

**ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 10/05/15
FOR CITY COUNCIL MEETING OF 10/14/15**

ISSUE:

20. Request for Approval of a Resolution Directing Staff to Complete the Old Pecos Trail Scenic Corridor Plan by Following the Necessary Public Process. (Councilor Bushee, Mayor Gonzales and Councilors Ives, Lindell and Maestas) (Greg Smith)

Committee Review:

Public Works Committee (no recommendation)	09/08/15
Planning Commission (no action taken)	10/01/15
City Council (scheduled)	10/14/15

Fiscal Impact – Yes - \$10,000 for professional services – meeting facilitation

FINANCE COMMITTEE ACTION:

Approved as Discussion item.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

Approved with direction to staff.

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

4-13-15

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
TUESDAY, SEPTEMBER 8, 2015**

ITEM 12

REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS (COUNCILOR BUSHEE) (GREG SMITH)

PUBLIC WORKS COMMITTEE ACTION: Forward, no recommendation

FUNDING SOURCE:

SPECIAL CONDITIONS / AMENDMENTS / STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON TRUJILLO			
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	X		
COUNCILOR DOMINGUEZ	X		
COUNCILOR IVES	X		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-____
Old Pecos Trail Corridor

SPONSOR(S): Councilor Bushee, Mayor Gonzales, Councilors Ives, Lindell and Maestas

SUMMARY: The proposed resolution would direct staff to complete the Old Pecos Trail scenic corridor plan, following the necessary public process.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: Yes

DATE: September 9, 2015

ATTACHMENTS: Resolution
Amended FIR

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2015-__

3 INTRODUCED BY:

4
5 Councilor Patti J. Bushee Mayor Javier M. Gonzales
6 Councilor Peter N. Ives Councilor Signe I. Lindell
7 Councilor Joseph M. Maestas
8
9

10 A RESOLUTION

11 DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR
12 PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS.
13

14 WHEREAS, the Old Pecos Trail, with its panoramic views of the Sangre De Cristo and
15 Jemez Mountains, and its historic connection to the Old Santa Fe Trail, is iconic and irreplaceable;
16 and

17 WHEREAS, the 1999 General Plan states: "The character of Santa Fe is defined by more
18 than just buildings. Many other features are recognized as making a collective contribution to the
19 city's distinctive cultural landscape. Such features should be identified and recorded locationally and
20 include acequias, street forms, and physical attributes"; and

21 WHEREAS, the 1999 General Plan directs the City to expand existing resource survey
22 efforts to include recording characteristics and unique physical features and historic development
23 patterns and to develop processes to preserve those characteristics, physical features, and
24 development patterns; and

25 WHEREAS, the 1999 General Plan specifically calls for development of the Old Pecos Trail

1 Scenic Corridor , saying “The Old Pecos Trail Scenic Corridor designates Old Pecos Trail, between
2 Cordova Road and I-25, as a scenic roadway and recognizes its importance as an unspoiled entryway
3 into downtown”; and

4 **WHEREAS**, the 1999 General Plan states that development standards for the Old Pecos Trail
5 Scenic Corridor, including land uses, density, and design controls, will be developed through a public
6 participation process; and

7 **WHEREAS**, the city has adopted SFCC Section 14-5.5(a)(2)(A) Boundaries of the South
8 Central Highway Corridor Protection District (SCHC), which defines the SCHC district
9 encompassing the land within six hundred feet of the edge of the right of way on both sides of the
10 following streets designated as special review districts in the general plan, and shown on the official
11 zoning map in the south central section of Santa Fe: St. Michael's Drive; Old Pecos Trail; St. Francis
12 Drive; Rodeo Road; and Interstate 25 and its frontage roads; and

13 **WHEREAS**, in the early 2000's, there was an extensive public process to develop more
14 specific standards for Old Pecos Trail to be included within SFCC 14-5.5, the SCHC Protection
15 District, as the “Old Pecos Trail Scenic Corridor”; and

16 **WHEREAS**, those standards were not fully adopted; and

17 **WHEREAS**, this lack of specificity has resulted in concerns that the Old Pecos Trail Scenic
18 Corridor, as called for in the 1999 General Plan, is imperiled and needs immediate protection.

19 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**
20 **CITY OF SANTA FE** that Land Use Department staff is directed to immediately reconvene the
21 public process to develop standards for the Old Pecos Trail Scenic Corridor and to present those
22 standards to the Governing Body for adoption into the City's Land Use Code.

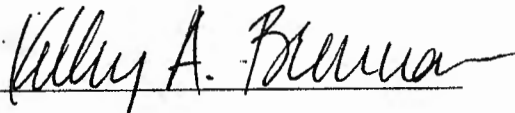
23 **PASSED, APPROVED AND ADOPTED** this _____ day of _____, 2015.
24
25

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X


(A single FIR may be used for related bills and/or resolutions)

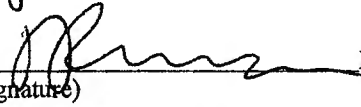
Short Title(s): **A RESOLUTION DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS.**

Sponsor(s): Councilor Bushee, Mayor Gonzales, Councilors Ives, Lindell and Maestas

Reviewing Department(s): Land Use

Persons Completing FIR: Greg Smith, Director Current Planning Division Date: 9/9/15 Phone: 955-6957

Reviewed by City Attorney:  Date: 9/21/15

Reviewed by Finance Director:  Date: 9-21-2015

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The proposed resolution directs staff to "immediately reconvene the public process to develop standards for the Old Pecos Trail Scenic Corridor and to present those standards to the Governing Body for adoption into the City's Land Use Code."

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 15-16	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ ***	A***	NR	\$ _____	_____	_____	_____	_____
Fringe**	\$ ***	A***	NR	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services Planning Consultant	[\$50,000]	N	NR	\$ _____	_____	_____	_____	_____
Professional Services Meeting Facilitation	\$10,000	N	NR	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	[\$60,000] \$10,000			\$ _____				

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

No funding source identified

_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____		\$ _____			

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Staff has been unable to locate any work products generated by earlier efforts that are identified in the resolution, and anticipates that the work would essentially have to start from "scratch." Depending on the extent of public involvement and the complexity of regulations that are developed, the effort would involve a few hundreds of hours of professional services from staff and/or consultants for research, notification, conducting meetings, preparation of draft regulations, public meetings, etc. Since this project is not included in the annual work program for either the Land Use Department or the Long Range Planning Division of the Housing and Community Development Department, completing the OPT Corridor regulations would require a) professional service contracting, b) deferring action on projects that have already been included in departmental work programs, c) hiring new staff, or d) a combination of a, b, and c. Staff estimates [the contract amounts as \$50,000 for professional planning services, plus] \$10,000 for meeting facilitation services. Existing staffing levels for the Land Use Department Current Planning Division and/or the Long Range Planning Division of the Housing and Community Development Department could absorb the management of consultant services, and – depending on other project priorities – could also provide limited direct involvement in conducting meetings. No additional sources of revenue have been identified for this project.

Section D. General Narrative

1. **Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No conflicts or duplications are anticipated. The OPT corridor project would need to be coordinated with other ongoing planning and code updates, including the update to the General Plan.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The existing "South Central Highway Corridor Overlay District [Section 14-5.5(A) SFCC 1987] will continue to regulate part of the area identified in the 1999 General Plan, and the remainder will continue to have no special overlay regulations.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The intent of the regulations is to preserve the distinctive features of the Old Pecos Trail entryway to the city.

Mr. Bulthuis said, "Yes. The estimate for Solid Waste has 40 stalls, and I believe their fleet is less than half of that today."

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

DISCUSSION: Chair Trujillo asked how they keep track of the gasoline they put into the buses, and asked if a credit card is used.

Mr. Bulthuis said, "Right now, everything that is used on site is for Transit, so there aren't specific individual fuel posts, but we do monitor the overall fuel usage for the entire system."

Chair Trujillo said then it's a bulk system.

Mr. Bulthuis said that is correct, so it's not per unit.

VOTE: The motion was approved unanimously on a voice vote.

- 12. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO COMPLETE THE OLD PECOS TRAIL SCENIC CORRIDOR PLAN BY FOLLOWING THE NECESSARY PUBLIC PROCESS (COUNCILOR BUSHEE) (GREG SMITH) Committee Review:** Planning Commission (Scheduled)10/01/15; Finance Committee (Scheduled)10/05/15; and Council (Scheduled) 10/14/15.

Councilor Dominguez said he confused. The legislation says, "*....staff is directed to immediately reconvene the public process..*" However, the FIR said that we basically have to start from "scratch." He asked if we have information already on the shelf that indicates a process has begun.

Mr. Smith said, "The information we have in the Land Use Department is that first there is a paragraph in 1999 General Plan that called for a study of the Scenic Corridor. It is my understanding that Jeanne Price conducted a number of meetings with concerned citizens in the timeframe 2005, 2006, 2007. We have been unable to locate any draft documents that were prepared at that time. I think where the confusion between taking up where staff left off previously, as opposed to starting over."

Councilor Dominguez said, "Just so I can get it straight, there is some indication in the 1999 General Plan about, not the exercise itself, but I guess, the concept."

Mr. Smith said, "The 1999 General Plan does include a paragraph that calls for a study of overlay regulations or similar measures in the Old Pecos Trail Corridor."

Councilor Dominguez asked if there is anything in the General Plan that "articulates the process of reopening or amending the General Plan." He said he asks because the FIR talks about a number of steps that need to be taken. A professional services contract, and all that stuff. He asked, "Is there something in the General Plan that articulates how the process is supposed to happen."

Mr. Smith said, "No, there is no mandatory regulation. We took a look at when we are going to do a traditional approach in conducting outreach to the neighbors and so forth, essentially go back to where we left off and having to redo some of that neighborhood outreach. And also does take into account the fact that there were several hundred neighborhood residents that expressed concerns about procedural issues that arose in a Council hearing."

Councilor Dominguez said, "The reason I'm asking that, is because this is going to be one of those exercises where there's going to be the potential a lot of public input, and we need to make sure we capture that opportunity."

Councilor Dominguez said, "Two more questions. In the FIR, there is a Subsection B, that talks about "deferring action on projects that have already been in departmental park programs." What does that mean.

Mr. Smith said, "So whether it's assigned primary responsibility to the Current Planning Division of the Land Use Department or whether it would be assigned to the Long Range Planning Division."

Councilor Dominguez said, "So, it's not case specific."

Mr. Smith said, "We're just saying that neither division of staff could take on a significant in-house project without deferring other in-house projects already in the work program that were presented to the Council at the budget hearing."

Councilor Dominguez said, "It seems to me that there are lots of reason to reopen the General Plan. It's not just specific to this Corridor. There is the River, and the fact that we kind of really haven't done a real comprehensive update on the General Plan with a lot of significant input for a while now. And given the cost, \$50,000 is the estimate, I'm just wondering if we shouldn't roll a few of these efforts together to see if we can't get more bang for the buck. It's not an indication that I'm opposed to this, because I think the General Plan has already indicated that we need to do it. But I'm just trying to find out if there's a way for us to, number one, I don't know if codify is the right word, but somehow administratively indicate what the process is going to be for not only this one, but all of them; and if we can't roll a few of these efforts together."

Councilor Bushee said, "For clarification, the action piece of this, if you read at the bottom [page 2 of the Resolution], it says, '*... the Land Use Department is directed to immediately reconvene the public process to develop standards for the Old Pecos Trail Scenic Corridor and to present those standards to the Governing Body for adoption into the City's Land Use Code.*' It's not really about the General Plan *per se*. So, the other piece though Greg is.... and I just came from a meeting on following up with the other Scenic Corridor Plan that I submitted the same evening, which is along the Santa Fe River on the west side. And so, what I'm asking is that staff do these in-house. I don't really understand, since this is the smallest piece, and Councilor Lindell is postponing the overall General Plan effort, which I think is going to need some money and some help, why this couldn't be done in-house, maybe with some facilitation, but I don't see the need for the consultants."

Mr. Smith said, "I think staff looked at the traditional way of preparing this type of Ordinance. The process in the past..."

Councilor Bushee said, "That was when we had lots of money."

Mr. Smith continued, "... involving a number of... again I'm not directly familiar if there is anyone in the Long Range Planning Division specifically familiar with exactly what Ms. Price...."

Councilor Bushee said, "And I've had that conversation with you and that's what I'm pursuing on the Santa Fe River Corridor. So I would ask that we not attach a consultant fee of \$50,000, and move this forward. If you want to say no recommendation, or whatever, but I would like this moved forward to Council and I would make that motion."

MOTION: Councilor Bushee moved, seconded by Councilor Ives, to approve this request, without the consultant fee of \$50,000, retain the \$10,000 facilitation fee in the short term, and move this forward to Council.

DISCUSSION: Councilor Bushee said the \$10,000 facilitation fee may be necessary in anything we do in terms of public input to deal with areas like the Scenic Corridor along the River on the west side where there are a lot of things coming in at once. This is really just cleaning up and finishing up. She said, "This one is going to take a lot less time and a lot less effort than the River Corridor, and would hope my colleagues would see the benefit of moving this forward to Council."

Councilor Dominguez said, "You will need some Long Range Planning input, and process efforts in this. I guess my point is that lots of things have changed. We've just gone through annexation, we've done some redistricting, we've had a couple of projects that kind of popped up and caused some grief, if you will. And it just seems to me, and I'm respectful of the fact that there's already work that has been done on this and it is kind of on it's way, but it seems to me as though we need to really do some significant work on the entire General Plan and not just this piece in itself. But I'm in support. I think we need to do it first of all and it's already kind of started, given the information we've gotten from staff."

Councilor Dimas said, "And I guess the problem I have with this Resolution is that it's piecemeal. And we've talked about that with the General Plan anyway. And I know to redo the General Plan is going to take a lot of money. And so we're probably going to end up doing these things piecemeal anyway. But I would like to see a little more comprehensive plan as far as the General Plan is concerned, and see if we can't get all these projects in together, all these piecemeal areas we need to do, rather than just one at a time like this one. And even though this one may not take as a long, or whatever it might happen to be."

Councilor Dimas continued, "You know I question the timing of this Resolution, too, especially with MorningStar, nasty word, MorningStar. But anyway, the timing of it disturbs me, and this going before the Council and everything else. I think if we did anything with this, I don't have a problem with moving it forward, but I would like to move it forward from this Committee without a recommendation to the Council."

And maybe by the time it does get to the Council, some of the items and things that are going to come out of this will come before the Council and we'll have a few more answer to what we're looking for at the time."

FRIENDLY AMENDMENT: Councilor Dimas would like to amend the motion to move this item forward to the Council without recommendation, and by time it gets to the Council all of the items and answers will be available. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMITTEE.**

CONTINUATION OF DISCUSSION ON MOTION AS AMENDED: Councilor Ives said he was going to recommend that what was stated in the General Plan in 1999, was in essence a commitment by the City to look at this particular issue. He said, "I think it only became clear to us recently that effort was not complete, so this is an effort, I think, to be sure that the promise previously obligated to previously, even begun, is actually completed sooner, rather than later. So I'm in favor of that.

Mr. Smith said, "The Governing Body did make a later amendment to the South Central Corridor Resolution at about that same timeframe, but it was not directly a part of that same process. It's not that Ms. Price and the rest of the staff has completely ignored the General Plan property, it was done, but apparently not as much as originally intended."

Councilor Ives said, "On that point, I mean no criticism of staff. I think it's something again that we all became aware of recently, hence the current Resolution."

Councilor Bushee said, "And just so you understand, Councilors, the timing. I actually submitted 3 pieces of Legislation the night of the MorningStar hearing at the high school, in anticipation that that project was just on its way and done. But knowing, in particular, the areas for me that are more troubling are areas that are being annexed into my District that were left out of the Southwest Area Plan, which is where Frenchy's Field and all that are. And that's going to be done in phases, so this really has nothing to do with MorningStar. I'm sorry. It was just in recognition that there was still a small section that had not been completed in that Corridor Study."

Councilor Bushee continued, "And then I absolutely agree that there are plenty of newly annexed areas that really need a hard look. The reason why there's a little bit of rearrangement in timing is that the General Plan is going to take a long time and a lot more money. And in the meantime, having these corridor studies and these sector plans, like the Southwest Area Plan are very helpful. Why we're not in such a problem area beyond this section we're going to study on the River is that we did that, and the underlying zoning is in place. But we're having a lot of things happen all at once."

Councilor Bushee continued, "And so really, it was after the El Rio decision that I turned to Councilor Chris Rivera and said, you know, we've got to finish some of these sector plans, and we've got to start doing some planning for these newly annexed areas in particular. And this one is just an after thought, because it's just a small little section that was already committed in the General Plan to be studied and it won't take, I think, very long."

Councilor Dominguez said, "I agree. In terms of timing, the reality is that there is a lot that needs to be done with regards to our General Plan, given the economics of our City, the annexation and so on and so forth. But just to ask staff for some information about the previous effort. This happened in 2000 or 2002 that you spoke of."

Councilor Bushee said Karen Heldmeyer knows a lot about this.

Mr. Smith said he doesn't know any more specifics.

Councilor Dominguez said, "Then you don't know if there was a public process that already had been laid out."

Mr. Smith said, "My understanding is that Ms. Price met informally with neighbors, that eventually the staff drafted a brief amendment that changed the regulations within one portion of the existing South Central Highway Corridor, but did not make any proposal for legislation that would have extended the Corridor which apparently was the intent in the General Plan."

Councilor Dominguez said, "Mr. Chair, if there is any way, and if it's okay with the maker of the motion, just to make sure we get whatever information we can dig up from that effort and make it available to us at Council. I don't know what it could be."

Councilor Bushee said, "I would visit with Karen Heldmeyer if you have a moment, because she's got the history. I'm happy to have that as a part of the motion."

Councilor Dominguez said it doesn't need to be part of the motion, "but we need to make it very clear that we need to get that information." He said he doesn't need to hear from Karen Heldmeyer, but if she could correspond with us that would be helpful.

Chair Trujillo said, "Councilor Bushee, you can understand why people are thinking of the timing of this Resolution, I know it wasn't.... you're stating it too, but I'm just telling you the timing. My concern was that we're still in discussion on this project that is still in limbo, and that was my concern. If this does get approved, does it supercede all that has happened with the MorningStar project, would it impede it, stop it. These are concerns I had, and I did speak with the City Attorney. And she told me this wouldn't be, that this is already going through the process. If this does pass, this would not impede anything, so that was my concern on that."

Mr. Smith said, "It would also be the anticipation of staff, that the planning process and the adoption of regulations would not affect in any way the Council's jurisdiction or obligations in terms of acting on currently pending applications."

Councilor Dimas said, "One more question and clarification that too. We've been back and forth on appeal and reconsideration, and then back to negotiation and now we're in mediation. This thing just goes on and on and on. Should this be, on a reconsideration vote, should the project be approved, which I probably anticipate happening, but it's hard to say. But, if that happens and it goes back to the Planning

Commission, does this start the whole process all over again. And then.... this is probably a legal opinion from Zach who I see coming down here, and I think Zach probably anticipated me asking that. But what happens if it goes back to appeal, which is *de novo* again, to the Planning Commission, would the decision of this Council after this Resolution is passed, and the corridor is extended to that area. What happens.”

Zachary Shandler, Assistant City Attorney, said, “Your Chair accurately represented our legal position. MorningStar is already in the process. This is totally separate. It’s not going to have any impact. MorningStar is too far along. Any scenario you play out, MorningStar is already too far along.”

VOTE: The motion, as amended, was approved unanimously on a voice vote.

13. **REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO ANALYZE THE CURRENT LAND DEVELOPMENT CODE, CHAPTER 14-6.2, AND MAKING RECOMMENDATIONS WITH RESPECT TO SHORT TERM RENTALS (COUNCILORS MAESTAS AND IVES) (LISA MARTÍNEZ) Committee Review:** Finance Committee (Scheduled) 09/15/15; and Council (Scheduled) 09/30/15.

DISCLOSURE: Councilor Bushee said, “I took this off for a few reasons. I don’t see a lawyer in the room. Where is Zach, I don’t see him, oh there he is, he’s hiding back there. Zach, just so I’m super clear. I haven’t had time to ask any of you. I know it’s legislation, but I do have rental properties, a couple. And I don’t want any appearance of any kind of conflict of interest. Because one of the items is.... and they are near where I live, so maybe I’m exempted, I don’t know. But it says one of the items is the amount of short term rentals including both permitted and unpermitted, so that’s one of the topics. I don’t know whether I should be recusing myself. I know it’s legislation, I just don’t know what I should be doing. I don’t rent any as short term rentals, and I haven’t applied and I don’t plan on applying, but I just feel uncomfortable that I have the potential to do so and I don’t want to necessarily.... I don’t know yet, I’m asking those questions, because I know there are exemptions and I also know that it’s legislation and broad policy, but I still am very careful and cautions when it comes to our Ethics Ordinance, I don’t want to have any kind of appearance of conflict of interest. It’s the liquor license owner. I just feel, I don’t want to be creating any opportunities. Again, I know both sides, and he was saying well there’s an exemption in there and you might fit under that exemption. And I want to say I haven’t looked at that Ordinance closely enough since it was passed.”

Mr. Shandler said, “I’m not sure which exemption Councilor Ives was talking about.”

Councilor Bushee said, “He was talking about living.... I don’t know. I don’t care. I had just as soon recuse myself, but I honestly don’t... I don’t want to....”

Mr. Shandler said, “I guess I would advise to recuse yourself today, and that if we do some additional research at the Attorney’s Office that you’re eligible to vote, we’ll be happy to do that, but I can’t do the research today.”

Councilor Bushee recused herself.