



# AGENDA

REGULAR MEETING OF  
THE GOVERNING BODY  
FEBRUARY 24, 2021  
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 in excess of those permitted in the current Public Health Order, 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 legislative 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 <https://santafe.primegov.com/public/portal>.

**Public Comment:** 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/92434805597?pwd=S1NPZkVWUlhJR3FsbFRIVENUdW5kZz09>.

**Passcode: 421605**

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: 924 3480 5597 - Passcode: 421605**  
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**

Councilor Garcia

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

Councilor Rivera

4. **INVOCATION**

Councilor Cassutt-Sanchez

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **APPROVAL OF CONSENT CALENDAR**

8. **APPROVAL OF MINUTES**

- a. Special Governing Body Meeting – December 1, 2020
- b. Special Governing Body Meeting – January 21, 2021
- c. Regular Governing Body Minutes – January 27, 2021
- d. Special Governing Body Meeting – February 1, 2021
- e. Regular Governing Body Meeting – February 10, 2021

9. **PRESENTATIONS**



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- a. COVID-19 Update Pursuant to Resolution 2020-51. (Jarel LaPan Hill, City Manager, [jlapanhill@santafenm.gov](mailto:jlapanhill@santafenm.gov), 955-6848 and Kyra Ochoa, Interim Director of Community Health and Safety, [krochoa@santafenm.gov](mailto:krochoa@santafenm.gov), 955-6603) **INFORMATION ONLY**
  - b. Economic Development Department Overview of the Midtown Bi-Weekly Development Update Report (Rich Brown, Director, Community & Economic Development Department, [rbrown@santafenm.gov](mailto:rbrown@santafenm.gov), 955-6625 and Daniel Hernandez, Project Director at Proyecto LLC, Andrea Salazar, Assistant City Attorney, [asalazar@santafenm.gov](mailto:asalazar@santafenm.gov), 955-6303) **INFORMATION ONLY**

## 10. CONSENT CALENDAR

- a. Request for Approval of the Use of the 2018 NMGRT Reallocation of \$322,190 Capital Funds from the GCCC Mezzanine Project within Public Works for the Purchase of a Replacement Street Sweeper for the Streets Division. (Thomas Martinez, Interim Transit Director Streets Division, [tamartinez@santafenm.gov](mailto:tamartinez@santafenm.gov), 955-2402)

### **COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/08/21

Finance Committee: 02/15/21

Governing Body: 02/24/21

- b. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_\_. (Mayor Webber, Councilor Villarreal, Councilor Rivera, and Councilor Vigil Coppler) A Resolution Designating the First Monday in March as “COVID-19 Memorial Day” in Remembrance of Those Who Have Lost Their Lives and in Honor of Those Who Continue to Suffer From the Impact of the Virus; and Urging Residents to Continue Taking Preventative Measures to Mitigate the Spread of the Virus. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

### **COMMITTEE REVIEW:**

Finance Committee: 02/15/21

Quality of Life Committee: 02/17/21

Governing Body: 02/24/21

- c. Request for Approval of a Budget Increase (BAR) for the Purchase of Four Collection Vehicles, in the Total Amount of \$945,329; Rush Truck Center & Bruckner’s Truck Sales Via the Cooperative Education Services and Chalmers



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Ford Via the Statewide Price Agreement. (Shirlene Sitton, ESD Division Director, [sesitton@santafenm.gov](mailto:sesitton@santafenm.gov), 955-2209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- d. Request for Approval of the Purchase of Four Collection Vehicles, in the Total Amount of \$945,329; Rush Truck Center & Bruckner's Truck Sales Via the Cooperative Education Services and Chalmers Ford Via the Statewide Price Agreement. (Shirlene Sitton, ESD Division Director, [sesitton@santafenm.gov](mailto:sesitton@santafenm.gov), 955-2209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- e. Request for Approval of a Budget Adjustment Resolution (BAR) in the Amount of \$250,000 in FY21 to Wildland Fire Operations Including 15 Temporary Seasonal Wildland Employees. (Brian Moya, Assistant Fire Chief, [bjmoya@santafenm.gov](mailto:bjmoya@santafenm.gov), 955-3111)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/2021

Quality of Life Committee: 02/17/2021

Governing Body: 02/24/2021

- f. Request for Approval of a Budget Adjustment Resolution (BAR) in the Amount of \$62,000 FY21 to Fund the Consultant Team that Will Facilitate the Culture, History, Art, Reconciliation, and Truth (CHART) Process. (Pauline Kamiyama, Arts and Culture, [pkkamiyama@santafenm.gov](mailto:pkkamiyama@santafenm.gov), 955-6653 and Kristine Mihelcic, Director of Public Engagement, [kmmihelcic@santafenm.gov](mailto:kmmihelcic@santafenm.gov), 955-6846)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/2021

Public Works and Utilities Committee: 02/22/2021

Governing Body: 02/24/2021

- g. Request for Approval of Professional Services Contract (MUNIS Contract #3202481) with Santa Fe Conservation Trust for the Development of a Safe



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Routes to School Program Not to Exceed \$293,406 Funded by a Federal Transportation Alternative Program Grant. (Melissa McDonald, Acting Parks Division Director, [mamcdonald@santafenm.gov](mailto:mamcdonald@santafenm.gov), 955-2105 and Erick Aune, Santa Fe MPO Senior Planner, [ejaune@santafenm.gov](mailto:ejaune@santafenm.gov), 955-6664)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/2021

Public Works & Utilities Committee: 02/22/2021

Governing Body: 02/24/2021

- h. Request for Approval of Amendment #1 to Original Service Contract 20-0263 with FacilityBUILD, Inc. to Increase Compensation in the Amount of \$445,000 for Design/Build Services on a New Restroom in Downtown Santa Fe. (Curt E. Temple, Facilities Division Project Administrator, [cetemple@santafenm.gov](mailto:cetemple@santafenm.gov), 955-5937)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/08/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- i. Request for Approval of the Purchase of Two Automated Side Load Collection Vehicles in the Total Amount of \$743,982 for Residential Recycling and Waste Collection Services; Rush Truck Center Via the Cooperative Education Services. (Shirlene Sitton, ESD Division Director, [sesitton@santafenm.gov](mailto:sesitton@santafenm.gov), 955-2209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- j. Request for Approval of Amendment No. 1 to MOA with the Santa Fe County in the Total Amount of \$0 for the Jointly Funded SF Film Office. (Randy Randall, TSF Executive Director, [randall@santafenm.gov](mailto:randall@santafenm.gov), 955-6209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/08/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- k. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_\_. (Councilor Vigil Coppler, Councilor Garcia, and Councilor Villarreal)



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A Resolution Requiring Governing Body Approval Prior to Announcing the Availability of Any City-Owned Land, Buildings, or Other Real Property for Sale. (Andrea Salazar, Assistant City Attorney; [asalazar@santafenm.gov](mailto:asalazar@santafenm.gov), 955-6303 and Rich Brown, Economic and Community Development Director, [rdbrown@santafenm.gov](mailto:rdbrown@santafenm.gov), 955-6625)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/21

Governing Body: 02/10/21

Finance Committee: 02/15/21

Governing Body: 02/24/21

## 11. DISCUSSION/ACTION ITEMS

- a. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_\_. (Finance Committee) A Resolution Requesting Approval of Second Quarter Budget Amendments for Fiscal Year 2020-2021. (Andy Hopkins, Principal Budget Analyst, [ajhopkins@santafenm.gov](mailto:ajhopkins@santafenm.gov), 955-6177)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/21

Governing Body: 02/24/21

- b. Request for Authority for the City Attorney's Office to Finalize Terms, and Mayor to Execute, a Cost Sharing Agreement with the County of Santa Fe and Las Campanas Water and Sewer Cooperative for the Lease-Purchase of Energy Efficiency Equipment and Improvements to be Performed Under the Energy Savings Performance Contract with Yearout Energy to Reduce the Energy Use of the Buckman Direct Diversion Project, Consistent with the Terms of the Parties' Joint Powers Agreement. (Regina Wheeler, Public Works Director, [rawheeler@santafenm.gov](mailto:rawheeler@santafenm.gov), 955-6622)

**COMMITTEE REVIEW:**

Governing Body: 02/24/2021

- c. Request for Approval of an Agreement with the Buckman Direct Diversion ("BDD") Board Allowing for the Installation of Energy Efficiency Equipment and Improvements at the BDD Project and Providing for the Transfer of Such Equipment and Improvements to the BDD Board. (Regina Wheeler, Public Works Director, [rawheeler@santafenm.gov](mailto:rawheeler@santafenm.gov), 955-6622)



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**COMMITTEE REVIEW:**

Governing Body: 02/24/2021

- d. Request for Approval of an Agreement with the Estate of Tobin Williams for a Settlement Amount of \$500,000. (Erin K. McSherry, City Attorney, [ekmcsberry@santafenm.gov](mailto:ekmcsberry@santafenm.gov), 955-6512)

**COMMITTEE REVIEW:**

Governing Body: 02/24/2021

**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), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe is a Party, Including, but not Limited to, Albuquerque City of, et al., v. New Mexico Taxation and Revenue Department, et al., D-202-CV-2018-08036, Regarding Historic Calculations and Distributions of Gross Receipts Taxes. (Erin K. McSherry, City Attorney, [ekmcsberry@santafenm.gov](mailto:ekmcsberry@santafenm.gov), 955-6512)

**14. MATTERS FROM THE CITY CLERK**

**15. COMMUNICATIONS FROM THE GOVERNING BODY**

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

**16. ROLL CALL**

**17. PETITIONS FROM THE FLOOR**

**18. APPOINTMENTS**

- a. Mayor's Youth Advisory Board – Miguel Angel Gonzalez Moreno



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## 19. PUBLIC HEARINGS

- a. CONSIDERATION OF BILL NO. 2021-1. ADOPTION OF ORDINANCE NO. 2021-\_\_\_\_. (Councilor Rivera)

An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance (“UTO”); Amending Various Sections to Insert a Clause Stating that a Person Who Violates a Provision of the Particular Section is Guilty of a Penalty Assessment Misdemeanor; Creating a New Subsection 12-6-12.2A to Establish a Charge for Driving While Intoxicated with a Minor in the Vehicle; Amending Subsection 12-6-12.6 to Remove References to Driving When Privilege to do so Has Been Revoked; Creating a New Subsection 12-6-12.6A to Establish a Charge for Driving While License is Administratively Suspended; Creating a New Subsection 1-6-12.6B to Establish a Charge for Driving When the Privilege to do so Has Been Revoked; Amending Subsection 12-6-13.11 to Establish a Fine for Littering; Amending Subsection 12-10-4.1 to Permit the Use of a Portable Electronic Device to Show Proof of Insurance; Amending Schedule A of the UTO to Add the Fines Associated with the Addition of the Penalty Assessment Misdemeanor Provisions; and Amending Section 24-1.1 SFCC 1987 to Add the UTO as an Exhibit A to the end of Chapter 24, SFCC 1987. (Kyle Hibner, City Prosecutor, [kjhibner@santafenm.gov](mailto:kjhibner@santafenm.gov), 955-5195)

**COMMITTEE REVIEW:**

Finance Committee: 01/19/21

Quality of Life Committee: 01/20/21

Governing Body (Request to Publish): 01/27/21

Governing Body (Public Hearing): 02/24/21

- b. CONSIDERATION OF BILL NO. 2021-2. ADOPTION OF ORDINANCE NO. 2021-\_\_\_\_. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera)

An Ordinance Approving Global Management Performance Contract with Dalkia Energy Solutions, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Global Management Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, [bjfluetsch@santafenm.gov](mailto:bjfluetsch@santafenm.gov), 955-6885)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Finance Committee: 02/15/21

Governing Body (Public Hearing): 02/24/21



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- c. CONSIDERATION OF BILL NO. 2021-3. ADOPTION OF ORDINANCE NO. 2021-\_\_\_\_. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera) An Ordinance Accepting Investment Grade Audit Report and Approving Energy Savings Performance Contract with Yearout Energy Services, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Energy Savings Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, [bjfluetsch@santafenm.gov](mailto:bjfluetsch@santafenm.gov), 955-6885)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21  
Governing Body (Request to Publish): 01/27/21  
Public Works and Utilities Committee: 02/08/21  
Finance Committee: 02/15/21  
Governing Body (Public Hearing): 02/24/21

- d. CONSIDERATION OF BILL NO. 2021-4. ADOPTION OF ORDINANCE NO. 2021-4. (Mayor Alan Webber, Councilor Lindell and Councilor Rivera) An Ordinance Approving Lease-Purchase Agreement and Escrow Agreement with Sterling National Bank for the Purpose of Financing the Installation of Energy Efficiency Measures in City Facilities Pursuant to the Energy Savings Performance Contract with Yearout Energy Services, LLC and the Global Management Performance Contract with Dalkia Energy Solutions, LLC. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, [bjfluetsch@santafenm.gov](mailto:bjfluetsch@santafenm.gov), 955-6885)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21  
Governing Body (Request to Publish): 01/27/21  
Public Works and Utilities Committee: 02/08/21  
Finance Committee: 02/15/21  
Governing Body (Public Hearing): 02/24/21

## 20. ADJOURN

### UPCOMING PUBLIC HEARINGS

Meeting Date – March 10, 2021

**CONSIDERATION OF BILL NO. 2021-5. ADOPTION OF ORDINANCE NO. 2021-\_\_\_\_.** (Councilor Cassutt-Sanchez, Councilor Abeyta and Councilor Villarreal)  
An Ordinance Amending Section 7-1.1 SFCC 1987 to Adopt the Newest Version of the International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division; and Amending Section 7-4.2 SFCC 1987, City of Santa Fe Green Building Code, to



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Update Code References in Conjunction with the Adoption of the 2018 International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division. (Jason Kluck, Assistant Planning and Land Use Director, [jmkluck@santafenm.gov](mailto:jmkluck@santafenm.gov), 955-6729)

Publication Date – February 17, 2021

**COMMITTEE REVIEW:**

Quality of Life Committee: 02/3/21

Public Works and Utilities Committee: 02/8/21

Governing Body (request to publish): 02/10/21

Governing Body (public hearing): 03/10/21

**City of Santa Fe Fiscal Year 2021 Annual Operating Budget Presentation and Fiscal Year 2022 Annual Operating Budget Public Hearing.** (Mary McCoy, Finance Director, [mtmccoy@santafenm.gov](mailto:mtmccoy@santafenm.gov), 955-6171)

**COMMITTEE REVIEW:**

Governing Body: 03/10/2021

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.

**SUMMARY INDEX**  
**Governing Body**  
**February 24, 2021**

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2. Pledge of Allegiance	Led by Councilor Abeyta	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 amended	2-3
7. Approval of Consent Calendar	Approved as amended	3
8. Approval of Minutes		
a) Special Meeting on December 1, 2020	Approved as presented	3
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c) Regular Meeting on January 27, 2021	Approved as amended	4
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b) Midtown Presentation	Update presented	9-15
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k) Land Sale Preapproval	Referred to Public Works	20-30
11. Discussion/Action Items		
a) Second Qtr. Budget Amendment	Approved	31-32
b) Cost Sharing agreement	Postponed to March 10, 2021	32
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e) Tobin Williams Estate Settlement	Approved	34
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17. Petitions from the Floor	Petitions made	35-36
18. Appointments		
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19. Public Hearings		
a) Uniform Traffic Ordinance Amendment	Approved	36-38
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c) Energy Audit Contracts	Approved	56-57
d) Lease & Escrow Agreements	Approved	57-60
20. Adjournment	Adjourned at 11:55 pm	65

**Minutes of the  
Regular Meeting of the Governing Body  
Wednesday, February 24, 2021  
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, February 24, 2021, at approximately 4:01 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 Rivera.

**4. INVOCATION**

The invocation was led by Councilor Cassutt-Sanchez. Reflected on gratitude she felt for the opportunity to come together and work for our City and to have a spirit of cooperation for working together as the Governing Body and intelligent work of our Staff and for involvement of the community in our work.

Mayor Webber remembered Milo "Mike" McGonagle, who played an important role in banking and other realms of our City. Passed away at 90 years of age. Councilor Garcia agreed, he will be missed.

The Governing Body observed a moment of silence for those who have recently died and their grieving families.

**1. 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  
Kristine Bustos-Mihelcic, City Clerk  
Regina Wheeler, Public Works Director  
Rich Brown, Economic and Community Development Director  
Andrea Salazar, Assistant City Attorney  
Marcos Martinez, Assistant City Attorney  
Kyra Ochoa, Community Services Director  
Andrew Padilla, Police Department Chief  
Carl Boaz, Council Stenographer

2. **APPROVAL OF AGENDA**

Ms. McSherry, on cost sharing, recommended postponing Item 11 (b) to the March 10, 2021 meeting.

**MOTION:** Councilor Cassutt-Sanchez moved, seconded by Councilor Villarreal, to approve the agenda as amended, postponing Item 11 (b) to March 10, 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.

3. **APPROVAL OF CONSENT CALENDAR**

Councilor Garcia asked to remove 10(b) for discussion.

Councilor Lindell asked to remove 10(k) for discussion.

**MOTION:** Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the Consent Calendar as amended with items b) 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. Special Governing Body Meeting – December 1, 2020

**MOTION:** Councilor Lindell moved, seconded by Councilor Villarreal, to approve the minutes of the meeting on December 1, 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 Meeting – January 21, 2021

**MOTION:** Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the Minutes of the January 21, 2021 meeting 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. Regular Governing Body Minutes – January 27, 2021

Councilor Villarreal noted this was postponed because of tech difficulties on her part. The changes she requested were: Councilor Villarreal on page 1, remembered Maria Rita Perea, taken by COVID, mother of her childhood friends. Also Richard “Dick” Duerr, died from COVID, and if he had lived, would have received his vaccine on his 91<sup>st</sup> birthday. He was survived by his wife and family. And she remembered Pete Gurule, who was shot and killed at his front door and was 40 years old.

She said there was another name that she did not know that Councilor Vigil Coppler had corrected, but a last name of Oscar was not accurate. And Councilor Lindell offered her condolences to Mike and Jenny Mier (not Meyer). And on page 16, she cosponsored Councilor Vigil Coppler’s resolution (not Councilor Lindell’s resolution).

Councilor Vigil Coppler requested substituting “Arevelo” for “Olevelo” on page 1.

**MOTION:** Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the minutes of January 27, 2021 as amended.

**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.

d. Special Governing Body Meeting – February 1, 2021

Councilor Villarreal, on page 18 – Jay’s last name is spelled Coglán. [NOTE: this correction was for the minutes of February 10, 2021.]

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes of February 1, 2021 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. Regular Governing Body Meeting – February 10, 2021

Councilor Villarreal apologized and said the previous correction she requested was actually for these minutes and not February 1, 2021. On page 18, Jay’s last name should be spelled Coghlan.

Ms. McSherry said that was okay.

**MOTION:** Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes of the meeting on February 10, 2021 as amended, changing a name of page 18 to the correct spelling.

**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 Webber alerted those in the waiting room that opportunity to speak will be in the evening session.

9. **PRESENTATIONS**

- a. COVID-19 Update Pursuant to Resolution 2020-51. (Jarel LaPan Hill, City Manager, [jlapanhill@santafenm.gov](mailto:jlapanhill@santafenm.gov), 955-6848 and Kyra Ochoa, Interim Director of Community Health and Safety, [krochoa@santafenm.gov](mailto:krochoa@santafenm.gov), 955-6603) **INFORMATION ONLY**

Ms. Bustos-Mihelcic read the caption aloud.

Director Ochoa was present.

Manager LaPan Hill wanted to acknowledge changes made publicly today. Santa Fe County will remain yellow and has an 8% positivity rate. This status is for the next two weeks.

A new color of turquoise was added, and several changes were made in the definitions of existing colors. We are reviewing all of that. And being on green is an opportunity to open the ice rink. We will continue to review that.

For the last two weeks hopefully we will open Fort Marcy. The numbers are down but there is still severity and we will be working closely with all employees on mask wearing while working, etc.

Director Ochoa reported seeing definite decreases in rates. Vaccine rates and her team were present. She noted that New Mexico is now at #2 for vaccination of least one dose, only behind Alaska. South Dakota is #3. We have used 93% of our vaccines. In the County, 18.3% are partially and 10.7 are fully vaccinated.

She is still having weekly meeting with Christus, La Familia, and PMS reporting. There are equity concerns. La Familia said people of color have lower life expectancy and are only getting vaccine at the same rates. She will have more details to share later. She thanked Chief Padilla for their reports. They are seeing greater compliance with our ordinance.

Councilor Cassutt-Sanchez appreciated utilizing this time for updates on different things to be thinking about. It was great to hear of our national ranking. She recalled the City previously reported a higher percentage of vaccinations. Two weeks ago it was 25% and now is 20%.

Director Ochoa said it was due to counting differently. We previous reported people from out of state and DOH has adjusted their counting mechanism.

Ms. McSherry explained the numbers had been those administered in the County vs. the home of the person vaccinated. DOH asked to have that changed. For instance, medical personnel might work here but not live here.

Director Ochoa said those in the state should be counted but not those who leave the State to get vaccinated.

Councilor Cassutt-Sanchez asked for any information on the date of the next vaccine shipment.

Director Ochoa didn't have information on that. Some were delayed from the extreme weather. They will know on Monday what will come later in the week.

Mayor Webber had numbers from the Conference of Mayors. The Biden COVID team is looking to ship 13.5 million doses weekly. That is a 17% increase in shipments. And they didn't have breakdown by state or locality. The Johnson & Johnson vaccine will probably not ramp up until the end of June with 100 million capability then. J&J is a one-dose vaccination medication. So the others must be divided by two and J&J doses would be 100 million people.

Councilor Cassutt-Sanchez thanked Director Ochoa for that update. She asked if the report does not include the Health and Safety Report.

Director Ochoa referred that to Chief Padilla.

Chief Padilla clarified that it is on their weekly reports and not part of this presentation. He commented that some of the citation could be in here, but that operation ends on February 28.

Councilor Cassutt-Sanchez commented, when looking at zip code distribution from an equity standpoint, that those in 85707 are hardest hit and we need to be there.

Councilor Vigil Coppler asked Chief Padilla on the report, page 1, #2, that the time the call is received and then dispatched seemed to be a long time. She wondered if she was reading it right.

Chief Padilla said she was and explained that information is from RECC.

Councilor Vigil Coppler understood this was approved to be 2-3 examples.

Chief Padilla explained there was no change in the levels.

Councilor Vigil Coppler said okay. It sounds like when the officer arrives, that everything is good – people have their masks on when the officer gets there, and the officer doesn't find any violation. Hopefully, people would learn from that. She understood the fine is significant. She asked Chief Padilla if catching people in the act is not possible.

Chief Padilla agreed. It is always the time factor and a delay in getting there. By that time, the person who was reported to be in violation is no longer there when the officer arrives. Or else the reporter was misinformed. There was a report accusing the Atrisco restaurant of dining inside, but they were all eating on the patio. So that could have gotten confused.

Councilor Vigil Coppler said it proves you all are pretty active.

Councilor Rivera reiterated the importance of getting vaccinations to the 87507 area. Some people have no vehicles and cannot get to the hospital in time. So the Southside Library would be much closer. The only question he had was about the stock we have available. Kyle has the information and he saw it winding down with 35,000 nitrile gloves size large. He didn't know what we will do with that unused stock.

Director Ochoa said Kyle and his team can speak to that.

Kyle said they are working with Staff on supplies. We are not ordering just for the sake of ordering.

Director Ochoa added that when the City gets to green, we might have to use for more of those as employees get on site.

Councilor Rivera asked what the difference is between A95 and K95s. One of them is going faster.

Kyle said it is just a different monitoring standard across the country and we are not able to provide those. The K-95 is great for Staff that are more active. And A 95 masks are more appropriate for general Staff. Regular N 95s are provided to Fire and Emergency Staff who are going into homes to help get people registered and for infections there. They are approved for medical Staff.

The 3M95 is just the brand. They are on the US standard and we use our supplies on a first in/first out basis. So none are on the shelf for long.

Councilor Rivera asked about the protocols for disposing them.

Kyle said there is no official process, but we are working through it and doing a hazard assessment. And the information will be distributed at that time.

Councilor Cassutt-Sanchez asked Manager LaPan Hill if she has a schedule on testing employees.

Manager LaPan Hill agreed. The policy is under review by Legal and then will be shared and moved forward. We hope it is still relevant for mid-March with more re-openings for all employees. We've been working with DOH on the logistic side and once reviewed, we are still looking at about another month and tied with the policy.

Councilor Cassutt-Sanchez was happy to hear about conversations with DOH.

Mayor Webber said they have made availability of sites a priority for the south side and will keep the logistics moving. It continues to be a case for availability of the vaccine. It isn't worked out yet. There continues to be not enough vaccine and DOH and other providers will be as efficient as possible. He suggested using the Ball Park for testing. The more that are negative, the better our path to green and if we maintain that, we will be a county to move to the new color just announced today. We are on the way but not yet out of the tunnel. Continue to wear masks, wash hands, use hand sanitizer.

- b. Economic Development Department Overview of the Midtown Bi-Weekly Development Update Report (Rich Brown, Director, Community & Economic Development Department, rdbrown@santafenm.gov, 955-6625, Daniel Hernandez, Project Director at Proyecto LLC, and Andrea Salazar, Assistant City Attorney, asalazar@santafenm.gov, 955-6303)  
**INFORMATION ONLY**

Ms. Bustos-Mihelcic read the caption for this presentation for Midtown information by Director Rich Brown.

Director Brown reported his team has a couple of presentations. We are still getting clear on our path forward and have more information to share today. For his presentation, (Sean Moody, Andrea Salazar, Daniel Hernandez, and Dena Belzer were present to provide information.

He referred to Resolutions 2017-78 and 2018-54 which provided direction regarding Midtown. Mr. Hernandez and Ms. Belzer will address the next steps.

Ms. Salazar highlighted the directives from Resolution 2017-78 and pointed out what is still on the table - #2 and #5. # 10 and #11 are the pieces still moving forward and we are examining different models. The Resolution 2018-54 gives direction, and the middle paragraph is underlined in the RFP for feasibility and community involvement. The last directive asked the City Manager to keep pursuing the underlying policy. What came out of the 2018 resolution was the final report that outlines Concept Stage, Planning Stage, and Implementation Stage. It memorialized the Concept Stage and now moving to the Planning Stage and follow with the Implementation Stage.

Director Brown said, in following through the resolutions, the FTEs are working on what the property needs. And then we will bring our recommendations with the RFEI process. We are looking at all proposals and keep going on our two-week updates to walk through the recommendations when they are done.

Mr. Hernandez went to Next Steps and said they wanted to continue building the knowledge base from community and Governing Body. He reviewed the three goals again. In particular, the financial goals and process to be used as we consider different strategies for Midtown that were approved by the Governing Body.

He wanted to build on Ms. Belzer's presentation last month on Land Use and Land Disposition. The more investment we make, the more we can ask for public policy in sustainable and equitable objectives. And the more we can partner with ability to negotiate goals and strategies. How we might

think. If we decided to sell tomorrow- we would have less to get from this property.

Incremental Development is based on the principle of building all. Phasing strategy is in which elements or parts are developed as real estate market development to allow flexibility that reacts to the changes.

Objectives mean that we can decide what is minimal and what is more developed. To be flexible for the City to respond at that level while providing realities of it. That is not piecemeal development but zoning strategies and opportunity for local developers to participate in the smaller increments. It was part of why we asked the developer to bring in a team for development. This notion of incremental strategy will help with that.

Horizontal Development usually has two types for a developer entering the site and preparing for vertical development, clearing the site, main utility lines and where primary roads connect to the site. Initial investments are called horizontal investments and allow more vertical development to follow. The owner considers where to do horizontal investment. How much to I want to get ready to put it on the market that increases its value? We can think of doing it on our own or with a Master Developer.

The City may take on the infrastructure of primary work and leave secondary and tertiary up to the developer. What we can do to the site and what kind of development we want to do.

At Midtown, those were all identified at a charette and the Steering Team created teams for overcoming the challenges.

Horizontal development also considers long-term financing. There were seven teams originally and then consolidated because they are so interlocked with each other. And infrastructure can be integrated in increments, as well.

For Public Engagement, we will present on March 10. The team has finished their work and one draft was presented to the Quality-of-Life Committee last week. The other thing is to work with the Office of Economic Development. Each month we will come back to the Governing Body, with the work updates and topic presentations.

The Evaluation Committee will report on March 31.

Strategic Tactics Team will deal with rezoning and Land Use Zoning, once the RFEI direction is set. It will be for mixed use and infrastructure and thinking about it incrementally but not piecemeal. He identified some of the connections that we heard before were problems and make sure

connectivity is clear. We only had anecdotal information on those utility lines. And that will adjust the risk. We want stormwater to be the driver to help identify land use patterns.

Existing Buildings is about being categorized. Substandard buildings will be identified and demolished; Temporary use will continue with preparation for demolition; rehabilitation and reuse of buildings will be identified and assess investment needed and code requirement for building reuse.

Public Finance is working with Finance on various financing structures and identifying incentives applicable to Midtown. The City has inclusionary zoning as a requirement and others to consider.

Mr. Hernandez showed a calendar on reports and presentations. He said the next report will be on RFEI on March 31. Director Isaacson will present on April 14, and the Incremental Development Report will be presented on April 28. May 12 will include existing buildings and public financing and public engagement. The schedule stops at July 28.

They will also update the website and the reports will be uploaded for public access.

Mayor Webber thanked Mr. Hernandez for the calendar.

Councilor Garcia thanked Director Brown and Ms. Salazar for the updates. He had questions for clarification on the timeline. It is extensive through July 28 with reports and presentations, but he wondered when the Governing Body will get to decide. It feels like we are kicking the can down the road. It is very deep concern to be getting these reports and spending hundreds of thousands into July with no decision. He asked if the presenters could clarify when the Governing Body will be presented the opportunity to decide. That is what he was hearing from public constituents.

Director Brown said he expected to have recommendations on March 4 for moving forward. And want the guideline ready around that decision. We will have scores evaluated on the March 31 to identify for the Governing Body. These reports are to inform the public that we are not waiting around. On March 10, we could go into executive session to answer more issues. That is what he will be striving for.

Councilor Garcia saw we have three roads in front of us – sell as is, do some investment and sell, or do all improvements ourselves.

Director Brown agreed. As we look at those options, we might have to amend the choices or get rid of all of them and then provide incremental development. So there are nuances on the path to take.

Councilor Garcia said, "Great." He assumed that on the March 31, the now five groups looking at the property and determining what it will cost us to rehabilitate and what it will cost for horizontal development. We want to make sure we have the information to decide at the 31<sup>st</sup>.

Director Brown said he may have some pieces of it but trying to get them all. He could not guarantee to have all those costs identified by then.

Councilor Garcia understood the goal is to have as much as possible.

He asked Mr. Hernandez's options to be shared again.

Mr. Hernandez briefly repeated the options.

Councilor Garcia said he was interested in the path we take. For instance, horizontal development – he would be interested in how we are going to rezone the property and start with housing where it would go on the property so we can put people in homes. The sooner we can get that going, the better. It is an opportunity.

Mr. Hernandez said we can move forward without thinking about a 64-acre development.

Director Brown said it focuses on the cost of the resolution to make sure he had clarified. He asked Ms. Salazar if he had clarified it.

Ms. Salazar said the resolution says we will take the information we have and move forward. The City is invested in moving forward with development – not selling all or part of it but to work over the long term. If you change and go outside for those next steps, a new resolution would be needed. And Mr. Brown would know how to develop the land from concept to implementation. Hopefully, that makes more sense.

Councilor Garcia agreed. Thanks for the presentation. Lots of folks are interested in this process and allowing them to ask questions.

Councilor Vigil Coppler thanked them for the presentation. She felt a bit of a loss. The power point is really good and helps a lot. But in looking at the things in the packet, she assumed that is what the public is seeing. Some acronyms are not defined but it is important to present it so the public can understand what it says. She understood the horizontal and incremental terms. She wanted to go back to the decision tree you gave Council. What are we doing with the previous runner-up? Is there any communication on that?

Director Brown had no contact with them, but we have a full packet for the RFEI.

Councilor Vigil Coppler remembered 22 applicants.

Director Brown said he is not sharing previous decisions but debate and come up with next steps. He and Manager LaPan Hill will bring that to Council next month We are working to get those proposals but need to make sure the Governing Body is part of that process.

Councilor Vigil Coppler was hearing that there is more information here than what is going to those three points. She thought it is slowing down the process. As Councilor Garcia said, we can talk about it forever.

She asked to be reminded who is on the strategic task team and to know if we lost any member.

Mr. Hernandez said they have not lost anyone. She would share the list on her screen.

Councilor Vigil Coppler said she heard Ms. Salazar say RFEI and RFP are the same thing, but she didn't see them as the same.

Ms. Salazar explained that the process we used is an RFP type process. We requested expressions of Interest but were using the process as an RFP.

Councilor Vigil Coppler said RFEI has a different process. And the Governing Body should decide which process we want to use. MRA means Metropolitan Redevelopment Act. She asked if Ms. Salazar was going to expand on that.

Mr. Hernandez said they have it on the calendar and all tools available will be discussed then.

Councilor Vigil Coppler asked what DPAC means. That was not explained anywhere.

Mr. Hernandez said it stands for Design Planning Assistance.

Councilor Vigil Coppler asked who is on the Strategic Team. A presentation was made to the EDAC and they had many questions on it and the Resolution that created them. One thing they mentioned in the meeting was that it seemed only the inner-circle people were on the team. They wanted more transparency in the process and perhaps some outside talent sitting

in with the review board. She said it would be very helpful to get those reports before the meeting.

Mr. Hernandez said they would try to provide them prior to the meeting.

Director Brown explained they were building them an hour before the meeting and then make them available after the meeting so only about a few minutes ahead.

Councilor Vigil Coppler thought even 30 minutes before would help. She would have had fewer questions that way.

Mayor Webber pointed out that it was now 5:40 and much of this has been covered already. He asked for no repetitions and not keep folks waiting.

Councilor Lindell noted that between now and the end of July, the city will have spent \$1,350,000. We are talking about offsite improvements that reduce risks for the developer. That should be made clear if the City wants to take on the risk.

Secondly, she didn't know why we are not contacting others who had responded to the RFEI. Some of them may not be interested, but with all that work done. They have spent hundreds of thousands on their part. So it is worth contacting them. Some may not be interested any longer, but others could be.

Councilor Cassutt-Sanchez, regarding diligence in engagement, was curious why we are not moving toward rezoning. We know rezoning is needed to move forward.

Mr. Hernandez said they are gearing up to do that. The question is how we move forward with the RFEI. In the recommendation for a Master Developer, the RFEI asked for the Master Developer to propose on the scope of work. If we get rid of any Master Developer, we will take on much of that ourselves. So how we do the Master Developer will show us how we can move forward. How we move this forward and be ready immediately after to move it forward. We don't want to get ahead of ourselves to get to those first phases.

Councilor Cassutt-Sanchez thanked him.

Mr. Hernandez said the Public Engagement consideration is March 10.

Councilor Cassutt-Sanchez understood. That is crucial in moving forward. That will require a decision by the Governing Body. It is a tough balance and

worth thinking about for Public Engagement and Land Use presentations that are needed as we develop that schedule.

Mr. Hernandez said it is not as though they will wait. We got a lot of information at the charette in December. You will see the progress. But we don't want to get ahead of the public on it.

Councilor Cassutt-Sanchez said she knew the Staff is hard at work.

There were no further questions or comments.

## 10. **CONSENT CALENDAR LISTING**

- a. Request for Approval of the Use of the 2018 NMGRT Reallocation of \$322,190 Capital Funds from the GCCC Mezzanine Project within Public Works for the Purchase of a Replacement Street Sweeper for the Streets Division. (Thomas Martinez, Interim Transit Director Streets Division, tamartinez@santafenm.gov, 955-2402)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/08/21

Finance Committee: 02/15/21

Governing Body: 02/24/21

- b. This item was removed from Consent Calendar for discussion.

At 6:00, Mayor Webber said the Governing Body is not there yet. He apologized for being behind schedule.

- c. Request for Approval of a Budget Increase (BAR) for the Purchase of Four Collection Vehicles, in the Total Amount of \$945,329; Rush Truck Center & Bruckner's Truck Sales Via the Cooperative Education Services and Chalmers Ford Via the Statewide Price Agreement. (Shirlene Sitton, ESD Division Director, sesitton@santafenm.gov, 955-2209) **COMMITTEE**

**REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- d. Request for Approval of the Purchase of Four Collection Vehicles, in the Total Amount of \$945,329; Rush Truck Center & Bruckner's Truck Sales Via the Cooperative Education Services and Chalmers Ford Via the Statewide Price Agreement. (Shirlene Sitton, ESD Division Director, sesitton@santafenm.gov, 955-2209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021  
Governing Body: 02/24/2021

- e. Request for Approval of a Budget Adjustment Resolution (BAR) in the Amount of \$250,000 in FY21 to Wildland Fire Operations Including 15 Temporary Seasonal Wildland Employees. (Brian Moya, Assistant Fire Chief, [bjmoya@santafenm.gov](mailto:bjmoya@santafenm.gov), 955-3111)  
**COMMITTEE REVIEW:**  
Finance Committee: 02/15/2021  
Quality of Life Committee: 02/17/2021  
Governing Body: 02/24/2021
- f. Request for Approval of a Budget Adjustment Resolution (BAR) in the Amount of \$62,000 FY21 to Fund the Consultant Team that Will Facilitate the Culture, History, Art, Reconciliation, and Truth (CHART) Process. (Pauline Kamiyama, Arts and Culture, [pkkamiyama@santafenm.gov](mailto:pkkamiyama@santafenm.gov), 955-6653 and Kristine Mihelcic, Director of Public Engagement, [kmmihelcic@santafenm.gov](mailto:kmmihelcic@santafenm.gov), 955-6846)  
**COMMITTEE REVIEW:**  
Finance Committee: 02/15/2021  
Public Works and Utilities Committee: 02/22/2021  
Governing Body: 02/24/2021
- g. Request for Approval of Professional Services Contract (MUNIS Contract #3202481) with Santa Fe Conservation Trust for the Development of a Safe Routes to School Program Not to Exceed \$293,406 Funded by a Federal Transportation Alternative Program Grant. (Melissa McDonald, Acting Parks Division Director, [mamcdonald@santafenm.gov](mailto:mamcdonald@santafenm.gov), 955-2105 and Erick Aune, Santa Fe MPO Senior Planner, [ejaune@santafenm.gov](mailto:ejaune@santafenm.gov), 955-6664)  
**COMMITTEE REVIEW:**  
Finance Committee: 02/15/2021  
Public Works & Utilities Committee: 02/22/2021  
Governing Body: 02/24/2021
- h. Request for Approval of Amendment #1 to Original Service Contract 20-0263 with FacilityBUILD, Inc. to Increase Compensation in the Amount of \$445,000 for Design/Build Services on a New Restroom in Downtown Santa Fe. (Curt E. Temple, Facilities Division Project Administrator, [cetemple@santafenm.gov](mailto:cetemple@santafenm.gov), 955-5937)  
**COMMITTEE REVIEW:**  
Public Works and Utilities Committee: 02/08/2021  
Finance Committee: 02/15/2021  
Governing Body: 02/24/2021

- i. Request for Approval of the Purchase of Two Automated Side Load Collection Vehicles in the Total Amount of \$743,982 for Residential Recycling and Waste Collection Services; Rush Truck Center Via the Cooperative Education Services. (Shirlene Sitton, ESD Division Director, [sesitton@santafenm.gov](mailto:sesitton@santafenm.gov), 955-2209)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- j. Request for Approval of Amendment No. 1 to MOA with the Santa Fe County in the Total Amount of \$0 for the Jointly Funded SF Film Office. (Randy Randall, TSF Executive Director, [rrandall@santafenm.gov](mailto:rrandall@santafenm.gov), 955-6209) **COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/08/2021

Finance Committee: 02/15/2021

Governing Body: 02/24/2021

- k. This item was pulled for discussion by Councilor Lindell.

**CONSENT CALENDAR DISCUSSION:**

- b. CONSIDERATION OF RESOLUTION NO. 2021-13. (Mayor Webber, Councilor Garcia, Councilor Villarreal, Councilor Rivera, and Councilor Vigil Coppler)

A Resolution Designating the First Monday in March as “COVID-19 Memorial Day” in Remembrance of Those Who Have Lost Their Lives and in Honor of Those Who Continue to Suffer From the Impact of the Virus; and Urging Residents to Continue Taking Preventative Measures to Mitigate the Spread of the Virus. (Jesse Guillen, Legislative Liaison, [jbguillen@santafenm.gov](mailto:jbguillen@santafenm.gov), 955-6518)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/21

Quality of Life Committee: 02/17/21

Governing Body: 02/24/21

This item was pulled from consent for discussion by Councilor Garcia.

Ms. Bustos-Mihelcic read the caption.

Councilor Garcia stated, as someone who has lost loved ones to COVID, he was privileged to be a cosponsor of this Resolution. He asked what the City is planning to do in observance.

Mayor Webber didn't know about local observance but there is a national Memorial Day.

Councilor Garcia suggested if folks want to participate for those lost, maybe a photo slide show on the City website would be a suitable observance. They want to participate in some way and if not this year, encourage us to look forward to next year. There have been over half million deaths and, if we don't recognize them this year, we should next year.

Councilor Garcia moved to approve the Resolution.

Mayor Webber asked him to hold on because we have an amendment sheet to consider first before a motion. The idea of inviting people to honor them is terrific and a good and appropriate recommendation. We should update the number lost and take out "City" and insert "Santa Fe County."

Ms. McSherry recommended, we follow our usual protocol to make a motion first and then amend it.

**MOTION:** Councilor Garcia moved, seconded by Councilor Romero-Wirth, to approve the Resolution.

**Discussion on the Motion:**

Councilor Romero-Wirth asked if this is a one-time occasion or an ongoing thing. She didn't know which it is. She asked if it needs to say, "each year in March whatever"?

Mr. Guillen said it doesn't specify except to say, "first Monday in March" but it could be an ongoing annual event.

Councilor Romero-Wirth suggested it say, "the Governing Body hereby designates the first Monday in March each year as COVID Memorial Day."

Councilor Romero-Wirth moved to amend with that change. Councilor Garcia seconded the motion.

Councilor Rivera, on that point, said the State or Federal government may designate a different day. He recommended to just move without that and later pass a different resolution to coincide with it.

Councilor Romero-Wirth agreed and withdrew her motion.

Councilor Garcia agreed and withdrew his second.

**Amendment to the Motion:**

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Villarreal, to amend the resolution as Mayor Webber requested with updated numbers who died and to strike “City of Santa Fe” and insert “Santa Fe County and, on page 2 line 17, to strike the time of adoption and insert 135.

**Discussion on the Amendment:**

Councilor Villarreal pointed out they are not in the packet.

Councilor Romero-Wirth said they are not in the packet on PrimeGov.

Mayor Webber read, “On page 2, lines 15 and 16, strike the first occurrence of “number at time of adoption” and insert “2,485,000” and strike the second occurrence of “number at time of adoption” and insert “500,000 at the time of adoption.” And on page 2, lines 16 and 17, strike “City of Santa Fe” and inset “Santa Fe County.” On page 2 line 17, strike “time of adoption” and insert “135.”

**VOTE:** The motion to amend 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.

**Action on Amended Motion:**

**VOTE:** The amended 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.

- k. CONSIDERATION OF RESOLUTION NO. 2021-14. (Councilor Vigil Coppler, Councilor Garcia, and Councilor Villarreal)  
A Resolution Requiring Governing Body Approval Prior to Announcing the Availability of Any City-Owned Land, Buildings, or Other Real Property for Sale. (Andrea Salazar, Assistant City Attorney; asalazar@santafenm.gov,

955-6303 and Rich Brown, Economic and Community Development Director, rdbrown@santafenm.gov, 955-6625)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 02/8/21

Governing Body: 02/10/21

Finance Committee: 02/15/21

Governing Body: 02/24/21

This item was pulled for discussion by Councilor Lindell.

Ms. Bustos-Mihelcic read the caption. She explained there is a motion carried over from last session and a second to the motion.

Mayor Webber asked Councilor Vigil Coppler to proceed.

Councilor Romero-Wirth called a Point of Order. She was confused because Councilor Lindell pulled it for discussion and usually, we have the person who pulled it speak first.

Ms. McSherry explained that because it had already been moved and seconded and then postponed to today, we are currently in debate.

Councilor Garcia clarified that the Governing Body also agreed the sponsor gets to speak first, so it doesn't matter who pulled it.

Mayor Webber agreed and was why he turned first to Councilor Vigil Coppler.

Councilor Vigil Coppler said she wanted to reiterate the purpose of creating this Resolution – to move appropriate items, and, in this case, City assets – city land or property - over \$25,000, into a public forum. That forum would be to discuss any items regarding selling city-owned property to have the public know what we are discussing and why. It doesn't preclude going into executive session but to have the public know what we are doing. It is only for discussion in executive session and we vote in open session on whether to sell or not. Some sales don't need an executive session.

It went to EDAC and they strongly supported this resolution on selling property without discussing it. It is just an important resolution to have for all those reasons.

Councilor Vigil Coppler moved with amendments.

Councilor Romero-Wirth raised a Point of Order. The motion is already on the floor as she understood and Councilor Vigil Coppler only needs to move the amendment to the main motion.

### **Amendment to the Motion:**

**MOTION:** Councilor Vigil Coppler moved, seconded by Councilor Villarreal, to approve the amendments submitted by Councilor Villarreal, Councilor Garcia, and herself.

**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.

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

Councilor Vigil Coppler explained that the amendments were discussed and supports at the Finance Committee. They had good points and she thanked Assistant City Attorney Salazar for her help with the amendments.

Councilor Romero-Wirth thought there is a little difference in this approach from what she and Councilor Lindell were sponsoring, based on the Finance Committee discussion. Councilor Vigil Coppler said repeatedly there that we go from executive session and then out and don't do anything else and the staff just decides they can put the property on the market.

She explained that Councilor Lindell and Councilor Romero-Wirth's resolution is to fix that. None of our properties are clean and is why we go into executive session to figure out the best path forward. We would come out of executive session and staff present the property for sale. She didn't think the amendment in front of the Governing Body now will solve the problem. She reminded Council that she had voted against moving forward and thought the Governing Body should have done the work in committee instead of at the Governing Body meeting. Here, we are doing committee work at the Governing Body meeting.

Councilor Lindell, commenting on the amendment before us. She noted on page 2 line 3, that starts with whereas the Governing Body prefers to hold discussions on the sale of city-owned property, etc. and goes on to say, "in front of the public, during a public meeting if doing so would not harm the City's ability to leverage the competitive value of the real property when confidential... Nowhere does it say who makes those important decisions. We may have very deep disagreements over those issues. It was problematic for her and she had talked about that before.

On line 9 and 10, the Governing Body understands the importance of holding executive sessions for sales of city-owned property. She didn't understand that. But it is not called for here. She asked Ms. McSherry to address why, in the Open Meetings Act, real estate transactions are an exception. She understood Ms. McSherry and other attorneys in that office worked on a memo they sent out. At the bottom of page 2, it says, "an executive session allows City Staff ...

Ms. McSherry interrupted with a Point of Order. She said she sent it as a confidential memo to the Governing Body. So, if there is going to be a disclosure, she thought the Governing Body needs to vote on it.

Councilor Lindell asked if she could paraphrase from the memo.

Ms. McSherry said Councilor Lindell could ask her a legal question if she wanted.

Councilor Lindell felt like that was playing Jeopardy. In the form of a question, ....

Ms. McSherry explained that she could not provide opinions in a public meeting unless there is an expressed authorization to do so. She did not feel she had that expressed authorization during this meeting.

Councilor Vigil Coppler asked if the memo went to some or every one of the Councilors.

Councilor Lindell said it went to everyone. The memo made clear why, in the Open Meetings Act, real estate transactions are an exception and the purpose of it being an exception.

Councilor Vigil Coppler stated that handling City assets is a policy decision, and she was totally in favor of discussing those in executive session, as outlined in her resolution with the amendments. The "whereas" statements came from the City Attorney's Office. On page 2, Lines 3 - 9 spell out when we can and are encouraged to go into executive session. She had no quarrel with that. Councilor Romero-Wirth is right. We should not move from executive session to action. We need to come out and discuss and vote on the property. We have approved sale of city property in open session without an executive session. Occasionally, that will happen but there is a lot of staff work done on potential sales so they should know in that work, if they should continue to do the work if the Governing Body is not going to sell it. And they would never know that if we did not vote on it. So this resolution, with the amendments, gives the Governing Body direction to Staff without getting in the weeds to do their due diligence and give us an informed presentation enough to know whether the Governing Body would want to sell it or not,

whether they do that in executive session because of legal matters or do it in open session because they have not embarked on any legal matters yet.

The resolution is very flexible, and her intention is transparency above all. She understood Councilor Romero-Wirth and Councilor Lindell worked on an amendment to put a sunset clause on transparency. That is not her motion. She believed the Resolution was written to give Staff the flexibility but also provides that the Governing Body is in charge here. We should be voting on sale of property in public, whether we have a buyer or whether we even want to sell the property. She was not in favor of selling our assets. That is not okay. We need to have voting before those things happen. The public needs to know what we are doing with their property. It is not our property.

Councilor Garcia said adding transparency and sunshine puts our City on a positive path towards progress. He believed his colleague made misstatements regarding the overall resolution. In the current resolution, nothing prohibits executive session. It is up to Staff. And there have been times when it is not needed and others when it is appropriate. Their amendment requires executive session.

Now is the time to talk about amendments. Now is the time to fix whatever needs to be fixed and that goes through the committee process to the Governing Body that there is always going to be changes. With that philosophy we would have resolutions and ordinances staying constantly in committee forever. That is not the process.

There was a comment made that this Resolution doesn't achieve the goal that Councilor Vigil Coppler stated repeatedly during the Finance Committee meeting. He begged to differ. This adds transparency to the process. This puts the vote and decision of the Governing Body, where the property is going to be sold, in a public manner. Whether or not the Governing Body is in unanimous consent or not, the public will fully understand where Councilors stood on sale of their property. This is what is needed, and it is long past due. He had nothing but overwhelming support for it. It went through PWUC on consent with all five Councilor in favor. And it went to the Finance Committee where it passed. And it is supported by our Economic Development team. Seven of our Governing Body members have supported it already. It has overwhelming support from Staff and to him, he was still shocked by the pushback and the misunderstanding of some colleagues on this. This process will ultimately lead to the product of the community, the constituency, and the broader public will have confidence that the City will do everything in their best interest to protect their property. He supports this.

Councilor Romero-Wirth agreed with Councilor Vigil Coppler and understood what she was trying to do with transparency and making sure we have the proper role in the policy statement about selling property. That is what she and Councilor Lindell proposed would do, as well. The difference is where we put that transparency. She said that we should vote to sell a property before Staff has done its due diligence and that was what she took issue with. She agreed transparency is a good thing. And the difference is the parameters of the presentation. Her amendment said when we come out of executive session, Staff will present the request to sell and describe the property to be sold, where it is located, and the number of acres involved. That is the difference between the two amendments. It was passed by Finance with the understanding amendments would come forward with the bill. She didn't disagree that occasionally we would work on amendments at the Governing Body level, as the Legislature does. But most of the work on forming a bill and making sure you get it right should be done at the committee level and not bog us down on that here.

Councilor Cassutt-Sanchez hoped we could address this in a sane manner. This seems like a confrontive conversation with a lot of people trying to achieve the same goal she was hearing pretty much unanimous consent. It probably should have stayed in committee.

For the presentation, it is another conversation we need to have. She liked the discussion on what should belong in executive session. We must be responsible stewards of City property and get the highest value for the property, either by selling or by using the property. She would like to hear more about that balance we seek to achieve.

Director Brown told Councilor Cassutt-Sanchez he was in support of the resolution but each property we may consider has some issue to discuss in executive session. So when the resolution improves the executive session, that provides the flexibility to deal with those issues. And that's where we are. Sean would present more on that later. What the OMA is about is from Ms. Salazar.

Ms. Salazar said the OMA has three exceptions that are explicit. They are when dealing with an RFP, when asking for a proposal on the land which is confidential; acquisition is one and then Attorney-client provision is another. Real Estate transactions are confidential to try to get highest and best price for the property. Second, the need for executive session is because of what the interest is in putting it on the market. But complicated issues exist on each property. Some are given to us and some are purchased, and we must talk about that with the Governing Body before marketing or moving on for sale. And when we get offers, we need to weigh them in executive session. That is why, under State Statute, the only real public hearing is when you memorialize all the terms in the Ordinance to put out for the public.

Councilor Cassutt-Sanchez said that answered her question. She felt we are all trying to get to the same goal and make sure we are leveraging our position and figure out the best way to go forward.

Director Brown said Councilor Romero-Wirth talked about that a minute ago. We can discuss all the confidential issues around the land and property sale, and then come to open session with details of the property to make the decision. The executive session is a vital part of our marketing strategy that we don't want to lose. She had mentioned three or four things- the property, the location, the timing of the public offering and the details around when we take bids, etc. It is knowing we have informed the Governing Body and what makes it good or bad to do.

Councilor Cassutt-Sanchez appreciated that and both answers were very helpful to her. Knowing the details was the important piece for her. She thought there is a middle ground here and we could come together. She preferred sending it back to committee to get it right. Generally, it is something she wanted to work on and doing the work in committee is not a bad thing but is the best place to hash out these discussion points.

Councilor Vigil Coppler said this resolution is flexible and allows for executive session when appropriate. The north end of Fifth Avenue never had an executive session. This resolution gives the flexibility and trust that Staff knows when we need to go into an executive session. This does not eliminate an executive session but does not require it.

She noted that we are not state government. We are local and close to the people. Transparency matters here. This amendment was discussed in Finance and now there is new stuff for a sunset clause on transparency, which was not on the red line. Her bill does everything people had objected to. The most important thing is to vote in public, which we have not been doing this.

Councilor Romero-Wirth didn't know why sunset provision was not in the red line. It may be a clerical error. It is there so we can review it to consider how it is working. This is a great example of how we could work it out. She thought she and Councilor Vigil Coppler could work it out. There were verbal changes made at finance, but she did not see them written out. Putting the property on the market prior to the due diligence is premature to disclose we are about to sell something when we are not sure yet.

**Councilor Garcia called the question. Councilor Vigil Coppler seconded it.**

Mayor Webber asked if it required an immediate vote.

Ms. McSherry said yes if everyone who wanted to speak has spoken.

Mayor Webber was still processing the use of calling the question.

Councilor Abeyta asked if the vote is on calling the question or voting on the amendment.

Ms. McSherry said it is on calling the question.

Mayor Webber said since he has not spoken, he would exercise his right to speak now.

He commended Councilor Cassutt-Sanchez for her comment. The point is the amendments are not far apart, but the drafting is far apart. We are all in favor of transparency and good government so all resolutions and ordinances should be well drafted for when we are no longer on the Governing Body. Councilor Vigil Coppler is right that it is flexible but recognizes the importance of need for an executive session. Are we leaving Staff with not a well drafted ordinance or resolution? This has suggested there is a lot of work before a public presentation. He believed Councilor Cassutt-Sanchez has identified the real crux of the matter. The question is, do we have well-crafted legislation. With the review of committee, it wobbles back and forth with unclear directions on how to implement this measure. He would be in favor of additional work to be done on it. The differences are small – the problem is with drafting. We need to clean up the drafting and this would profit from good drafting, clarify for public policy and how we would see the process work. So he concurred with Councilor Cassutt-Sanchez.

Councilor Romero-Wirth said if we are ready to vote, it is whether to end debate.

Mayor Webber agreed.

Councilor Abeyta asked if a motion to postpone right now would take precedence.

Ms. McSherry said calling the question takes precedence.

**VOTE:** The call of the question was approved on the following Roll Call vote:

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

**Against:** Councilor Cassutt-Sanchez and Councilor Abeyta.

**Vote on the Amendment:**

**VOTE:** The motion to amend failed on the following 4-5 Roll Call vote:

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

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

Councilor Cassutt-Sanchez explained she voted no because there are pieces of the other amendment she favored and would like to see a consensus to bring the amendments together for the best draft.

**Further Discussion on the Main Motion:**

Councilor Garcia called the question on the main motion as is. There was no second and his motion died.

Councilor Garcia noted as he had expressed in the past, that there is some urgency for initiating a transparent process for selling property. There is now a fire sale on city property going on. Santa Fe Estates and four other pieces of land are lined up for sale with no transparent process on whether to move forward with the sale. So can we put a moratorium on all sales for now: He didn't want pieces to be sold while we are still working on the process. Once we sell the property, we can never get it back and in the future, people will ask why we did that. He didn't believe we are selling from losses due to COVID. It won't be a revenue generator to fill gaps. That is a smoke screen and in whatever direction we go, we need to consider future generations who will be able to look back and say the City did the right thing then.

Ms. McSherry clarified that all land sales are coming before the Governing Body for a vote.

Councilor Garcia pointed out that once it comes to us for a vote, the sale is already on the tracks. Can we put a moratorium on sale of city property?

Director Brown asked the legal team if that is a resolution. We are not putting land on the market for sale. We are waiting for this to be decided. We have been in discussion with various parcels since last January. They are either underperforming or there are problems with them. We are not planning on any public offering now.

Councilor Garcia understood the Governing Body approval is not required before putting property on the market for sale. He hoped we can agree not to put any property up for sale now. There is an announcement on the City website that property will be offered soon for sale. Any property the City owns can be put up for sale. There is already a website on which to put them on the market. How can we agree on that while completing this policy?

Mayor Webber said, "You made your point but is not the motion in front of us. The motion on the floor is to approve the resolution as submitted."

Councilor Garcia said it is germane as policy for selling property. He was asking for suggestions because he was desperately afraid one of them will be put on the market.

Director Brown said if this is going back to committee, he could assure Councilor Garcia he would not direct any staff to put anything up for sale until we resolve this resolution. But we have discussed all of them over the year. "You have my word we will not do anything of assets for sale until this is resolved."

Councilor Garcia thanked him on at least three properties that did not have consensus. It is necessary to bring sunshine to selling of property.

Councilor Lindell – motion to postpone this /Councilor Cassutt-Sanchez –  
**MOTION:** Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to postpone this resolution.

Ms. McSherry suggested either to a date certain or sending it to a particular committee.

Councilor Lindell withdrew her motion.

**MOTION:** Councilor Lindell moved, seconded by Councilor Romero-Wirth, to postpone this resolution until [March 31 and later amended to March 10] and have it heard again at the Finance Committee.

**Discussion on the Motion:**

Councilor Cassutt-Sanchez was not in favor of that length of postponement. She didn't see it necessary for that long. March 31 is too far away, and she would like to have it heard on March 10. She asked if the maker was willing to make it sooner.

**Councilor Lindell was willing to say March 10, that is fine with me. And could still go back to Finance. Councilor Romero-Wirth renewed her second.**

Councilor Cassutt-Sanchez appreciated the effort to pull it together and find middle ground. To go forward. There is much complexity and anxious for the discussion and how they can be pulled together with focus on good policy. She also commented on the suggestion that we could be hoodwinked by Staff. Staff are sometimes abused, and they work for much less than they could get in the private market. She knew our Staff is really committed to this process. And the suggestion that Staff would do something otherwise it was not appropriate to say. They are the experts and are incredibly dedicated and honorable.

Councilor Vigil Coppler reminded the Governing Body that we had special meeting on February 12 where we agreed we would hold hands and work together. These amendments were published one and a half hours before this meeting, so she rushed around trying to figure it out This is the second time sending it to Finance where she has no vote and against the offer of working together. In reality, there has been none of that going on and why we are taking so much time. If the hand had been extended to her, she would gladly work it out. We spent a whole afternoon on how we would work together. She had no vote there but went to Finance and she clarified that with Staff what they heard. It was the amendments she then prepared. She didn't feel like this is working together. Councilor Rivera said last time he was embarrassed and ashamed. She felt like she was being hoodwinked and it was not fair to refer where the main sponsor is not a member. She found that appalling.

Councilor Romero-Wirth said the reason she raised her hand well before Councilor Vigil Coppler did was to offer again to work with her in a meeting and figure out how best to meld these two together, so they provide clear direction. "I'm sorry they were not posted sooner. I don't control that. But I hope we are at a place where we can work together and make clear to staff what we are looking for. Your leadership in starting this process was good. This is a clear example why we should work in the committees to discuss them. We can work together and make it a clear product. I would like to work with you outside of committee meetings."

Councilor Lindell was more than happy to withdraw her motion and restate that it will be heard on March tenth and send it back to Public Works and hopefully Councilor Romero-Wirth will find that acceptable.

Councilor Romero-Wirth said yes and glad to talk with Councilor Vigil Coppler to meld it before it goes to Public Works.

Mayor Webber agreed overwhelmingly with Councilor Cassutt-Sanchez to come back to Governing Body to not divert from civility or claim the staff are engaged in a fire sale which seemed inappropriate. There is a website

where the properties are well identified but not a for sale. But how we are trying to do a better job for properties that are not productive.

We have a staff that has been very responsive. Mr. Brown has not opposed it but trying to work productively and see clarity of thought and process so staff will be well directed and no wasted.

**MOTION:** Councilor Lindell moved, seconded by Councilor Romero-Wirth, to hear it on March 10 after being heard at Public Works Committee.

**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:** Councilor Vigil Coppler.

Councilor Villarreal explained that she wanted to say if we would have seen the possibility Councilor Vigil Coppler and Councilor Romero-Wirth were suggesting, if we can come to agreement, we can get it done. There are things in the amendment she did not agree with. She trusts staff to give us accurate information. They had very similar language and maybe a time we can say the same thing. We need to let each other know when similar things are in different resolutions.

Councilor Garcia explained he voted for this with hope of true agreement and a hope we can get a unanimous vote on it with a product on March 10 that needs no discussion and has a unanimous vote.

Ms. McSherry clarified that no more than four people can be involved in the amendments because it would violate OMA. We can think about how to trigger that situation.

At 7:28, Mayor Webber suspected we will change our agenda and put the executive session at the end.

## 11. DISCUSSION/ACTION ITEMS

- a. CONSIDERATION OF RESOLUTION NO. 2021-15. (Finance Committee)  
A Resolution Requesting Approval of Second Quarter Budget Amendments for Fiscal Year 2020-2021. (Andy Hopkins, Principal Budget Analyst, ajhopkins@santafenm.gov, 955-6177)

**COMMITTEE REVIEW:**

Finance Committee: 02/15/21  
Governing Body: 02/24/21

Ms. Bustos-Mihelcic read the caption.

**MOTION:** Councilor Abeyta moved, seconded by Councilor Lindell, to approve the Resolution 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 Authority for the City Attorney's Office to Finalize Terms, and Mayor to Execute, a Cost Sharing Agreement with the County of Santa Fe and Las Campanas Water and Sewer Cooperative for the Lease-Purchase of Energy Efficiency Equipment and Improvements to be Performed Under the Energy Savings Performance Contract with Yearout Energy to Reduce the Energy Use of the Buckman Direct Diversion Project, Consistent with the Terms of the Parties' Joint Powers Agreement. (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov, 955-6622)

**COMMITTEE REVIEW:**

Governing Body: 02/24/2021

**This Request was moved to the Governing Body Meeting on March 10, 2021.**

- c. Request for Approval of an Agreement with the Buckman Direct Diversion ("BDD") Board Allowing for the Installation of Energy Efficiency Equipment and Improvements at the BDD Project and Providing for the Transfer of Such Equipment and Improvements to the BDD Board. (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov, 955-6622)

**COMMITTEE REVIEW:**

Governing Body: 02/24/2021

Ms. Bustos-Mihelcic read the caption for this item.

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to approve the agreement for BDD as presented.

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

Councilor Villarreal wanted to know if this was voted on at BDD.

Director Wheeler said it will be on their agenda on March 4.

Councilor Villarreal asked if they wouldn't they act first?

Director Wheeler was not aware of a prescribed order. The Attorney has covered it well.

Councilor Villarreal had concerns about this. It is late and there is lots of information and asking us to read it on the day of Council is not fair. We end up making a fast decision. She read through it to understand it. It is hard for us to make decisions and this is a big decision that involves the County and other stakeholders.

Mayor Webber agreed, and for people watching, we would want an overview from Director Wheeler, he was sure she could do it.

Councilor Villarreal asked for just a summary.

Councilor Vigil Coppler said she was Chair of BDD and there were many times when it came to us and as Councilor Villarreal said, materials were not complete, and answers were incomplete. It went back and forth. That is why BDD did not act on it.

Mayor Webber asked Director Wheeler to give an overview.

Director Wheeler said this is a piece of very complex piece that is hard to keep track of. It is an agreement on the big solarization project. This is the fourth time it has been brought to the Governing Body and fourth time the BDD Board has heard it. It is an Investment grade audit. Staff found about 50 buildings where to install solar. They worked with it for a year and a half and this agreement is a great improvement. We did this once before for 1.5 MW and realized after the fact. Attorney Schaffer got involved and worked with Nancy Long. They came up with this procedure. We have a very nice structure and people working day and night to get the order in the property order. Their Board voted on it last night. For the two Governing Bodies, we did not want to delay it but just got the final document yesterday. It is only a one-page document authorizing the City to install and BDD making debt payments on it. She was sorry for the lateness. It is well put together and we can move ourselves forward.

Councilor Vigil Coppler echoed Councilor Villarreal's statement. It is disingenuous to think we can read all of this when it is so late. She would be voting, wearing my BDD hat, not her Councilor hat.

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

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

Councilor Rivera abstained.

**Against:** Councilor Vigil Coppler.

Councilor Rivera explained he was concerned that the Chair of BDD voted no so he abstained.

- d. Request for Approval of an Agreement with the Estate of Tobin Williams for a Settlement Amount of \$500,000. (Erin K. McSherry, City Attorney, [ekmcsberry@santafenm.gov](mailto:ekmcsberry@santafenm.gov), 955-6512)

**COMMITTEE REVIEW:**  
Governing Body: 02/24/2021

Ms. Bustos-Mihelcic read the caption for this matter.

**MOTION:** Councilor Abeyta moved, seconded by Councilor Lindell, to approve the agreement as presented.

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

Councilor Vigil Coppler didn't think any amount of money met the worth of this City employee's life. It was a great loss. It must be this way but is kind of rote. So she took a minute to recognize the life of Tobe Williams. It is unfortunate, but his life was worth a lot more. She was not privy to any personnel matters but still saddened by this. This is a young man's life we are talking about. She could only imagine what the parents are going through.

Mayor Webber agreed this is a very difficult matter – it is not about money but a person we lost who had enormous joy in life. And many of us don't think this compensates for the loss of his life. Just a payment gesture. There are no illusions that it makes up for the loss of Toby's loss. We all spoke about that in executive session to try to do the right thing.

**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 asked for evening session now in an agenda change at 7:43 pm.

#### **AMENDMENT OF THE AGENDA**

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Lindell, to amend the agenda to move directly to the evening agenda and here the remainder of afternoon after that.

**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**  
**This was moved later in the agenda.**

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), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe is a Party, Including, but not Limited to, Albuquerque City of, et al., v. New Mexico Taxation and Revenue Department, et al., D-202-CV-2018-08036, Regarding Historic Calculations and Distributions of Gross Receipts Taxes. (Erin K. McSherry, City Attorney, [ekmcsberry@santafenm.gov](mailto:ekmcsberry@santafenm.gov), 955-6512)

**This was moved later in the agenda.**

14. **MATTERS FROM THE CITY CLERK**  
**This was moved to later in the agenda.**

15. **COMMUNICATIONS FROM THE GOVERNING BODY**  
**This was moved to later in the agenda.**

**EVENING SESSION -7:45 P.M.**

16. **ROLL CALL**  
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

17. **PETITIONS FROM THE FLOOR**

Stefanie Beninato brought up a response spoken to her about the secret plan against Stefanie Beninato. Don't make inflammatory statements against you. It was a comment where every time I went to the pool in 2017, she was written up and accused of making obscenities and other options that would have thrown her out of the pool. She wanted to negotiate but needed to have someone who was not living in an alternate universe, that thinks I am so stupid that I cannot read that this is a total put off that actually happened. So she was hoping that the City Attorney or the City Manager would direct Mr. Prinz [not understood] the secret note that >>>> That's the thing I am trying to get rid of.”

Alisha Shaw – resident of District 2, said, “Thanks for the effort you put in around redevelopment of Midtown campus. I advocated 12 years ago for City to buy it and encourage you all to be courageous to consider ways to pursue community led development of this campus. I know there are a lot of people who are really concerned about its future. I know we are in an extraordinary time and hope you don't sell it off or parcel it off but keep it in public hands and look for creative ways to use it. There are designations you could look at for redevelopment and have it pay for itself. Keep it in public hands and ways the community could bridge the development.”

Miguel Gabaldon talked about things happening on history of culture in Santa Fe regarding the plaques that were removed and lack of knowledge of them. And location of the statue of DeVargas. I just hope you can move quickly on it with accurate information regarding culture and history of Santa Fe and northern New

Mexico. We really need to focus on Santa Fe. He got a letter on the web page and hoped it doesn't get lost and he appreciate your efforts on COVID – 400 years of history and Native Americans. There are continued attacks on our history. Have a good evening.

There were no other petitions.

18. **APPOINTMENTS**

- a. Mayor's Youth Advisory Board – Miguel Angel Gonzalez Moreno

Ms. Bustos-Mihelcic read the caption for this appointment.

**MOTION:** Councilor Cassutt-Sanchez moved, seconded by Councilor Villarreal, to approve the appointment of Miguel Angel Gonzales Moreno to the Mayor's Youth Advisory Board as recommended.

**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.

19. **PUBLIC HEARINGS**

- a. CONSIDERATION OF BILL NO. 2021-1. ADOPTION OF ORDINANCE NO. 2021-2. (Councilor Rivera)  
An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance ("UTO"); Amending Various Sections to Insert a Clause Stating that a Person Who Violates a Provision of the Particular Section is Guilty of a Penalty Assessment Misdemeanor; Creating a New Subsection 12-6-12.2A to Establish a Charge for Driving While Intoxicated with a Minor in the Vehicle; Amending Subsection 12-6-12.6 to Remove References to Driving When Privilege to do so Has Been Revoked; Creating a New Subsection 12-6-12.6A to Establish a Charge for Driving While License is Administratively Suspended; Creating a New Subsection 1-6-12.6B to Establish a Charge for Driving When the Privilege to do so Has Been Revoked; Amending Subsection 12-6-13.11 to Establish a Fine for Littering; Amending Subsection 12-10-4.1 to Permit the Use of a Portable Electronic Device to Show Proof of Insurance; Amending Schedule A of the UTO to Add the Fines Associated with the Addition of the Penalty Assessment Misdemeanor Provisions; and Amending Section 24-1.1 SFCC 1987 to Add

the UTO as an Exhibit A to the end of Chapter 24, SFCC 1987. (Kyle Hibner, City Prosecutor, kjhibner@santafenm.gov, 955-5195)

**COMMITTEE REVIEW:**

Finance Committee: 01/19/21

Quality of Life Committee: 01/20/21

Governing Body (Request to Publish): 01/27/21

Governing Body (Public Hearing): 02/24/21

Ms. Bustos-Mihelcic read the caption for this hearing.

Kyle Hibner is available.

Mayor Webber reviewed the procedure.

**STAFF PRESENTATION**

Mr. Hibner presented this matter. He said this ordinance does three different things. One is the various sections of the ordinance related to traffic offenses that specifies the violation would be penalty assessment misdemeanor. He shared several examples. This removes any jail time and imposes a fine at \$25 for driving on a suspended license. It sets a fine for littering at up to \$300 and directs the violator to pick up litter. It permits insurance electronically and renumbering the section on registration.

**PUBLIC COMMENTS**

Stefanie Beninato said litter is a huge problem in our City and masks are not enforced and she was afraid this will also be not enforced. It is interesting that fine for suspended is far less than the fine for littering. A \$25 fine is nothing. DWI with a minor in the car should be prohibitive and more than a \$25 fine. Making these laws without enforcing them means everyone disregards them.

There were no other public comments.

**COUNCIL QUESTIONS TO PRESENTER**

Councilor Rivera made one clarification from Mr. Hibner's presentation. This brings us into compliance with State law.

Mr. Hibner agreed. The State made many of these changes in 2018 and most of the changes in this ordinance will comply with that statute.

**ACTION OF THE GOVERNING BODY**

**MOTION:** Councilor Rivera moved, seconded by Councilor Lindell, to approve Ordinance No. 2021-2 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. CONSIDERATION OF BILL NO. 2021-2. ADOPTION OF ORDINANCE NO. 2021-3. (Mayor Alan Webber, Councilor Lindell, and Councilor Rivera)  
An Ordinance Approving Global Management Performance Contract with Dalkia Energy Solutions, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Global Management Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21

Governing Body (Request to Publish): 01/27/21

Finance Committee: 02/15/21

Governing Body (Public Hearing): 02/24/21

Ms. Bustos-Mihelcic read the caption for this hearing. Manager Fluetsch and Director Wheeler were present.

**STAFF PRESENTATION**

Director Wheeler noted there are several people here to support the ordinance, whom she identified. Sharing her screen, she presented the Streetlight LED Conversion Project for Santa Fe to be the most sustainable city in the nation. Savings allows financing of the conversion and improves renewables. She reported on the streetlight system at present which has some streetlights not working; some shining into bedrooms and the streetlight system doesn't have to be that way.

She showed picture of a high-pressure sodium streetlight with a lens on it. This type has a high failure rate and don't meet present standards. But they were grandfathered in. This is an opportunity to make our City safer and save money. We can use existing contracts and hire the same contractor who did Albuquerque's conversion. And working through the process, that is how we came to use them, and they have a local presence. The PRC

allows us to use another contractor to maintain the new lights. A centralized management system will be used after installation and allow tracking their performance and detection of any failures. It provides a 50-day deadline for repairs or six days with multiple outages. They will be responsible for reporting and accountability for repairs, reliability, etc.

LEDs provide a 50-60% reduction in energy use with progress toward the 2040 carbon neutrality achievement. LEED Cities point toward platinum. The LED uses 168 watts and sodium uses 400 watts and LEDs provides much more illumination. They have focus to avoid shining into homes. The City can still shield to reduce night sky. She showed a comparison photo from Los Angeles as an example.

The Lighting Code guides the design and the regulations to reduce light pollution, conserve energy, etc.

The process includes engaging neighbors for demonstrations; analyze options and tradeoffs, ensure regulatory compliance and Governing Body approval of design.

She shared the design parameters. The industry now uses lumens instead of wattage. And there are color choices. People chose 3000 Kelvin for more yellow light. The PRC regulates lighting for road standards.

PNM owns half of our streetlights which were shown in orange on a City map, and the City-owned lights in blue on the map.

Financing is packaged with solar and the payback period is improved. It is a two-step process, first to approve the contractor to finalize design and approve the lighting design.

## PUBLIC COMMENTS

Galen Kistler lived in Los Alamos and is a member of a group drafting the lighting ordinance in Los Alamos. Mr. Kistler applauded Santa Fe for their efforts. He noted that many places prevent any LEDs with more than 2700 Kelvin. The Medical Society opposes 4000 K for the blue, longer wavelengths that can produce glare despite being shielded and thus reduce safety at intersections. He proposed Santa Fe use less than 3000 Kelvin.

Francisco Marie said he came from D.C. and has worked with some of you. He worked with the County on their plan and believed Santa Fe is going in the right direction, dealing with light pollution. The 4000 K LED is much too high. The Governing Body already received a letter explaining that further.

He urged the Governing Body to remember the Dark Sky Ordinance in New Mexico.

Jim Baker, 98 Principe de Paz, an unincorporated part of the City, said the proposal has one fatal flaw. Ordinarily he would be in favor of such energy saving the color temp of LEDs provide. But 4000 Kelvin LEDs produce an unusually high amount of blue light and the city needs to choose less blue. AMA has given guidance that LEDs should never be deployed unless they under 3000 Kelvin. If not, it will produce a hazard for drivers and pedestrians and impose health damage. That level upsets circadian rhythms and causes sleep disturbances and even when shielded. And it tends to disperse into the night sky. He sent Councilors an email this afternoon. Please look at it. Please revise this proposal so blue content is abated under 3000 Kelvin.

Peter Lescole, 4404 Calle Jaime, District 4, thanked the Governing Body for the opportunity. He is very excited that Santa Fe wants to replace outdated road lighting and he echoed the concern for lighting temperatures. There were dots on the City map where lights would be replaced, and Director Wheeler showed more of that. But where is the dot requiring 4000 Kelvin lighting. If the City can provide the documents, we'd like to see it. The color temperatures are part of what they do. So when people move from where 4000K is to 3000 K, it makes a difference. If you walked out of a matinee in the afternoon. So he wondered about the 4000 Mr. Kaye choice. A magazine that has featured Santa Fe many times asked him what the City is doing. An observatory outside of town serves a worldwide purpose. [His time was up.]

Diane McKenna thanked the Governing Body for all the things sent to her. She didn't get a letter back until 3:56. The speaker from Los Alamos brought up her subject. 4000 Kelvin can cause disability glare among older people and have an impact on drivers, making it more difficult instead of safer. Davis California residents were successful in getting rid of 4500 K LEDs. Please read my email for the links and happy you are addressing dark skies and would enhance tourism. She would like to be part of Director Wheeler's email list. She hoped we never gets lights on our street that has no paving either. It was an enormous change on Cerrillos Road which she could see it from her home. Please address those on Cerrillos Road with its ridiculous lighting.

Albert Schultz lives in Glorieta and has property on Old Cienega Street. He is looking forward to the change – great project with energy savings. And light trespass is very commendable but concerned about the quality of the light. And will be undermined by 4000 K which I out of bounds. You need to use a dark sky lighting scheme. He appreciated the Director Wheeler presentation - There was a dark sky section also. Please consider a colder

temperature. The color temperature cannot be compensated for. Please consider less than 4000 Kelvin.

Stefanie Beninato said she lives in the South Capitol area and wondered about the interaction with PNM. She understood a colder temp is better. She lives close to a commercial subdivision and the mini mall has very bright lights. She likes the darkness and appreciates it but also appreciates going to 3. She wondered about third-party contractor being responsible for maintenance. We have a lot of that on water meters and the maintenance is disturbing her sleep. She would also like to be on the email list, she has four streetlights at her property. How does PNM use third party and how long will the process take? Thanks.

Jake Snyder, 1305 Luana Street, said he is a lighting director for Meow Wolf and works with LED lighting on their sci-fi sets. He loves the switch to LED but is super apprehensive about color temps and could not believe we are going to 4000 Kelvin. On the internet, there is a lot about circadian rhythms and dark skies. He urged cooler color temps. Cool light is better, and he hoped we would treat this with the same seriousness. Thank you for taking it seriously and getting public input.

Madelyn was grateful for the city's concern for our environment. This is 110% one of those issues. She was impressed with the citizen's comments and the expertise in the community and staff's due diligence. It might take longer but it is best for how things go. She believed we will find our way forward in this.

## **QUESTIONS BY GOVERNING BODY**

Councilor Garcia noted that in the comments, Dir. Wheeler mentioned Santa Fe is aiming to be most sustainable community. So he asked why we are not moving forward with the community LED process.

Director Wheeler said the City cannot support every streetlight in the process. If there becomes a solution to replace all, we will follow that. We are not there yet.

Councilor Garcia pointed out that a lot of cities have implemented solar lighting, and there are lots of places in our City where it does not need to be connected to the infrastructure. He would recommend we move to that solution.

Director Wheeler said there are lighting companies with solar lighting. Today we are concerned on lighting for roadways first. It impacts roadways and bicycle paths. But for the long term, we need to find the right lighting.

And for 20 years, we are pushing for solar lighting where additional lighting is needed and makes financial sense.

Councilor Garcia agreed that makes sense. He was not advocating for solar lighting on roadways but in neighborhood we could translate into solar lighting especially if trying to be the most sustainable city in the country. There are other cities implementing solar lighting and we can learn from them. With over 300 sunny days, we need to take advantage of that.

His next question was on the plan. To make sure he fully understood the process, tonight we are considering the contract and then there will be a plan for the Governing Body to consider.

Director Wheeler agreed. A lighting design is what we would bring back with type, color, etc.

Councilor Garcia thanked her. As we move forward and report, we heard from the public overwhelmingly that no one wants 4000 Kelvin in the plan.

Re: the process of contract, it has a value of roughly \$3 million. So why not use a formal RFP process? Is there no other vendor that would provide these services? Why are we using a system to extend rather than a formal RFP? If the current contractor is best, why not use and RFP? It is a lot of money.

Director Wheeler said there are reasons. We are getting this from a partner who has used them. Half of our lights are PNM's and Dahlkia's have coordinated with PNM on how to convert quickly and efficiently. They have educated us through the whole way. We can leverage the public procurement Albuquerque just did. They went out to find the best company and we can leverage that with a local maintenance company. There is no other locally. PNM is the only one available and Mr. Kaye has a local presence.

Councilor Garcia suggested that if we had gone out with an RFP, they probably would have come out on top. With \$3 million, he thought the City would want to move forward in a transparent process. He asked Ms. Aranda, if another company were chosen, would they say no?

Ms. Aranda clarified that PNM is a separate contractor and PNM has not issued the RFP yet.

Councilor Garcia said we talk about transparency but in some processes, like this one, is not transparent. Maybe Mr. Kaye would come out on top. But it's just because some other entity has used them, doesn't mean that they would come out as the top entity.

Mayor Webber said this is a time for questions, not discussion. He clarified that the process is justified by the memo put out publicly that we must use 4000 Kelvin as specified by NMDOT.

Director Wheeler added that we work with NMDOT a lot and most roads are funded by federal or state funding. Their specification requires 4000 Kelvin on state roadways and that means St. Francis Drive, for sure. We are coming into ownership of some of them. St. Michaels and Old Pecos Trail would also be 4000 Kelvin. Certainly, we will engage DOT to understand the specifications. It is really important to the group responsible for the design to use a lighting design we come up with. She hoped that answers the question.

Councilor Garcia when he said that DOT was her justification. Thanks.

Councilor Cassutt-Sanchez asked, if we approve the contract tonight, about flexibility in the lighting design instead of what was previously proposed.

JC (Mr. Kaye) clarified they do not manufacture any product, so they were not pushing one over another. Lots of our work is through agreements so we don't install and leave the City. What we implement is the right one for the City. We are leading a team to make sure the project will stand financially with flexibility to choose a lighting design we can adjust. We are not that far from it. The vast majority of lighting we are looking at are 3000 Kelvin and will bring back the right product.

Councilor Cassutt-Sanchez said she wanted to understand – if we have the 4000 K and then dim them, would that diminish the impact.

Mr. Kaye said Dahlkia presents a sensor on every light that can dim them and would reduce the wattage but not change the color temperature. They are capable for dimming, although we did not propose dimming.

Councilor Cassutt-Sanchez asked if the City would track measurement of light output.

Director Wheeler did not know that we are.

JC said they could measure. Shielding is a good way to measure dark skies.

Mr. Kaye agreed. We can measure the scatter.

Councilor Cassutt-Sanchez, after hearing Director Wheeler say we can draw from the Albuquerque experience was curious about her interactions with the Albuquerque team.

Director Wheeler said Greg Smith, who was Director had the responsibility on this project.

Mr. Smith said the 4000 K lights were put on major arterials and they have had no complaints. They put 3500 K on other roadways. Partnerships with PNM and Mr. Kaye and worked through those issues. Santa Fe will have a great benefit from their experience.

Councilor Cassutt-Sanchez understood Albuquerque used a range of 3000 to 4000 K.

Mr. Smith agreed

Councilor Cassutt-Sanchez asked if that meant no safety or health concerns and she read about the wildlife concerns.

Mr. Smith said he left the City in December 2018 but was not aware of any complaints since then.

Councilor Cassutt-Sanchez asked if most complaints were to get shielding installed. She asked where Santa Fe is in current allocation by Kelvin rating and whether we are grandfathering some in.

Director Wheeler said the average on Hwy 599 is approximately 2600 Kelvin. but there is some 4000 on Hwy 599, Cerrillos Road, and St. Michael's Drive.

Councilor Cassutt-Sanchez understood those are state roads but the LEDs on side streets would be lower Kelvin.

Director Wheeler said our performance on Cerrillos Road and Airport Road is not great and could be improved with higher color temp. The great thing ongoing is because of the analysis capabilities in the software, we can do an analysis between light and dark areas. Albuquerque is doing that now and an analysis of crash data.

Councilor Villarreal thanked folks for emails with praise and with concerns. Lots of research was done, back and forth and she appreciated Staff taking time for this. She had a question on the RFP issue but thanked Staff for their legwork on what we decide and a breakdown for legitimate firms.

Councilor Cassutt-Sanchez had asked many of the same questions Councilor Villarreal had. The overall highest question from CRM was on lights. #1 complaint from constituents considering there are a lot of lights

out and not even counting cost of going to court for that. This is a great transition, and it is just working out the details.

She asked about a demonstration site or testing. She thought we already had LED in town. In her neighborhood there was a conversion.

Director Wheeler did not know about that, but we will have demonstration sites.

JC agreed. When the contract is approved, we will do pilots for demonstration before starting the full project.

Councilor Villarreal said Santa Fe does not need the big lighting that is needed in Albuquerque. She had questions about what the fixtures look like. And what they would use.

Mr. Kaye said there was an example.

Director Wheeler showed a photo of fixtures to be used.

Councilor Villarreal said the dimming question was important to her and thanked them for the clarification. She noted receiving an email from Director of the Dark Sky Ordinance Association and was surprised we had that ordinance. She asked Director Wheeler about the emails. Flagstaff had to redo their installation and thought Director Wheeler contacted them about it.

Director Wheeler agreed. Some of the links were to articles and not to specific locations. There were a couple of observatories near Flagstaff and dark sky was impacted there. Most cities don't specify color temps. Some turned out to have too high wattage. It is a complex issue.

Councilor Villarreal appreciated that people gave their insights.

Councilor Vigil Coppler asked Director Wheeler at what point in the process we will discuss the 3000 vs 4000 K.

Director Wheeler explained that once the contract is made, they will do an analysis on the lighting design. At that point for the next few months, we will be engaged in lighting design and public engagement in districts to learn about them.

Councilor Vigil Coppler noted that all comments from constituents have been about wattage being too high. And if the contract gets any support, the wattage will have to come down. That is very important, and the simulations

will bear that out. She asked if the City has the DOT mandate in writing somewhere.

Director Wheeler said yes, and it is also online.

Councilor Vigil Coppler asked if the City must still follow that mandate after the City takes over those arterials.

Director Wheeler thought no. We get those on July 1, so we are right there.

Councilor Vigil Coppler surmised there really is no mandate and we could decide on it.

Director Wheeler clarified that St. Francis remains a state road and a little piece of St. Michaels Drive.

Councilor Vigil Coppler asked if the mandates are for new roads only or also existing.

Director Wheeler said the old roads get grandfathered until it is converted to LED.

Councilor Vigil Coppler reasoned that if a residence has light shining in, they could ask for shielding and if so, who will pay for that?

Director Wheeler said first, we would not put the biggest light there. It has a more focused approach. We also have capability to turn a light off. So we have quite a few ways to respond.

Councilor Vigil Coppler understood we still have a decision to make on 3000 vs 4000 K. DOT says we must use 4000 in some places but when we own it, we can do it for less color temp. Those lights from I-25 up Cerrillos Road need adjustment.

Director Wheeler said those are DOT owned and they take care of those lights.

Councilor Vigil Coppler pointed out that the veteran's banners displayed there need to be preserved and if they break the brackets, the state needs to pay for replacements.

Mr. Kaye said part of the money is also around the timing of each individual light fixture. Were the banners are hung, we can manipulate the schedule and be very flexible to address that precaution.

Councilor Vigil Coppler your schedule is May to September. The banners will be up the whole time. She hoped Dahlkia has the right equipment to preserve the banners and it could be as many as three banners and a flag and the brackets which are still there. There needs to be some agreement there.

Mr. Kaye said they deal that issue all the time and Dahlkia would pay for anything broken.

Councilor Vigil Coppler's last question was about PRC regulating the rates. She asked if this would affect the PRC.

Director Wheeler said for the street light rate, the City pays PNM 14 cents per KWh. When we switch to LED, we will have a different rate. It also changes our relationship with PNM for maintenance of their lights. The new agreement says PNM will not charge us for maintenance or provide maintenance.

Councilor Cassutt-Sanchez said the new agreement will show the old rate and new rate with quite a bit of savings.

Councilor Vigil Coppler asked if using 3000 K instead of 4000 K would make a difference.

Councilor Cassutt-Sanchez said it would be very little difference.

JC agreed. What makes a difference is the wattage and it is a complex equation.

Director Wheeler said increasing wattage does not affect night sky, but increased lumens would be calculated to see if it exceeded the night sky ordinance.

Councilor Romero-Wirth said, "When you threw in Old Pecos Trail to the main roads list, you scared my constituents by saying you would put 4000 K lights on that road."

Director Wheeler said although it is now a DOT road, it will become a City road so no 4000 K LEDs will be put there.

Councilor Romero-Wirth asked if the City is paying for this project through energy savings.

Director Wheeler agreed. We project a half million in savings per year. So it pays off in six years. And it is a great solar project that we can get just from energy savings. The market recognizes those as real savings.

Councilor Romero-Wirth couldn't remember if the slide show showed the six-year payback, but solarization is also funded through savings.

Director Wheeler agreed. That is about \$699,000 per year. Our criteria – was a 12.5-year payback.

Councilor Romero-Wirth went back to dimmers to ask if we can actually dim some of them.

JC said the technology is there and the City could decide if and when they would want to activate the dimming on an individual basis.

Councilor Romero-Wirth asked if that would be an additional expense.

JC said no.

Director Wheeler added that the dimming is not generally used. It might be used in a neighborhood that wants it really dark.

JC agreed it is not often used. It is not a technology question but a timing question.

Councilor Romero-Wirth mentioned that for old additions, we can't choose where to put them. So that is what shields are used for. And in the conversion, we might alleviate that problem with shields.

Director Wheeler agreed. The City would use a shield when focus of the light doesn't work well enough.

Councilor Romero-Wirth asked for help to educate us on the color temp and why blue is bad and if the intensity and increased brightness also goes back to watts.

JC said it is both – watts for intensity and Kelvin for the color temperature. There is not one size fits all. Every design is different. Cross layering will be determined when we are under contract with the City.

Councilor Romero-Wirth said on Arroyo Chamiso at Old Pecos Trail we don't want 4000 K, nor on St Michael's Drive. Thanks for all your work on it.

Councilor Garcia asked Ms. McSherry if tonight would be an appropriate time to amend the contract.

Ms. McSherry said it can be amended during the term, and we often do, if it is agreeable to both parties.

Councilor Garcia asked Mr. Kaye if Dahlkia would be open to a clause that says we cannot install above 3000 K, if the Governing Body said we are not going ahead with any lights over 3000 K.

Mr. Kaye said we can address the specific roadways for the best design - but saying none above 3000 would not be appropriate.

Director Wheeler said we have discussed that if the design is nothing more than 3000, we can negotiate that.

Councilor Garcia had no other questions.

Councilor Abeyta asked regarding the lighting design if it would be specific enough to address the many complaints, she gets in District 3 that it is too dark, and the requests for more lights in Tierra Contenta. She did not want a 3000 Kelvin maximum restriction in Tierra Contenta. They have kids who want to be outside especially in the summer.

JC agreed. We have different layers to adjust the wattage and find the sweet spot for each light. And that meets the energy savings guarantee. On the engineering side, it is environment and comfort of the residents to find that sweet spot.

Councilor Abeyta understood other neighborhoods would favor less light. He asked if a 3000 K restriction would prohibit us from doing that.

JC thought so.

**MOTION:** Councilor Lindell moved, seconded by Councilor Romero-Wirth, to approve Ordinance 2021-3 as presented.

Councilor Lindell thanked Director Wheeler for the tons of work she has put in on this. She was very respectful of that effort.

**Amendment to the Motion:**

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to amend the ordinance to extend the work phase from 6 months to 9 months and to engage the public prior to seeking approval by the Governing Body of the lighting design, and converting streetlights to LED.

**Discussion on the Amendment**

Councilor Romero-Wirth explained the amendment allows the City to do what Director Wheeler spoke to and work on the lighting plan and then could approve the lighting and then go to conversion of streetlights.

Director Wheeler that is exactly what we would like to do.

Councilor Rivera wanted to make sure when this would affect the solar part.

Director Wheeler said it would delay the repayment. Sterling would work with us on it.

Councilor Rivera thanked Director Wheeler for a fabulous job.

Councilor Abeyta noted the amendment is for 8 months. What does it do to installation of the LEDs?

Director Wheeler said they were targeting a two-month delay in installation for engaging the public on the lighting design. That puts installation on August 1.

**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.

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

Councilor Garcia thanked everyone who was involved in this process in moving us forward into a sustainable future. But he had major concerns on what is being proposed with the 4000 Kelvin in particular. He believed Santa Fe could be a leader in energy conservation, as well as protecting our dark skies. This proposal not only diminishes our dark skies but goes against the American Medical Association standards. They have three standards regarding Kelvin lighting. First was to do it in a proper way and safe way. The second is minimizes the blue light and 4000 K is definitely on that blue spectrum. Third, they promote the use of 3000 K or lower. And, as we heard from many constituents, they are fully against 4000 Kelvin. There have even been advisories issued that mention that 4000 K is actually dangerous for drivers. In making these tough decisions we need to follow the path for a leader. Across the country now, 26 cities in eleven states light their cities with 3000 Kelvin or lower. He listed some that have large populations. There has been much discussion around the DOT 4000 Kelvin standard.

He reached out and talked with the State Traffic Engineer and when he told them of Santa Fe's plan and of the community's concerns. The Engineer said DOT takes their safety practices very seriously. In their conversation Mr. Ashburn, said the Department could work with Santa Fe on the Kelvin lighting. He added that the DOT is going to be updating their books and go with as low as 2700 Kelvin. So if we committed to 3000 Kelvin or lower, we would not only be a leader in the State but would join those other cities across the country that are demonstrating safe energy conservation practices while maintaining and protecting our dark skies.

So if we can work with our contractors to ensure maintaining 3000 Kelvin or lower, we would be good. NMDOT is willing to work with us and willing to allow that. We need to maintain a safe community and listen to our constituents. We have been overwhelmed with their concerns here. For us to disregard that now and use the DOT standard doesn't stand anymore. Mr. Ashburn is willing to go with us as low as 2700 Kelvin on State roads. We can do better, and he hoped for his colleague's support with 3000 Kelvin maximum for our City. Studies have shown it is not necessary to follow that 4000 Kelvin standard.

Councilor Garcia had an amendment to introduce but couldn't find it in the packet.

**MOTION:** Councilor Garcia moved, seconded by Councilor Vigil Coppler, to amend the motion to insert on page 4, line 18 a new paragraph that reads, "Whereas, the City recognizes the need to regulate outdoor LED lighting in order to preserve dark skies, reduce light pollution, reduce or prevent glare, reduce or prevent light trespass, conserve energy, promote a sense of safety and security, and ensure aesthetically appropriate outdoor lighting in keeping with Santa Fe,"

He said the basis for this is from Chapter 14-8.9A of the Land Development Code. It is language that we currently have. He just wanted to ensure we continue the practice we currently have in the Code.

**Discussion on the Amendment:**

Councilor Cassutt-Sanchez asked if this amendment was written into an email. Having it in writing at this very late hour would be very helpful.

Councilor Romero-Wirth said it is in the packet in Prime.Gov.

Councilor Cassutt-Sanchez found it.

Councilor Romero-Wirth understood the language was being taken from our Land Use Code and what we are talking about here are streetlights. What this amendment talks about is a little broader and was not sure if that was intentional. "Outdoor lights" could include a whole host of things. She didn't know if Councilor Garcia was happy with that the way it was or whether it should say to regulate our streetlights to do all these things. Outdoor lighting is a much broader category and captures way more than just streetlights. She didn't know if that had impact on the rest of the bill.

Councilor Garcia thanked her for that question. It is in relevance to this ordinance which pertains to streetlighting. If that needs to be clarified, He will make that change.

Councilor Romero-Wirth suggested it should say "Streetlighting" instead of "Outdoor lighting."

Councilor Garcia agreed with that modification. He would have to withdraw and restate his amendment.

Councilor Romero-Wirth noted it is in two places.

Councilor Garcia explained he just pulled it from the current approved Land Use Code and figured it would be good to go with something we have already approved in the past.

Mayor Webber asked to get Councilor Rivera's comments first.

Councilor Rivera pointed out that Councilor Garcia's amendment has nothing to do with Kelvin, which he just talked for three minutes about. So he was not sure how the amendment fixes what he talked about = how it fixes the 3000 Kelvin concern.

Councilor Garcia thanked him for the question and agreed, unfortunately that it doesn't fix that. WE would have to modify the contract to ensure the contractor did not go above 3000 Kelvin. This is more to ensure we are working with this new lighting system that we are working toward protecting our dark skies. It is a huge concern in our community that we are not going to be able to walk out of our front doors and see the stars. It's night and day. "Next time you are in Albuquerque, look up and see how many stars you see. And then when you get home, look up and see how many stars you see. It is a completely different state and the concerns we have heard from our neighbors is that they do not want to lose that dark night sky.

We've got to remember to be great neighbors, as well, and concerned with our environment. We are not only polluting the night sky with our lighting for the City, but for the surrounding communities as well.

Councilor Garcia said that he completely understood but did not see how this amendment addresses his overall concern. He would leave it at that.

Councilor Villarreal asked for Councilor Garcia to tell her where this is being placed.

Councilor Garcia said it would be inserted on page 4, line 18 of this ordinance. We are working on the ordinance that approves the contract and the language would be introduced into the ordinance.

Councilor Villarreal just needed to figure out where it would be placed in the ordinance.

Mayor Webber asked Councilor Garcia if it was it worth dwelling on it. The language is very aspirational. "What do you see as the actual consequence of putting this into the ordinance? What is the impact? What does it do?"

Councilor Garcia said the impact shows as we are implementing this new lighting system, we would do all we can to preserve our dark night skies. That was why it was a whereas, telling the story and not having the immediate action in the be it resolved section.

Mayor Webber clarified that it is an aspirational statement. It doesn't prescribe anything.

Councilor Garcia agreed it does not.

Mayor Webber asked if Councilor Garcia was going to make a change per Councilor Romero-Wirth's comment or happy with the way he presented it.

**Councilor Garcia was happy to make that slight adjustment and withdrew his motion and Councilor Vigil Coppler withdrew her second.**

**MOTION:** Councilor Garcia moved, seconded by Councilor Vigil Coppler, to amend the motion to insert on page 4, line 18 a new paragraph that reads, "Whereas, the City recognizes the need to regulate streetlighting in order to preserve dark skies, reduce light pollution, reduce or prevent glare, reduce or prevent light trespass, conserve energy, promote a sense of safety and security, and ensure aesthetically appropriate streetlighting in keeping with the character of Santa Fe, and..."

**Discussion on the Amendment:**

Councilor Villarreal asked Councilor Garcia which whereas it is between, commenting that the line didn't make sense to her.

Councilor Garcia didn't have it in front of him, Page 4, line 18. He asked what whereas before it was.

Mayor Webber read it for her.

Councilor Villarreal asked why he put it there. It didn't make sense to her.

Councilor Garcia said he had followed Mr. Guillen's suggestion but was willing to put it somewhere else.

Councilor Villarreal guessed she didn't know where else it would go. So okay.

**VOTE:** The motion to amend 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.

**Further Discussion on the main motion as amended:**

Councilor Garcia said he wanted to reiterate, now that we have confirmation from NMDOT that we don't have to install 4000 Kelvin, he would really urge his colleagues to investigate what would be most beneficial for us for our City, to look at the areas scheduled for 4000 Kelvin and take that into consideration.

Councilor Lindell asked if Councilor Garcia could go back to his source for that and get that in writing for the Governing Body.

Councilor Garcia did have it in writing and spoke with Mr. Ashburn this morning about what we were doing, what our options were, and he was really supportive. He offered to read it aloud.

Councilor Lindell said she did not need it read to her and asked him just to send it around to us.

Councilor Garcia agreed to distribute that.

Councilor Romero-Wirth urged a little caution. She thought speaking to one person at NMDOT probably does not have the complete authority for a carte blanche to do what we want. She appreciated the sentiment. She asked who has the authority over there to be responsive to the folks sending us emails. The 3-month period in the lighting design plan will help us determine our actual needs and whether 4000 K makes sense anywhere. But the next three months would tell us that.

Councilor Garcia, on that point, said this is the State Traffic Engineer he talked with and didn't want to call into question his credentials.

Ms. McSherry discouraged forwarding emails to each other. Certainly, the standards of NMDOT could change their rules and maybe this engineer knows something about their intention to change the rules, but they would need to change them.

Councilor Garcia felt he should read his email aloud. "After my conversation with Mr. Ashburn this morning, I said, thank you for taking the time to meet with me this morning. Regarding our conversation, you confirmed for me that the City of Santa Fe can request a special provision to install lower than 4000 Kelvin on DOT roadways that are in Santa Fe as long as they are equal in performance. You also mentioned that you would be updating the specs for highway and bridge construction manual to accommodate such provision requests. Please let me know if I understood our conversation correctly. Thank you again for the time you provided me today."

And he wrote back that he understood that we are planning to upgrade fixtures on DOT roads. "You have responsibility for maintenance on lighting. The following applies to these facilities. All LED fixtures of equal or better performance to replace any high-intensity discharge may be installed. They need to provide the following:

- A. Adhere to ANSI/ISNARP-8 Guidance.
- B. Provide equal or better average minimum lumen requirements for the ratios for the given facilities. Refer to the lumenance in chart RP-8. Fixtures must be an NMDOT approved product list, or an accepted fixture that has been certified for Santa Fe by Federal Highway Administration for federally funded projects.
- D. Newer retrofit fixtures are acceptable.
- E. Adhere to NMDOT specifications. Refer to discussion #2.
- F. Dark Sky Compliance #2 – LED fixture color temperature may be at 2700 Kelvin. NMDOT will average color temperature as an option to 3,000 Kelvin, 3500 Kelvin, and 4000 Kelvin in our specification. 3 – This specification will be at City of Santa Fe's expense."

So it provides clear confirmation that he would approve it.

Mayor Webber said it would have been generous to share that with us so we could digest it and could have invited him to be present this evening.

- VOTE:** The amended 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. 2021-3. ADOPTION OF ORDINANCE NO.2021-4. (Mayor Alan Webber, Councilor Lindell, and Councilor Rivera) An Ordinance Accepting Investment Grade Audit Report and Approving Energy Savings Performance Contract with Yearout Energy Services, LLC, Subject to City Council Approval of a Separate Financing Transaction to Finance the Cost of the Energy Savings Performance Contract. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

**COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21  
Governing Body (Request to Publish): 01/27/21  
Public Works and Utilities Committee: 02/08/21  
Finance Committee: 02/15/21  
Governing Body (Public Hearing): 02/24/21

Ms. Bustos-Mihelcic read the caption for this item.

**STAFF PRESENTATION**

Director Wheeler presented this matter to the Governing Body. She explained that this one is about a 3 MW solar project with LED lighting in which the Governing Body is solarizing every City facility feasible. Thanks to the Governing Body's leadership in the City initiative. It was the #1 request to the State Legislature years ago. We have Alex Montañó here who has been working hard on this project for almost two years, and Karen Gross, who has been the Project Manager, facilitating all the many steps for the industry grade audit. The solar array is a State designed project, and they certify our savings which is very attractive. We added a new due diligence phase to really make sure the solar project would be approved by PNM and all has been approved for interconnection, including land agreements for the public array and it is shovel-ready.

## **PUBLIC COMMENTS**

There were no public comments.

## **QUESTIONS FROM THE GOVERNING BODY**

There were no questions from the Governing Body.

## **ACTION OF THE GOVERNING BODY:**

**MOTION:** Councilor Rivera moved, seconded by Councilor Villarreal, to approve Ordinance 2021-3 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.

- d. CONSIDERATION OF BILL NO. 2021-4.ADOPTION OF ORDINANCE NO. 2021-5. (Mayor Alan Webber, Councilor Lindell, and Councilor Rivera) An Ordinance Approving Lease-Purchase Agreement and Escrow Agreement with Sterling National Bank for the Purpose of Financing the Installation of Energy Efficiency Measures in City Facilities Pursuant to the Energy Savings Performance Contract with Yearout Energy Services, LLC and the Global Management Performance Contract with Dalkia Energy Solutions, LLC. (Brad Fluetsch, City of Santa Fe Cash and Investment Manager, bjfluetsch@santafenm.gov, 955-6885)

### **COMMITTEE REVIEW:**

Public Works and Utilities Committee: 01/25/21  
Governing Body (Request to Publish): 01/27/21  
Public Works and Utilities Committee: 02/08/21  
Finance Committee: 02/15/21  
Governing Body (Public Hearing): 02/24/21

## **STAFF PRESENTATION**

Manager Fluetsch presented this matter to the Governing Body. He said he has been working with G A Davidson as a placement agent. They put out, for all the streetlights and solar panels, that need to be purchased with a

creative finance scheme that does not use GO Bonds or GRT Bonds. We will finance this entire project with the energy savings. We looked at 15-year or 18-year lease agreement with municipal advisors – Hilltop Securities. Sterling Bank was first choice for both the 15-year and 18-year category and determined that nearly a third of the payments are made in the last three years. So the Finance Department decided because inflation rates will go higher. The net present value difference between the 15-year and 18-year term was only \$150,000 on a \$10 million deal and we firmly believe that we would make that up. Money will not be worth what it is today in 18 years from now. It is a good package.

## **PUBLIC COMMENT**

There were no public comments.

## **QUESTIONS FROM THE GOVERNING BODY**

Councilor Vigil Coppler noticed the escrow agreement in the attachment appears to be a draft. She asked who the escrow company is.

Manager Fluetsch said it is Sterling Bank. They have the money and will pay the purchase and installation costs. They have control of the money and will assure the solar is purchased and installed.

Peter- Franklin said Manager Fluetsch is correct. Sterling Bank is acting like a Construction Lender and releasing money as payments are due.

Councilor Vigil Coppler asked where Sterling Bank is located.

Mr. Franklin thought they are located in Kansas City.

Councilor Vigil Coppler said this Council has gone on record as believing in public financing and that should go along with local banks or credit unions or local institutions. She asked how Sterling Bank was chosen.

Manager Fluetsch said the placement agent, G A Davidson, put together a schedule of savings which was about the same amount needed to build out the project and gain the savings. They shopped several their banks including Century Bank, who was a bidder on the project. And they go out to solicit for those who want to put up the \$ 20 million for purchase of the equipment for the City and own the equipment for the City and get paid back over the next 18 years. Three banks submitted for the 15-year payback and two institutions submitted for the 18-year payback. Sterling submitted in

both 15 and 18 months and had the lowest interest rate - the cheapest money.

Councilor Vigil Coppler asked where it was advertised.

Manager Fluetsch said G A Davidson solicited but did not advertise. They solicited their best people (a list of clients) who bid on types of debt instruments. They also solicited at New Mexico banks.

Councilor Vigil Coppler asked if they solicited Federal Credit Unions.

Manager Fluetsch didn't know, but thought it was too esoteric for them to bid on.

Councilor Vigil Coppler what size of assets Sterling Bank had.

Mr. Franklin didn't know specifically but Sterling Bank has done several such transactions in New Mexico. They are private placements – not publicly traded, so they have experience with this type of deal.

Councilor Vigil Coppler said she asked because she has good knowledge of Credit Unions in New Mexico and knew this is not a project some would be interested in but probably some locally would. It doesn't seem like that was pursued.

Councilor Villarreal asked if Albuquerque used Sterling Bank.

Director Wheeler did not know, but we knew we could get better financing.

Mayor Webber said Albuquerque used Citibank.

Councilor Villarreal pointed out that it would work better if we had a public bank for circulation back into the community. She didn't know enough about federal credit unions. But the usual suspects get told about the opportunities first and smaller partners get left out. So we get to be told what is available in this action.

#### **ACTION OF THE GOVERNING BODY:**

**MOTION:** Councilor Lindell moved, seconded by Councilor Romero-Wirth, to approve Ordinance No. 2021-5 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.

Mayor Webber said there were many emails and a lot of input on this. Director Wheeler had no defensive posture, always answering questions, never arguing and always being transparent. She was exemplary in engaging the public.

Councilor Vigil Coppler asked if when the Council amended the agenda, was the executive session to be done last.

Mayor Webber agreed and we have additional work before the executive session and probably will have to extend the cutoff time.

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

There were no matters from the City Manager.

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

Mayor Webber asked if the executive session was essential.

Ms. McSherry said it is up to the Governing Body. There is update on potential negotiation.

## **14. MATTERS FROM CITY CLERK**

Ms. Bustos-Mihelcic noted a few minor changes on liaisons. For transparency, she would like to give more notice for our meetings. The upcoming public hearings to give more notice. The first contracts are available for public viewing. That's all.

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

Councilor Vigil Coppler said what has been on everyone's mind – where is the statue of Don Diego now?

Mayor Webber said the statue has been moved to a secure City facility where it should have been all along and no longer out with the individual who was keeping it previously.

Councilor Vigil Coppler mentioned the late audit and she referred to an email received at 3:47 pm today. It doesn't say the audit is three months late. It has not been reported in any meeting she was aware of. She learned it from the BDD auditors and at SWAMA, and those are different from the City Auditors. We were told that BDD and SWAMA audits would also be late.

The notice was at 3:47pm and that is not transparent and somewhat of a coverup. Other cities were impacted by COVID and they are not blaming COVID for any lateness. She thought this was the third year Santa Fe is late. But she was most concerned to be hearing it from the State Auditor. She has sat in on some Finance Committee meetings and it is almost worse when not being reported. Councilors should be the first to hear that news. It is a miscarriage of our roles. There is no opportunity to discuss it or ask questions and it affects organizations other than the City Council and the notice just adds insult to injury. She said she was not a happy camper about it. She hoped there could be proactive, up-front notice to the Governing Body. She felt disrespected in her role. "Never do you want to hear an outside organization telling us it will be in newspaper tomorrow morning."

### **MOTION TO EXTEND DEADLINE**

Mayor Webber asked for a motion on the desire to go beyond 11:30 pm.

**MOTION:** Councilor Garcia moved, seconded by Councilor Lindell, to suspend the rules to allow the Governing Body to go beyond 11:30 pm.

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

Councilor Cassutt-Sanchez was curious if our exec session needs to be dealt with tonight.

Mayor Webber said the meeting will go past 11:30 anyway.

Ms. McSherry said the Governing Body doesn't have to meet it if you would like input on next steps - part of the decision on the NMTRD lawsuit.

Councilor Vigil Coppler asked Ms. McSherry if it would be possible to extend to Councilors by email or if she wanted feedback.

Ms. McSherry said she could but there would not be any conversation among yourselves.

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

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

**Against:** Councilor Rivera Councilor Romero-Wirth and Councilor Villarreal.

**Further Communications with the Governing Body:**

Councilor Abeyta had none.

Councilor Garcia gave a shout-out to our workers removing snow. They are keeping the streets clean for safety on the roads. He once again was calling for a work session on Affordable Housing opportunities and how to fund the Trust Fund. The time is right, and we need to make some major decisions on it.

He wanted to reply to the comment on the email from the State Engineer. He felt that was really out of line. He had reached out to one of our Staff members when they told him the 4000 Kelvin was non-negotiable. He took it upon himself to call this morning and had a great conversation with the State Engineer. But he didn't receive the confirmation in writing back until just before the meeting. So he felt it was best to share it in the open meeting. That seemed to be the best way to have everyone know. He was disappointed with the slight that was pushed in his direction. He said his comments were not made to slight Staff, but we must do everything to protect City business. It was unfortunate to have passive aggressive comments passed in his direction. "I will always work with everyone. My hand is always extended to work and collaborate with all of you."

Councilor Villarreal said to Councilor Rivera that she voted no on extending the time, but it was no big deal. She wished happy birthday to her 13-year-old nephew.

Also she requested Councilor Abeyta, as Chair of the Finance Committee or in executive session for an update on the audit and the plan to complete what needs to be completed. It is frustrating to get an email from the Auditor when we should have talked about it earlier, even if only in executive session for whatever reason. She agreed with her colleague about that.

She would also like a work session on Affordable Housing to get on the same page. She appreciated the presentations in committees, but she wanted to see more on prioritization and how we can go forward on financial

strategies and whether we need to place that on the ballot instead of working in silos.

She mentioned that the Community Development Commission which she shares will have their applicant review for all those who apply for the Affordable Housing Trust Fund monies and CDBG grant monies. Those presentations that nonprofit partners who are applying are open to the public. On March 3 in the morning it can be accessed through Zoom. The deliberations on them are closed to the public though. The application deadline was today. She didn't know how many applications there would be but was sure there will be a lot. The City never has enough money to give out. She asked her colleagues to contact her or Director Ladd with questions.

Councilor Cassutt-Sanchez said the audit was mentioned in Finance, so it was not a surprise to her. But she wanted to put on the records that it was not something she approved of and had discussions in Finance about it. She had a wonderful week with City staff on many issues and just thanked them all for the hours they spend explaining things. It is so beneficial to her.

Councilor Rivera thanked Mary McCoy for attending the constituent meeting we had last night in our district. He asked if the City Manager could pass that along to her. Lastly, she wanted to ask the City Clerk, with so much chatter on social media about the City contracting out for election services and wanted to know if that is accurate information. He thought he would go to the source.

Ms. Bustos-Mihelcic said she has been working on it. There are small allocations for it in past years. She has not asked anyone or looked at it at all and hoped that answers the question.

Councilor Rivera said okay and commented that social media gets a lot of input from constituents.

Councilor Romero-Wirth had nothing.

Councilor Lindell applauded the great job City crews did on the roads for this unexpected snow dump. She lives on Gonzales Road and they did a tremendous job. Her trash pickup day is on Tuesday on a cul de sac that does not get plowed. But the way they maneuvered the truck on it on Tuesday morning was awesome and amazing and she stood out there and applauded them then. So a big shout out to those who worked outside on Tuesday. It is a tough job and super stressful. So thanks to entire City crew.

Mayor Webber gave thanks for Joe at the Interfaith Shelter who is retiring. He is such a willing advocate and partner. Many of us have volunteered at

the shelter and Joe has saved probably more than a few lives. He thanked Joe for his amazing work. He retires in about 30 days and it is time for us to send him thanks with words of praise for his journey to end homelessness in the City.

## **EXECUTIVE SESSION**

In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe is a Party, Including, but not Limited to, Albuquerque City of, et al., v. New Mexico Taxation and Revenue Department, et al., D-202-CV-2018-08036, Regarding Historic Calculations and Distributions of Gross Receipts Taxes. (Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512)

**MOTION:** Councilor Rivera moved, seconded by Councilor Lindell, to go into executive session to discuss the items on the agenda as 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 11:38 pm.

The Governing Body returned to open session at 11:53 pm.

**MOTION:** Councilor Rivera moved, seconded by Councilor Lindell, to come out of executive session, stating for the record that the discussion was limited to the items 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.

## 20. **ADJOURN**

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 11:55 p.m.

Approved by:

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

ATTESTED TO:

\_\_\_\_\_  
Kristin Bustos Mihelcic, City Clerk

Respectfully submitted by:

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

**GOVERNING BODY MEETING  
EXECUTIVE SESSION  
February 24, 2021**

The Governing Body of the City of Santa Fe met in an executive session duly called on February 24 2021 beginning at 11:40 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), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe is a Party, Including, but not Limited to, Albuquerque City of, et al., v. New Mexico Taxation and Revenue Department, et al., D-202-CV-2018-08036, Regarding Historic Calculations and Distributions of Gross Receipts Taxes. (Erin K. McSherry, City Attorney, [ekmcsberry@santafenm.gov](mailto:ekmcsberry@santafenm.gov), 955-6512)


**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)  
Kristine M. Mihelcic, City Clerk (Attended Virtually)  
Alexis Lotero, Budget Officer (Attended Virtually)  
Mary McCoy – Finance Director (Attended Virtually)

There being no further business to discuss, the executive session adjourned at 11:51 p.m.

  
\_\_\_\_\_  
Kristine M. Mihelcic, City Clerk