in local politics, 0 to 5, 5 is a lot, 0 is not at all. I'm sorry, but they were 0. I asked how important climate change to them and they all had a 5." She told them there is a way that local politics and environmental justice connect, and said tonight you have proven that you will listen. She said we are at a tipping point. This is critical, and this is the time to change our direction.

Dennis Hernandez, lower Agua Fria, said he and his wife have 150 relatives living in Santa Fe and have been part of this community for more than a century. The air, the water, the ground we grow their vegetables on has always been and always will be important to them. He has children and he wants them to be part of the community as long as they can. He has had the privilege to work for a company for the past 10 years and seen them add renewable energy to its portfolio. He said he and his engineers and linemen are the ones that work with the City to put on the solar to interconnect, they meet with the customers to provide power to them. He said, "We do a really good job and we aren't the bad people. Keith, thank you for mentioning that. I want to applaud NEE for exciting the kid. It is good to have a vision, but to be honest, a vision without a plan is merely a dream. We need to have a plan. And you are making a decision that represents more than my family, it represents more than the people that came into this room. You're going to make a stand for everybody in Santa Fe, that don't have an idea about what's going on right now, by accepting a Resolution, and basically saying that you guys aren't open to a consideration of a plan that PNM has, a plan that they spent three years producing and have experts to do studies. So I think you guys need to be more informed to make a responsible, educated decision.

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MOTION: Councilor Rivera moved, seconded by Councilor Trujillo, to suspend the rules and continue the Council meeting past midnight.

VOTE: The motion was approved unanimously on a voice vote with Councilors Bushee, Dimas, Dominguez, Ives, Lindell, Maestas, Rivera and Trujillo voting in favor of the motion and none against.
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Anie Rochelow, New Mexico Coordinator for the Great March for Climate Action. It is a group of marchers who are walking from Los Angeles to Washington, D.C., over 9 months, and they are coming to New Mexico, so the number of people in this room is nothing compared to what is coming. She said we are not in an era of climate change. We are in a climate crisis. She said the United States Military is completely on board with renewables, and moving faster than anyone or any State. She said if the military believes in renewables, "what in the world are we doing here in New Mexico." She said corporations are moving to renewable energy, even Walmart. She tells friends in other parts of the country that we are not moving toward solar in New Mexico, and they know how sunny it is here. They just roll their eyes and wonder what is going on and "who is in who's pocket." She said renewables are highly rated investments on Wall Street, and it is well known that no nuclear stocks are worthy of investments on Wall Street at this time. She was at Laguna Pueblo recently, and they told her about the uranium mining they had been involved with, and how they regretted it and so many of their people lost their job because of that. She asked, "Why are we reentering in that kind of world."

Tom Dominguez said he has worked for PNM for more than 11 years. [inaudible here]. He said his family has breathing this air for centuries and his grandchildren will be breathing the same air, and he is concerned. He has been a engineer with PNM, which he would encourage his children and grandchildren to be a part of. It has been a pleasure to work with this local government on local projects. He has been privileged to work on a solar plant in Las Vegas. He said we are the evil guy, and we are concerned about the environment.

Rob Hirsch, Executive Director of New Mexico Independent Power Producers and the Climate Change Leadership and on the Board of the Santa Fe Green Chamber of Commerce. He said he does energy consulting and sustainable energy in particular. He said he was impressed with Mayor Gonzales who said, when he was running, he wanted to be a uniter. He said we need to build more bridges on this issue with PNM, and on the other side, New Energy Economy. He said we need to work together, communicate and have constructive engagement, because that's where we're going to make progress in this real world that we're living in. These are checkerboard issues which aren't specifically black or white. He supports the cost recover, because the interest rate is calculated fairly. He supports the closure of the two units, which is an important tenant. He said it isn't a foregone conclusion that those two units will close. On the other side, if you're going to have 78 MW of new coal brought into the system, he would support not allowing cost recovery for that going forward, and have the risk on the shareholders. He said he would support more renewable energy in the plan for a more balanced energy portfolio, nothing this is what got them into trouble to begin with – a one dimensional source of energy, coal. He said even if we have Palo Verde nuclear, we can have more renewables if we have less natural gas at San Juan. He said we could down from 177 MW to 143 MW of natural gas at San Juan and make up the difference with solar. He said yesterday they announced 5% solar in the City of Austin to be produced in Texas, and we can do that in New Mexico, especially if we extend the production tax credit which would make it more cost effective. He said, "I would just close by saying I think we can do more renewables responsibly, cost-effectively and in a balanced way, and be effective and achievable. So I think you should do a Resolution that is thoughtful, and I think you should intervene. And I thing you should attend the individual resource plan meetings that are going on at PNM and have your voice heard. It is very important. Thank you very much."

Elizabeth Sloater said PNM didn't cause or create or invent climate change. Climate change has been happening since the earth started spinning on its axis and will continue until it stops. She said, "I have in my hand, a little piece of petrified wood, it's probably 2.6 billion to 11,000 years old. It was part of a forest that was here in the State of New Mexico. I found it here. And the forest this wood comes from disappeared at least 11,000 years ago. I don't think the Four Corners Power Plant was in operation 11,000 years ago. I hope you will take these, please, into consideration in a real world. Yes, we need to change the way we live as individuals and the way we use energy. And I have a proposal for alternative energy. Why doesn't the City put up a 500 foot wind turbine on the Plaza, that would solve all the energy problems, at least in Santa Fe, and then you could sell the excess to PNM." She asked the Governing Body to consider this in considering the Resolution, saying, "I oppose the Resolution. Thank you for your time."

Shara Roanhorse and he asked that the Councilors seriously consider this issue. He calls Santa Fe home, and worked at Hastings. He also grew up in Farmington. He is the former Chief of Staff for the Navajo Nation. He said he has worked on this issue for the past 3 years, and this has been a very difficult process. He believes the City should seriously consider this issue and don't jump into this, being manipulated by various versions of facts. It is an issue that has been vetted by PNM and the State of New Mexico and the Navajo Nation.

The Public Hearing was closed

Mayor Gonzales said there will be a second hearing on this issue at the next City Council meeting on March 26, 2014.

Mayor Gonzales said in the earlier session, he informed the Council that we will be creating an Energy Committee to develop a strategy for the City, as well as a plan, and he looking forward to that work which is going to be done by the Council over the next several months to address how we want to approach and develop our own set of policies to support the reduction of fossil fuel use, promote more retrofitting of homes of businesses, and the overall strategy that we want to pursue when it comes to relationships with PNM and the broader community. He said the Council will start that work here shortly.

7) **CONSIDERATION OF RESOLUTION NO. 2014-22 (COUNCILOR IVES, COUNCILOR RIVERA AND COUNCILOR BUSHEE). 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 PRINCIPLES AND DETERMINATION OF RELATED RATE MAKING PRINCIPLES AND TREATMENT.**

MOTION: Councilor Ives moved, seconded by Councilor Bushee, to adopt Resolution No. 2014-22, to intervene in the Case before the Public Regulation Commission.

DISCUSSION: Councilor Ives said he would urge support of the Resolution. He said Mr. Schiavo advised the number of those who have intervened. He said, "By intervening, we don't necessarily set, at this point, our level of participation in that proceeding. If we choose to move further in it, there will be opportunity to consider how we go about that, as well as what level of expenditure might be associated with those efforts. So, we need not worry about that, in my estimation, and believe that would be confirmed by Nick Schiavo if we brought him back up. At this point in time, by intervening, we gain a place at the table, the opportunity to receive pleadings and be informed in the matter, as well as the right to potentially participate in any hearings or presentations associated with the case. So, urging us to act affirmatively on the Resolution at this point in time so Santa Fe, which is significantly impacted as a ratepayer of PNM in this proceeding that we at least be poised and ready to protect the interests of the people and the ratepayers in the City as well as the City. As noted in the Resolution, we purchased nearly $6 million of electricity and related from PNM on an annual basis."

Councilor Rivera thanked everyone for attending and staying past midnight to be heard and hear us. He said PNM has worked hard on its plan and are passionate about renewable energy and doing what is best

for future generations. He asked to be added as a cosponsor to Councilor Ives Resolution.

Councilor Trujillo said he definitely believes we need to be a participant and a place at the table, but he believes the cost is relevant. He said once we are involved and begin to incur costs, what is our direction to staff, and will we have a vote on that, and let people comment on whether we should be spending funds on this. He knows his constituents will be asking about that.

Councilor Ives said, as with any matter of litigation in which the City participates, we generally have contracts into which we enter with people to represent the City.

Councilor Trujillo said we usually have that discussion in executive session, but there is no discussion in open session. He asked if we are going to let our constituents have a place at the table here at the Council when we vote on those costs.

Councilor Ives said we can have public hearings on things if the Council would like to do so.

Councilor Dominguez said he would like to amend the motion to provide direction to staff that if we do engage counsel to act on behalf of the City in connection with this rate case, or the PNM filing, that that matter be brought to the Council for action.

FRIENDLY AMENDMENT: Councilor Ives said he would like to amend the motion to provide direction to staff that if we do engage counsel to act on behalf of the City in connection with this rate case, or the PNM filing, that that matter be brought to the Council for action. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND, AND THERE WERE NO OBJECTIONS FROM THE OTHER MEMBERS OF THE GOVERNING BODY.**

Councilor Dominguez thanked everyone for speaking tonight, especially the young people. He said we try to look out for the future of our community and humanity, and getting their statements for the record is important to him and the entire Governing Body. He said he doesn't know much about running a utility, other than a water utility where we have increased rates, so there is no way "I can answer, or speak to or even question some of the technical elements of the Resolution and the plans and everything that has been brought up. This is the reason we have the PRC, and the reason it is important for us to intervene on this important issue. It is appropriate for the Governing Body to speak to the financial impact any plan has to the ratepayers, and we need to do everything we can to advocate for workers in general." He understands there is a potential Substitute Resolution which is coming forward, and he's interested in that. He said the Resolution in place now has language that has to change. For example, he has asked for the EPA that has been identified, but that plan will not be made available to the Governing Body because of some legal issues. He is interested in the wording of the Substitute Resolution, and thanked Councilor Bushee for providing it to him. He said he supports the intent which he thinks is that we begin to move off fossil fuels, create a green environment, protect the environment and people. He supports that intent and believes we can move forward on that. And, without getting between PNM and New Energy Economy, it is important to continue to keep our eye on the ball and make sure we do what's right for our citizens.

Responding to Councilor Bushee, Ms. Brennan said the final day to intervene is April 1, 2015. Ms. Brennan said the final paragraph of the Resolution calls for outside counsel, and the FIR shows a cap of $50,000, and that is within the authority of the manager to sign. She said if you adopt the Resolution, it would be worth exploring with the other interveners whether we have any interest in common that could help us share resources, save some money and make our points.

Councilor Maestas thanked everyone for coming out and staying so late. He said it is a wonderful debate, and thinks it is good that PNM is closing those two units, and improving the air quality in the area is fantastic. He said we have a responsibility to advocate for our community and the reason he will support the Resolution. He said the Resolution we're deliberating is a formation of our overall position that we would adopt as an intervener. He sees these two actions as complimentary and looks forward to the next public hearing.

Councilor Ives echoed thanks to everyone for being here for these important and complex issues which engage our citizens. He thanked the people from PNM for sharing their perspective. He hopes we can demonstrate that there are more cost effective means of accommodating the energy needs, while increasing the renewables portfolio significantly which is stated goal and intent as we intervene in the PRC proceeding.

Councilor Bushee asked to be added as a cosponsor.

Mayor Gonzales thanked the staff and the public for staying with us through the evening. He said this discussion requires both sides to be at the table and "we certainly commit that to all of you."

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

For: Councilor Bushee, Councilor Dimas, Councilor Dominguez, Councilor Ives, Councilor Lindell, Councilor Maestas, Councilor Rivera and Councilor Trujillo.

Against: None.

Councilor Bushee introduced a Substitute Resolution relating to Public Service Company of New Mexico's plan to replace 836 megawatts at the San Juan Generating Station; urging the New Mexico Public Regulation Commission to modify PNM's Plan and claims for cost recovery, and to instruct PNM to include more renewable energy in that Plan. A copy of the Substitute Resolution is incorporated herewith to these minutes as Exhibit "18."

I. ADJOURN

The was no further business to come before the Governing Body, and upon completion of the Agenda, the meeting was adjourned at approximately 12:15 p.m.

Approved by:

Mayor Javier M. Gonzales

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:

Melessia Helberg, Council Stenographer