



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
SEPTEMBER 26, 2018  
CITY COUNCIL CHAMBERS

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## **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: Regular City Council Meeting – September 12, 2018
9. PRESENTATIONS
10. CONSENT CALENDAR
  - a) Request for Approval of Professional Services Agreement in the Total Amount of \$75,000 for Gopher Trapping; Gopher Grabbers. (Richard Thompson, Parks and Recreation Division Director, [rcthompson@santafenm.gov](mailto:rcthompson@santafenm.gov), 955-2105)
  - b) Request for Approval of Procurement in an Amount Over \$50,000, Exclusive of NMGR, for Service, Repairs and Equipment for the Wastewater Treatment Plant; Veolia Water Technologies, Inc., dba Kruger Water Technologies. (Efren Morales, Waste Water Operator, [emmorales@santafenm.gov](mailto:emmorales@santafenm.gov), 955-4618)
  - c) Request for Approval of Amendment No. 2 to Professional Services Agreement in the Amount of \$45,000, for a Total Amount of \$300,000, to Retread Tires; Purcell Tire and Service Center. (Lawrence Garcia, Project Administrator, [lmgarcia@santafenm.gov](mailto:lmgarcia@santafenm.gov), 955-2241)

**RECEIVED AT THE CITY CLERK'S OFFICE**

**DATE:** September 21, 2018

**TIME:** 3:00 pm



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THE GOVERNING BODY  
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CITY COUNCIL CHAMBERS

- d) Request for Approval of Bid Award No. '18/44/P in the Amount of \$709,286, Inclusive of NMGR, for the Aeration Systems Improvements Design Project – CIP #957 for the Wastewater Management Treatment Facility; Carollo Engineers, Inc. (Alan MacGregor, Supervising Engineer, [asmacgregor@santafenm.gov](mailto:asmacgregor@santafenm.gov), 955-4623 and Shannon Jones, Public Utilities Director, [swjones@santafenm.gov](mailto:swjones@santafenm.gov), 955-4642)
  - 1) Request for Approval of a Budget Amendment in the Amount of \$709,286.
- e) Request for Approval of Change Order #12 in the Amount of \$54,546.73, Exclusive of NMGR, for Incorporating Open Graded Friction Course (OGFC) Price Reduction; AUI. (David Quintana, Engineering Supervisor, [ddquintana@santafenm.gov](mailto:ddquintana@santafenm.gov), 955-6672)
- f) Request for Approval of Municipal Arterial Program Cooperative Agreement in the Amount of \$587,667 for the Planning, Design and Construction of the Agua Fria and South Meadows Intersection; New Mexico Department of Transportation (NMDOT). (David Quintana, Engineering Supervisor, [ddquintana@santafenm.gov](mailto:ddquintana@santafenm.gov), 955-6672)
  - 1) Request for Approval of Budget Amendment in the Amount of \$440,750
- g) Request for Approval of Cooperative Educational Services (CES) Agreement in the Amount of \$206,691.10, Inclusive of New Mexico Gross Receipts Tax, for the Renovation of the Women's Locker Room-CIP#519-Fort Marcy Recreation Complex; FacilityBuild, Inc. (Sam Burnett, Project Administrator, [jsburnett@santafenm.gov](mailto:jsburnett@santafenm.gov), 955-5933)
- h) Request for Approval to Award Bid #18/16/B in the Amount of \$701,877 for Snow Removal Equipment; MB Companies Inc. (Mark Baca, Airport Manager, [mbaca@santafenm.gov](mailto:mbaca@santafenm.gov), 955-2901)
- i) Request for Approval of the Special Counsel Services for Opioid Litigation Legal Services Contingency Fee; Salazar Sullivan & Jasionowski. (Erin K. McSherry, City Attorney, [ekmcsherry@santafenm.gov](mailto:ekmcsherry@santafenm.gov), 955-6961)



# Agenda

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CITY COUNCIL CHAMBERS

- j) CONSIDERATION OF RESOLUTION NO. 2018-\_\_\_\_. (Councilor Harris and Councilor Vigil Coppler)  
A Resolution Amending Table 80 of the City of Santa Fe Impact Fee Capital Improvements Plan 2020 Regarding Planned Major Road Improvements and Adding "Arroyo De Los Chamisos Crossing" As An Eligible Project to the Planned Major Road Improvements 2014-2020 List of the IFCIP 2020. (David Quintana, Engineering Supervisor, [ddquintana@santafenm.gov](mailto:ddquintana@santafenm.gov), 955- 6672)
- k) CONSIDERATION OF RESOLUTION NO. 2018-\_\_\_\_. (Councilor Villarreal and Councilor Rivera)  
A Resolution Supporting a State Constitutional Amendment Providing for a Public Bank in New Mexico; and Appointing a City Representative to Serve as a Liaison for This Effort. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)
- 11. Request for Approval of Amendment No. 5 to Professional Services Agreement in the Amount of \$20,000 for the FY 2018-2019 Economic Development Portfolio as Awarded Through RFP to Provide Workforce Development, Business Development, and Other Support for Economic Development in Santa Fe; Santa Fe Chamber of Commerce Opportunities Fund. (Matthew Brown, Economic Development Director, [mpbrown@santafenm.gov](mailto:mpbrown@santafenm.gov), 955-6334) (Postponed on September 12, 2018) **(Informational Only)**
- 12. **Case No. 2018-50, Las Soleras Master Plan Amendment; Case 2018-48, Las Soleras Lot 11-B General Plan Amendment; Case 2018-49, Las Soleras Lot 11-B Rezoning.** (Mayor Webber)
  - a) Motion to Rescind the September 12, 2018 Decision of the Governing Body Approving Case #2018-50, Las Soleras Master Plan Amendment; Case #2018-48, Las Soleras Lot 11-B General Plan Amendment; and Case #2018-49, Las Soleras Lot 11-B Rezoning, Subject to Conditions Identified in Section II and Technical Corrections Listed in Exhibit A, as Recommended by the Planning Commission and by Staff for the Purpose of Further Consideration with Respect to Condition of Approval #1 Pertaining to Stabilization of Disturbed Soil.
  - b) Motion to Schedule the Public Hearing Regarding the Above Las Soleras Cases (Three) for October 31, 2018. **(If Item 12(a) Above is Approved)**



# Agenda

REGULAR MEETING OF  
THE GOVERNING BODY  
SEPTEMBER 26, 2018  
CITY COUNCIL CHAMBERS

13. MATTERS FROM THE CITY MANAGER
14. MATTERS FROM THE CITY ATTORNEY
15. MATTERS FROM THE CITY CLERK
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
  - Immigration Committee
  - Mayor's Youth Advisory Board
  - Human Services Committee
  - Mayor's Committee on Disability
- H. PUBLIC HEARINGS:
  - 1) Request from Rising Stars in the Southwest, a Not for Profit Organization, for a Waiver of the 300-Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcoholic Beverages at the Santa Fe Higher Education Center, 1950 Siringo Road. The Request is for the Reaching Stars Fundraising Event on Saturday, October 6, 2018, with Alcohol Service from 5:00 pm to 8:00 pm.



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REGULAR MEETING OF  
THE GOVERNING BODY  
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- 2) **APPEAL – CASE #2017-123. Estancias del Norte Preliminary Subdivision Plat and Variance Request.** Appeal by the Greater Callecita Neighborhood Association, et al. of the Planning Commission's Approval of Estancias Del Norte's Request for a Preliminary Subdivision Plat at 702 Hyde Park Road. (Marcos Martinez, Assistant City Attorney, [mdmartinez@santafenm.gov](mailto:mdmartinez@santafenm.gov), 955-6502) (Postponed on August 29, 2018) **(Public Hearing Occurred on August 29, 2018 and is Closed)**

## I. ADJOURN

**Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. such items shall be postponed to a subsequent meeting, provided that the date, time and place of such meeting is specified at the time of postponement.**

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 955-6521, five (5) working days prior to meeting date.

**SUMMARY INDEX**  
**SANTA FE CITY COUNCIL**  
**September 26, 2018**

<b>ITEM</b>	<b>ACTION</b>	<b>PAGE</b>
1. Call to Order	Convened at 5:00 p.m.	1
5. Roll Call	Quorum Present	1
6. Approval of Agenda	Approved as amended	1-2
7. Approval of Consent Agenda	Approved as amended	2
8. Approval of Minutes - September 12, 2018	Approved as amended	2-3
9. Presentations:		
National Hispanic Heritage Month	Proclamation	3
10. Consent Calendar Listing	Listed	3-4
Consent Calendar Discussion		
a. Gopher Trapping PSA	Approved as presented	4-6
g. Ft. Marcy Renovation	Approved as presented	6-7
i. Opioid Legal Services	Approved as amended	7-8
11 PSA – Santa Fe Chamber of Commerce	Information only	8-10
12. Las Soleras Plans & Rezoning	Approved	10-15
13. Matters from the City Manager	None	15
14. Matters from the City Attorney	None	15
15. Matters from the City Clerk	None	15
16. Communications from the Governing Body	Communications made	15-17
Evening Session at 7:00	Quorum Present	17
F. Petitions from the Floor	Petitions Made	18
G. Appointments	Appointments approved	18-20
H. Public Hearings		
1. Rising Stars License	Approved	20
2. Estancias Del Norte Appeal	Denied	20-32
I. Adjournment	Adjourned at 8:45 pm	32

**MINUTES OF THE  
REGULAR MEETING OF THE  
GOVERNING BODY  
Santa Fe, New Mexico  
September 26, 2018**

**AFTERNOON SESSION**

**1. CALL TO ORDER AND ROLL CALL**

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, September 26, 2018, at approximately 5:00 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico. 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 Alan Webber  
Councilor Signe I. Lindell, Mayor Pro-Tem  
Councilor Roman "Tiger" Abeyta  
Councilor Mike Harris  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Carol Romero-Wirth  
Councilor JoAnne Vigil Coppler  
Councilor Renee D. Villarreal

**Members Excused**

None

**Others Attending**

Erik Litzenberg, City Manager  
Erin McSherry, City Attorney  
Yolanda Y. Vigil, City Clerk  
Carl Boaz, Council Stenographer

**6. APPROVAL OF AGENDA**

Ms. Vigil announced that under Presentations, a proclamation would be provided. Item 10 (k) is postponed to October 10, 2018.

**MOTION:** Councilor Ives moved, seconded by Councilor Villarreal, to approve the agenda as amended with a proclamation added under Presentations and Item 10 (k) postponed to October 10, 2018.

**VOTE:** The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

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

Councilor Ives requested discussion on Item 10 (i).

Councilor Lindell requested discussion on Items 10 (a) and 10 (g).

Councilor Rivera also requested discussion on Item 10 (a).

**MOTION:** Councilor Rivera moved, seconded by Councilor Vigil Coppler, to approve the Consent Calendar as amended with items a, g, and i pulled for discussion.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **8. APPROVAL OF MINUTES: Regular City Council Meeting – September 12, 2018**

Councilor Vigil Coppler said she was not in attendance at the September 12<sup>th</sup> meeting but asked for a change on page 6, #11, where it says she was a cosponsor. She stated that she is not a cosponsor on that.

**MOTION:** Councilor Ives moved, seconded by Councilor Rivera to approve the minutes of September 12, 2018 as amended with one correction on page 6 under Item #11.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **9. PRESENTATIONS**

Mayor Webber read a proclamation for National Hispanic Heritage Month from September 15 through October 15; and for celebration of National Hispanic Heritage Week in Santa Fe.

## **10. CONSENT CALENDAR LISTING**

- a) Pulled for discussion by Councilor Lindell and Councilor Rivera.
- b) Request for Approval of Procurement in an Amount Over \$50,000, Exclusive of NMGR, for Service, Repairs and Equipment for the Wastewater Treatment Plant; Veolia Water Technologies, Inc., dba Kruger Water Technologies. (Efren Morales, Waste Water Operator, [emmorales@santafenm.gov](mailto:emmorales@santafenm.gov), 955-4618)
- c) Request for Approval of Amendment No. 2 to Professional Services Agreement in the Amount of \$45,000, for a Total Amount of \$300,000, to Retread Tires; Purcell Tire and Service Center. (Lawrence Garcia, Project Administrator, [imgarcia@santafenm.gov](mailto:imgarcia@santafenm.gov), 955-2241)
- d) Request for Approval of Bid Award No. '18/44/P in the Amount of \$709,286, Inclusive of NMGR, for the Aeration Systems Improvements Design Project – CIP #957 for the Wastewater Management Treatment Facility; Carollo Engineers, Inc. (Alan MacGregor, Supervising Engineer, [asmacgregor@santafenm.gov](mailto:asmacgregor@santafenm.gov), 955-4623 and Shannon Jones, Public Utilities Director, [swjones@santafenm.gov](mailto:swjones@santafenm.gov), 955-4642)
  - 1) Request for Approval of a Budget Amendment in the Amount of \$709,286.
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- f) Request for Approval of Municipal Arterial Program Cooperative Agreement in the Amount of \$587,667 for the Planning, Design and Construction of the Agua Fria and South Meadows Intersection; New Mexico Department of Transportation (NMDOT). (David Quintana, Engineering Supervisor, [ddquintana@santafenm.gov](mailto:ddquintana@santafenm.gov), 955-6672)
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- g) This item was pulled for discussion by Councilor Lindell.
- h) Request for Approval to Award Bid #18/16/B in the Amount of \$701,877 for Snow Removal Equipment; MB Companies Inc. (Mark Baca, Airport Manager, [mbaca@santafenm.gov](mailto:mbaca@santafenm.gov), 955-2901)
- i) This Item was pulled for discussion by Councilor Ives.
- j) Request for Approval of the Special Counsel Services for Opioid Litigation Legal Services Contingency Fee; Salazar Sullivan & Jasionowski. (Erin K. McSherry, City Attorney, [ekmcsherry@santafenm.gov](mailto:ekmcsherry@santafenm.gov), 955-6961)
- k) CONSIDERATION OF RESOLUTION NO. 2018-\_\_\_\_. (Councilor Villarreal and Councilor Rivera)  
A Resolution Supporting a State Constitutional Amendment Providing for a Public Bank in New Mexico; and Appointing a City Representative to Serve as a Liaison for This Effort. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

Item 10 (k)s was postponed to October 10 under Approval of the Agenda.

## **CONSENT CALENDAR DISCUSSION**

- a) Request for Approval of Professional Services Agreement in the Total Amount of \$75,000 for Gopher Trapping; Gopher Grabbers. (Richard Thompson, Parks and Recreation Division Director, [rcthompson@santafenm.gov](mailto:rcthompson@santafenm.gov), 955-2105)

Councilor Lindell pulled this for discussion and had a few questions and a few comments. This is for \$75,000 per year for 4 years so it is really \$300,000 to remove about 2,700 gophers per year.

Mr. Thompson said yes. Our previous IPM Manager Victor Lucero calculated what

we observe in the field and to write up a management program. We have done what we could to dissuade them from occupying our parks and sports fields and they tend to move into the irrigated areas. It is a difficult choice between protecting the safety of adults and children.

Councilor Lindell asked if 2,700 really the number and if we eliminated 2,700 would that take care of the problem.

Mr. Thompson said it is an excellent question. We never intend to eradicate the gopher population or any species but to control the level.

Secondly, we set the value of the contract very high like we do with prairie dog removal, so we don't have to come back for a Budget Adjustment Request later in the year.

The Staff once used carbon monoxide in the trenches and never knew how many animals they got, and the tunnels were crushed with a tractor. They now have other means.

Councilor Lindell asked if the City has any options for live trapping and relocating them.

Mr. Thompson said that would have to be on city property which might compound the problem or push it onto private neighbors.

Councilor Lindell asked if it is in effect now.

Mr. Thompson said it is not.

Councilor Lindell explained that she couldn't put her name on a trapping contract. She considered that very cruel (killing) and would encourage her fellow councilors in asking or at least investigate how we could live trap them and find an appropriate place to put them.

Councilor Rivera asked Mr. Thompson to explain the difference of what gophers do to the parks compared with prairie dogs.

Mr. Thompson said the prairie dogs' habitat are in open spaces and gophers seek irrigated places and are dangerous for possible human plague in the parks. We do follow the law to relocate prairie dogs and the Game and Fish Department receives prairie dogs but not gophers. So it is a tough dilemma. Life is a series of tough choices and we chose to keep children safe and rid the gophers from the parks.

Councilor Rivera asked how deep gopher burrows can be.

Mr. Thompson said he wished Victor Lucero was here. We've encountered some as much as 4', but most are about 18".

Councilor Rivera asked if any kids were injured [from gopher burrows] in the last year.

Mr. Thompson said yes. There were injuries to sports participants. He offered to get the details for you.

Councilor Rivera noted that page 4 says traps will be checked up to 24 hours after they are set.

Mr. Thompson replied that, having watched Victor Lucero research this method, gophers don't build a berm around the burrow. They tend to cover the openings. We don't leave traps in the ground 24 hours. We pick them up before we leave.

Councilor Rivera asked if no place will accept these gophers.

Mr. Thompson agreed but said they will investigate further. We follow the City's IPM plan before using lethal methods.

Councilor Rivera asked if this company doesn't use CO (carbon monoxide) as part of their removal.

Mr. Thompson agreed. We were not sure what was happening down in the burrow with CO. The collapsed trench had to be filled in to maintain safe conditions.

**MOTION:** Councilor Harris moved, seconded by Councilor Vigil Coppler, to approve the Professional Services Agreement in the Total Amount of \$75,000 for Gopher Trapping with Gopher Grabbers

**VOTE:** The motion was approved on the following 7-2 Roll Call vote:

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Rivera, Councilor Romero-Wirth, and Councilor Vigil Coppler.

**Against:** Councilor Lindell and Councilor Villarreal.

**g)** Request for Approval of Cooperative Educational Services (CES) Agreement in the Amount of \$206,691.10, Inclusive of New Mexico Gross

Receipts Tax, for the Renovation of the Women's Locker Room-CIP#519Fort Marcy Recreation Complex; FacilityBuild, Inc. (Sam Burnett, Project Administrator, [jsburnett@santafenm.gov](mailto:jsburnett@santafenm.gov), 955-5933)

Councilor Lindell pulled this item for discussion. She asked if this is a contractor we've worked with before.

Mr. Burnett said yes. They installed lockers for the family dressing room. They recently worked on the baggage scanner at the airport and at La Farge Library.

Councilor Lindell asked if anything in the contract would include imposing a penalty if the contractor went off for a month or so and fell behind.

Mr. Burnett agreed. Under unit prices #5, it lists a few things for a 60-day completion at \$250 per day if they fail to meet the time limit.

Councilor Lindell remembered a nightmare on a roofing project at Ft. Marcy

**MOTION:** Councilor Rivera moved, seconded by Councilor Vigil Coppler, for Approval of Cooperative Educational Services (CES) Agreement in the Amount of \$206,691.10, Inclusive of New Mexico Gross Receipts Tax, for the Renovation of the Women's Locker Room-CIP#519Fort Marcy Recreation Complex.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- i) Request for Approval of the Special Counsel Services for Opioid Litigation Legal Services Contingency Fee; Salazar Sullivan & Jasionowski. (Erin K. McSherry, City Attorney, [ekmcsherry@santafenm.gov](mailto:ekmcsherry@santafenm.gov), 955-6961)

Councilor Ives pulled this item for discussion. He said it sounds like we have a great team, He welcomed Mr. Daniels, one of their attorneys. One of the contracts was with the Salazar Firm in Albuquerque but with a number of others participating in this litigation in paragraph 3-c. Can we make sure all firms are contractors as they will represent the City for purposes of this litigation?

The other concern is on costs. Page 6 in the contract regards photocopying would cost \$0.10 per page as would facsimile and then another charge. He asked how that will be shared among contracting firms and any number involved in litigation. Rather than having a set figure in the contract, to have something along the lines that costs shall be charged at a reasonable rate and shall be charged in an amount not to exceed that of the least amount charge to any other client in this litigation.

Mr. Daniels said that would not be a problem. He offered to have the City take the copies budget item out of the contract, if the Council wants that.

Ms. McSherry asked Councilor Ives if he wanted to address the liability issue, as well.

Councilor Ives said he did. If malpractice occurs, the policies would presumably be available for rendering of any judgment. If language changes are necessary, he would ask that be added.

Ms. McSherry said the minimum required is \$1.5 million now. The coverage is higher than that now ,but a higher amount could not be required.

Councilor Ives noted the minimum stated by the firms was \$3 million. That would be fine and would be part of his motion.

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to approve the Consent Calendar Item 10 (i) as amended to delete the rates for copying and including the condition that at least \$3 million liability insurance coverage.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **END OF CONSENT CALENDAR**

- 11.** Request for Approval of Amendment No. 5 to Professional Services Agreement in the Amount of \$20,000 for the FY 2018-2019 Economic Development Portfolio as Awarded Through RFP to Provide Workforce Development, Business Development, and Other Support for Economic Development in Santa Fe; Santa

Fe Chamber of Commerce Opportunities Fund. (Matthew Brown, Economic Development Director, [mpbrown@santafenm.gov](mailto:mpbrown@santafenm.gov), 955-6334) (Postponed on September 12, 2018) (**Informational Only**)

Mr. Litzenberg said the Governing Body saw this on August 29, as an item. The Council had concerns and Staff looked at the what and why and he turned to Matt Brown. Issuing this contract is beneficial for economic development. That is the how. Ms. McSherry issued an opinion. We decided to do it as a small contract of \$20,000 and this is informational only. I thought it was pertinent to give that introduction.

Councilor Vigil Coppler said she had been interested in what occurred here and thankful for Staff talking with her about it. She was a little amazed. She reminded Council of that meeting on August 29 and there was no good reason why it had to be moved from Andrea Romero Consulting to the Santa Fe Chamber of Commerce and Andrea Romero Consulting without a reasonable answer. This contract only has 7 months left. Why does the City want to be a pass-through? During the meeting it was discussed about the City Manager's authority to move the contract from one contractor to another contractor.

She understood the contract did lapse and when that happens, the Council takes care of it. She believed the City Manager circumvented Council's authority and she as well as Councilor Abeyta as Chair of Finance, wanted to review the third year of the contract. She said again that she believed it circumvents what Council intended to do. So the City Manager created his own contract with the Chamber of Commerce on his own. Ms. McSherry said it is okay, but it sets a bad precedent. It perhaps is not as far as an audit exception - but it is not the direction we want to go.

Councilor Abeyta asked Mr. Brown what the plan is going forward. Once the \$20,000 is expended, what will we do to avoid the amendments? Will it go through a new RFP process or another plan, moving forward?

Mr. Brown said they would issue a new RFP in November and request those services and select the best candidate. Like all PSA's, they are issued as a one-year contract with options for renewing in subsequent years. It provides more flexibility rather than a new RFP each year.

Councilor Abeyta asked if that process was the reason for having five amendments.

Mr. Brown said those extensions were proposed and accepted until June 30, 2018.

Councilor Abeyta knew they were adding money to it each time it was extended. Three of the five times were based on renewal of the original contract.

Mr. Brown said in the future, they would not make amendments. And it comes back to Council to approve the renewals for another year.

Councilor Abeyta reasoned that this is the last amendment.

Mr. Brown agreed. It is a new contract but with no extensions after June 30.

Councilor Villarreal asked if the amount actually went down?

Mr. Brown agreed. This contract comports with the budget. It has fluctuated up and down over the years. This year was a decrease. It was part of the budgeting process. No amendments; no extensions.

Councilor Vigil Coppler asked what the total amount of the contract was in the beginning. She recalled the amount had to be approved each year.

Mr. Brown thought it was about \$140,000 to \$160,000.

Councilor Vigil Coppler thought it was \$148,000. She asked if Mr. Brown was anticipating around that amount again.

Mr. Brown said he was not in a position to answer that now, but his goal is to have it this Fall.

Councilor Villarreal asked what the term of the contract would be.

Mr. Brown hoped for 3½ years.

No action was taken on this informational item.

**12. Case No. 2018-50, Las Soleras Master Plan Amendment; Case 2018-48, Las Soleras Lot 11-B General Plan Amendment; Case 2018-49, Las Soleras Lot 11-B Rezoning. (Mayor Webber)**

Ms. Johnson explained that this action is a request to rescind the Council's action made at the last meeting. She listed the three cases. The reason for the request is that one representative of the applicant came to us after the Council action took place with concerns on wording of stipulation #1 to address dust conditions out there. It was actually retroactive in nature and it went to the Planning Commission, was reviewed before the current City Attorney and herself were on board, when the Applicant came to Staff and expressed concerns about how Staff would apply this condition, she also had some concerns about it. How could it be applied over time and in a consistent manner?

It asks for a financial guarantee of 10% for fugitive dust control measures without guidance on how the base cost would be developed or specificity on weather conditions as a rationale for it. They already have their final development approval and they are open for occupancy. The Applicant had concerns on the financial guarantee and on how the conditions would be applied. The only recourse is to rescind the vote on all three applications because the condition applies to all three and schedule a new public hearing and provide proper notice and the earliest date for that to happen is October 31.

Mayor Webber summarized it is clearer conditions for the three and what the conditions apply to.

Ms. Johnson agreed. It is not to eliminate the condition at all but improve the wording so that it would be more consistent and effectively applied.

Mayor Webber advised two separate motions are needed - one to rescind the decision and a second one to schedule another hearing. He asked if at that hearing, are we limiting what the hearing would be about or are we reopening the entire discussion.

Ms. McSherry said it would be limited to condition of approval number one. It would be a limited scope.

- a) Motion to Rescind the September 12, 2018 Decision of the Governing Body Approving Case #2018-50, Las Soleras Master Plan Amendment; Case #2018-48, Las Soleras Lot 11-B General Plan Amendment; and Case #2018-49, Las Soleras Lot 11-B Rezoning, Subject to Conditions Identified in Section II and Technical Corrections Listed in Exhibit A, as Recommended by the Planning Commission and by Staff for the Purpose of Further Consideration with Respect to Condition of Approval #1 Pertaining to Stabilization of Disturbed Soil.

Councilor Rivera asked if this would have to go back to the Planning Commission since they were voting on potential information they did not have.

Ms. McSherry thought it was not required. Council has the authority to act, but you could remand it back to the Planning Commission.

Councilor Rivera asked if there were any no votes.

Mayor Webber thought it did not have any no votes.

Councilor Ives said the motion talks about rescinding the approval "for the Purpose of Further Consideration with Respect to Condition of Approval #1 Pertaining to

Stabilization of Disturbed Soil.” He wondered about the propriety of rescinding the decision. We appear to be rescinding only in part but with no language here.

Ms. McSherry said if we have the specific replacement language, we could have the motion the motion to consider specific replacement language. That would be the alternative. Her understanding was, unless a procedural rule allows it to be at the next meeting, a specific amendment would be the way to change it.

Councilor Ives said that under reconsideration, we have not been called upon. He suggested reconsideration rather than rescinding.

Ms. McSherry said it is on page 35 of Roberts’ Rules.

Councilor Ives didn’t see how the Council would move to rescind the decision. He was not sure you can rescind only the part that refers to #1.

Ms. McSherry understood they are asking how to limit the hearing to that portion. The intent is that the Governing Body, by way of procedure, on reasonableness, can still rely on information at the previous hearing and you could testify that those items remain.

Councilor Ives asked how when our action is clearly allowing the Findings of Fact and Conclusions of Law as a final act. We are not doing that, however, and it raises its own question on notice.

Ms. McSherry suggested if Council adds more findings, those can be approved at a subsequent meeting. For today, we are to undo the decision was made on September 12, so no final action would be on the record on this matter.

Councilor Ives agreed the Governing Body can proceed on that basis.

Councilor Rivera asked if this is coming back because of the financial language.

Ms. Johnson said with the guarantee and with applicability which is on all landscaping maintenance subject to this condition. There are others in post development. The applicant has other corrective information that we have not considered.

Mr. Jim Siebert, 915 Mercer was sworn. He said after approval by Council, we looked at the condition and asked for a meeting with Staff because we were not sure how to implement it. A Letter of credit would be required from all landowners in Las Soleras. At present, 15 major owners and a hundred home owners exist. The tactifier is one aspect of dust control. Councilor Harris was kind to send a 19-page proposal for an ordinance dealing with areas that have been graded where no development is occurring now. We want to provide a more stringent list.

Councilor Rivera asked, if this would have come up at the time of construction, six months from now, how would Staff handle it?

Ms. McSherry said Staff was not sure how they would enforce it.

Councilor Rivera said there is a problem with changes made that are too late to come back to Council.

Ms. McSherry said it might be at a time when you could not rescind and would require a closer look. They were noticed but not necessarily.

Councilor Rivera asked if they could be dealt with administratively.

Ms. Johnson said the process would be bringing all the cases back for an amendment. Just to address that one condition.

Councilor Rivera wasn't sure it should be done that way. They just dealt with the dust and a year from now, he questioned why they would have to come back for an amendment.

Ms. Johnson said that is why we want to deal with it now.

Councilor Villarreal thought that condition was created by the Planning Commission and then accepted by the client.

Mr. Siebert agreed. We need to go back to the Planning Commission for final plan adoption.

Councilor Villarreal asked why they just backtracked with the procedure.

Mr. Siebert said they were proceeding to record everything and deal with the concern by the attorneys.

Councilor Villarreal said it was one of the longest amendments she had ever seen. Isn't an amendment the same thing?

Mr. Siebert said he was going to address that too, whether a rescission or an amendment. He would request if Council has that alternative, to choose- reconsideration instead of rescission.

Councilor Ives noted Robert's Rules speaks to an alternative. He referred to the book to explain it further.

Ms. McSherry said the notice must include what you intend to amend and what the amendment would be. She apologized she was not clear. There is a suggestion that a 2/3 vote can be done if you don't have the specifics of the amendment.

Councilor Harris said,- to provide background on the complexity of the matter. He started on it a year ago of summer before last at Las Soleras. Those of us on Public Works dealt with dust and sediment. The negotiations Councilor Rivera cited came about because we could not resolve the ordinance. We looked at Albuquerque and Las Cruces and what he sent to Siebert on Pulte's development last winter or early spring this year on best practices. Walls on the perimeter help quite a bit and trap the dust. Lots of other methods seemed to work pretty well. It's a complex issue and I probably didn't deal with it enough. It is less than perfect. Whether we rescind as proposed or look only at the condition, that is what we should do.

Councilor Rivera asked if we could make a motion to have staff negotiate with the applicant on item #1.

Ms. McSherry said she spoke with Ms. Johnson and the Clerk. The ordinances are not final and not published. So that would address part of what Councilor Rivera asked.

Councilor Rivera asked if it would require another meeting or just as accepting the FF/CL. It probably would add new Findings.

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to reconsider Cases 2018-50, 2018-48, and 2018-49, with directions to Staff to prepare Findings of Fact and Conclusions of Law that address or propose a resolution in appropriate language for Finding #1 regarding disturbance of soil.

Ms. McSherry reminded Councilors that they have not yet acted on the conditions.

Councilor Rivera agreed. So 30 days from now is when it is acted on.

Ms. Johnson pointed out that we are not required to wait 30 days on Findings that that require no change. The appeal would start the 30-day appeal process on Findings that would be changed.

Councilor Romero-Wirth noted that all three cases are in the motion.

Councilor Ives agreed.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- b)** Motion to Schedule the Public Hearing Regarding the Above Las Soleras Cases (Three) for October 31, 2018. **(If Item 12(a) Above is Approved)**

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to schedule the Public Hearing for those cases on October 31 regarding further consideration of #1 pertaining to disturbance of soil.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

### **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**

There were no matters from the City Clerk.

### **16. COMMUNICATIONS FROM THE GOVERNING BODY**

A copy of the Bills and Resolutions Scheduled for Introduction by Members of the Governing Body is incorporated herewith to these minutes as Exhibit 1.

Councilor Harris introduced a resolution on vision statement of Airport Advisory Board and on personal note celebrated a marriage last Saturday and had a glorious time.

Councilor Vigil Coppler introduced a resolution in support of bicycle safety signage in the city.

Councilor Ives joined as co-sponsor of that resolution. He wished a Happy anniversary to daughter Sarah and Dillon.

Councilor Romero-Wirth called attention to the fact we all should be aware we are coming into election season in earnest and the resolution we passed for charter amendment will be on the ballot. She hoped Councilors are reminding people of that ballot question.

Councilor Lindell announced her mother turns 101 years old on Friday to wish her a happy birthday. She maintains a terrific sense of humor.

Councilor Villarreal reminded Councilors of the last two summer events on Friday at 6:00 and the film is Up. She referred people to the Earthcare website for more details.

Councilor Rivera asked the City Manager to perform the compensation study. All employees are waiting for it.

Mr. Litzenberg said, "So noted."

Councilor Abeyta announced the park cleanup at SWAN on Saturday, starting at 8:00. The Boys & Girls Club will start cleanup on Friday.

Councilor Vigil Coppler said Council is not meeting before the breast cancer walk. As a survivor of breast cancer, I'm looking forward to it. I'm sorry and sad it is still an issue of interest. The activity is at Villa Linda Park.

Mayor Webber introduced a resolution on legislative priorities that is now in draft form. Please look at it and get it moving into shape for the upcoming session. It is purely to get it going. He had the great pleasure of attending a naturalization ceremony where more than 200 Santa Fe residents from 40+ countries became US citizens.

Next year he promised to invite everyone to attend it. It is joyful and wonderfully uplifting (grinning) to see them waving their flags at the end of the beautiful ceremony.

He recalled that South Side Summer started with no budget or plan and created a wonderful series of options, music, food, etc. And he hoped we will get a report on it at Council.

Councilor Abeyta said the movie is at Romero Park.

Mayor Webber adjourned the meeting at 6:33, to reconvene at 7:00

## **END OF AFTERNOON SESSION**

## **EVENING SESSION - 7:00 P.M.**

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

The regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called back to order for the evening session by Mayor Alan Webber, on Wednesday, September 26, 2018, at approximately 7:05 p.m., in the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe.

Present at the meeting were:

#### **Members Present**

Mayor Alan Webber  
Councilor Signe I. Lindell, Mayor Pro-Tem  
Councilor Roman "Tiger" Abeyta  
Councilor Mike Harris  
Councilor Peter N. Ives  
Councilor Christopher M. Rivera  
Councilor Carol Romero-Wirth  
Councilor JoAnne Vigil Coppler  
Councilor Renee D. Villarreal

#### **Members Excused**

None

#### **Others Attending**

Erik Litzenberg, City Manager  
Erin McSherry, City Attorney  
Yolanda Y. Vigil, City Clerk  
Carl G. Boaz, Council Stenographer

## **F. PETITIONS FROM THE FLOOR**

**Kamouge**, Artistic Director of Fiesta Feta, shared details of the authentic African FESTival at the Railyard Park for the purpose of preserving the present culture and work of African cultures. The Declaration of Fiesta Feta happened in 2014. Our mission today is to invite everyone to come out to Railyard Park on Saturday October 13 for the festival to share culture and enjoy fellowship - to be one with the world and African citizens living here.

**Joann Ward** - South Capitol was here to protest the decision to allow and whether the extension into the alley and building exceeding 13' maximum height and drainage system and the fact that adjoining neighbors were not notified, and decisions made before Carol Johnson was hired. This morning, the Santa Fe New Mexican has an article on new construction. Every neighborhood is important, and she asked that the Board of Adjustment address the issue. It could be embarrassing and will compromise things.

**Stefanie Beninato** said, "I too, live on this alley. And neighbors were told there was no problem on the construction. The variance was given without any notice. The bottom line is this application is void. Brian Snyder was not authorized to give the authorization for the alley and any of you can suspend the permit. The architect said he would comply with all regulations. And then she showed the site plan where it goes right up to the alley.

She showed an affidavit that said 3' back and not 10'. Mr. Snyder had no authority to grant an easement. It is not due process. As a result, any building and the neighbor have to agree and set back more. Thus, any building constructed must be set back at least 7' to meet the set-back requirements. This permit is void and I ask you to sit with owners and fix it."

There were no other petitions from the floor.

## **G. APPOINTMENTS**

- 1) Immigration Committee

Ms. Vigil read the appointment of Ivan J. Cornejo to fill unexpired term ending 2/2020.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Lindell, to approve the appointments to the Immigration Committee.

**VOTE:** The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

## 2) Mayor's Youth Advisory Board

Ms. Vigil read the appointments of Jayden Madrid (St. Michael's High School) - Reappointment (Change of Position)-term ending 12/2019; Summer Armijo-Rotunno (Santa Fe High School)- to fill unexpired term ending 12/2019; Avi Pope (ATC) - to fill unexpired term ending 12/2019; Triana Reid (Institute of American Indian Arts) - to fill unexpired term ending 12/2018.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Lindell, to approve the appointments to the Mayor's youth Advisory Board.

**VOTE:** The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

## 3) Human Services Committee

Ms. Vigil read the appointment of Jesse Cirolia- to fill unexpired term ending 3/2020.

**MOTION:** Councilor Rivera moved, seconded by Councilor Lindell, to approve the appointments to the Human Services Committee.

**VOTE:** The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

## 4) Mayor's Committee on Disability

Ms. Vigil read the appointments of Victor Hughes - to fill unexpired term ending 1/2019 and Hope Reed- to fill unexpired term ending 1/2019

**MOTION:** Councilor Ives moved, seconded by Councilor Lindell, to approve the appointments to the Mayor's Committee on Disability.

**VOTE:** The motion was approved on a voice vote with Mayor Webber and Councilors Abeyta, Harris, Ives, Lindell, Rivera, Romero-Wirth, Vigil Coppler and Villarreal voting in favor of the motion and none voting against.

#### **H. PUBLIC HEARINGS:**

- 1) Request from Rising Stars in the Southwest, a Not for Profit Organization, for a Waiver of the 300-Foot Location Restriction and Approval to Allow the Dispensing/Consumption of Alcoholic Beverages at the Santa Fe Higher Education Center, 1950 Siringo Road. The Request is for the Reaching Stars Fund-raising Event on Saturday, October 6, 2018, with Alcohol Service from 5:00 pm to 8:00 pm.

Ms. Vigil reported that Rising Star's request is for a waiver of the 300 ft restriction for a Fund-raising event on October 6 at 5-8 pm.

A letter of no opposition was received and included in the packet.

Mayor Webber opened the Public Hearing

There were no speakers from the public regarding this request and the public hearing portion was closed.

**MOTION:** Councilor Lindell moved, seconded by Councilor Ives, to approve the request from Rising Stars in the Southwest.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- 2) **APPEAL – CASE #2017-123. Estancias del Norte Preliminary Subdivision Plat and Variance Request.** Appeal by the Greater Callecita Neighborhood Association, et al. of the Planning Commission's Approval of Estancias Del Norte's Request for a Preliminary Subdivision Plat at 702 Hyde Park Road. (Marcos Martínez, Assistant City Attorney, [mdmartinez@santafenm.gov](mailto:mdmartinez@santafenm.gov), 955-6502) (Postponed on August 29, 2018) **(Public Hearing Occurred on August 29, 2018 and is Closed)**

Ms. Vigil described Case 2017-123.

Mayor Webber stated there are to be no ex parte communications in quasi-judicial matters. He asked if there are any disclosures.

Councilor Romero-Wirth said she received several emails and one hand-written note that she forwarded to the Clerk and did not read them.

Councilor Lindell said she received emails and forwarded them to the City Attorney.

Councilor Villarreal got one letter and the City Attorney has it.

Councilor Vigil Coppler received one email and one letter that is on her kitchen counter.

Councilor Ives said he received similar communications and it will not affect his decision. Councilor Rivera said, "ditto."

Mayor Webber said we have closed the hearing and completed public hearing on August 29 and set a process to encourage the two parties to meet and come to an agreement.

He asked if the agreements are in writing.

Mr. Ernie Romero, PO Box 22865, was sworn and said here is no written agreement but we undertook the attempt to come to an agreement. The agreement verbally is "no."

Mayor Webber concluded that we are back into deliberations. We can make a motion or continue deliberations.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Harris, to find the Planning Commission acted within the law.

Ms. Karen Heldmeyer rose to a point of order as an appellant.

Mayor Webber said the hearing is closed.

Ms. Heldmeyer said it is closed. The appeal was based on two different sets of facts - the Open Meeting Act violation and the other was the Land Use Code. The question is whether you need to address those separately or together. The Governing Body needs to be explicit about it.

Mayor Webber believed the motion addresses the appeal and applies to all facets.

Ms. McSherry said that is appropriate.

Councilor Villarreal had questions on staff questions regarding the escarpment ordinance.

Mayor Webber explained that would require us to reopen the entire process.

Ms. McSherry said that is correct and we would have to reopen the public hearing. That is defined in 2011-24. If we go back to questions by staff, that would require statements.

Councilor Villarreal asked how to address questions now.

Ms. McSherry said the Council could vote to go back into public hearing. She reminded the Councilors that there is a motion pending.

Councilor Villarreal didn't think it is a very clear process. "Can I amend the motion to have questions before the vote?"

**MOTION:** Councilor Villarreal moved to amend the motion to allow questions to staff before a final vote.

Councilor Vigil Coppler said she was not in favor of the proposed amendment because she was not in favor of going back into public hearing. She did not accept the amendment as friendly to the maker.

The motion to amend died for lack of a second.

Mayor Webber said we can either vote or have discussion on the motion.

Councilor Rivera asked, if we reopen public hearing, if it is just limited to the parties or includes the public.

Ms. McSherry thought the Council could limit it to the parties.

Councilor Rivera asked if that changes Councilor Vigil Coppler's decision.

Councilor Villarreal said we could at least ask questions of Staff and it could be quick. So I ask the motion not be approved.

Councilor Harris felt his second should stand. "There was considerable public moment. At least 8 and I did my homework. I had a great conversation with Director Johnson. So I think we should be prepared to vote."

Councilor Villarreal said she was instructed not to talk with staff as it would be ex parte communication and the questions should be considered in the public hearing. That's why I took the time to ask tonight."

Councilor Harris said he received no such direction and if he had questions, could he ask Joe Barela, the City Engineer. Ms. Johnson said any questions should be addressed to her. I understood I could address any questions to her.

Councilor Villarreal didn't get that direction.

Mayor Webber asked why not involve the Council?

Councilor Villarreal said she needed clarification of the escarpment ordinance from Staff.

Councilor Lindell noted this is a sizable project and we had a lot of discussion about it. I don't think all Councilors' questions have been asked. I had questions that I wanted to ask about ponding and warranties and those kinds of things. I didn't have a conversation with Councilor Villarreal about what her questions were. I'd like Council to give us the courtesy to ask those.

Councilor Abeyta called the question.

Councilor Rivera asked to have the motion restated.

Councilor Vigil Coppler restated her motion, "to deny the appeal in case 2017-123 finding the Planning Commission acted in accordance with the law, and that there was substantial evidence to approve the preliminary subdivision plat application."

Councilor Ives said we have a main motion to deny the appeal. The amendment is to add to it for some limited discussion by opening the public hearing again. Has it been seconded.

Councilor Lindell offered to second her motion.

Councilor Ives thought it could be done for a very limited purpose.

Ms. McSherry said it would both deny and reopen public hearing, so it would not make sense.

Councilor Romero-Wirth said you could add conditions to the motion.

Ms. McSherry agreed.

Councilor Romero-Wirth saw the only way to deal with Councilor Vigil Coppler's motion would be to vote that motion down.

Councilor Vigil Coppler pointed out that we have a call for the question and it takes precedence over any discussion. I may be wrong.

Councilor Ives said she was correct on that point, although it usually happens after a good discussion.

Councilor Romero-Wirth said Councilor Abeyta did call the question.

Mayor Webber asked for the vote on whether to stop debate.

**For closing debate:** Councilor Abeyta, Councilor Harris, and Councilor Vigil Coppler.

**Against closing debate:** Councilor Villarreal, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Mayor Webber.

The call for the question has been denied.

Councilor Ives wanted to vote no to allow possible reopening public hearing on a limited basis.

Mayor Webber took it on a basis of courtesy for Councilors. He said, "We have a process that is not easy to implement. It lends itself to lots of procedural questions and difficulties.

Councilor Vigil Coppler asked for clarity. She thought they were voting on calling the question.

Mayor Webber said he thought we were voting on the motion.

Ms. McSherry said Councilor Vigil Coppler was correct, and the call for the question failed.

Councilor Rivera wanted to know if Councilor Vigil Coppler's motion, if we vote on it and it fails. Would Councilor Villarreal be allowed to ask questions and then that same motion be entertained later.

Ms. McSherry said yes.

Councilor Villarreal asked if we are now voting on the main motion.

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

**For:** Councilor Abeyta, Councilor Harris and Councilor Vigil Coppler.

**Against:** Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Villarreal and Mayor Webber.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Lindell, to reopen the public hearing for Councilors to ask questions to staff with limited time for the parties.

Ms. McSherry asked if she wanted to assess that time now or on each question.

Councilor Villarreal thought Staff might need more time to respond.

Mayor Webber asked if there are limits to types of questions.

Ms. McSherry said there are no limits on types of questions.

**VOTE:** The motion passed on the following Roll Call vote:

**For:** Councilor Abeyta, Councilor, Councilor Ives, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Villarreal and Mayor Webber.

**Against:** Councilor Vigil Coppler.

Councilor Villarreal asked from Ms. Wynant in Land Use Staff in looking at the maps of escarpment and ridgetop. What does the escarpment ordinance say about home siting? But this case does not have that they must be far from the view line.

Ms. Wynant said "In the overlay - 14-5 - 5.6D - structures shall be sited as far as possible from the view line. For all lots subdivided after 1992 other than driveway and utilities is prohibited. No development on ridgetops is permitted. If there is no buildable site, it shall be determined by staff at time of building permit, but all must conform, unless staff approves an alternate siting. There are three criteria. The alternate siting shall be in an approved buildable site.

Ms. Johnson said in this case, these are buildable sites and will be reviewed by escarpment and will move them as far away from view lines but within the buildable area.

Councilor Villarreal saw access that are driveways.

Ms. Johnson said after 1992 other than driveways and utilities, it is prohibited.

Councilor Villarreal was hoping all aspects of the ordinance were considered. It seems like we are not going from what we are seeing, a true compliance with the escarpment ordinance.

Ms. Johnson said there is a difference between driveways and roadways. At the previous hearing it was stated roadways are essentially the same as driveways. There is no distinction in the escarpment ordinance. But she wasn't saying she agreed with that interpretation.

Mr. Richard Folkes was sworn - He showed the map of proposed development and pointed out the ridgetops. They are clearly being used as a road. But the escarpment prohibits that except for driveways and utilities. Roads are a clear violation of the ordinance. Driveways perpendicular to the road are also prohibited so it is a clear violation of the code.

Mr. Jim Siebert, 315 Mercer, was sworn. The same question was asked at the last hearing and was exactly the same as Ms. Johnson said. The road is the least visible part of the development. If a road was not permitted on the ridge, it would be on one or both sides and would have two scars. That is the rationale stated by Staff.

Councilor Lindell asked Director Johnson, in looking at an email from Legal on agreement to construct and financial guarantees. I don't want to catch you off guard but has to do with the warranty period. The Code says the Land Use Director may extend a warranty period to ensure potential defects are corrected and further on a time period of a year, but the Director has complete discretion on how long the warranty really is. The discussion here says a year seems vastly insufficient, given the terrain and flooding that has occurred. 50 years seems excessive. I'm encouraging you to give us a substantial amount of time for all of these improvements, seeing what has happened on that property. I'm not asking for a commitment of warranty time now but a studied consideration when you make that decision. And that it be much longer.

Ms. Johnson said we had discussion yesterday with staff on that issue and their experience and it was pointed out that one year is the minimum period and it would be based on Public Works and contractibility. All of those are taken into consideration for determining that period.

Mr. Folkes said we did discuss it when in mediation and proposed a performance bond during construction and they did not like that idea.

Mr. Ernie Romero said we will work closely with City staff and do what is required.

Councilor Harris, to expand on that issue, said, two weeks ago at the end of executive session with Ms. McSherry, we addressed the issue. At the previous meeting on it I read resolution 198-3 and shared with Councilor Ives that I have gotten to the point that is beyond Ernie's statement. I shared the email statement with Councilor Ives and I just forwarded it to Councilor Lindell just before we reconvened. How I got to it was part of it is warranty and acknowledge Ms. Johnson's response and glad the discussion with Public Works. I turn to the covenants on the property and maintenance guidelines in 2.2 - they deal with centralized stormwater facilities that may be amended from time to time. By definition, the City can direct changes to maintenance guidelines. In article 3.3, I looked at the language and it talks about in language you've heard before The association will keep the stormwater in good condition. So it strengthens what the City will do now and in the future. We saw a tremendous presentation by Melissa McDonald regarding the stormwater management strategic plan and changes may come from EPA . We are one of five cities subject to the new regulations. They are likely to change because of climatic conditions. This language anticipates the review and may direct changes on current and future confusions.

Then we know there is a fairly rigorous protocol built into the agreements that requires the HOA and that applicants will control the HOA into midway in development and certified engineer required to inspect that will protect the city, property owners, and those downhill.

I rely on Oralynn Guerrerortiz and the countdowns she proposed.

The plans are extensive and tremendous work done by staff, applicants and appellants and language in the covenants that should go a long way to protect various parties. So I don't believe a performance bond is necessary.

Councilor Ives said in looking through the covenants I concur with what Councilor Harris said. They are pretty robust to ensure proper maintenance and repair of the stormwater facilities.

When does the warranty period begin? Eventually the HOA will take over the responsibility but I'm not sure of the timing of when the warranty period begins.

Ms. Johnson understood once Staff approved the plan, the warranty begins.

Councilor Ives asked when the HOA would take over.

Ms. Johnson said it depends on when owners take over.

Councilor Ives said until such time as it is transferred to the HOA.

Ms. Johnson said for those facilities that are private, that is true.

Councilor Ives asked what parts the City would take on in Section 3.3.6 on page 39 in the packet - under applicants' materials to be transferred to the City.

Ms. Johnson didn't have that in front of her, but any part identified as public would be the responsibility of the city.

Councilor Ives noted here it speaks to centralized stormwater facilities. And with it would come responsibility for inspections.

Mr. Siebert said Ms. Johnson didn't have the full scope of the project. It is water and it is sewer. All other infrastructure is private and maintained by HOA. The water is strictly potable water carried in pipes. The City doesn't take over ponds, etc.

Councilor Ives read dedication if accepted of centralized stormwater facilities. He was not inclined to seek that dedication.

Ms. Sue Herman, 1305 Calle Ramon, was sworn and said that Mr. Siebert stated at the ENN meeting that we are relying on the HOA to the extent that it exists. There is no requirement in the covenants that an HOA exist. And most of those properties nearby have around 30% occupancy. So where are the people who will take over the HOA once Mr. Romero is gone? So maybe the City will take over facilities they do not want.

Councilor Ives said we do want potable water and a wastewater system. So we do have authority to make repairs if we want to. So it would fall on HOA. To Ms. Johnson - at what point does HOA take over? It is at the point where majority ownership is not with the developer. So up to that point, does the developer have the responsibility other than potable water and sewer line?

Mr. Folkes said there is no approved Master Plan for this development; no approved development plan and also no approved # of units.

Ms. McSherry said this is not responsive.

Mayor Webber agreed, and this is not a time to introduce new material. We are just answering questions of Councilors.

Pursuant to the terms of the declaration, the developer is responsible for stormwater

during the warranty period. Right now we mention one-year period and if extended, the developer would be responsible and the HOA takes over once the warranty period expires. The declaration requires the creation of the HOA.

Councilor Ives wanted to make sure there is no gap where those items are covered.

Councilor Rivera said to Ms. Johnson a big concern is flooding which many neighbors have had to deal with. 20 years from now, the city staff are gone, and residents remain to deal with 100- year flood damage.

Mr. Romero said they would comply with what the City could do with flooding and what we can do.

Ms. Johnson said that is difficult and why we hired a third-party engineer and she provided 16 conditions of approval and up-sized the levels. At that point, the City may amend the requirements and would have to go back to the developer to comply with those regulations.

Councilor Rivera wondered if those 16 would have addressed that recent flood.

Ms. Johnson said her conditions were before the flood. Without specific modeling of that event, it would be difficult to ascertain. It was somewhere between 600- and 1000-year event. Not much of the facilities would handle that. They would have to reverse engineer. We could construct a model to see if that would have handled the storm.

Mr. Mike Gomez was sworn and said between the last hearing and now, we have modeled the storm. We have dealt with it and took measurements on the gauges and levels of precipitation in that July event.

The main area hit was Santa Fe High School with 3.6 inches and it went steadily down going north and to the south. We looked at incremental rain that fell - recorded every 12 minutes in the gauge near the center of the storm. We over designed, and it would have contained that flood. He showed a colored graph to make his point. They modeled it and routed it through the structures and everything works.

Mr. Folkes went back to the number of units issue. At 49 it was calculated. But it is not the actual unit count.

Councilor Rivera said unfortunately we can't really tell until another such event happens.

Councilor Harris commented that we didn't have a significant event until July 23. The applicant made improvements adjacent to El Matador which is adjacent property. The

arroyo is between that property and homes on Valley Drive. We heard testimony from El Matador that appreciated that the facilities worked.

On page 20 of 53 , the upper drainage area was defined and includes 1,200 acres and the drainage area and a little beyond Haciendas is 88 acres. Historically a tremendous problem associated with the improvements. I rely on the applicant and work of the staff and Planning Commission to make the applicant go back and provide more data. Oralynn did a competent analysis.

There were no other speakers from the public regarding this case and the public hearing portion was closed.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Harris, to deny the appeal of in Case #2017-123, finding that the Planning Commission acted in accordance with law and that there was substantial evidence to approve the preliminary subdivision plat application.

Councilor Villarreal said she would not support this because of inconsistencies on the escarpment ordinance and questions on the number of units with 49 as the norm. I don't think it will be the norm. I was disappointed to see they didn't agree on a more appropriate number for this area. There are too many open doors to allow for other units. We should be looking at better planning methods.

Councilor Ives revisited a question earlier dealing with language other than driveway access and on interpretation of the escarpment overlay district That language is not clear language that spoke to other than driveway access. It doesn't say except driveways. And the Planning Commission, in another development said that a road way is allowed that serves those lots. It is used twice in that ordinance for escarpment overlay, given the interpretation used in LUD.

The question on accessory dwelling units could be an additional condition based on all we have heard and considered. I would make it as potentially a friendly amendment. That if additional dwelling units are to be added, that owners would be required to add additional stormwater of not less than what has been done to protect to the same level as with a single dwelling unit there. To ensure that the good work done and would provide the additional protection needed - emulated with the additional dwelling unit.

Councilor Vigil Coppler asked if this would put the onus on future property owners who would bear the cost.

Councilor Ives agreed, as they are now. It is simply requiring that additional capacity would extend to lot owners putting in additional dwelling units.

Councilor Vigil Coppler asked if Councilor Harris would agree to that.

Councilor Harris said he would agree to it. The powers of the City in covenants already have that authority so as Councilor Rivera said, we won't be here down the road when those units could be developed.

Councilor Vigil Coppler agreed to the friendly amendment.

**VOTE:** The motion passed (6-3) on the following Roll Call vote:

**For:** Councilor Abeyta, Councilor Harris, Councilor Ives, Councilor Romero-Wirth, Councilor Vigil Coppler and Mayor Webber.

**Against:** Councilor Lindell, Councilor Rivera, and Councilor Villarreal.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Harris, to direct Staff to prepare Findings of Fact and Conclusions of Law reflecting this decision.

**VOTE:** The motion passed on the following Roll Call vote:

**For:** Councilor Harris, Councilor Abeyta, Councilor Ives, Councilor Romero-Wirth, Councilor Lindell, Councilor Rivera, Councilor Vigil Coppler and Mayor Webber,.

**Against:** None.

**Abstaining:** Councilor Villarreal.

Councilor Villarreal said they would be based on the recommendation of Planning Commission.

Councilor Lindell asked Ms. McSherry why do we need to have this motion to prepare FF/CL.

Ms. McSherry said it would not be required but the Council did modify the FF/CL with a condition, so it would be Planning Commission plus the additions.

Councilor Lindell said it is clear enough to her, so she didn't think it was really needed.

Councilor Rivera asked if there is an appeal process that could still be made on this. Typically appeals could be made to FF/CLs.

Ms. McSherry said this would be the final action with FF/CL.

Mayor Webber thanked people for their patience and for abiding with a very complicated process as a quasi-judicial body . And obviously still working through the process. So thank you for your respect and consideration .

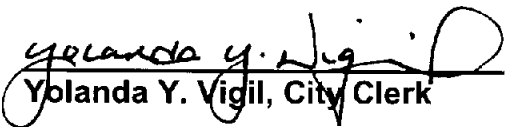
**I. ADJOURNMENT**

Mayor Webber adjourned the meeting at 8:45.

**Approved by:**

  
\_\_\_\_\_  
Mayor Alan Webber

**ATTESTED TO:**

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

**Respectfully submitted:**

  
\_\_\_\_\_  
Carl G. Boaz, Council Stenographer



**CITY COUNCIL MEETING OF**  
**September 26, 2018**  
**BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION**  
**BY MEMBERS OF THE GOVERNING BODY**

Mayor Alan Webber		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ESTABLISHING CITY OF SANTA FE LEGISLATIVE PRIORITIES FOR CONSIDERATION BY THE NEW MEXICO STATE LEGISLATURE DURING THE 54 <sup>TH</sup> LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019.	Public Works Committee - 10/9/18 Public Utilities Committee - 11/7/18 Finance Committee - 11/19/18 City Council - 12/12/18
Councilor Roman Tiger Abeyta		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Mike Harris		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION ENDORISING THE VISION STATEMENT OF THE AIRPORT ADVISORY BOARD FOR THE SANTA FE REGIONAL AIRPORT.	Public Works Committee - 10/9/18 Finance Committee - 10/15/18 City Council - 10/31/18
Councilor Peter Ives		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Signe Lindell		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Chris Rivera		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor Carol Romero-Wirth		
Co-Sponsors	Title	Tentative Committee Schedule

Councilor Renee Villarreal		
Co-Sponsors	Title	Tentative Committee Schedule
Councilor JoAnne Vigil Coppler		
Co-Sponsors	Title	Tentative Committee Schedule
	A RESOLUTION IN SUPPORT OF THE INSTALLATION AND MAINTENANCE OF BICYCLIST SAFETY SIGNAGE IN THE CITY.	Bicycle and Trails Advisory Committee – 10/17/18 Public Works Committee – 10/29/18 Finance Committee – 11/5/18 City Council – 11/14/18

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, (505) 955-6518, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov) or Linda Vigil at (505) 955-6501, [lfvigil@santafenm.gov](mailto:lfvigil@santafenm.gov).