



# AGENDA

REGULAR MEETING OF  
THE GOVERNING BODY  
DECEMBER 09, 2020  
4:00 PM  
ATTEND VIRTUALLY

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## SPECIAL PROCEDURES FOR GOVERNING BODY MEETING

**Attendance:** In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Governing Body meeting will be conducted virtually.

**Viewing:** Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded Governing Body meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

**Radio Broadcast:** The meeting can be heard on radio station KSFR 101.1.

**Agenda:** The agenda for the meeting will be posted at <https://www.santafenm.gov>.

**Written Comments:** The public may submit written comments on any of the items to be considered on the Consent Agenda, Discussion Agenda, Public Hearings or Petitions From the Floor through 1:00 p.m. the day of the meeting, via the virtual comment "button" at [santafe.primegov.com/portal/search](https://santafe.primegov.com/portal/search).

**Public Comment (Live):** To provide live public comment during Petitions from the Floor or Public Hearings, you must join the Zoom meeting by internet or phone, as follows:

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm.gov.zoom.us/j/92174323176?pwd=eXAvQ0lJTk1OTIFPRnVOQ2FDMHdpQT09>.

Passcode: **790263**

Attendees should use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.

Phone: To join the Zoom meeting using a phone, use the following phone numbers and **Webinar ID: US: 1 (346) 248-7799 - Webinar ID: 921 7432 3176 - Passcode: 790263**

Phone attendees should press \*9 to use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.



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## AFTERNOON SESSION - 4:00 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**
  - a. Regular Governing Body – November 10, 2020
  - b. Special Governing Body – November 18, 2020
9. **PRESENTATIONS**
10. **CONSENT CALENDAR**
  - a. Request for Approval of a Non-Client Agreement Collaborative Member Agency in the Total Amount of \$390,000 for Opiate Outreach Services; New



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- Mexico Behavioral Health Services Division via Falling Colors. (Andres J. Mercado, Battalion Chief - MIH, [ajmercado@santafenm.gov](mailto:ajmercado@santafenm.gov), 955-3604)
- b. Request for Approval of State Price Agreement #70-000-16-00034AC in the Total Amount of Nine Hundred Ninety-Five Thousand Dollars (\$995,000) for the Purchase of a Ladder Truck from 411 Equipment, LLC. (Brian Moya, Health and Safety Officer, [bjmoya@santafenm.gov](mailto:bjmoya@santafenm.gov), 955-3111)
  - c. Request for Approval of State Price Agreement #70-000-16-00034AE in the Total Amount of One Hundred Forty-Five Thousand Nine Hundred Sixty-Eight Dollars (\$145,968) for the Purchase of a Brush Truck and Equipment from 411 Equipment, LLC. (Brian Moya, Health and Safety Officer, [bjmoya@santafenm.gov](mailto:bjmoya@santafenm.gov), 955-3111)
  - d. Request for Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of \$76,484.62 from the Water Enterprise Cash Balance to the Unused 2020 Balance of the Alpha SW Contract. (Jonathan Montoya, Source of Supply Operations Manager, [jmontoya@santafenm.gov](mailto:jmontoya@santafenm.gov), 955-4373)
  - e. Request for Approval to Join the San Juan Chama Contractors Association for an Annual Amount of \$2,615. (Jesse Roach, Water Division Director, [jdroach@santafenm.gov](mailto:jdroach@santafenm.gov), 955-4309)
  - f. Request for Approval of Professional Services Contract with LSC Transportation Planning, Inc. for the Purpose of Developing a Multi-Modal Transition Plan for the City of Santa Fe Not to Exceed \$225,000 Starting December 1, 2020 and Terminating on April 30, 2022. (Erick J. Aune, Santa Fe MPO Officer, [ejaune@santafenm.gov](mailto:ejaune@santafenm.gov), 955-6664)
  - g. Request for Approval to Enter Into a Grant Agreement with the New Mexico Environment Department to Provide Reimbursable Funding for Electric Vehicle Charging Stations at the City's Public Parking Garages; the Grant Funds are Reimbursable in the Total Amount of \$26,303. (Neal Denton, Sustainability Planner, Environmental Services Department, [nhdenton@santafenm.gov](mailto:nhdenton@santafenm.gov), 955-2229)
  - h. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Mayor Webber) A Resolution Establishing City of Santa Fe Legislative Priorities for Consideration by the New Mexico State Legislature During the 55<sup>th</sup> Legislature – State of New Mexico – First Session, 2021. (Regina Wheeler, Public Works



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Department Director, [rawheeler@santafenm.gov](mailto:rawheeler@santafenm.gov), 955-6622 and Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

- i. Request for Approval of the Budget Amendment Resolution-North Central New Mexico Economic Development District-Non Metro Area Agency on Aging Covid-19 CARES Federal Sub-Award. Item # 20-0591 (Munis Contract #3202384) in the Amount of \$166,644.57. The Covid-19 CARES Federal Sub-Award Grant Funds Will be Utilized to Provide Services to Our Eligible Senior Clientele Who Receive In-Home Support, Transportation, and Nutrition. (Gino Rinaldi, Senior Services Division Director, [earinaldi@santafenm.gov](mailto:earinaldi@santafenm.gov), 955-4710)
- j. Request to Publish Notice of Public Hearing on January 13, 2021. BILL NO. 2020-35. An Ordinance Amending Section 16-15.2 SFCC 1987 to Remove the Possibility of Imprisonment for the Conviction of a Violation of the Section. (Councilor Rivera, Councilor Cassutt-Sanchez, Councilor Villarreal, and Councilor Garcia) (Kyle Hibner, City Prosecutor, [kjhibner@santafenm.gov](mailto:kjhibner@santafenm.gov), 955-5195)
- k. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Councilor Garcia and Councilor Vigil Coppler)  
A Resolution Adopting the City of Santa Fe Mitigation Plan. (Kyle Mason, Emergency Management Director, [kamason@santafenm.gov](mailto:kamason@santafenm.gov), 955-6704)
- l. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Mayor Webber, Councilor Villarreal, Councilor Cassutt-Sanchez, Councilor Lindell, and Councilor Romero-Wirth)  
A Resolution Urging the New Mexico State Legislature to Establish a State Public Bank, Owned By and For the People of New Mexico, During the 2021 Legislative Session. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

## 11. DISCUSSION/ACTION ITEMS

- a. Request for Approval of a Settlement Agreement with Gail Gilbert to Resolve Issues Related to Two Administrative Appeals Concerning Remodeling and Construction Projects at 503 Camino del Monte Sol, which is Located within the Downtown and Eastside Historic District, Case Nos. D-101-CV-2019-02819 and D-101-CV-2020-00979 (Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)



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- b. Request for Approval of Santa Fe Trails Agency Safety Plan. (Thomas Martinez, Transit Director of Operations, [tamartinez@santafenm.gov](mailto:tamartinez@santafenm.gov), 955-2006 and David A. Chapman, Grant Administrator – Writer, [dachapman@santafenm.gov](mailto:dachapman@santafenm.gov), 955-2010)
- c. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Councilor Villarreal)  
A Resolution Extending the Earlier Start Time of Afternoon Sessions of Governing Body Meetings to 4:00 P.M. and Evening Sessions of Governing Body Meetings to 6:00 P.M. Through the June 30, 2021 Governing Body Meeting. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)
- d. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Councilor Lindell, Councilor Abeyta, Councilor Rivera, Councilor Vigil Coppler, Councilor Villarreal, and Councilor Garcia)  
A Resolution in Support of the National Veteran Cemetery Administration's Veterans Legacy Program. (Julie Sanchez, Youth and Family Services Division Director, [jsanchez@santafenm.gov](mailto:jsanchez@santafenm.gov), 955-6678)
- e. Request for Approval of Amendment #1 to Service Contract 19-0653, Extending the Term Through 12/31/2021 and Increasing the Compensation by \$325,000 Plus NMGR for On-Call Urban Planning and Economic Analysis Services; Strategic Economics. (Sam Burnett, Public Works Property Maintenance Manager, [jdburnett@santafenm.gov](mailto:jdburnett@santafenm.gov), 955-5933)

## 12. MATTERS FROM THE CITY MANAGER

## 13. MATTERS FROM THE CITY ATTORNEY

### EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Discussion of Pending or Threatened Litigation, Specifically the American Medical Response Ambulance Service, Inc., Public Regulations Commission Case 20-00125-TRM and Joining an Amicus with the City of Los Angeles and Other Local Governments in Support of the State of New Jersey and the Mexican American Legal Defense and Educational Fund (MALDEF) in an Appeal From the Southern District Court of Texas to the Fifth Circuit Court of Appeals in State



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of Texas v. United States (S.D. Tex. 1:18-cv-00068). (Erin K. McSherry, City Attorney; [ekmcsherry@santafenm.gov](mailto:ekmcsherry@santafenm.gov), 955-6512).

## 14. EXECUTIVE SESSION ACTION ITEMS

- a. Approval of a Settlement Agreement to Dismiss the City's Interest in American Medical Response Ambulance Service, Inc., Public Regulations Commission Case 20-00125-TRM. (Andrea Salazar, Assistant City Attorney, [asalazar@santafenm.gov](mailto:asalazar@santafenm.gov), 955-6303 and Michael J. Suber, Medical Officer, Santa Fe Fire Department, [mjsuber@santafenm.gov](mailto:mjsuber@santafenm.gov), 955-3603)
- b. Approval to Join an Amicus Brief with the City of Los Angeles and Other Local Governments in Support of the State of New Jersey and the Mexican American Legal Defense and Educational Fund (MALDEF) in Their Intervention and an Appeal to the Fifth Circuit Court of Appeals in State of Texas v. United States (S.D. Tex. 1:18-cv-00068). (Erin K. McSherry, City Attorney, [ekmcsherry@santafenm.gov](mailto:ekmcsherry@santafenm.gov), 955-6512)

## 15. MATTERS FROM THE CITY CLERK

## 16. COMMUNICATIONS FROM THE GOVERNING BODY

## EVENING SESSION - 6:00 P.M.

## 17. ROLL CALL

## 18. PETITIONS FROM THE FLOOR

## 19. APPOINTMENTS

- a. Occupancy Tax Advisory Board

## 20. PUBLIC HEARINGS



City of Santa Fe

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- 
- a. CONSIDERATION OF BILL NO. 2020-34. ADOPTION OF ORDINANCE 2020-\_\_\_\_. (Councilor Rivera and Councilor Cassutt-Sanchez)  
An Ordinance Amending Section 2-4.6 SFCC 1987 to Allow the City Manager to Enter Agreements Accepting Funds that Are Offered to the City Without Time to Place the Agreements on the Next Scheduled Governing Body Meeting, with Ratification by the Governing Body at the Next Scheduled Meeting for which the Deadline to Include the Matter on an Agenda Has Not Yet Passed; and Amending Section 11-4 to Allow the City Manager to Approve Grant Applications, Grant Awards, Grant Match Requirements, and Grant Agreements in Any Amount if the Deadline to Approve Such Documents Occurs Before the Deadline to Include the Application or Award on the Agenda for the Governing Body's Next Regularly Scheduled Meeting, with Ratification by the Governing Body at the Next Scheduled Meeting for Which an Agenda Has Not Yet Been Posted. (Marcos Martinez, Senior Assistant City Attorney, [mdmartinez@santafenm.gov](mailto:mdmartinez@santafenm.gov), 955-6502)
- b. Request for Approval of a Resolution and Bill Related to Impact Fees. (Carlos Gemora, Planner Senior, [cegemora@santafenm.gov](mailto:cegemora@santafenm.gov), 955-6670)
1. CONSIDERATION OF RESOLUTION NO. 2020-\_\_\_\_. (Mayor Webber)  
A Resolution Adopting the "Impact Fee Capital Improvements Plan 2021-2027 for Roads, Parks, Fire/EMS, and Police" to Update the City's Impact Fee Capital Improvement Plan, Land Use Assumptions, and Impact Fees, as Required by the State Development Fees Act, NMSA 1978, Section 5-8-30.
2. CONSIDERATION OF BILL NO. 2020-33. ADOPTION OF ORDINANCE 2020-\_\_\_\_. (Mayor Webber)  
An Ordinance Amending Section 14-8.14(C) SFCC 1987 to Add a Reference to the Impact Fee Service Area; Amending Section 14-8.14(E) to Adopt a New Impact Fee Schedule and Clarify Appropriate Land Use Categories as they Relate to Impact Fee Collection; Amending Section 14-8.14(G) to Add a Reference to the Impact Fee Service Area; Amending Section 14-8.14(J) to Add a Reference to the Impact Fee Service Area; Adding a Service Area Map as Exhibit F in the Appendix to the Land Development Code; and Establishing an Effective Date.



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- c. CONSIDERATION OF BILL NO. 2020-32. ADOPTION OF ORDINANCE NO. 2020-\_\_\_\_. (Mayor Webber, Councilor Lindell, Councilor Romero-Wirth and Councilor Villarreal)

An Ordinance Amending Section 14-6.2 SFCC 1987 to Adopt by Ordinance a Maximum of One Thousand (1000) Short-Term Rental Permits in the City, to Prospectively Limit the Number of Short-Term Rental Permits to One Per Natural Person, to Prospectively Limit the Proximity of Short-Term Rental Units, to Require a Local Operator for Short-Term Rental Units, to Adopt Record-Keeping and Reporting Requirements for Short-Term Rental Unit Owners and Host Platforms, and to Clarify Other Provisions of the Short-Term Rental Ordinance; Amending the Land Use Code Definitions in Section 14-12.1 SFCC 1987 as They Relate to Short-Term Rental Units; Amending the Table of Permitted Uses, Table 14-6.1-1, Regarding Short-Term Rental Units; [and] Amending Section 12-2.3 SFCC 1987 to Clarify That a Short-Term Rental Unit is not a Group R-1 Occupancy for Purposes of Fire Inspections; and Amending Section 18-10.4 SFCC 1987 to Dedicate a Portion of the Municipal Gross Receipts Tax Generated from the Rental of Short-Term Rental Units to the Affordable Housing Trust Fund. (Elias Isaacson, Planning and Land Use Director, [esiisaacson@santafenm.gov](mailto:esiisaacson@santafenm.gov), 955-6730 and Sally Paez, Assistant City Attorney, [sapaez@santafenm.gov](mailto:sapaez@santafenm.gov), 955-6501)

## 21. ADJOURN

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. and the Governing Body does not vote to extend the meeting, 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.

RECEIVED AT THE CITY CLERK’S OFFICE	
DATE:	December 4, 2020
TIME:	4:36 PM

**SUMMARY INDEX**  
**Governing Body**  
**December 9, 2020**

ITEM	ACTION	PAGE
1. Call to Order	Convened at 4:00 p.m.	1
2. Pledge of Allegiance	led by Councilor Garcia	1
3. Salute to the State Flag	led by Councilor Vigil Coppler	1
4. Invocation	led by Councilor Villarreal	1
5. Roll Call	Quorum Present	1-2
6. Approval of Agenda	Approved as presented	2
7. Approval of Consent Calendar	Approved as amended	2-3
8. Approval of Minutes		
a. Regular – November 10, 2020	Approved as presented	3
b. Special – November 18, 2020	Approved as presented	3-4
9. Presentations	None	4
10. Consent Calendar	Listed	
Consent Calendar Discussion		
h. Legislative Priorities Resolution	Approved as amended	5-10
k. Mitigation Plan Resolution	Approved as presented	10-11
11. Discussion/Action Items		
a. 503 Camino del Monte Sol	Approved as presented	11-12
b. Santa Fe Trails Safety Plan	Approved as presented	12
c. Meeting Time Extension	Approved as amended	12-15
d. National Cemetery Legacy Program	Approved as presented	16
e. On-Call Urban Planning Amendment	Approved as presented	16-17
12. Matters from the City Manager	Communicated	17-18
13. Matters from the City Attorney	Recommended Exec. Session	19
Executive Session	From 5:29 to 6:05 pm	19-20
14. Action on Executive Session Items		
a. AMR Settlement Agreement	Approved as presented	20
b. Amicus Brief MALDEF	Approved as presented	20-21
15. Matters from the City Clerk	None	21
16. Communications from Gov. Body	Communicated	21-24
Evening Session		
17. Roll Call	Quorum present	24
18. Petitions from the Floor	Petitions heard	24-25
19. Appointments- OTAB	Appointed Keith Kirk	25
20. Public Hearings		
a. Accepting Funds Policy	Approved as presented	25-26
b. Impact Fees		
1. CIP Impact Fees	Approved as presented	26-30
2. Impact Fee Service Area	Approved as presented	26-30
c. STR Permit Limits Ordinance	Approved as amended	30-66
21. Adjournment	Adjourned at 12:37 am	66

**Minutes of the  
Regular Meeting of the Governing Body  
Tuesday, December 9, 2020  
Virtual Meeting**

**1. CALL TO ORDER**

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, December 9, 2020, at approximately 4:00 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a virtual meeting.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Councilor Garcia.

**3. SALUTE TO THE NEW MEXICO FLAG**

The Salute to the New Mexico Flag was led by Councilor Vigil Coppler.

**4. INVOCATION**

The Invocation was led by Councilor Villarreal. She remembered Nicole Tipton who died of cancer at age 39. She was a Kitchen Angel and voted on Election Day in her pajamas.

Councilor Cassutt-Sanchez remembered Tom Simon, a member of the New Mexico Public Health Association, a kind and compassionate man.

The Governing Body observed a moment of silence for those who died and for their grieving families and people suffering from COVID.

**5. ROLL CALL**

Roll call indicated the presence of a quorum remotely, as follows:

Members Present Remotely

Mayor Alan Webber

Councilor Roman "Tiger" Abeyta

Councilor Jamie Cassutt-Sanchez  
Councilor Michael J. Garcia  
Councilor Signe Lindell  
Councilor Christopher M. Rivera  
Councilor Carol Romero-Wirth  
Councilor JoAnne Vigil Coppler  
Councilor Renee D. Villarreal

Members Excused

Other Participants Attending Remotely

Jarel LaPan Hill, City Manager  
Erin McSherry, City Attorney  
Yolanda Y. Vigil, City Clerk  
Jesse Guillen, Legislative Liaison  
Sally Paez, Assistant City Attorney  
Rich Brown, Economic Development Director  
Kyra Ochoa, Community Services Director  
Alexandra Ladd, Affordable Housing Director  
Mary McCoy, Finance Director  
Regina Wheeler, Public Works Director  
Elias Isaacson, Land Use Director  
Carlos Gemora, Planner Senior  
Carl Boaz, Council Stenographer

**6. APPROVAL OF AGENDA**

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve the agenda as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

**7. APPROVAL OF CONSENT CALENDAR**

Councilor Vigil Coppler requested discussion on 10 (h), legislative priorities.

Councilor Villarreal also requested discussion on 10 (h) and asked to be a cosponsor on 10 (k).

Councilor Rivera requested discussion on 10 (k) for a quick question.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the Consent Calendar as amended with items h and k removed for discussion.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **8. APPROVAL OF MINUTES**

### **a. Regular Governing Body – November 10, 2020**

**MOTION:** Councilor Cassutt-Sanchez moved, seconded by Councilor Vigil Coppler, to approve the minutes of November 10, 2020 as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

### **b. Special Governing Body – November 18, 2020**

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes of November 18, 2020 as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **9. PRESENTATIONS**

None.

## **10. CONSENT CALENDAR**

- a. Request for Approval of a Non-Client Agreement Collaborative Member Agency in the Total Amount of \$390,000 for Opiate Outreach Services; New Mexico Behavioral Health Services Division via Falling Colors. (Andres J. Mercado, Battalion Chief - MIH, [ajmercado@santafenm.gov](mailto:ajmercado@santafenm.gov), 955-3604)
- b. Request for Approval of State Price Agreement #70-000-16-00034AC in the Total Amount of Nine Hundred Ninety-Five Thousand Dollars (\$995,000) for the Purchase of a Ladder Truck from 411 Equipment, LLC. (Brian Moya, Health and Safety Officer, [bjmoya@santafenm.gov](mailto:bjmoya@santafenm.gov), 955-3111)
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- e. Request for Approval to Join the San Juan Chama Contractors Association for an Annual Amount of \$2,615. (Jesse Roach, Water Division Director, [jdroach@santafenm.gov](mailto:jdroach@santafenm.gov), 955-4309)
- f. Request for Approval of Professional Services Contract with LSC Transportation Planning, Inc for the Purpose of Developing a Multi-Modal Transition Plan for the City of Santa Fe Not to Exceed \$225,000 Starting

December 1, 2020 and Terminating on April 30, 2022. (Erick J. Aune, Santa Fe MPO Officer, [ejayne@santafenm.gov](mailto:ejayne@santafenm.gov), 955-6664)

- g. Request for Approval to Enter into a Grant Agreement with the New Mexico Environment Department to Provide Reimbursable Funding for Electric Vehicle Charging Stations at the City's Public Parking Garages; the Grant Funds are Reimbursable in the Total Amount of \$26,303. (Neal Denton, Sustainability Planner, Environmental Services Department, [nhdenton@santafenm.gov](mailto:nhdenton@santafenm.gov), 955-2229)
- h. This item was removed for discussion by Councilor Vigil Coppler.
- i. Request for Approval of the Budget Amendment Resolution-North Central New Mexico Economic Development District-Non-Metro Area Agency on Aging Covid-19 CARES Federal Sub-Award. Item # 20-0591 (Munis Contract #3202384) in the Amount of \$166,644.57. The Covid-19 CARES Federal Subaward Grant Funds Will be Utilized to Provide Services to Our Eligible Senior Clientele Who Receive In-Home Support, Transportation, and Nutrition. (Gino Rinaldi, Senior Services Division Director, [earinaldi@santafenm.gov](mailto:earinaldi@santafenm.gov), 955-4710)
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- k. This item was removed for discussion by Councilor Rivera.
- l. CONSIDERATION OF RESOLUTION NO. 2020-43. (Mayor Webber, Councilor Villarreal, Councilor Cassutt-Sanchez, Councilor Lindell, and Councilor Romero-Wirth)  
A Resolution Urging the New Mexico State Legislature to Establish a State Public Bank, Owned By and For the People of New Mexico, During the 2021 Legislative Session. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

## **CONSENT CALENDAR DISCUSSION**

- h. CONSIDERATION OF RESOLUTION NO. 2020-44. (Mayor Webber)  
A Resolution Establishing City of Santa Fe Legislative Priorities for Consideration by the New Mexico State Legislature During the 55th

Legislature – State of New Mexico – First Session, 2021. (Regina Wheeler, Public Works Department Director, rawheeler@santafenm.gov, 955-6622 and Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

Ms. Vigil read the caption for this item.

Councilor Vigil Coppler said she made an amendment on page 5 to strike line 68 in its entirety. It has to do with second homes. We haven't taken this subject up with any stakeholders and to give carte blanche for it needs to be revisited because we don't have any input from those who would be affected. This is premature so she wanted to strike it until after a better discussion perhaps on a future agenda. The next amendment was to clarify the occupancy surtax that it is Lodgers' Tax. It just adds clarity and does not change the meaning. She thought it was appropriate now to move to approve with her amendments.

Mayor Webber said it should first have a motion to approve the resolution and then make amendments.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Garcia, to adopt Resolution No. 2020-44 as amended with her two amendments.

**Discussion on the motion:**

Ms. McSherry asked her to clarify her motion.

Councilor Vigil Coppler clarified she moved to approve the resolution with her two amendments. She believed Councilor Villarreal also had an amendment.

Councilor Romero-Wirth asked for a motion to approve the resolution be made before any amendments.

Councilor Garcia agreed as a point of order. He didn't believe the Governing Body has made motions to approve with amendments in the past.

Councilor Romero-Wirth said the issue is that if the amendments don't pass, we have turned down the resolution itself and would have to vote to reconsider.

Ms. McSherry disagreed. She said a new motion could be made without amendments or with other amendments.

Councilor Lindell, to clarify, noted in her packet, both Councilor Vigil Coppler's amendments was one amendment with two parts. So it is really just one amendment is attached.

Councilor Vigil Coppler asked if she could amend her motion to include Councilor Villarreal's amendment as well.

Councilor Garcia was agreeable to that.

Councilor Villarreal asked that her amendment be voted separately as has been done in the past. Her amendment was discussed at the Finance Committee, but Councilor Vigil Coppler's amendment was new to her.

Councilor Villarreal asked for discussion on these amendments. She agreed on the change of the tax to Lodgers' tax. But regarding eliminating the language about supporting legislation that would eliminate the cap on annual property tax on residences that are not owner-occupied. It has been discussed but not as a formal item and eliminating that 3% tax would correct a loophole in place because it is supposed to be for residents who live here and not for people that have second homes here, I would support a separate resolution in the future for that. She thought it was not controversial. It was not meant to support people that had second homeowners but for people who live here.

Councilor Vigil Coppler was not taking a position on this item for what the Legislature does. Her amendment was strictly for that a separate resolution that could be in order. This probably was decided some councils' years before, but she didn't recall any public input on this part either this year or last year, so we don't know what our constituents think and that was her concern. She thought the Governing Body needs to hear from constituents. It failed in the Legislature. Maybe there is more than meets the eye and didn't know why it would fail. If the constituents like this, fine. That was why she wanted to move it for now and later look at it.

Mayor Webber thought this was on the Cities legislative priorities last year and asked for comment from Mark Duran who was online.

Mr. Duran said he was correct that it was on the priorities list. He was not sure how long it had been passed along from resolution to resolution. Mayor Webber thought it not that long because the bill's sponsor Representative Matt McQueen, promoted it both times. It was to make

sure people living here in their home did not get taxed off their land when cash poor. It is different with people who own two or three homes and don't live here with only a winter or summer residence who are beneficiaries of the 3% cap. They are often astonished at that rate. In looking for an opportunity to dedicate money for Affordable Housing and able to afford more than 3% increase, it is a likely opportunity which he championed. It is a very thoughtful way to spread the taxes to those who can afford it. It would help our people to keep their ancestors' property.

Mr. Guillen looked back and found it was just two years.

Mayor Webber said the legislation was on comprehensive tax reform and this matter was a latecomer and did not get included in that measure. He agreed with Councilor Vigil Coppler to change the tax title and to remove the 3% cap on property for those who don't live here. He couldn't support it now but could only support the second amendment.

Councilor Vigil Coppler asked then how you would support no public hearing on it.

Mayor Webber pointed out that we have not had hearings on many resolutions. We are advisors as elected representatives, and he felt this was a good measure to support at the Legislature as a priority and felt it would have broad support. Why single this one out?

Councilor Vigil Coppler said it was because it is a tax measure and she felt people would want that opportunity to speak to it. Among All the Other measures, it might get hidden.

Councilor Cassutt-Sanchez said that during her campaign visiting constituents there was a lot of support for this measure.

Councilor Garcia asked Councilor Vigil Coppler if she was willing to drop her first amendment.

Councilor Vigil Coppler said it looked like she didn't have the support, so she would take off the first amendment to strike language on page 5.

Ms. McSherry advised her to withdraw her motion and make a new one.

Councilor Vigil Coppler withdrew her motion and Councilor Garcia withdrew his second.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Garcia, to approve Resolution 2020-44 with her (second) amendment to change occupancy surtax to additional Lodgers' Tax.

**Discussion on the Motion:**

Ms. McSherry pointed out that if passed, no other amendments would be included. So now is the time to add other amendments.

Councilor Vigil Coppler said that was why she invited Councilor Villarreal to include it here.

Councilor Villarreal said she was waiting for her turn.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to amend the motion to insert two further whereas statements. "Be it further resolved that the Governing Body supports a statewide ban on the use of no-knock warrants and requiring the use of body-worn cameras during the execution of any search warrant as established in Ordinance 2020 – 32." "Be it further resolved that the Governing Body supports and endorses any legislation that creates prevention mechanisms and/or funding support for individuals and families who may, or are, experiencing evictions as a result of the COVID-19 pandemic." On page 4, line 16 strike "supports" and insert "advocates for." On page 6, line 18 strike "Priority" and insert "Priorities." On page 6, line 19, after the first occurrence of "the" insert "legislation is aligned with City goals and priorities established herein and the".

**Discussion on the Amendment:**

Councilor Vigil Coppler asked about the no-knock amendment whether it came from the Municipal League or something she just wanted to add on.

Councilor Villarreal added it because we supported it for the City and there was discussion about how we would not be able to control any other no-knock warrants if they occurred at the State level or County level. So it is important to look at no-knock warrants' legislation at the state level.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- k. CONSIDERATION OF RESOLUTION NO. 2020-45. (Councilor Garcia and Councilor Vigil Coppler)  
A Resolution Adopting the City of Santa Fe Mitigation Plan. (Kyle Mason, Emergency Management Director, [kamason@santafenm.gov](mailto:kamason@santafenm.gov), 955-6704)  
Councilor Rivera – page 12 of the packet.

Ms. Vigil read the caption.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Resolution for the Mitigation Plan as resented.

**Discussion on the Motion:**

Councilor Rivera thought on page two of six for the characteristics list that the numbers seemed too low to him.

Director Mason agreed those numbers are too low. They are only for 18-24-year-old people. The Contractor who supplied them will correct the numbers before submission to FEMA for state and federal review. We have opportunity to update the plan annually without further review.

Councilor Rivera asked if we could just leave the rest as is and just correct that one page.

Director Mason suggested the motion could include directive to correct the numbers. He didn't have them in front of him based on the US Census. It

was just complicated because of the dataset and he could correct the table. High school was 88.6% and graduating from college was 41.4%.

Councilor Rivera thanked him. That sounded much better. He asked if FEMA makes decisions based on the characteristics shown here.

Director Mason said they look at the mitigation packet. But they do not look at the specificity in this plan. They would expect those numbers to change and that would not impact funding ability.

Councilor Rivera thanked him for looking at that. He was glad Director Mason was able to get the numbers out and give us more confidence in the characteristics of education around the City.

Councilor Villarreal asked about the section on the consultant.

Director Mason explained that was from a previous version of the plan. We provided a 30-day comment period and got no comments.

Councilor Villarreal noted it was obviously simplified but also obviously biased. She wanted to flag that but had no changes. This is for us and she was curious on the best way to represent history. She didn't have amendments. This section is biased, and the Governing Body should discuss why have them in there.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **11. DISCUSSION/ACTION ITEMS**

- a. Request for Approval of a Settlement Agreement with Gail Gilbert to Resolve Issues Related to Two Administrative Appeals Concerning Remodeling and Construction Projects at 503 Camino del Monte Sol, which is Located within the Downtown and Eastside Historic District, Case Nos. D-101-CV-2019-02819 and D-101-CV-2020-00979 (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Ms. Vigil read the caption.

Ms. Paez was present.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Abeyta, to approve the settlement agreement as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- b. Request for Approval of Santa Fe Trails Agency Safety Plan. (Thomas Martinez, Transit Director of Operations, [tamartinez@santafenm.gov](mailto:tamartinez@santafenm.gov), 955-2006 and David A. Chapman, Grant Administrator – Writer, [dachapman@santafenm.gov](mailto:dachapman@santafenm.gov), 955-2010)

Ms. Vigil read the caption.

**MOTION:** Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the Transit Safety Plan as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- c. CONSIDERATION OF RESOLUTION NO. 2020-46. (Councilor Villarreal)  
A Resolution Extending the Earlier Start Time of Afternoon Sessions of Governing Body Meetings to 4:00 P.M. and Evening Sessions of Governing Body Meetings to 6:00 P.M. Through the June 30, 2021 Governing Body Meeting. (Jesse Guillen, Legislative Liaison, [jbg Guillen@santafenm.gov](mailto:jbg Guillen@santafenm.gov), 955-6518)

Ms. Vigil read the caption.

**MOTION:** Councilor Abeyta moved, seconded by Councilor Lindell, to approve the Resolution on meeting times extension as presented.

### **Discussion on the Motion:**

Councilor Villarreal explained that she put forward this as a suggestion. She was not willing to the idea and asked if this time schedule has reduced Staff overtime.

Mr. Guillen said he had no record of overtime prior to the change. Only one Staff member had accrued overtime. The rest were on comp time. So it only affected one person. He didn't know about overtime before the start.

Councilor Villarreal wanted to know if there were fewer Staff receiving overtime as a result of time change. If it passes, we need to look at that to know if it helps save staff costs.

Councilor Vigil Coppler knew it was not in the resolution but asked if there was any ending time limit change like 10:30 now.

Councilor Villarreal asked if she was suggesting changing the stop time. We still continue going past 11:30 now.

Councilor Vigil Coppler agreed. We take a vote on whether to continue past 11:30 when it is 11:30 stop time. She guessed that hasn't changed.

Councilor Villarreal thought we had to suspend because it would go into next day.

Ms. McSherry explained the Governing Body has to end before the end of the day unless a vote is taken to extend it.

Councilor Vigil Coppler thought it was a courtesy to the public.

Ms. McSherry suspected that was probably the original reason.

Councilor Rivera asked Councilor Villarreal, if COVID were to end, that her intention was to continue to June 30 in order to test out in-person meetings.

Councilor Villarreal thought being virtual just takes more time. If the pandemic is over, the Governing Body doesn't need to meet at 4:00 any longer. She asked if it needed an amendment for that.

Mayor Webber did not know. He asked Ms. McSherry if we could reconsider that if COVID is over earlier.

Ms. McSherry said it is June 30 in the resolution and she could put a therefore language in it for the COVID reason for a virtual meeting.

Mr. Guillen suggested another statement un the “Be It Resolved” section.

Councilor Rivera noticed on page 2, line 7, it says June 30, 2020 and should say 2021. Mr. Guillen thanked him.

Ms. McSherry suggested, on that same line, to change it to “Now Therefore Be It Resolved that the Governing Body of the City of Santa Fe time is hereby continued, and Governing Body continues to meet virtually.

Councilor Villarreal/Councilor Cassutt-Sanchez to amend to add that sentence.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to amend the Resolution as just stated.

#### **Discussion on the Amendment:**

Councilor Cassutt-Sanchez said she had the same question.

Councilor Garcia wanted to second the financial impact question. He thought the virtually meeting will probably become more of a hybrid meeting. The OMA allows us to meet virtually and some who have not been vaccinated might prefer hybrid. He did not think in-person would happen by June 30.

Councilor Vigil Coppler wondered if the Governing Body was changing the meeting time for ever. Why would we go back to 5:00 when in-person? Those who live on the outer edges, we are traveling to City Hall in lots of travel. She liked 4:00 better.

Councilor Cassutt-Sanchez said it takes more time to get to City Hall. As we move out of COVID for hybrid models should seek public comment.

Councilor Rivera thought the language proposed would cover a hybrid mode also. He supported continuing at 4 and 6.

Ms. McSherry was not sure we could have a virtual plan and suggested the Governing Body come back to it later. We don’t know what the hybrid model would look like.

Mayor Webber appreciated the discussion and what we have learned from virtual meetings. There are clearly benefits. He wondered if we could adopt it for now but review it at a later time. Can we get it back in a timely meeting for the first post-COVID-19 meeting?

Ms. McSherry suggested it could say when the Governing Body is not meeting in person, Councilors could be in-person and public virtually or vice-versa.

Councilor Garcia favored not figuring that out now but later in the springtime if we need to adjust and plan to meet virtually for the summer. Some would prefer virtually.

Mayor Webber saw the amendment would introduce some complexity.

**Councilor Villarreal withdrew her amendment and Councilor Cassutt-Sanchez withdrew her second.**

Ms. McSherry pointed out the Resolution still needs the date fix.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to amend the end date from June 30, 2020 to June 30, 2021.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- d. CONSIDERATION OF RESOLUTION NO. 2020-47. (Councilor Lindell, Councilor Abeyta, Councilor Rivera, Councilor Vigil Coppler, Councilor Villarreal, and Councilor Garcia)  
A Resolution in Support of the National Veteran Cemetery Administration's Veterans Legacy Program. (Julie Sanchez, Youth and Family Services Division Director, [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov), 955-6678)

Ms. Vigil read the caption.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Resolution in support of the Legacy Program as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- e. Request for Approval of Amendment #1 to Service Contract 19-0653, Extending the Term Through 12/31/2021 and Increasing the Compensation by \$325,000 Plus NMGRT for On-Call Urban Planning and Economic Analysis Services; Strategic Economics. (Sam Burnett, Public Works Property Maintenance Manager, [jdburnett@santafenm.gov](mailto:jdburnett@santafenm.gov), 955-5933)

Ms. Vigil read the caption.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Service Contract Amendment #1 as presented.

**Discussion on the Motion:**

Councilor Villarreal was curious about deliverables and who would be privy to the documents and where they would be kept and how that has helped us with Midtown.

Manager Burnett said they are delivered directly to the Midtown Steering Committee which made up mostly of Supervisors. There are still issues related to privacy that prevents sharing all documents and the process currently being followed. The role of Strategic Economics has been to provide economic analysis and urban planning and support. Because of

COVID, it has expanded a little to deal with the challenges in the redevelopment of Midtown. This extension is based on that fact.

Councilor Villarreal thanked him and said that answered some of the questions. Does their analysis come from developers? Is there some help to developers as well as Staff?

Manager Burnett said their deliverables provide guidance to both the City and the Developer. They would analyze conceptual plans of the Developer, but that role has changed. They are helping both to understand the economic field we are working in now. So yes, to both of those questions.

Councilor Villarreal wanted to make sure we are being consistent. What the consultant was to have provided has changed because of the pandemic. She wanted to make sure their work is still going on.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **12. MATTERS FROM THE CITY MANAGER**

Manager LaPan Hill the current statistics on number of COVID cases. There are eight new cases among City employees. Her weekly report was from Friday, December 4 to December 8.

She was planning a meeting with health professionals as a study session for the latest information and feedback for the next stage of COVID response with vaccines on the horizon. She was considering December 21 for the date.

She pointed out the closed caption button at bottom of the screen, which had been requested.

She acknowledged the City Clerk and thanked her for her service. We owe Ms. Vigil a debt of gratitude during these times.

She announced that City employee, John Martinez, died over the weekend.

She is working on a Christmas drive-through event and Light Up Santa Fe for light displays around the City.

Lastly, the Santa Fe Fire Department will be hosting a Holiday Show on December 18-19 as drive-through. Donations are always needed.

The Governing Body does meet on December 16 as our last meeting of the year.

She wished everyone a safe holiday and great 2021. We will work through the challenges of this time.

### **13. MATTERS FROM THE CITY ATTORNEY**

Ms. McSherry acknowledged the help she receives with procedures and records on a daily basis from Ms. Vigil.

She recommended an executive session on two matters of litigation with possible actions afterward on matters involving our Fire Department and licensure of a company hoping to move into the Santa Fe area, and the other in joining in an amicus brief at the Fifth Circuit Court of Appeals regarding State of Texas v. United States regarding MALDEF.

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Discussion of Pending or Threatened Litigation, Specifically the American Medical Response Ambulance Service, Inc., Public Regulations Commission Case 20-00125-TRM and Joining an Amicus with the City of Los Angeles and Other Local Governments in Support of the State of New Jersey and the Mexican American Legal Defense and Educational Fund (MALDEF) in an Appeal From the Southern District Court of Texas to the Fifth Circuit Court of Appeals in State of Texas v. United States (S.D. Tex. 1:18-cv-00068). (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512).

**MOTION:** Councilor Rivera moved, seconded by Councilor Romero-Wirth, to go into Executive Session to discuss the matters recommended by the City Attorney.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

The Governing Body went into executive session at 5:29 and returned to open session at 6:05 pm.

**MOTION:** Councilor Rivera moved, seconded by Councilor Romero-Wirth, to return to open session, stating for the record that discussion was limited to those matters listed on the agenda.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

#### **14. EXECUTIVE SESSION ACTION ITEMS**

- a. Approval of a Settlement Agreement to Dismiss the City's Interest in American Medical Response Ambulance Service, Inc., Public Regulations Commission Case 20-00125-TRM. (Andrea Salazar, Assistant City Attorney, [asalazar@santafenm.gov](mailto:asalazar@santafenm.gov), 955-6303 and Michael J. Suber, Medical Officer, Santa Fe Fire Department, [mjsuber@santafenm.gov](mailto:mjsuber@santafenm.gov), 955-3603)

Ms. Vigil read the caption.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Settlement Agreement as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- b. Approval to Join an Amicus Brief with the City of Los Angeles and Other Local Governments in Support of the State of New Jersey and the Mexican

American Legal Defense and Educational Fund (MALDEF) in Their Intervention and an Appeal to the Fifth Circuit Court of Appeals in State of Texas v. United States (S.D. Tex. 1:18-cv-00068). (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

Ms. Vigil read the caption.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Garcia, to approve joining the Amicus Brief as requested.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

#### 15. MATTERS FROM THE CITY CLERK

Ms. Vigil wished everyone Happy Holidays.

#### 16. COMMUNICATIONS FROM THE GOVERNING BODY

Councilor Cassutt-Sanchez recognized Ms. Vigil as Clerk. She has been extremely helpful.

She noted the information on her introduction was incorrect.

Ms. McSherry urged her to go ahead and add something.

Councilor Cassutt-Sanchez said it is a Resolution directing the City Manager to provide written updates and presentations at every regular Governing Body meeting with information regarding the COVID-19 response from the Police Department, Fire Department, Human Resources and Emergency Management and Safety. It is cosponsored by Councilor Lindell and Councilor Villarreal. She commented that it is to see where we are in getting out of the pandemic, where we are hitting the mark and where there are opportunities for more response. It will go to Public Works and Utilities on Monday and to the Governing Body next week.

She wished Happy Holidays to everybody.

Councilor Rivera asked City Manager LaPan Hill once again to thank the City crews for their great job and how appreciated they are by the City Council. She gave a huge thank you to the City Clerk with whom he has worked for many years. He was disappointed she was leaving during the pandemic because she deserves a much better send-off. He hoped once it is over that the City could give her a more proper send-off that she so much deserves. She has done so much to help the people in her office right now and many past officials as well. She will be hard to replace and he wished her the best and thanked her for her many years of service.

Councilor Garcia gave a huge shout out to Ms. Vigil. She definitely has some big shoes to fill. She will be missed greatly. Once we are through the pandemic, she will definitely be invited for a proper send-off.

COVID numbers are going up. Everyone – be safe during the holidays. There is moisture in the forecast and hoped for enough snow to make a snowman or snow angel. He respectfully asked to add Matters from the Floor to the special Council agenda next week.

Councilor Vigil Coppler wanted to ask that the City Manager consider keeping an eye out for weather conditions. The last time there were such conditions, the employees were not given a delay that was warranted. She saw several Police officers handling accidents and we need to remember that there are still essential workers out there and not working from home that deserve to be considered. We can't forget that. She pointed out that the City has a system in place and should not have to rely on department directors to handle the notifications. The message is called into the TV stations and radio stations and whatever else is done.

She asked Mayor Webber when we will get the letter that the former mayors who met with the Chart Committee who wanted the Governing Body involved in some of the agreements that were made. She didn't know what they were but apparently Mayor Webber made a commitment to give the Governing Body a letter that was drafted or would be drafted that he shared with the former mayors. At least one mayor did discuss that. She didn't know if he planned to give the communication. If there is such a letter, she would like to get a copy.

Mayor Webber said there is no such letter.

Councilor Vigil Coppler thanked the City Clerk for many years of service to the City. We don't know on a day-to-day basis what employees do. But she was very proud of Yolanda Vigil and her institutional knowledge – helping the City to avoid mistakes and keeping the Governing Body on track. She wished Ms. Vigil well and know she would go forth and do great things.

Councilor Lindell joined all the others in thanking Ms. Vigil. Once COVID is over, we will get together to celebrate her retirement.

The Holiday is kind of a naughty or nice thing. An opportunity to be nice and put our arms around each other. It has been a tough year. Let's be good to each other as much as we can. We will get through the struggle together. I can't wait to get the vaccine.

Councilor Villarreal echoed all the appreciation for our City Clerk. She appreciated Ms. Vigil's integrity, especially with the job of City Clerk, running elections impartially and all the attention to details and going through the process with candidates running for office and public financing. "You served with love and I will miss you in the meetings. I hope we will be able to connect later on and celebrate your commitment to the City and residents."

She thanked Staff for the closed captioning and she just heard that Spanish translation will be available in January so others can participate.

She asked for some training on amending motions. It feels like it changes, and she wanted Councilors to be on the same page.

She introduced a resolution on NNSA to prepare and complete a new site-wide environmental statement on LANL as they seek to expand plutonium pit production at the facility. She is also cosponsoring Councilor Romero-Wirth's resolution and Councilor Cassutt-Sanchez's.

Councilor Romero-Wirth extended best wishes to Ms. Vigil on her 40 years with the City. When she was running for office as a Councilor, Ms. Vigil helped her a lot and is very professional and knowledgeable.

She introduced a resolution in support of the appropriation of funds by the Legislature for the New Mexico grown fresh foods and vegetables for schools and senior meal program and related education program for farmers. Councilor Cassutt-Sanchez is also a cosponsor in addition to Councilor Villarreal.

Councilor Abeyta also thanked and congratulated our City Clerk. He acknowledged as others for the help she always gave us and for helping us through rank choice voting. It is just one example. He wished her a long, happy retirement.

Mayor Webber introduced a resolution for PNM and notice requirements for Governing Body upcoming. Happy Hanukah The Festival of Lights starts tomorrow night in celebration of cleansing of the body as a whole from COVID. Looking back on 2020, it has been a challenging year and the Governing Body deserves

applause for lots of hard work, not only contending with COVID-19 but having to rewrite the budget three times.

He gave thanks to the City Manager and City Attorney as we head to the end of 2020 and begin to look at it in the rear-view mirror. Thank you all.

To the City Clerk, he wanted to make a very personal statement. Ms. Vigil took him under her wing and taught him how to manage meetings and city government. Generosity of spirit and how to get things done whether helping the community at large or employees. "I feel a tremendous debt of gratitude personally and institutionally and look forward to toasting you and recognizing you in a public way, not a Zoom way, as a token of appreciation and gratitude. I know you will enjoy the freedom and ability to take care of your spirit."

Ms. Vigil thanked everyone for their kind words. It is hard to find the words. She read a statement of God's blessings as a prayer for the Governing Body and a quote from Mark Twain "It is never wrong to do the right thing."

## **EVENING SESSION – 6:25 P.M.**

### **17. ROLL CALL**

#### Members Present Remotely

Mayor Alan Webber  
Councilor "Tiger" Abeyta  
Councilor Jamie Cassutt-Sanchez  
Councilor Michael J. Garcia  
Councilor Signe Lindell  
Councilor Christopher M. Rivera  
Councilor Carol Romero-Wirth  
Councilor JoAnne Vigil Coppler  
Councilor Renee D. Villarreal

#### Members Excused

None

### **18. PETITIONS FROM THE FLOOR**

Miguel Gabaldon announced the hearings going on regarding the obelisk and crimes. More will be heard on December 23 and into January. He was looking forward to evidence by the Police Department and providing to the DA all the evidence by private citizens. He hoped it would be respected. Have a great holiday

and all those who work in the public sector and Staff of the City. He extended gratitude to Ms. Vigil for all her service. She did a great job through all her tenure and wished her a happy retirement. There are big shoes to fill there.

Stefanie Beninato thanked the City for not having a farolito drive by and for announcing the special meeting next week. The HDRB has had trouble from lack of public notice. They have canceled two meetings out of the last five meetings because of lack of public notice. She gave a shout out to Ms. Vigil. And said she and her staff have worked through the whole pandemic and went far beyond their job descriptions to help her find what was open. She found out that Salvador Perez is now open finally after being closed for two years and spending \$2.5 million. Hopefully, there will be public input at the special meeting.

She made comments on a bar at the Plaza where people are not wearing masks, and some are smoking on the Plaza. Smoking is prohibited on the Plaza and security should do something about that.

There were no other petitions from the floor.

## **19. APPOINTMENTS**

### **a. Occupancy Tax Advisory Board**

Ms. Vigil stated the nominee for OTAB is Keith S. Kirk to fill an unexpired term ending 2/2021.

**MOTION:** Councilor Lindell moved, seconded by Councilor Villarreal, to approve the nominee, Keith S. Kirk, to the Occupancy Tax Advisory Board as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

## **20. PUBLIC HEARINGS**

- a. CONSIDERATION OF BILL NO. 2020-34. ADOPTION OF ORDINANCE 2020-31. (Councilor Rivera and Councilor Cassutt-Sanchez)

An Ordinance Amending Section 2-4.6 SFCC 1987 to Allow the City Manager to Enter Agreements Accepting Funds that Are Offered to the City Without Time to Place the Agreements on the Next Scheduled Governing Body Meeting, with Ratification by the Governing Body at the Next Scheduled Meeting for which the Deadline to Include the Matter on an Agenda Has Not Yet Passed; and Amending Section 11-4 to Allow the City Manager to Approve Grant Applications, Grant Awards, Grant Match Requirements, and Grant Agreements in Any Amount if the Deadline to Approve Such Documents Occurs Before the Deadline to Include the Application or Award on the Agenda for the Governing Body's Next Regularly Scheduled Meeting, with Ratification by the Governing Body at the Next Scheduled Meeting for Which an Agenda Has Not Yet Been Posted. (Marcos Martinez, Senior Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

Ms. Vigil read the caption for this item.

Public Comments:

There were no speakers from the public for this hearing.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to approve Ordinance 2020-34, as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

b. Request for Approval of a Resolution and Bill Related to Impact Fees. (Carlos Gemora, Planner Senior, cegemora@santafenm.gov, 955-6670)

- 1) CONSIDERATION OF RESOLUTION NO. 2020-48. (Mayor Webber) A Resolution Adopting the "Impact Fee Capital Improvements Plan 2021-2027 for Roads, Parks, Fire/EMS, and Police" to Update the City's Impact Fee Capital Improvement Plan, Land Use Assumptions, and Impact Fees, as Required by the State Development Fees Act, NMSA 1978, Section 5-8-30.

2) CONSIDERATION OF BILL NO. 2020-33. ADOPTION OF ORDINANCE 2020-32. (Mayor Webber)

An Ordinance Amending Section 14-8.14(C) SFCC 1987 to Add a Reference to the Impact Fee Service Area; Amending Section 14-8.14(E) to Adopt a New Impact Fee Schedule and Clarify Appropriate Land Use Categories as they Relate to Impact Fee Collection; Amending Section 14-8.14(G) to Add a Reference to the Impact Fee Service Area; Amending Section 14-8.14(J) to Add a Reference to the Impact Fee Service Area; Adding a Service Area Map as Exhibit F in the Appendix to the Land Development Code; and Establishing an Effective Date.

Ms. Vigil read the caption for these two items. Two motions are required.

Public Comment:

There were no speakers from the public regarding this proposed resolution and ordinance. Mayor Webber closed hearing portion.

**MOTION:** Councilor Cassutt-Sanchez moved, seconded by Councilor Abeyta, to approve the Resolution for the ICIP 2021-2017 as presented.

**Discussion on the Motion:**

Councilor Villarreal asked Staff to provide context on it.

Ms. McSherry noted the Staff presentation should have preceded the public comment.

Mr. Gemora shared his screen and presented details. The goals in this ICIP are legal compliance, avoid drastic changes and consider Naturally increasing Infrastructure. It establishes good foundation on costs. It has a more critical review of impact fees. He showed maximum calculated fees on a spread sheet and stood for questions on it.

Councilor Vigil Coppler asked if by adopting this, we are adopting impact fees into 2027.

Mr. Gemora agreed but it doesn't determine how much the fees will be. It establishes a maximum and identifies the projects that might be eligible for those fees.

Councilor Vigil Coppler noticed there were no committee action sheets in the packet.

Mr. Gemora was not aware of that. He said it went to PWUC on November 9 and was recommended for approval. Finance met on November 30 also recommended approval.

Councilor Vigil Coppler pointed out that the action sheets should be available to the public also.

Councilor Villarreal was supportive of it. The City needs to update impact fees. She clarified that questions were posed by the Santa Fe Area Homebuilders. When we collect impact fees, who decides how the fees are distributed?

Mr. Gemora said it was a great question and a great letter from SFHBA. Parks asked for allowing three parks to move forward and for the process. The Homebuilders' questions were for a more formal mechanism on prioritizing funds. We could enter a more comprehensive ICIP process but that was not in this scope.

Councilor Villarreal considered that an important piece. She thought there was a group who weighed in on the allocation.

Mr. Gemora explained that CIAC is the Committee that does that. The project is already eligible so CIAC reviews the project to make sure it complies with the regulation. That is going to Finance and then will come to the Governing Body for approval.

Councilor Villarreal asked him to elaborate on the schedule.

Mr. Gemora explained that certain contracts come here after CIAC and Finance and then either to the Governing Body or to the City Manager for approval.

Councilor Villarreal understood that CIAC members are appointed to represent Districts and had some other requirement.

Mr. Gemora said they represent Councilors and the Mayor. Each Councilor appoints a member, and they need to represent the construction industry.

Councilor Villarreal commented that the Homebuilders Association was hoping we would ensure the total fees collected would go into the Land Use Department for staff and other costs.

Mr. Gemora clarified that the 3% is not used for City Staff and Director Isaacson has some plans for that.

Director Isaacson said this is something that got his attention in the process and schedule. He planned to discuss it with Mary McCoy in coming year to use the 3% to support staff administration. Tonight we are asking to adopt the plan and he will make the request later.

Councilor Villarreal thanked them. That is important, considering how the construction industry is now.

Councilor Vigil Coppler fully agreed with those comments. If they are collecting fees, there needs to be a trail how the funds were used to correct the problem. It causes more work by Staff, but the funds had not been used to get more Staff. The funds should go to help with that issue.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

**MOTION:** Councilor Abeyta moved, seconded by Councilor Lindell, to approve the proposed Ordinance regarding Impact Fees as presented.

#### **Discussion on the Motion:**

Councilor Abeyta thanked Mr. Gemora and Director Isaacson. This is very technical, and it takes a lot of research and work. Thanks for a job well done.

Mayor Webber agreed. It was a terrific effort and tremendous coordination. There were many components on the material presented tonight. It is not only timely and incredibly valuable but a service to the City and all of us with this package.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

- c. CONSIDERATION OF BILL NO. 2020-32. ADOPTION OF ORDINANCE NO.2020-33. (Mayor Webber, Councilor Lindell, Councilor Romero-Wirth, and Councilor Villarreal)  
An Ordinance Amending Section 14-6.2 SFCC 1987 to Adopt by Ordinance a Maximum of One Thousand (1000) Short-Term Rental Permits in the City, to Prospectively Limit the Number of Short-Term Rental Permits to One Per Natural Person, to Prospectively Limit the Proximity of Short-Term Rental Units, to Require a Local Operator for Short-Term Rental Units, to Adopt Record-Keeping and Reporting Requirements for Short-Term Rental Unit Owners and Host Platforms, and to Clarify Other Provisions of the Short-Term Rental Ordinance; Amending the Land Use Code Definitions in Section 14-12.1 SFCC 1987 as They Relate to Short-Term Rental Units; Amending the Table of Permitted Uses, Table 14-6.1-1, Regarding Short-Term Rental Units; [and] Amending Section 12-2.3 SFCC 1987 to Clarify That a Short-Term Rental Unit is not a Group R-1 Occupancy for Purposes of Fire Inspections; and Amending Section 18-10.4 SFCC 1987 to Dedicate a Portion of the Municipal Gross Receipts Tax Generated from the Rental of Short-Term Rental Units to the Affordable Housing Trust Fund. (Elias Isaacson, Planning and Land Use Director, esiasaacson@santafenm.gov, 955-6730 and Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

Ms. Vigil read the caption for this hearing.

Mayor Webber acknowledged there were many who wanted to speak to this. He briefly reviewed the procedures.

Staff Presentation:

Ms. Paez presented the proposed ordinance and reviewed the key features of the legislation and noted the pending amendments. This has been years in the making and over time an increasing desire to change the ordinance. She became involved in 2019. The concerns then were the impacts of STR on neighborhoods and the clusters in certain parts of town. At one time, it was more mom-and-pop operations but later on, it exploded with Air BnB and VRBO involved. To address the concerns, Councilors sponsored amendments to balance quality of life in the neighborhoods while allowing the STR industry to flourish and contributions to the local economy.

We are balancing a lot of policy objectives, to clean up the ordinance and introduce a few new things.

In June 2020, two companion bills to amend the Land Use Code were introduced. The enforcement section introduced new material with penalties, permits, etc. The two bills went to the Planning Commission in June and received tremendous amounts of written and live testimony and ultimately provided a memo for reconsideration and a request for more time. In response, sponsors decided to table the ordinance. It stayed on track and was a helpful process with a tremendous amount of engagement by many members of the public who participated in the public input process. A second draft was introduced into the process.

The current bill has been reviewed by the Planning Commission and the Council Committees. She provided some highlights – a distinction of STR in residential neighborhoods with a permit, the need to be registered with the City. A maximum of 1,000 permits in residential zones. The bill requires that a permit must be held by a natural person and not a business entity. Permits are limited to one permit per natural person. The bill also prohibits transfers of permits and requires a local operator 24/7 for each unit. Owners must show their registration # on all listings. The bill has grandfathering for each year and new fire safety inspections. Those are the big areas in this bill.

Ms. Paez highlighted the amendments next. There were five amendment sheets by the Governing Body members which were also available on the City website. She listed the amendment sponsors.

The first amendment, with comments from the Planning Commission, would allow a permit to be transferred in the limited circumstance of death of the permit holder. It also would remove a provision for an STR in a 200-foot buffer zone that is adjacent to a residential area. It also includes a permitted use table. It was supported by the PWUC and Finance Committees but the other amendments have not had a recommendation from Council Committees.

The second sponsor amendment would establish an effective date of January 1, 2021. It clarifies that new applications would not require the new required records until 2022 at renewal. The existing permit holders have one year before the need to turn them in. It would also create a carve out for January 15 and 16 with the rentals could be unlimited and not subject to the seven day limit. The amendment also corrects a drafting error to clarify that new applications are subject to the \$100 application fee.

Councilor Vigil Coppler's first amendment directs that a portion of the dedicated revenue would go to the Affordable Housing Trust Fund and the second amendment includes a provision that if the STR is owned by a business entity, that

the entity shall be responsible for any civil or criminal penalties and that the natural person that holds the permit.

Councilor Garcia's amendment limits to one rental per seven-day rule.

Director Isaacson did not have anything to add.

Public Comments:

Susan Orth, President of the Santa Fe Association of Realtors, said many of our suggestions were incorporated but we remain concerned on the negative impact of COVID on the economy. We support a pause in this proceeding and during that time to implement the enforcement provisions. The Association is also concerned about liability on persons. Grandfathering will create two types of owners. We urge removing the more restrictive 50-foot radius on the property's entire boundaries. The Association urges support of Councilor Vigil Coppler's amendment for funds being dedicated to the Affordable Housing Trust Fund. New funding can be leveraged successfully.

Rick Martinez said this ordinance does not have the primary residence requirement for residential areas and a STR property can always be given to an agency. That needs to be kept in the ordinance. He couldn't figure out the difference between a registration and a permit. He questioned why both should be incorporated. He did not support the 24/7 provision in this the Governing Body to give the neighborhood a break with a day off.

Diane Ako had a condominium at 209 E. Berger. She said the ordinance has many objectives. She wanted Director Isaacson to concentrate on city renters without permits. She thought there were a huge number of such people. As one with a permit, she sees a lot of the unpermitted renters having a lot of the issues. She wanted the City to consider inheriting. She has been training her daughter three years to do this. Obviously, if I died, she cannot continue this permit that opportunity would be a complete loss to our family. She felt the 50-foot radius is not fair, especially for people who already have their home without control over who purchases property next to them. She has had her home for 30 years. Limiting to one reservation per every seven days is not fair. That is difficult to manage. She asked why it is such an issue to have only 1,000 permits. That is a big problem that is not her fault.

Janet Williams, 1200 Don Gaspar, strongly advised the Council to include a residential requirement. Out of town people are just raping our City by investing in STR and taking housing properties off the market for local people. We must require residency for anyone wanting to have an STR.

Pat Lillas, 2119 Conejo Drive, STR, like Air BnB and VRBO have become a serious world-wide problem. The ordinance doesn't add a residential requirement that most other cities have. It encourages a second home for profit and puts us in competition by anyone with money to purchase a second home and the single person doesn't have to be a resident. 13 cities have residential requirement. It has made it more expensive for others to live here while turning neighborhoods into businesses.

Paula Moya said she and her husband are license owners and have a home here. She grew up here and plans to move back here. They are working with local contractors. She is opposed to the residential requirement and offended. They plan to move here at retirement. The one per day restriction makes it difficult to schedule and they rarely have more than one person in seven days, but it is difficult. She supports inheriting. They have no problem managing and keeping their property up and hope the City keeps them in mind with changes.

J.D. Garfield said thanks for what you are doing. We are in District 4 and have been here since 1986. All our children went to school here. We are looking to invest in our community. With this pandemic, he is out of work. He was concerned about enforcement. He wants to play by the rules. He is paying taxes and following the regulations. But when they are not followed by others, it makes an unlevel playing field. We need to make sure we have Affordable Housing. I support what others have said, and I hope we can have reasonable agreement.

Bran Leer, 1603 Garfield, and President of the STR Alliance, said they are committed to be lawful permit holders. She was pleased with Councilor Garcia's amendment of limit of seven days. She has two houses and felt the limit of a thousand permits is a hard requirement. Most other cities have a residential requirement.

Laura Decker, 144 Candelario Street, said she is a licensed realtor and owns a vacation management agency here. She could see the impact on the City giving work for cleaners and landscapers. She noted that many guests check out Santa Fe as a place to live when they stay in a private home. Many do move here. Having regulations on the industry is important, but many of the proposed changes need more examination. The 50-foot radius is one. The thousand permit cap and one permit per person discriminates against single people. A rule for total number of reservations would be better. The City needs enforcement before making more changes.

Amy Boldrick, 628½ Camino de la Luz, said she understands both sides. She has lived here since 1985. Her primary residence is an STR and is in the process of adding on for a second unit. But with COVID-19, she is having a hard time to finish.

She recommended the grandfather provision and a waiver from the 50-foot radius. It is hard to regulate one rental in seven days and should be two or 50-52 rentals per year. She was not even aware of that rule. She is also a realtor and would like to help with Affordable Housing with Lodgers' Tax and an additional fee for that.

Kelly Gold, 108 Candelaria Street, was opposed to these changes but appreciated the feedback. She owns a STR and is a realtor. The seven-day section is very difficult to manage with her guests. Most visitors don't come for 1-2 nights. We have 3-night minimum and she felt it should not be part of the ordinance or make it a maximum number of rentals per year. That would be easier to manage and take a grey area out of the ordinance. She wanted a little flexibility such as maybe 60 rentals per year. She understood the neighborhood not wanting the traffic every day.

Jay Taylor, 111 Jemez Street, supported more enforcement. Many illegal STRs are operating without a license. There are not many companies owning STRs. The City needs to focus on those operating legally and those that are not. He wondered what would make illegal owners conform without a massive overhaul. He was at the Planning Commission meeting. This is about tax revenues but should not be. The focus should be on solving illegals first. It is prudent to postpone the vote to determine what components are most important. He thanked everyone who has worked on it.

Stefanie Beninato had lots of questions. Enforcement is a problem in the last three years. Some have one permit but rent out three units. Natural persons may have delegated representatives but one owner. No one is doing anything about parking problems. Some show they have limited reservations. She asked, if you have two units on one property, can you rent out both? Each child could have a property.

Chris Leslie Curtis – 142 Vaquero Road, said she owns two units near the Plaza and joined the STR Alliance – second NM investor in Santa Fe. I oppose one permit per natural person. I have developed two units as a business and depend on it for my income. This is about limiting small businesses and discriminates against single people while a couple can own two. Enforcement will require added resources. Why not help people come into compliance instead of allowing illegal STRs. The timing of these ordinance changes could not have come at a more difficult time. With many vacancies from COVID-19. Thank you for considering the impact on all of us.

Charles Burkhardt – owner of Santa Fe Properties, a small business owner and single dad, didn't know why the Council would consider this today. It will put responsible business owners out of business. It is focused on one concern but now is not the time to do this. You will take money out of our business. Over 80 businesses have closed already, and we cannot afford to lose more. This will hurt

the economy of Santa Fe. We desperately need you to understand the disastrous consequences of this ordinance.

Tamara Hewitt, living on Camino San Acacio, said we bought our retirement home four years ago as a fixer upper and we lovingly restored it. We are opposed to the one day-seven-day rule. If people come for a weekend only, it would limit rentals to two per month. She supported Councilor Garcia's amendment to remove that. She liked J.D Education's comments to focus on enforcement. It would be energy well spent. Thanks for what you are doing to make Santa Fe the best possible city.

Richard Woodroof – Oñate Street, said he has been an operator for ten years and manages properties here. He was encouraged by all the comments and won't reiterate them but reinforced one of them. STRs have not gone up for three years. People don't understand the economic impact with these changes. The seven-day rule is impossible. A guest may cancel. He was concerned most that if we destroy this industry with caps on permits and the 50- foot rule and consider it a problem for the City, He questioned the tax basis. He sold ten properties last year to investors who intend to move here within next five years upon retirement.

Elizabeth West, 318 Sena Street with a long-term rental, said she was speaking on behalf of OSFA. We are concerned with this and support postponement. STRs are important to many citizens and neighbors throughout the City and we believe the public has not had enough opportunity to speak on the recent changes. The primary residence requirement should have serious discussion. We are not opposed to businesses, but a primary residence is very important.

Jeff Little, 4129 South Meadows Drive, wondered if anyone was following the seven-day rule now. The only way to follow it is to cancel reservations. This means they would get 10% of traffic and a major drop-off of revenue in addition to the calendar issue. Santa Fe has been hit far more than most because of COVID. People are paying taxes whether licensed or not and it hurts small vacation renters. He had to give refunds last spring. Friday to Sunday has already been spoken.

Ellen Proctor, 3037 Sandia Circle and long time Santa Fean, has had a vacation rental since 1979. She pretty much agreed with the recommended changes and seven-day rule is probably the most important. We manage long term and STR rentals. People love Santa Fe and abide by the rules. We give them all the information. They generate lots of revenue. We do a good job and like welcoming people to Santa Fe. She had spoken with Director Isaacson, who has been great. We are not Air BnB; we are local and have lost \$5,000 since March. We are not going anywhere and glad to answer your questions in the future.

Roxanne Collins has an STR and lived here most of her life. "Mom left me the home which I lived in growing up. The seven-day rule is very difficult, and I am

holding the house so my sister can move back and STR helps with utilities and expenses. The people who stay are screened well. They enjoy New Mexico and our personal touch. I know my neighbors very well and ask for feedback if they are noisy. I offer it to people in the Legislature because it is close by. Thanks for your time. I'm learning a lot."

Simon Cisneros said he had not planned to speak. He was not a native New Mexico person. "Mom and sisters come to Santa Fe all the time and we have social connections and realized we could own property there. We love it there and when not there, we share our love with guests on the STR platform. My sister wants to retire there soon, and these rules might put a damper on her plans. The rules of STR are not justified. People come and spend a ton of money and we get to share it with people all over the world and do it better than any hotel. I am in support of the changes. Happy Holidays to everyone."

There were no other speakers from the public and the public comment part was closed.

**MOTION:** Councilor Garcia moved, seconded by Councilor Vigil Coppler, to table this matter.

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

**For:** Councilor Garcia, Councilor Rivera, and Councilor Vigil Coppler. Councilor Garcia requested time to explain his vote.

**Against:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Lindell, Councilor Romero-Wirth, and Councilor Villarreal.

Councilor Garcia explained it is evident overwhelmingly from the public that we need to focus on enforcement. An article date June 23, 2019 where we were focusing on enforcement is key. Two sponsors were quoted in it. One said, initially what we need to do is enforcement and we are focusing on the wrong thing. Probably 40% are operating out of compliance we have done nothing to plan for enforcement. We don't have a plan how to enforce if these changes take effect.

He agreed we need changes but priority #1 is to enforce. If we move forward, we are not listening to community concerns.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve this ordinance with the first sponsor's amendment that passed through committees, but not the second.

### **Discussion on the Motion:**

Councilor Lindell noted we have worked on this for over eight months and many meetings and many hours and considered everything. We have people who want a primary residence requirement and people who feel nothing we worked on in those eight months to be reasonable. It is a full spectrum. Everyone has their place in it. This committee spent a huge amount of time trying to find middle ground to preserve neighborhoods and a reasonable effort to preserve businesses. We listened to many people and lots of groups – all of them with their own self-interest and that is okay. It is up to us to find the middle ground and treat these groups fairly. We have made many compromises within the community. We didn't all agree but came to an agreement that works. That is philosophically what we tried to do.

She thanked the Staff who spent a huge amount of time on it. If it is possible, could we ask Director Isaacson to explain the seven-day rule. That was misunderstood in the comments.

Director Isaacson agreed. And one stay for seven days. The one stay within a seven-day period is to only rent to one guest, e.g. with a stay through Monday, you could have a renter on Friday for the weekend. Conversely, implementing a minimum stay would help with that. Many are requiring a four-day window between.

Councilor Villarreal thanked the public for their comments. We received many emails and calls and different perspectives. There is not a 100% buy-in but perhaps that is a good thing. She and Councilor Lindell have the most in District 1 and the District is impacted greatly by it. We have STRs that are out of control and speculators coming. Seeing the shift from what used to be community members using STRs to add to their income and make a living in Santa Fe made sense. The business model is not what we are looking at. We have a big problem with people working here who do not live here. So the loss of tax revenue is a bigger issue – with workers who cannot afford to live here. She hoped people would consider long-term rentals. That is the bigger issue. She would like to see more STRs turn into long term rentals. To say we have done nothing is personally offensive in the way we have enforced it and worked on the platform, working together. She wanted Director Isaacson to share enforcement that has taken place. It is more than we used to have.

Director Isaacson agreed. Enforcement is an important issue. Thanks to Councilor Villarreal for her statement. The rollout of the database has allowed us to be much more effective and to integrate with our web software that identifies those who are operating without proper registration. In this bill, we are creating a relationship with the platform and permit holders who display their permit number in advertising. Another way we are helping is removing some restrictions such as Councilor

Garcia suggested. This bill will help with enforcement and remove some of the ambiguity. Another big change was made in August when the Governing Body passed the civil penalties that opened a whole new avenue. Now with fines and penalties, we can deal with them.

All of those have made Staff much more effective. During our committee meetings, he shared a constituent whose neighbor was not following the seven-day rule and we were able to deal with it. It is a new paradigm for us in enforcement.

Councilor Villarreal thanked Ms. Paez and Director Isaacson who did research among other cities that enforce STR compliance. We have worked on it for more than a year. So we are taking time to move forward with a version we changed significantly after feedback.

Councilor Romero-Wirth thanked the Staff for all their work, especially Director Isaacson, Jennifer Fabion, and Ms. Paez. Having other people look at and comment on the changes has helped. She also thanked all constituency groups who met with us. There were quite a few.

We didn't just pull policies out of the air to try. We met regularly and discussed pros and cons and tried to achieve how we can lessen the density of STR and limit speculators that are not mom and pop operations. We tried diff things and applied them to our situation – looked at data from STRs we had and how to solve the problems. There are competing interests and we are trying to balance them. When campaigning and knocking on doors, STRs were said to be destroying our neighborhood. But we are a tourist city and people do like STRs and they play an important role in our options. There are lots of good business owners out there and some are grandfathered in. There are additional rules for operation everyone must comply with. We are trying to lessen the negative impacts. There are so many things to talk about. We looked at primary residence rule and felt it was too restrictive and would kill the industry. There are issues on how to determine if it is your primary residence. Do you vote in this community? Do your kids go to school here? We found it unsurmountable for enforcement and chose not to include it. But there are other rules that will really help with how we deal with it.

Regarding enforcement that Ms. Paez talked about, we have rewritten the ordinance for clarity and ease of understanding. One was the idea if you have an STR, your neighbor couldn't. Sometimes the person behind you is more important than next door. Some feel the 50-foot rule is too restrictive. We looked at other distances and what it would do and settled on 50 feet which was closest to current law. It helps to have clear rules.

Regarding the permit or registration issue, in a residential zone, you must have a permit. If not a residential area. It is a registration and has no cap.

Councilor Rivera asked Director Isaacson about the platform he mentioned so that we can know how many STRS are in the City.

Director Isaacson said there are roughly 875 permits now and another 100 who have registrations. Then we have less clarity about how many units are improperly operating without approval. Some people still have listings on the platform and are going month-to-month. So he estimated 225-275 are operating without approval. We will have a much better grip on it from now on, looking longer at vendor compliance.

Councilor Rivera was hearing there were over a thousand STRs between those doing it right and those not.

Director Isaacson agreed. We have heard, when houses come on the market, they don't stay on the market long. People are doing things outside of the ordinance to try to bring more housing units to the City. We are making significant progress but there is still a gap when it comes to permanent housing affordability and availability. But there is still a gap.

Councilor Rivera knew that originally, we had 350 permits and now is up to a thousand and still we have not addressed the permanent housing needs.

Director Isaacson thought the City has made important advances in it in last several months. Regarding housing needs and the cap, there are lots of factors involved. This ordinance is not contemplating permanent housing, however. Maybe embedded in it is housing affordability which came up in another hearing. Director Ladd responded that the vast majority of STRs are located in those areas of the City that tend to be not affordable. There is a relationship there. Overarching ideas – balances the economic benefit. The industry changes and we must find the balance again. Much of the conversation is the attempt to preserve vitality of the city. We have done a pretty good job on the balancing effort.

Councilor Rivera said if we were to have strong enforcement on STRs, it would have meant over a thousand units that would have to change to permanent housing. If enforcement were stronger, then for anything over a thousand, those people would have to look at either long-term rents or selling the unit. He added that passing a law doesn't help long-term residents. If I live next door to an STR and people are throwing a party, how it is enforced could make a difference.

Director Isaacson pointed out that this requires 24/7 maintenance and for the manager to be within one hour of the property. Noise can be pursued through the Police Department.

Councilor Rivera asked, if police come by to break up a party, how that gets communicated to you.

Director Isaacson said there were various ways, but he has no records about it.

Councilor Rivera appreciated all the sponsors have done to figure out a balance to make this work. It bothered him with talk about the need for permanent housing while we are allowing a thousand STRs into the City. He was bothered by the lack of communication to the Land Use Department to the people who supervise the STRs.

Councilor Garcia acknowledged that he was 100% behind enforcement efforts. So he encouraged beefing up enforcement. He asked Director Isaacson how many enforcement staff we have.

Director Isaacson said there are five on the enforcement team for STRs and they are cross trained. Two are specialized and one is in ITT to provide database information.

Councilor Garcia presumed that at least three staff are stretched thin.

Director Isaacson agreed.

Councilor Garcia concluded that, with this ordinance change, it would require added enforcement on a stretched thin team now. If the system was doing what it was supposed to do, why does Santa Fe have 1,400 STRs instead of the 875 reported? What leverage of enforcement do you have with Air BnB?

Director Isaacson said the City has a commitment from all the platforms to re-engineer the site to comply with the ordinance. So, from any listing we suspect is operating without proper permits, we investigate. Most of them view enforcement as an ally.

Councilor Garcia asked Ms. Paez if we have a contract with Air BnB to ensure compliance.

Ms. Paez said the City does not impose many requirements. We have been meeting with them on the required permit number on the platform. They said these are businesses and they are interested in meeting with the City. More enforcement is needed to ensure eligibility, etc.

Councilor Garcia heard we have no contract; no language; no potential contracts and if litigated, it would end up costing us more money.

Ms. Paez said it is not necessarily a contract but fair and reasonable compliance.

Councilor Garcia asked why no economic impact study has been conducted.

Director Isaacson replied that the City did quite a bit of research in the legislative process.

Councilor Garcia pointed out that the report said enforcement should be the number one priority.

Director Isaacson agreed. A lot of what we are talking about is the ordinance giving us tools to interpret and enforce. That was set as a priority more than any economic impact.

Councilor Garcia felt that should have been a critical component of this ordinance. Is it smart to move forward without knowing the impact? It seems the enforcement ball was dropped. It was over 1,400 units pre-COVID. People will operate out of compliance, knowing the City's bark is worse than the bite. Now, we don't have the capacity to manage the workload.

Councilor Garcia asked if this is the time for amendment.

Ms. McSherry said an amendment should be requested after questions on the main motion are addressed.

Councilor Romero-Wirth noted the sponsors also have additions.

Councilor Garcia thanked the sponsors for bringing it forward. He was on the campaign trail last year also, and enforcement was priority one. We need to focus on enforcement and let Staff get the ground underneath them and understand how to enforce it. Then we come back on changes to the ordinance. "If we can enforce, we can knock out 500+ STRs in Districts 1 and 2 and have a lot of that concern potentially go away."

Councilor Vigil Coppler thanked the sponsors for the work they did but also thanked Councilor Rivera for putting it on the Public Works agenda, because otherwise she would not have had any previous opportunity to comment or ask questions. When she found out about it, she had trouble getting a draft of what was worked on. She was having to do catch up work on it.

She went back to the neighbors who complained they no longer have neighbors. The ordinance gave responsibility to realtors to know if the property was likely to become another STR and to require signatures before moving on. They are required to get signatures on that understanding. So people buying property need

to know about this ordinance. Realtors take that responsibility seriously. This is not a good time during COVID to do this. We've heard people tonight saying they live here and are not a rich person coming into Santa Fe, but people are trying to get an income on what everyone else is doing. And the hammer will come down.

She agreed some of these amendments are good. But if nothing is enforced, nothing will change.

She was not happy with the response to what happens when police are called. This has to have a system in place. It won't happen by itself – it needs a system in place and used. Otherwise, we will be here with nothing. There are only two people in the STR team now – one issuing permits and the other working on possible violations. We need people out on the ground where the STRs are located. It won't happen with only one person doing it. She never heard in budget discussions that more enforcement people were needed. It is unmanageable right now and no surprise to anyone. This won't work until it is "put your money where your mouth is." People have complained about STRs for a long time.

She had questions on the amendments. She liked some things being proposed but some are not well thought out. We don't have a logical forward-thinking management plan on enforcement. These are good intentions, but one person cannot do it all.

Councilor Abeyta asked Director Isaacson about renewals for the 850 permit holders.

Director Isaacson said the existing permit holders, if they renew each year in a timely fashion, they will be grandfathered in if they meet the eligibility requirements. A lot will be grandfathered in. We have seen an increase in permit requests. We let them know we are cracking down on illegal operations, using the Internet. There are also new restrictions from the State.

Councilor Abeyta surmised we are only talking about 150 or 125 new permit holders, then. He felt we are being very accommodating to STRs. They are not required to go through the requirements of other businesses. As far as not being a good time, he thought it is good to do so during this down time.

Councilor Cassutt-Sanchez understood grandfathering included closer than 50 feet and no 24/7 manager.

Director Isaacson said the City is becoming more permissive with the seven-day rule for current permit holders. Regarding the number of permits one person could hold, no changes would be made.

Councilor Cassutt-Sanchez wanted to make that clear. For people already in compliance and recovery. She also heard things in the ordinance would make enforcement easier.

Director Isaacson agreed. Things are clearer and staff can apply them over time. And it would make a big difference.

Councilor Cassutt-Sanchez said this is complex topic and she was in favor of looking for ways to enforce the ordinance. STRs have a place in Santa Fe. We do have amendments coming through but enforcement of STRs is important. The City could fund more enforcement positions.

Councilor Garcia wanted to clarify a misleading statement. On the 150 figure, our STR team must deal with those out of compliance which, at this point, is estimated at over 1,400. So it is not just the 150 that was mentioned. There will always be more than 1,000. It is not 150 but 400-500.

Ms. McSherry suggested one amendment should be considered and then the next with discussion on each.

Councilor Garcia wanted to move an amendment regarding the section about one rental in seven days to change it to, "A permitted Short Term Rental unit shall not be rented more than 52 times within a calendar year" on page 7, lines 17, 18. He briefly stated the reasons that have been given in public testimony at this meeting. The operator would be required to track that during the year.

Ms. McSherry clarified that would be an amendment to the main motion.

**MOTION:** Councilor Garcia moved, seconded by Councilor Vigil Coppler, to amend main motion to change, on page 7, lines 17-18, replacing the existing language to include his amendment which would say, "A permitted Short Term Rental unit shall not be rented more than 52 times within a calendar year."

#### **Discussion on the Motion:**

Councilor Romero-Wirth pointed out that the sponsors do have an amendment that also would change to this once in seven-day rule that we allow over the holiday period November 15 - January 15 the opportunity to rent more than once every seven days as a response to what has been heard. She offered that as an alternative. Regarding record-keeping, when you apply for the new year's permit you would be asked to provide records showing when you rented – not to whom but how many times you rented. And if we see from that you have not followed the rule, it could have consequences that, including loss of permit.

Director Isaacson opined that there is not a lot of difference in seven-day, but the 52 times could be a disadvantage. Anyone who has rented more than once in seven days since last January might not know that they are breaking the rule until the year end. Even seeing a total of 52 times in a year would not reveal if they have broken that rule. We could see a lot of density during the tourist season and then lower at other times. The seven-day rule is more effective at achieving the goal.

Councilor Romero-Wirth reiterated that the one in seven days rule is current law. The sponsor's second amendment just gives flexibility to that law.

Councilor Vigil Coppler asked, on the November 15 to January 15 provision, why Council would not include May to the end of September.

Councilor Romero-Wirth said she was responding specifically to complaints about not able to rent out for both Christmas and New Year's with that rule.

Councilor Vigil Coppler thought we should include other best times to come to Santa Fe like during Indian Market or other festivals.

Councilor Romero-Wirth noted we could adjust down the road. This is a starting point.

Councilor Vigil Coppler asked Councilor Garcia if his motion included deleting the once in seven days provision.

Councilor Garcia agreed. His amendment strikes the current language and replaces it with 52 stays in the year. He reminded the Governing Body we heard no comment at this meeting on lifting the restriction for the holiday but many comments on having a yearly 52 stay option.

Councilor Rivera asked for further clarity on the two amendments by sponsors and if her motion included one or both.

Councilor Romero-Wirth clarified her motion only included the first amendment that was considered at the Council Committees. The second was only put together in the last few days and contains a drafting error around the fees and around emails received that the holiday period is really tough and asking for wiggle room.

Ms. Paez said the sponsors' second amendment includes four items – the holiday grace period, the second is January 1 effective date; the third that the tracking would kick in January 2022; the fourth was to correct the fee drafting error.

Councilor Romero-Wirth added that she didn't include the second because she knew Councilor Garcia's amendment dealt with part of it.

Councilor Garcia pointed out that 52 stays per calendar encompasses the second amendment by the sponsor since an operator could save before the holiday to have more rentals then. We haven't sat down with STR operators as Council to address those challenges. How do we know the community is cool with 52 per year? Most of their stays are 3-5 days and they need to have cleaning time in between, especially because of COVID. We are into regulating a business more than we should. We don't tell a liquor store owner how much they can sell each week. We should not get into dictating business. That is how the 52 stays will regulate it. It is practiced in many different cities like that. It will be easier for Staff to enforce. They just check to make sure it has not exceeded 52 times in the year. It is easy for our Staff and easier for operators to manage.

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

**For:** Councilor Garcia.

**Against:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to amend the main motion with the sponsor's second amendment as presented.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

Ms. Paez clarified in the sponsor's second amendment sheet of four items, that Item #1 adds a sentence to this provision for the Seven-Day Rule.

Councilor Vigil Coppler asked Ms. Paez to go through the list of attachments and note where this is in the packet. She indicated the public also has the attachment and need to know.

Ms. Paez replied it is #10 and says Amendment 2, directly below Councilor Vigil Coppler's Amendment 2.

Ms. Paez continued with the list of four items:

1. The addition of the sentence to the one rental per seven-day rule that says, *"The limitations set forth in this subparagraph shall not apply to rentals that begin between November 15 and January 15."*
2. Inserts a provision into the renewal application section of the bill. On page 14, line 8, it clarifies the effective date for submitting the previous year's records with your renewal application. This will insert an effective date to the provision saying, *"applications filed on or after January 1, 2022."* Renewal applications starting next year need to include per permit, the record from the previous year to show compliance.
3. Clarifies the fees provision, page 14, line 24. There was a drafting error between the first round of legislation and the second draft. This clarifies that both permit and registration applications are subject to the \$100 application fee. That application fee only applies to a new application, not to a renewal. But it would apply both to renewals for permits and renewals for registrations.
4. Adds a new section at the bottom of the bill with an effective date, *"The provisions of this ordinance shall become effective January 1, 2021."*

Councilor Vigil Coppler thought #3 did not add up to the line and should really be line 23.

Ms. Paez replied on line 24, currently the subparagraph about the application fee says, *"An application for any short-term rental permit shall be accompanied by the application fee."* The sponsors proposed adding *"An application for a new short-term rental permit or registration"* on line 24, "shall be accompanied by an application fee".

Councilor Vigil Coppler believed the changes written on the attachments of the ordinance should actually go on line 23 not line 24. She was looking at what was published.

Ms. Paez looked to see if it matched. She agreed the intent is to put it on line 24; *"An application for a new short-term rental permit, or registration shall be accompanied by a onetime nonrefundable application fee."*

Councilor Vigil Coppler stated she double checked it, but whatever. Also, on page 22, her line 12 did not have any wording.

Ms. Paez explained it would be a new section. It would be inserted before "approved as ..."

Councilor Vigil Coppler replied that would be a new line 11 then.

Ms. Paez thought line 11 still had a few words on it and would probably be started on line 12.

Councilor Romero-Wirth confirmed the Councilor Vigil Coppler had the correct version.

Councilor Vigil Coppler said it does not match up to that. She might be able to support some, but it isn't prudent to say take the whole thing or nothing.

Mayor Webber said the motion was made by Councilor Romero-Wirth and seconded by Councilor Lindell as a single amendment.

Councilor Villarreal asked to clarify for the public, how they arrived at the effective date of January 1, 2021 and if that is standard.

Ms. Paez explained the default rule for ordinances usually take effect five days after the City publishes the ordinance. That is in City Clerk Vigil's hands. The date does create some uncertainty. She thought Director Isaacson proposed January 1 because it is the beginning of the renewal period for the 2021 licensing calendar year. This was intended to provide an obvious cut off for people coming in after the effective date rather than the default, which could be more varied.

Councilor Villarreal confirmed the default typically is five days after approval but in this case the City provided more leeway.

Ms. Paez replied it is five days after the City Clerk publishes the approved ordinance. She isn't sure the process for that.

Councilor Villarreal asked Director Isaacson about his comment on March as a permit date.

Director Isaacson explained that March 15 is our renewal date without penalty. April 15 is the renewal deadline with a late fee, and after April 15 the permit expires. That date was set to know that would be available to permit and registration holders so hosts websites could include their permit and registration numbers in their listings.

Councilor Rivera asked on the January 1, 2021 date, what that does to #1 on the amendment 2 proposed by the sponsors that limits set forth "does not apply to rentals between November 15 and January 15".

Director Isaacson didn't see those two things being in conflict. Existing permit holders would be exempt from the 1% a day for the period of January 1-15. People who apply now for a permit during that period would also benefit during that 15-day period. Another reason they wanted an effective date is because many people ask, if I apply now which set of rules will I be evaluated on. If the city receives an application by the end of business day December 31 submitted online, they will be treated under the old rule. That level of certainty helps people who ask that question.

Councilor Rivera asked to clarify that for someone renting their place out before January 1, the new rules will not apply until after January 15, 2021. Director Isaacson agreed.

Mayor Webber commented that the proposal advanced by Councilor Garcia and this carve out are of a similar spirit accommodate different circumstances. This is easier to enforce than something spread throughout the year. It is specific and correlates to a season. Also, Councilor Romero-Wirth's point is well taken that this is an attempt to rebalance things. The spirit of the ordinance is to adopt terms with interests of both people who hosts STRs as well as residents looking for a certainty of the amount of impact on the neighborhoods. It is a reasonable compromise that allows space for people to be flexible.

Councilor Rivera asked if they still had to consider Councilor Vigil Coppler's amendment as well.

Mayor Webber replied they will consider those next after they vote on this.

Councilor Rivera noted that Councilor Vigil Coppler had to change her amendment to get it through prior to Councilor Villarreal's amendment.

Councilor Garcia said Councilor Rivera makes a good point. Councilor Vigil Coppler made her amendments when the Council was hearing the legislative resolution. The City Attorney advised because of the process, the amendment could not be voted on separately and they had to all be included in the packet. That was the reason Councilor Villarreal's amendments were combined with Councilor Vigil Coppler's amendments.

Ms. McSherry indicated it depends on the motion. Earlier Councilor Vigil Coppler withdrew her motion and made a new motion that only included one item on her amendment sheet. Initially her motion included the entire amendment sheet and appeared that would not be successful during debate. She withdrew a second time and made a new motion to move only one item. That is how that came about. In this case there has not been a motion withdrawn. We have had a motion on the table that includes all the pieces of the amendment sheet.

Councilor Rivera replied but we were not able to vote on Councilor Vigil Coppler's amendment until after Councilor Villarreal proposed her amendments.

Mayor Webber explained they took it in series. They will have a new set of propositions with what is decided with the current motion. Then Councilor Vigil Coppler's amendments would address the bill as amended.

Councilor Vigil Coppler wondered why the amendments before them stepped over amendments that were vetted through committees, even though they are the newest. Some of the amendments were on committee floors for consideration prior but the amendments just received jump over everything. She asked procedurally what that was about.

Ms. McSherry stated there is not a rule and potential amendments are not addressed by the procedural rules. Basically, it is the motion that is made first.

Councilor Vigil Coppler stated it is not a rule, it is a practice of maneuvering. She wanted to state it is not lost on her.

Mayor Webber found that that an interesting point. There are no timestamps. Councilor Garcia was making a motion and proposed an amendment in real time as he was thinking through it. The order in which amendments can be made is not time stamped.

Councilor Vigil Coppler responded that was related to the Seven-Day Rule that has been discussed and through committees for a while. These are new amendments and suddenly given priority vote. She understands there is no rule of thumb, and she could have just run through her amendments when she had the floor earlier. She was following dignity and decorum and being considerate of how the meeting should be run.

Councilor Romero-Wirth said let's just vote on this and your amendment will be voted on next.

Councilor Vigil Coppler explained but her amendment might conflict. There seems no rhyme or reason of how amendments are placed on the attachments or the order. The amendment being considered is at the bottom, number 10, but this is the first time the amendments have been discussed.

Councilor Rivera asked clarification from Legal. We voted down Councilor Garcia's amendment to a resolution that had not been passed yet. He asked how that will work in this matter.

Ms. McSherry explained the amendment to the main motion was voted down. The main (original) motion was to pass the ordinance as introduced with the sponsors' first amendments. Then there was a motion to amend the main motion to include Councilor Garcia's amendment as amended. That failed. Now the floor is open for other motions to amend the main motion, which could include any amendments previously introduced or any other amendment of the Governing Body. If they conflict, the amendment that was the last to pass is the amendment that is part of the main motion. Once they vote on the motion on the table made by Councilor Romero-Wirth, they can vote on Councilor Vigil Coppler's amendment.

Councilor Rivera said they didn't do that with Councilor Garcia's motion. They voted that down before acting on the initial motion.

Ms. McSherry said she may have confused it because Councilor Romero-Wirth made the main motion and now made another to amend the main motion. She has two motions on the table; the main motion and a second the subsidiary motion to amend the main motion. Either way, pass or fail, the floor will be open to additional subsidiary motions.

Councilor Rivera noted that Councilor Garcia amended the main motion to include his amendment and was voted down. He asked if the same consideration shouldn't be given to Councilor Vigil Coppler's amendments.

Councilor Romero-Wirth explained the process is if they vote on the second sponsor's amendment and it passes it is added to the bill in the first sponsor's amendment. Then they consider Councilor Vigil Coppler's amendments. They still need to vote on the underlying motion, the ordinance with any changes agreed to in the process. There are still a number of different votes, but she could understand the confusion. They had handled another bill differently.

Mayor Webber noted the motion on the floor concerning amendments for carveouts, language changes and including an effective date. He asked if there were other comments on that amendment. The vote is on the original sponsor's proposed amendment #2 included with the main motion and amending a resolution that has not been approved.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

Mayor Weber said they have passed the main motion as amended and they have proposals from Councilor Vigil Coppler now up for discussion.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to amend the main motion to approve the sixth item on the attachments regarding dedicating a portion of Municipal Gross Receipts Tax generated from Short-Term Rental units to the Affordable Housing Trust Fund.

**Discussion on the Motion:**

She commented that there was testimony on how STRs affect housing etc. and emails received saying Council should be doing something about Affordable Housing. That doesn't necessarily relate to STR housing, but it is a housing issue.

This proposal has received support from the Housing Coalition, the Homebuilder's Association, and the Santa Fe Association of Realtors. Her amendment is to put a portion of the GRT received from STRs into the Affordable Housing Trust Fund. The new number would be about \$500k in recurring funds. The amount could go up or down, depending on STR income. This amendment would make an impact to the Affordable Housing program. Those operating STRs and paying GRT will be helping to fund an important housing project.

Councilor Vigil Coppler said she knew many of the Councilors constituents write them and not because they have an interest in housing or about real estate. These people have a vested interest in providing affordable housing. Many work with Affordable Housing clients or Homewise etc. that support Affordable Housing. This is an opportunity to show commitment to Affordable Housing and keep like-minded resources in the same compartment; housing provided by STRs and housing that is affordable to rent or build.

The economist from the National Association of Realtors, a respected professional and major economist, made some good points about how cities across the country need to start paying attention to affordable housing. Santa Fe hasn't made a lot of headway with their program. Director Ladd does a wonderful job and has helped many people through the Affordable Housing Program get into homes.

That is important and more people should experience that success. Most importantly, more people should have ways and means to have an affordable home through the Affordable Housing Trust Fund. It can make a difference.

Ms. Paez explained this is to amend the main motion to incorporate the amendment.

Councilor Romero-Wirth clarified that the main motion now would include both sponsors' amendments if passed.

Councilor Abeyta said he understood the motions intent but if we continue to dedicate GRT we will run out. The bulk of our budget is from GRT. He was open to language to dedicate an amount equal to the GRT. That would give more flexibility for where the money comes from. They could take the money from another area if they have a better year. He thought the proposal may be premature and would not support dedication of GRT.

Councilor Vigil Coppler replied this would not be taking all GRT, just a specific amount garnered from STR revenue. Crisscrossing revenue is difficult to track and this keeps like-minded revenue together and a source of revenue dealing with housing that would go to Affordable Housing. This would be a way to dedicate something to Affordable Housing that wouldn't break the bank.

Councilor Romero-Wirth said she appreciated the idea. She ran for office on this idea, but unfortunately, it is bad fiscal policy to allocate GRT. In this global pandemic we have a \$70 million shortfall due to the decline in GRT. Dedicating GRT revenue at this time is not a good idea.

In addition, they made changes this year to the fee in lieu of. That contributes a large amount into the Affordable Housing and the Trust Fund has grown exponentially. That should continue to go up assuming there is no change in construction and housing. There is no longer a critical urgency to fund the Affordable Housing Trust Fund, but long-term they need to find a more stable source. They need to take time to decide which option is best. It is not wise currently to tie up a precious GRT resource.

Councilor Romero-Wirth said she was curious where the \$500k number came from. She was told the City couldn't get GRT from Tax and Rev in one lump sum and they don't line item it out. She couldn't see how funds could be pulled just from STRs.

Councilor Villarreal said she supported this measure from the start. She has talked with staff about revenues from different tax bases and this makes sense. We have never met the need in supporting rental or mortgage assistance, and there is always a need. This was discussed in Finance and she never saw an FIR on it. There are percentages of GRT that go to specific line items that are not specific to the General Fund, such as Economic Development, Transit, etc.

She asked the Finance Director to speak to the funds distributed from GRT and the percentage of uncollected GRT and whether that could support this effort.

Director McCoy explained the GRT is received as a distribution from the State TRD (Tax and Revenue Department). A portion of the tax is distributed in a lump sum with some of the data broken into industry allocation. They do not receive the level of detail from a subdivision of a particular industry, nor is TRD able to provide that.

Studies have shown that GRT is not being paid on STRs and that isn't captured by the state. They will have to develop a methodology to extract that information if the amendment becomes effective. The City has access to lodgers' tax paid directly and can calculate the GRT share of the lodger's tax paid by STRs. From that, they could calculate the .75% that would be re-allocated from the General Fund. The Affordable Housing Trust Fund would be increased by that amount and lower the General Fund and impact what would otherwise have been allocated to operating expenses such as police, fire, etc. Based on the calculations over last three years and the current revenue projections, the range estimated is between \$100,000 to \$200,000. There has been a decrease in lodger's tax because of the decrease in the industry and decreases expectation for the current year, estimated at \$90,000.

On Councilor Villarreal's question on different sections of GRT, the City receives 3% of the 8% charged in City GRT. Slightly over 1% is allocated to other expenses, debt service, the GCCC, wastewater, solid waste, police, the Economic Development Fund, the Youth Fund, dedicated by previous Councils.

Councilor Villarreal thanked Director McCoy. She said they would just have to adjust the other percentage of allocations if this is added.

Director McCoy explained the amendment is written to create a new section in the ordinance that dedicates GRT. That section refers to the .75% into the that goes into the General Fund. She thought only that percentage would be affected, but she would defer to the City Attorney's office.

Councilor Villarreal saw it as a piece of the picture needed in the grand scheme of things. She thought those go hand in hand with the housing opportunities. This is one of several funding sources to consider if they are committed to funding Affordable Housing and adjustments will be needed.

Councilor Cassutt-Sanchez asked to clarify the formula to identify how much money is allocated, and whether the previous year's budget is looked at to allocate those funds.

Director McCoy replied there is always at least a year lag and it is an estimate. This amendment differs from the other dedications. The others specify 1/4% etc. to a specific purpose. The methodology in this is not a flat percentage and they would have to rely on a partial fiscal year. Lodger's taxes are delayed one month, and payments are made in November for October. They would probably use a

calendar year for the calculation to estimate revenue for the subsequent fiscal year. If the amendment passed lodger's tax paid for STRs for 2020 calendar year could potentially be used, or the first six months of FY21. The estimated amount would be transferred from the General Fund into the Affordable Housing Trust Fund.

Councilor Cassutt-Sanchez agreed with everything that was said about Affordable Housing and funding it. She thought the amendment needed more legwork and looking at funding options. She also wanted to see what the legislature does in terms of funding opportunities and the Housing Coalition will produce a white paper.

They have time since this won't start until the next fiscal year and taking more money from the General Fund concerns her. Particularly after conversations about the lack of Land Use Department staffing doing enforcement. She wanted to look at other options first to see if she supports this revenue stream. This is important and should be funded in the next budget cycle whether a onetime infusion or a determined funding stream. She also had a concern and how this is calculated, especially in a year like this. And the way the amendment is written is a concern.

Councilor Garcia said the proposal is an investment in the future and he couldn't think of a better time to invest. People are on the verge of losing their homes at the beginning of the year and there is a housing crisis caused by the pandemic. There was a housing crisis in the City before the pandemic, and people who cannot afford to live in Santa Fe are relocating.

He said if this is a priority they can figure out where the shortfall for \$100k-\$200k should come from. They received hundreds of millions of dollars in GRT last year and it is not true that \$100k or \$200k will put them in the poorhouse. The amendment would show the city believed in providing affordable housing for our community. They must figure out how to make this happen and should look at this as an investment.

Councilor Lindell said she echoes what has been said. The City has a sizable deficit and GRT in the General Fund funds a lot of what they do. Everyone on the Council is committed to Affordable Housing, but that shouldn't be in front of a commitment to fiscal policy. She asked what people are willing to cut but hasn't received any answers. This would be a cut in a year when they particularly are facing severe deficits. It would be imprudent fiscal policy to dedicate GRT in light that.

She noted that the amendment is not going to bring real change for some time. She is anxious to see the white paper mentioned that would show resources. This is not a new revenue source. There are STRs that are not paying GRT and some

that operate illegally and don't pay GRT. To take funds out of the General Fund, they must cut something else.

Mayor Webber added that the City's commitment to Affordable Housing is good. He was looking at the revenue chart going into the Affordable Housing Trust Fund from the fee in lieu. Starting in 2014-2015 just under \$200k was added and increased to just over \$200k in the next fiscal year. In 2017-2018 revenue was up to \$600k and with the adjustments to the zoning ordinance in 2019-2020, revenue into the Affordable Housing was \$1.3 million. So, the commitment to Affordable Housing is clear. And with the units in the pipeline, they are confident the City is on the right track to build a sustainable Affordable Housing Trust Fund without taking money from the General Fund.

The discussion of funding more positions for enforcement seems inconsistent after this discussion. The city's response to the earlier concern about enforcement was to give additional revenue to the General Fund to address things they are committed to. We need to address the question systematically of where to find money for Affordable Housing. They could do it with new money as an example, by using the Capital Improvement Project Program (CIPP) as they have done in the past. The City designated a portion of the funds for public infrastructure that benefited the development of new Affordable Housing. Funds from the sale and lease of City-owned property could have a portion deferred. As discussed, they could increase the property assessment for second and third homes. And New Mexico in the upcoming session will legalize, regulate, and tax cannabis. That could also be a source that is new money.

He said another proposal is a gross receipts tax set-aside using additional revenue but only after the City has achieved a financial benchmark. Those are 4 or 5 new sources of revenue to consider in concert with this proposal. They could then review them to see what makes the most sense with the most flexibility. They should take the least away from the existing options and are sustainable new revenue rather than existing revenue. He is open to all the options, including the one on the table. To consider this is taking something out of turn instead of looking at a broad-based menu to get the annual amount needed for a robust Affordable Housing Trust Fund.

Mayor Webber said he agreed they will see continued growth from the fee in lieu of and have seen incremental increases year-over-year in revenue to the Affordable Housing Trust Fund. That can be augmented with other sources that don't deplete the General Fund. He has been committed from the beginning to Affordable Housing and why the City is moving forward with the purchase of the Santa Fe Suites Project. They are making steady, strong progress and this proposal should be put into the package with broadly considered items, and opportunities and then move forward with a strategy.

Councilor Rivera asked Mayor Webber if he said that this funding that would be used for STR could be used for enforcement staff in Land Use Department.

Mayor Webber explained if it goes into the General Fund, as the Governing Body creates a budget, they could increase positions for enforcement. That would be a General Fund allocation for consideration. It is a question of priority.

**Motion to Extend Time of Meeting:**

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Garcia, to extend the meeting past 11:30 pm.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

Councilor Vigil Coppler said this amendment doesn't start collecting until July 2021. They have a year to experience the funds available and what needs to be cut. It will not affect the budget planning for implementation until fiscal year 2022. It wouldn't be difficult to determine where to cut \$100k. There is a lot of fat in the City and it is about priority. She doesn't see that the city has achieved great gains. They did buy Santa Fe Suites but that will expire in 10 years. With regard to STR enforcement staff, she made that plea in the discussion to increase fees to the builders, but it was shot down. Now they find it convenient to use that money.

Councilor Vigil Coppler said she met with staff when it was proposed to use City land to create Affordable Housing. The plan was to take the small, identified parcels to build affordable housing on. She hasn't heard any more about that and there is talk about selling the land. She would never want to sell that land and she wasn't sure why that was offered tonight. That is not a solution.

She said another argument in another committee was they need a revenue stream. This is a revenue stream, and there are others. The Mayor talked about approving cannabis, so there are other places to beef up the coffers. But this opportunity will not break the bank. And if they don't do this, once again they show people without means to buy a house or have affordable rent. There is no lobbyist for poor people. This is not a lot of money or a major cut. COVID will not last forever and economic predictions are that Santa Fe will branch out and economy will be even stronger.

Councilor Vigil Coppler said it is important to think long and hard and consider those more unfortunate. It is time for the Affordable Housing program to get its due and this is barely a drop in the bucket. She pleaded for Councilors to vote for the amendment.

She said the Housing Authority says they still need 5,500 Affordable Housing units and are not making much headway. A large percentage of the City's work force cannot afford to live here because we don't have affordable housing. They joked about the Rail Runner because people get on the train to Albuquerque and take our money. What about that money that is escaping right in front of them? Nobody talks about it. This needs to be set as a priority.

Councilor Abeyta asked Legal if the amendment could be postponed 60 to 90 days for further discussion.

Ms. McSherry replied it is not a standalone ordinance, it is an amendment.

Mayor Webber said nothing is being precluded including options he mentioned as possibilities. It can all be brought forward in the future with this or separately.

Councilor Garcia pointed out the example to use \$100,000-\$200,000 for enforcement staff would not work because the money is already committed.

He asked Director McCoy if he read correctly that a report says the State doesn't expect GRT shortfall to be as bad. They are now projecting an increase in revenue for the state and possible raises for state employees. So, there is optimism and projections that the State will not be in the same place as last year and they just need to tighten their belts. They should look at this as an opportunity to invest \$100,000. It might impact the budget, but possibly there will be an increase in budget to make up the \$200,000 for Affordable Housing. Those benefits would be seen year after year. They should consider this and if it doesn't work out, they can rescind it.

Director McCoy responded she wasn't sure which article he referred to, but the legislature revised the revenue estimates. They are in the process of projections for the FY22 revenue for the budget proposal. With the potential for a vaccine this year compared to next year there is potential the economy will open more sectors and the GRT to bounce back. The state projects it will be about five years before they are back to pre-pandemic levels and get out of the economic recession.

Director McCoy said they are very grateful for the State allocations to Santa Fe for the Cares Act of \$5 million for direct community assistance. That goes to rent and utility assistance and business assistance through MFA and will provide additional

assistance through the end of the year. If they are still in the red zone through March, there will be business closures and job loss. That impacts the local economy in the long run and GRT citywide and the taxes and revenue that go into FY 22.

Director McCoy said anything they can do as an organization to continue the additional support, either through direct community assistance or to move Santa Fe out of the red zone and back to an open economy, is of the utmost importance in the next 90-100 days. That would help support the bounce back they hope to see throughout FY22.

Councilor Garcia understood the point that a big cliff is coming at end of the year. Congress is working on assistance and there will be a new presidential administration that supports local government. They should trust that they will have \$100,000 in GRT. The thought of some of his colleagues at the sky is falling is not true. They were in a bad place last year, but systems and support are being set. They will see an increase in what they saw last year and will be more than \$100,000. He didn't think they would have to cut anything; they will have an increase in revenue. If the state is talking about giving employees raises, the City should trust there will be an increase of \$100,000 in GRT and figure out how to adjust for it and the Affordable Housing will benefit from it. They will have invested in the community.

He said the foresight of colleagues that the sky is falling, is not true. There are systems in place to support them. They should ensure that revenue will be coming in.

Councilor Cassutt-Sanchez clarified her comments about using finances for Code enforcement. Her point was if it goes into the General Fund, we can then make that choice. We might use it for code enforcement. She has had conversations about the desperate need for Long Range Planning as another issue that impacts affordable housing and being able to use that in the General Fund. Or, after more in-depth conversations they could decide there isn't another revenue stream, and they should move forward with this.

This is important and everyone cares about it. But she would argue that she cares enough about it to do the legwork, but it should be done quickly. As a Governing Body they have the option to put the money into Affordable Housing while they figure this out, but she thinks they should look at it from a broader point. To put it into the General Fund and then the Governing Body decide what to do with that money next year. If there are no other funding streams, then they should be looking at the General Fund for the Affordable Housing Trust Fund.

Councilor Vigil Coppler said she learned from the National Association of Realtors Chief Economist that President-elect Biden will propose a home buyer's tax credit and award \$15k at closing. That will pour money into the economy and increase the gross receipts tax. She believes things will get better and that goes to the comment that state employees would receive a salary increase. That will also pour into the economy and make its way back to Santa Fe.

Councilor Romero-Wirth agreed we have to be hopeful that things will get better and there are many signs as a reason to have hope. If the state budget is looking better it is a good indicator. But Finance estimates it will take longer for the GRT to recover than in the 2008 recession and will be five years to get back at a pre-pandemic level. In addition, they shouldn't tie their hands, they should go through the budgeting process. The money should be in the general fund to prioritize and compare against the other needs of the City. It was pointed out money is going into the Affordable Housing Trust Fund now and this proposal will not put money in for a while. We should take the time to focus after the first of the year on housing to better understand the options and make a well thought out decision about the path forward.

Councilor Romero-Wirth saw no reason they should do this tonight. That doesn't mean they do not support affordable housing or don't care about people who are struggling. The City bears a responsibility to take time to study the options and go from there.

Mayor Webber agreed. They have done a lot of work over the past few years with a comprehensive housing agenda, starting with the ADU ordinance, the inclusionary zoning code, technology in the Land Use Department to permit effectively and efficiently. The graph is compelling in the housing chart. In 2014 the City permitted 219 housing units and this year it is almost a thousand. They are growing housing stock and have about four City-owned land parcels that will be out to RFP for affordable housing. Another part of the agenda is phase 3 Tierra Contenta and the work with Santa Fe Estates. Housing is at the forefront of all their efforts. He is proud, after years of stagnation, the City has built an infrastructure to permit, inspect and build all kinds of housing in different areas of the City.

Mayor Webber said the challenge is not to predict the economic future of Santa Fe or the country, but to develop a strategy to invest in Affordable Housing Trust Fund. He said he provided some of the options like the CIPP and proceeds from sales and lease of City-owned property that gives an ongoing revenue stream, and a set aside for GRT funds from the General Fund rather than taking them out prematurely. An Affordable Housing bond has been discussed and revenue from 3% property tax increase on 2nd and 3rd homes of people who don't live in Santa Fe, in addition to the proposal by Councilor Vigil Coppler.

He said it is good management and sound principle to look at the entire package rather than one in isolation. It makes more sense to go through the work Councilor Romero-Wirth is doing in the Quality of Life and Councilor Abeyta in the Finance Committee and that everyone will do in the budget process, to determine the best way to put money into the Affordable Housing Trust Fund.

Mayor Webber said that is a sound managerial way to look at the package and series of options instead of one item alone. Obviously, they favor Affordable Housing, or they wouldn't have put money into the Santa Fe Suites project of which 70% will be affordable. The next question is how to build a sustainable strategy rather than a one-off idea.

**VOTE:** The motion to amend and allocation a portion to the Affordable Housing Trust Fund failed on the following Roll Call vote:

**For:** Councilor Garcia, Councilor Rivera, and Councilor Vigil Coppler.

**Against:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Lindell, Councilor Romero-Wirth, and Councilor Villarreal.

Councilor Cassutt-Sanchez explained her vote. She wanted to reiterate she was not ready to pass the amendment at this time and wants to see other options. She thinks it is important and something they should explore immediately in the New Year. She would be happy to work with other Councilors on this before they get to the budget.

Councilor Vigil Coppler said she does have other amendments and she will be bringing the motion that failed back.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Garcia, to amend the main motion with item #9 on attachments:

1. On page 7, line 5, to insert after the word corporation, "*such entity, whether revocable trust and LLC or a corporation, shall be responsible for any criminal or civil violation and fines.*" That makes it clear regarding the amendment whereby natural persons must be the owner of record of a STR rental permit, that corporations etc., are responsible for the fines, not the natural person.
2. Page 7, line 20, insert after the word *if*, "the front half of" so the 50-foot radius would be measured by the front of the front half of.
3. Page 8, line 5, after the word *number*, strike the remainder of the sentence. Where it says, "shall not issue more than 12 short-term rental permits within a single building within a multiple family unit dwelling development." The reason is if there are separate buildings

in the same multiple family complex they could easily use up the 25%. All 12 could be in one building and the other buildings have nothing. It is an opportunity for the Land Use Director to enforce the 25% but ensure fairness.

4. Page 8, line 12, strike item (a) and on page 8, line 16-18, strike item (b). They were previously discussed.

Mayor Webber said scrolling through his copy he couldn't find all of it. He deferred to Councilor Vigil Coppler whether to consider these amendments separately or together.

Councilor Vigil Coppler replied she was told when she asked that question that they had to be taken at the same time.

The location of the amendments was clarified and the Governing Body continued to consider them ad seriatum.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Garcia, to approve amendment #1 on the amendment sheet to insert "an LLC party shall be responsible for violations and fines" as shown on the amendment sheet.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

Councilor Vigil Coppler explained this is in the event that the amendment to add a *natural person* passes. This prevents the natural person being responsible if a corporation is behind it.

Mayor Webber asked if this would affect the City's enforcement and ability to remedy a violation in the event of a violation.

Ms. Paez indicated the amendment could complicate enforcement. The City can now determine who the appropriate person is to take enforcement against. That will vary and this limits enforcement. They would have to seek action against the entity rather than the permit holder. The complication, especially in terms of criminal penalties, is the body of law around when a business /legal entity can be held liable for a crime. City Code prosecutes violations of the Municipal Code as a petty misdemeanor. This complicates the steps to impose a criminal fine with an

entity such as that. That would normally be done in the Municipal Courts outside of the Land Use Code enforcement abilities.

Ms. McSherry added it is possible to prosecute an organization, but more difficult.

Councilor Garcia asked who would pay the fine with a business out of compliance such as Target; the store owner or the corporation. If Target can be assessed with a fine why couldn't an LLC be fined. There have been grounds in other instances.

Ms. McSherry explained actions can be taken against corporations. Fines under COVID are civil fines but this amendment would change it for civil and criminal fines. Ms. Paez was primarily raising a fine in a criminal context, which would be more complicated, but it is possible either way.

Mayor Webber asked Councilor Vigil Coppler who would benefit from the amendment and what problem would be solved.

Councilor Vigil Coppler explained if the amendment passed saying that permits must be in the name of a natural person, this amendment is saying "the entity." She has heard testimony that many STR permits are issued in the name of the LLCs, revocable trusts. Without this language and requiring a natural person to be named as the permit holder, the natural person would be responsible for fines, etc. This amendment clarifies if a corporation, they would be responsible.

Mayor Webber asked why the person who holds the permit shouldn't be responsible for complying with regulations.

Councilor Vigil Coppler replied the ordinance forces the person whose name is on the permit to be responsible, but what if it is an LLC or a trust. The LLC or trust should be held accountable.

Councilor Romero-Wirth pointed out a natural person has to have legal authority and that person should be held accountable for what they do or don't do. That person is acting as legal authority on behalf of the LLC, or husband-and-wife team, etc. They should be held accountable. The entity is not someone who is innocent if they are acting on behalf of themselves or a shell they created. They should be held accountable if acting inappropriately.

Councilor Vigil Coppler said but the City is forcing the permit holder to be a named individual. She wasn't saying they shouldn't have to pay the fees or be legally responsible, but the corporation, LLC, trust, should write the check.

Councilor Romero-Wirth asked the City Attorney to comment if someone is acting on behalf of an entity in a legal capacity wouldn't they be an extension of that.

Ms. Paez explained the legislation is to ensure that a live person takes responsibility for the operation of the STR and follows regulations. It is a policy choice. In many cases the underlying entity would end up paying a fine. Requiring the entity be charged with a violation narrows the enforcement opportunities. She thought it wasn't inappropriate to hold the person acting on the entity's behalf responsible for the operation.

Director Isaacson said this is out of his realm and better answered by Legal. But as he understands, this would turn a violation into a "white-collar crime." It could become difficult, expensive, and time-consuming to prosecute. This provision is he understands it, would move Land Use further from where they want to be with effective enforcement and compliance.

Councilor Vigil Coppler commented that the amendment recognizes that most of the short-term rentals are a tax benefit, or an LLC, or a trust. In a violation, regardless of fault, this clarifies that the name on the permit would not be pursued personally and the entity they represent would write the check.

Councilor Garcia asked to confirm that about 15 hosts fall into the category of LLC, corporations, etc. operating about 400 STRs. Given that, he thought it prudent to include this amendment. It helps protect individuals and sometimes ownership of the people operating them on the corporation's behalf.

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

**For:** Councilor Garcia and Councilor Vigil Coppler.

**Against:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Councilor Vigil Coppler moved amendment item #2: to insert, "the front half of" on page 7, line 20. The motion died for lack of a second.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Cassutt-Sanchez, to amend the main motion (#3) at page 8, line 5, *after number*, to strike the remained of the sentence.

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

**For:** Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

**Against:** None.

Ms. Paez pointed out that items #3,4, and 5 address the concept of no more than 12 permits issued within a single building. She suggested if Councilor Vigil Coppler wanted, the three motions could be taken together, or not. Residential and nonresidential could be considered separate categories.

Councilor Vigil Coppler replied she could see where this was going. For the record, when you have multi-buildings in a multi dwelling everything could be concentrated in one building and nothing in the others. That is not fair and is what this amendment addresses.

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Garcia, to amend the main motion by approving items #3, #4, and #5 as presented.

#### **Discussion on the Motion:**

Councilor Villarreal commented that she thought #4 and 5 had been taken care of in the first sponsor's amendment. That had to do with the 200 feet within residentially zoned property and was eliminated.

Ms. Paez offered to clarify. The sponsor's amendment #1 included that provision to eliminate. This amendment 3, 4 and 5 refer to the provision, "shall not issue more than 12 STR permits within a single building within a multiple family dwelling development. The rule of no more than 12 in a single building.

Councilor Villarreal replied one had to do with the 12 unit, but page 8, strike a, and pages 16-18 were already covered in another amendment. It talked about the buffer of 200 feet.

Ms. Paez clarified that was line 12-15, proposed as a provision for nonresidential property. It said if a multiple family dwelling development located within 200 feet of a residentially zoned property contains four or more dwelling units, the LUD Director shall not issue STR registrations for more than 25% of such dwelling. That was the provision that would be removed under the sponsor's amendment number one. That is a separate rule from the *no more than 12 per building* rule.

Councilor Vigil Coppler recalled bringing up the order of introduction of amendments and being told none of the amendments conflicted with anything else.

She said, maybe they didn't conflict, maybe Ms. Paez is saying they are repetitious."

Ms. Paez believed the two amendments suggested the removal of different rules. The sponsor's amendments suggest removing the rule that was in the buffer zone. Councilor Vigil Coppler's amendment #2 being discussed, would remove the rule for no more than 12 STR's in a single building.

Ms. McSherry said the confusion could be that part of Councilor Vigil Coppler's amendment strikes "a", which she thought meant the letter A. There would no longer be letters (a) and (b).

Ms. Paez agreed.

Councilor Romero-Wirth pointed out the sponsor's first amendment eliminated (a) already.

Ms. McSherry agreed that section would go away.

Councilor Vigil Coppler said if that is taken care of on #4, then #5 would be to strike (b) entirely.

Ms. Paez added it is also confusing because there is *the no more than 12 in a building* rule in the residential and the nonresidential section.

Councilor Vigil Coppler replied even if her motion is the same with #3, 4 and 5, item #4 is moot. So, they could carry on to the vote.

Councilor Romero-Wirth confirmed that they are basically getting rid of, "The land-use director shall not issue more than 12 STR registrations within a single building within a multifamily dwelling building." That is part of limiting density and the other rationale for that was ...

Director Isaacson said part was because we allow a maximum of 12 units in the City. Beyond that are required to operate either as a motels or hotels. They are different occupancy classes with different requirements around health, safety, and fire prevention measures. They felt limiting to 12 units would avoid running into issues with building codes.

Councilor Romero-Wirth said the sheet stated if more than 12 units, STRs may be permitted in accordance with regulations. This is a way of limiting density or no longer classified as a short-term rental.

Councilor Garcia thought given that logic, apartments do not have one owner like a B&B. An apartment building has multiple owners.

Director Isaacson replied that typically an apartment building is one owner with units leased to individuals.

Councilor Garcia clarified that the intent then is that the apartment complex not rent out the apartments as STRs. He said he read this as the person renting the apartment would sublease their apartment as a short-term rental. Not the other way around.

Director Isaacson said correct, the renter would apply for a permit to operate as an STR. This says that the City / Land-Use Director, would not issue more than 12 STR permits to individual tenants in a quantity greater than 12 in a single building.

Councilor Garcia said Councilor Vigil Coppler was talking about the complex, 4 buildings or 48 potential permits that could be issued.

Director Isaacson said there are two factors, *within 25% of the units and up to 12 units per building*.

Mayor Webber asked if it could work the other way as well and a Hilton Corporation could buy an apartment building to rent as STRs. In effect that would be operating a hotel under the guise of STR's without a limit.

Director Isaacson said in a residentially zoned property, these would be a permit and must be obtained by a person. In a nonresidential zone there is no cap on registrations and to combat that they put the 25% cap. That avoids an entire building converting to an STR.

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

**For:** Councilor Vigil Coppler.

**Against:** Mayor Webber, Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, and councilor Romero-Wirth.

Councilor Romero-Wirth noted that they overlooked item #2. Councilor Vigil Coppler pointed out that the motion for #2 died for lack of a second.

Mayor Webber said the amendment sheet is completed. He asked if there was further discussion on the main motion as amended. Seeing none, he called for the vote.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to approve Ordinance 2020-34, as presented.

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

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

**Against:** Councilor Vigil Coppler.

## 21. ADJOURN

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 12:37 a.m.

Approved by:



Mayor Alan Webber

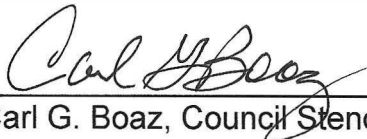
ATTESTED TO:



Kristine Mihelcic (Jan 21, 2021 10:41 MST)

Kristine M. Mihelcic, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer

CITY COUNCIL MEETING  
EXECUTIVE SESSION  
December 9, 2020

The Governing Body of the City of Santa Fe met in an executive session duly called on December 9, 2020 beginning at 5:32 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Discussion of Pending or Threatened Litigation, Specifically the American Medical Response Ambulance Service, Inc., Public Regulations Commission Case 20-00125-TRM and Joining an Amicus with the City of Los Angeles and Other Local Governments in Support of the State of New Jersey and the Mexican American Legal Defense and Educational Fund (MALDEF) in an Appeal from the Southern District Court of Texas to the Fifth Circuit Court of Appeals in State of Texas v. United States (S.D. Tex. 1:18-cv-00068).

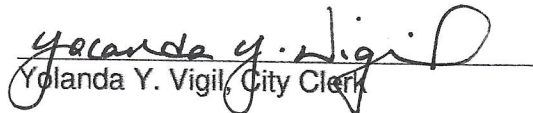
PRESENT

Mayor Webber (Attended Virtually)  
Councilor Abeyta (Attended Virtually)  
Councilor Cassutt-Sanchez (Attended Virtually)  
Councilor Garcia (Attended Virtually)  
Councilor Lindell (Attended Virtually)  
Councilor Rivera (Attended Virtually)  
Councilor Romero-Wirth (Attended Virtually)  
Councilor Vigil Coppler (Attended Virtually)  
Councilor Villarreal (Attended Virtually)

STAFF PRESENT

Jarel LaPan Hill, City Manager (Attended Virtually)  
Erin K. McSherry, City Attorney (Attended Virtually)  
Yolanda Y. Vigil, City Clerk (Attended Virtually)  
Paul Babcock, Chief, Fire Department (Attended Virtually) (Left at 5:50 p.m.)  
Michael Suber, Chief Medical Officer, Fire Department (Attended Virtually) (Left at 5:50 p.m.)  
Andrea Salazar, Assistant City Attorney (Attended Virtually) (Left at 5:50 p.m.)

There being no further business to discuss, the executive session adjourned at 5:55 p.m.

  
Yolanda Y. Vigil, City Clerk










# 12-09-20 Governing Body

Final Audit Report

2021-01-21

Created:	2021-01-14
By:	Geralyn Cardenas (gfcardenas@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAh4DYpKXNnN28Ei88C_-OI7RjkZv_OKfT

## "12-09-20 Governing Body" History

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-  Document e-signed by Alan Webber (amwebber@santafenm.gov)  
Signature Date: 2021-01-15 - 4:04:23 AM GMT - Time Source: server- IP address: 76.127.55.244
-  Document emailed to Kristine Mihelcic (kmmihelcic@santafenm.gov) for signature  
2021-01-15 - 4:04:25 AM GMT
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