



AGENDA

REGULAR MEETING OF
THE GOVERNING BODY
OCTOBER 12, 2022
5:00 PM
COUNCIL CHAMBERS
CITY HALL
200 LINCOLN AVENUE

PROCEDURES FOR GOVERNING BODY MEETING

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.

Written Public Comment: Members of the public may submit written comments on legislation by clicking on the comment bubble to the right of the meeting on the public portal at <https://santafe.primegov.com/public/portal> three hours prior to the start of the meeting.

Live Public Comment: Members of the public may provide public comment in person during *Petitions from the Floor*, *Public Comment*, *Final Action on Legislation*, or *Public*

Hearings.

Virtual Public Comment: To provide public comment during *Petitions from the Floor*, *Public Comment*, *Final Action on Legislation*, or *Public Hearings* virtually, 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/87299943999>.

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: 872 9994 3999**

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

The agenda and packet for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

Councilor Lee Garcia

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

Councilor Chavez

4. **INVOCATION AND REMEMBRANCES**

Councilwoman Villarreal

5. **ROLL CALL**

6. **APPROVAL OF AGENDA**

7. **APPROVAL OF CONSENT AGENDA**

8. **PRESENTATIONS**

- a. FY21 Audit Update (Emily Oster, Finance Director, 505-629-3411, ekoster@santafenm.gov; Ricky Bejarano, Chief Accounting Officer, rabejarano@santafenm.gov; 505-629-6988).
- b. Updates on Midtown Redevelopment Plans (Daniel Hernandez, Redevelopment Project Manager, Proyecto; Rich Brown, Director of Community Development Department: rdbrown@santafenm.gov, 505-955-6625)
- c. Quarterly Update from the Community Health and Safety Task Force. (Councilwoman Villarreal and Councilor Rivera)

9. **ACTION ITEMS: CONSENT AGENDA**

- a. Request for Approval of the September 28, 2022 Regular Governing Body Meeting Minutes. (Geralyn Cardenas, Assistant City Clerk: gfcardenas@santafenm.gov, 505-955-6519)

Committee Review:

Governing Body: 10/12/2022

- b. Request for Approval of the October 3, 2022 Special Governing Body Meeting Minutes. (Geralyn Cardenas, Assistant City Clerk: gfcardenas@santafenm.gov, 505-955-6519)

Committee Review:

Governing Body: 10/12/2022

- c. Request for Approval of Real Estate Donation Agreement to Convey the Property Located at 635 Alto Street from the City to Habitat for Humanity

for the Purposes of Developing Five (5) Low-Priced Dwelling Units for Sale to Income-Qualified Homebuyers. (Alexandra Ladd, Office of Affordable Housing, Director: agladd@santafenm.gov; and Terry Lease, Office of Economic Development, Asset Development Manager: tjlease@santafenm.gov, 505-629-2206)

Committee Review:

Public Works & Utility Committee: 09/26/2022

Finance Committee: 10/03/2022

Quality of Life Committee: 10/05/2022

Governing Body: 10/12/2022

- d. Request for Approval of General Services Contract with Travers Mechanical for Refrigeration and Mechanical Services for the Ice Arena at Genoveva Chavez Community Center in the Amount of \$245,000, Expiring on June 30, 2026. (Tom Miller, Ice Arena Manager, temiller@santafenm.gov, 505-955-4031).

Committee Review:

Quality of Life: 09/21/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

- e. Request for Approval of a Termination Agreement with Descartes Labs, Inc. and Associated Local Economic Development Act Funding Claw Back. (Casey Dalbor, Business Growth Manager: cjdalbor@santafenm.gov, 505-955-6912; Andréa Salazar, Assistant City Attorney: asalazar@santafenm.gov, 505-955-6303 and Rich Brown, Community and Economic Development Director: rdbrown@santafenm.gov, 505-955-6625)

Committee Review

Finance Committee: 10/03/2022

Quality of Life: 10/05/2022

Economic Development Advisory Committee: 10/12/2022

Governing Body: 10/12/2022

- f. Request for Approval of a Budget Adjustment Resolution (BAR) to Move \$95,622 from FY22 GRT in Excess of Budget to FY23 Public Works Complete Streets Supplies to Fund the Banner Brackets Being Installed

on St. Francis Drive & Cerrillos Road. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 505-955-6622 and Andy J Hopkins, Budget Officer: ajhopkins@santafenm.gov, 505-955-6177)

Committee Review:

Public Works & Utilities Committee: 09/26/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

- g. Request for Approval of Amendment No.1 to the Professional Service Agreement Item #19-0749 with Weston Solutions Inc., in the Amount of \$500,000 Excluding NMGRT for On-Call Professional Design Services for Public Works Department. (Romella Glorioso-Moss, PW Capital Projects Manager: rsglorioso-moss@santafenm.gov, 505-955-6623)

Committee Review:

Finance Committee: 10/03/2022

Public Works & Utilities Committee: 10/11/2022

Governing Body: 10/12/2022

- h. Request Approval of a Budget Adjustment Resolution (BAR) to Transfer \$367,003 of Roads Impact Fees to Supplement NMDOT Funding to Design Bishop's Lodge Road Reconstruction Project. (Romella Glorioso-Moss, Public Works Capital Projects Manager, rsglorioso-moss@santafenm.gov, 505-955-6623).

Committee Review:

Finance Committee: 10/03/2022

Public Works & Utilities Committee: 10/11/2022

Governing Body: 10/12/2022

- i. Request for Approval of Local Government Road Fund Cooperative Agreement in the Total Amount of \$73,599 for the Planning, Design, Construction and Pavement Rehabilitation of Buckman Road; New Mexico Department of Transportation. (Romella Glorioso-Moss, Public Works Project Manager, rsglorioso-moss@santafenm.gov, 505-955-6623)

- 1. Request for Approval of Budget Amendment Resolution (BAR) in the Total Amount of \$55,199 for Engineering Design of Buckman

Road Bicycle and Pedestrian Improvements Project Under Org/Obj:
3559980.572960.

Committee Review:

Finance Committee: 10/03/2022

Public Works & Utilities Committee: 10/11/2022

Governing Body: 10/12/2022

- j. Request for Approval of Service Agreement with B&D Industries, Inc., for Installation of Ultra-Violet C Emitters in Various City Buildings in the total Amount of \$482,028.51. (Caryn Grosse, Project Administrator: clgrosse@santafenm.gov, 505-955-5938)

Committee Review:

Finance Committee: 10/03/2022

Public Works and Utilities Committee: 10/11/2022

Governing Body: 10/12/2022

- k. Request for Approval of a Purchase Agreement with the New Mexico State Game Commission to Purchase Approximately 23.08 Acres Located at 1085 Richards Avenue, Known as a Portion of Lot 12, for the Amount of Three Million Dollars (\$3,000,000). (Terry Lease, Asset Development Manager: tjlease@santafenm.gov)

1. Request for Approval of a Budget Amendment Request (BAR) Appropriating \$3 Million Funded by FY22 (Prior Year) General Fund Gross Receipts Tax to Support the Purchase Agreement with the New Mexico State Game Commission for Approximately 23.08 Acres.

Committee Review:

Public Works and Utilities Committee: 10/11/2022

Governing Body: 10/12/2022

- l. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Rivera, Councilor Lee Garcia)
A Resolution Requesting a Term Extension to a Local Government Road Fund Cooperative Agreement from the New Mexico Department of Transportation Identified as Control Number L500444 for the Planning,

Design, and Construction of Agua Fria Street and South Meadows Road Intersection Improvements. (Romella Glorioso-Moss, Senior Project Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

1. Request for Approval of Amendment No. 1 to the Local Government Road Fund Cooperative Agreement (Munis Contract #3202844) with the New Mexico Department of Transportation for the Planning, Design, and Construction of CIP 853C-Agua Fria and South Meadows Rd. Intersection Improvements Project to Extend the Agreement Term to December 31, 2023 with No Additional Funding.

Committee Review:

Governing Body (Introduced) : 09/14/2022

Public Works and Utilities Committee: 09/26/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

- m. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Rivera, Councilor Lee Garcia)

A Resolution Requesting a Term Extension for a Local Government Road Fund Cooperative Agreement from the New Mexico Department of Transportation, Identified as Control Number L500306, for the Planning, Design, and Construction of Agua Fria Street and South Meadows Road Intersection Improvements. (Romella Glorioso-Moss, Senior Project Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

1. Request for Approval of Amendment No. 3 to a Local Government Road Fund Cooperative Agreement, Item 18-1060 (Munis Contract #3201396) with the New Mexico Department of Transportation for the Planning, Design, and Construction of CIP 853X-Agua Fria and South Meadows Road Intersection Improvements Project to Extend the Agreement Term Only to December 31,2023 with No Additional Funding.

Committee Review:

Governing Body (Introduced): 09/14/2022

Public Works and Utilities Committee: 09/26/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

10. **ACTION ITEMS: DISCUSSION AGENDA**

- a. Request for Approval of Amendment No.1 to Contract #21-0322 with Mountain River Consulting Inc., for Utility Billing in the Amount of \$900,000 for Year Two (2) of its Four (4) Year Contract. (Nancy L Jimenez, Utility Billing Division Director, nljimenez@santafenm.gov, 505-955-4364)

Committee Review:

Public Works and Utilities Committee: 09/26/2022

Finance Committee (Denied): 10/03/2022

Governing Body: 10/12/2022

- b. Request for Ratification of the City Manager's Approval to Approve the New Mexico Department of Transportation (NMDOT) FY22 Memorandum of Agreement Grant Agreement in the Amount of \$542,354 for 5310-1C Enhanced Mobility of Seniors and Individuals with Disabilities for FY22 Program Funding Award. (David A. Chapman, Grant Administrator: dachapman@santafenm.gov, 505-660-2619 and Thomas Martinez, Transit Operations and Maintenance Director: tamartinez@santafenm.gov, 505-955-2006)

Committee Review:

Governing Body 10/12/2022

- c. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Rivera and Councilor Romero-Wirth)
A Resolution Directing the City Manager to Identify and Apply for Federal and State Funding Sources for Water, Wastewater, and Other Water-Related Projects. (Alan Hook, Water Resources Coordinator Assistant: aghook@santafenm.gov, 955-4205)

Committee Review:

Public Works and Utilities (Introduced): 10/11/2022

Governing Body: 10/12/2022

11. **MATTERS FROM THE CITY MANAGER**

12. **MATTERS FROM THE CITY ATTORNEY**

EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion of Threatened and Pending Litigation, Including, but Not Limited To, *City of Santa Fe v. Purdue Pharma, et al.* and Unfiled, Threatened Litigation by the City. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov, 505-955-6512)

13. **MATTERS FROM THE CITY CLERK**

14. **COMMUNICATIONS FROM THE GOVERNING BODY**

15. **INTRODUCTION OF LEGISLATION**

- a. **CONSIDERATION OF RESOLUTION NO 2022-__.** (Councilor Romero-Wirth, Councilor Cassutt and Councilwoman Villarreal)
A Resolution Calling on the New Mexico State Legislature to Take Action During the 2023 Legislative Session to End Driver's License Suspensions for Failure to Pay and Failure to Appear. (Kyle Hibner, City Prosecutor: kjhibner@santafenm.gov, 955-5195)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

- b. **CONSIDERATION OF RESOLUTION NO. 2022-__.** (Councilwoman Villarreal and Councilor Rivera)
A Resolution Extending the Term of the Community Health and Safety Task Force Until June 30, 2023, to Allow the Task Force to Complete It's Duties and Responsibilities. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

- c. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Chavez, Councilor Lindell, Councilor Lee Garcia, Councilor Cassutt)
A Resolution Creating a One-Year Pilot Program to Encourage and Incentivize Employers to Pay for Employee Parking in City of Santa Fe (“City”) Parking Facilities at Sandoval Street, the Santa Fe Community Convention Center, and the Railyard. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 505-955-6622)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Public Works and Utilities Committee: 10/24/2022

Finance Committee: 10/31/2022

Governing Body: 11/09/2022

- d. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilwoman Villarreal, Councilor Rivera, and Councilor Cassutt)
A Resolution Supporting the Santa Fe Public Schools (“SFPS”) in Adopting a Community Schools Model and Directing the City Manager to Support the City’s Continued Collaboration and Participation with the SFPS’s Community Schools Steering Committee. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 505-955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

- e. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Cassutt, Councilor Chavez, Councilwoman Villarreal, Councilor Michael Garcia)
A Resolution Adopting the City of Santa Fe Multimodal Transition Plan. (Erick Aune, MPO Officer: ejaune@santafenm.gov, 955-6664)

Committee Review

Governing Body (Introduced): 10/12/2022

Bicycle and Pedestrian Advisory Committee: 10/13/2022

Quality of Life Committee: 10/19/2022

Public Works and Utilities Committee: 10/24/2022

Governing Body: 10/26/2022

16. **PETITIONS FROM THE FLOOR**
17. **PUBLIC COMMENT ON BILLS (FIRST PUBLIC COMMENT, NO ACTION)**
18. **FINAL ACTION ON LEGISLATION (PUBLIC HEARING)**
19. **PUBLIC HEARINGS**

- *. *Pursuant to the Governing Body Procedural Rules G 1(b) – Members of the Public Cannot Cede Their Allocated Time to Another Member of the Public, but They May Make Arrangements with the City Clerk to Speak in a Specific Order in Order.*
- a. **CONSIDERATION OF RESOLUTION NO. 2022-_____.**
Case #2022- 5205. 455 St. Michaels Drive Cancer Center Master Plan Amendment.
JenkinsGavin Inc., Agent, for Christus St. Vincent Regional Medical Center, Owner, Requests Approval of a Master Plan Amendment to the Existing CHRISTUS St. Vincent Campus Master Plan to Develop an 80,880 Square Foot Regional Cancer Center Located at 455 St. Michaels Drive on a 7.407 Acre Parcel within an Approximately 47-Acre Campus that is Zoned “HZ” (Hospital Zone) and Located within the South Central Highway Corridor Overlay District. (Daniel Alvarado, Case Manager: djalvarado@santafenm.gov, 505-955-6670)
- b. **Appeal #2022-5759 of Case #2022-5206.** Appeal by Sommer Karnes and Associates LLP for Christus St. Vincent Regional Medical Center of the Planning Commission's Imposition of Staff Condition No. 11 to Christus St. Vincent Cancer Center's Development Plan for a Development Located at 445 and 455 St. Michael's Drive. (Patricia Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955-6501)
- c. **Appeal #2022-5756 of Case #2022-5209.** Appeal by Sommer Karnes and Associates LLP for Christus St. Vincent Regional Medical Center of

the Planning Commission's Denial of Christus St. Vincent Cancer Center's Request for a Slope Variance for a Development Located at 445 and 455 St. Michael's Drive. (Patricia Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955- 6501)

- d. **Appeal #2022-5749 of Case #2022-5208.** Appeal by Anna Darrah and Edmund Preston Lottimer of the Planning Commission's Approval of Christus St. Vincent Cancer Center's Request for a Height Variance for a Development Located at 445 and 455 St. Michael's Drive. (Patricia Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955-6501)

20. APPOINTMENTS

- a. Santa Fe Public Library Board
 - Flavian Mark Lupinetti – Appointment – Term Ending 07/2023
- b. Bicycle and Pedestrian Advisory Committee
 - Candice Martinez – Appointment – Term Ending 6/2024
 - Steven R. Pilcher – Appointment – Term Ending 6/2023
- c. Charter Review Commission
 - Paul Dirdak (Signe I. Lindell)
 - Maria Perez (Renee D. Villarreal)
 - Elicia Montoya (Carol Romero-Wirth)
 - Peter Ives (Michael J. Garcia)
 - Sarah Amador-Guzman (Jamie Cassutt)
 - Lilliemae Ortiz (Amanda Chavez)
 - Nancy Long (Mayor's At-Large Appointee)

21. ADJOURN

Closed captions are provided for this meeting. Persons with disabilities in need for additional accommodations, contact the City Clerk's office at 505-955-6521, five (5)

working days prior to meeting date.

**Governing Body
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October 12, 2022**

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8. Adjourn	Adjourned at 3:16 am	91

**Minutes of the
Special Meeting of the Governing Body
Wednesday, October 12, 2022
City Hall
Santa Fe, New Mexico
Hybrid 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, October 12, 2022, at approximately 5:10 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a hybrid meeting.

2. PLEDGE OF ALLEGIANCE

Councilor Lee Garcia led the Pledge of Allegiance.

3. SALUTE TO THE NEW MEXICO FLAG

Councilor Chavez led the Salute to the New Mexico Flag.

4. INVOCATION

Councilor Villarreal gave the Invocation. In honor of Indigenous Peoples' Day, read a statement from ?? a Mohican Native American about performing bad ceremony that affects everything. They need to use their power only for good ceremony that benefits the greater good.

She honored the life of Tigre >>>> exception artist that reflected the >>> While Tigre had not lived long in Santa Fe, he affected many. Sent her

Councilor Lee Garcia remembered his aunt who passed away two years ago in November. Her birthday was two days ago. He remembered her and the life she lived.

Councilor Chavez remembered her cousin who was laid to rest yesterday and said it was amazing to see all who came together. She also remembered the life of Viola Sanchez, who was a principal and an EA at Santo Niño Catholic School. She was lost unexpectedly last week, and she was a beautiful human being. She remembered her family now.

Mayor Webber remembered Herb Denish and how much he and his wife Diane meant to the people of New Mexico

The Governing Body observed a moment of silence for those who have recently died and their grieving families as well as those suffering from COVID or hardships for a sense of peace.

5. ROLL CALL

Roll call indicated the presence of a quorum in-person, as follows:

Members Present

Mayor Alan Webber
Councilor Jamie Cassutt
Councilor Amanda Chavez
Councilor Lee Garcia
Councilor Michael Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor Renee D. Villarreal

Members Excused

None

Other Participants Attending

Erin K. McSherry, City Attorney
Kristine Bustos-Mihelcic, City Clerk
John Blair, City Manager
Melissa McDonald, Parks Division Director
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

Councilor Rivera asked to move appointments up right after presentations.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Chavez to approve the agenda as presented.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

5. APPROVAL OF CONSENT AGENDA

Ms. Bustos-Mihelcic said nothing had been requested to be taken off for discussion.

MOTION: Councilor Cassutt moved, seconded by Councilor Villarreal, to approve the Consent Agenda as presented.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

8. PRESENTATIONS

- a. FY21 Audit Update (Emily Oster, Finance Director, 505-629-3411, ekoster@santafenm.gov; Ricky Bejarano, Chief Accounting Officer, rabejarano@santafenm.gov; 505-629-6988).

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

Director Oster with Mr. Bejarano presented the update. They made progress with the entrance conference on October 6 and received update information on the audit. That was the beginning of the acceptance phase for FY 21 and FY22 simultaneously. That takes them through April next year and it is due June 30, 2023. That timeline may be longer than we hoped for, but the Finance Department will work to shorten it as much as possible. The FY 21 audit will be finished sooner to have information earlier and will allow the City to turn it in to State Auditor earlier.

The unusual circumstances were that the first contract was on January 1, 2022. But on April 22, that firm withdrew, The new RFP was issued on June 29 and awarded on July 29 and finalized in September and got a

timeline from the auditor. The City made key improvements in the meantime that will be importance to the success of the audit submission. They brought on Mr. Bejarano as Chief Accounting Officer who has much experience and has helped in many ways to improve the auditing work.

In September, the City filled the Finance Director and Grants Manager positions, who bring much experience to support operations. The three of officers bring much experience and have more hiring to do to fill critical vacancies. In August, they closed the loop in ERP and for the first time they closed the books in July and August and were preparing to close September. With the submission on June 30, it puts us back on track.

The news probably isn't what the Governing Body wanted to hear but they were moving in the right direction.

Mr. Bejarano said they will work hard to shorten the timelines. One question was whether that affects capital outlay or other funding. They have not experienced delays. Most awards were on reimbursements, and they were flowing again.

Councilor Romero-Wirth thanked Mr. Bejarano and Director Oster. Regarding the three staff hires, there were still vacancies in the Finance Department, but you didn't mention that they do have Clifton Larsen Allen to help internally to expedite their work.

Mr. Bejarano agreed. They contracted about a month ago with CLA, and they have done much work already. The internal Control work was done and tested. They looked at the actual numbers in the REDW Link System for 2021 and REDW moved aside for CLA who will do testing for 2022. CRI (Carr Riggs and Ingram - auditors) will work closely with CLA and were getting up to speed to shorten the timeline.

Councilor Romero-Wirth noted since CLA left, Santa Fe has met the deadlines set by the State Auditor for the work they required. It was on schedule – correct?

Mr. Bejarano agreed it is. They submitted the work and had a working session with DFA who went through various components and joined us in saying they were ready.

Councilor Romero-Wirth asked if he would agree the audit was a collaboration with others in the work. Some of this delay was not of the City's own making. In the latest news, they were ready and have been doing the work required but were a little dependent on other players who set deadlines for the City and review their work. It was all highly regulated with other players.

Mr. Bejarano agreed. For meeting the timeline, the City was at others' mercy. They were ready April 1 but were not allowed to issue the RFP until the end of June. Now they have three entities to collaborate: CLA, CRI, and the City Finance Department. They have grants management in the Single Audit process that must be coordinated separately.

Councilor Romero-Wirth added that the Staff stands ready to be completely responsive in shortening timelines where possible.

Mr. Bejarano agreed. They have people who touch finance throughout the whole system. Water, Public Works, Parking, etc.

Councilor Romero-Wirth spoke about the ERP (Unis) System upgrade and the importance of that to keep the City on track. They need the staffing and cooperation among all parties. The system must get online. And the month-end close was done at end of the fiscal year and they have been doing month-end closes since then.

Mr. Bejarano emphasized the upgrade was critical. The current version will not be supported beyond current year end. The upgrade was not the most recent version but only one away. The City has various cash systems now and the upgrade will provide one system for everyone, and they will add modules as needed.

He didn't know how the City was able to produce reports without a monthly close. Everything had to be done manually. Once everything was being closed monthly, there will not be as much to do at year end. The City has 70 funds, and each must be treated separately in the audit. So this was a tremendous undertaking.

Councilor Romero-Wirth said they had an incredible backlog. Now they were on track with them.

Mr. Bejarano agreed. When he arrived in January, there were three fiscal years open. They got 2020 and 2021 closed and 2022 was the first on-time close ever.

Councilor Romero-Wirth pointed out that Director Oster has been here only five weeks (since September 6).

Councilor Romero-Wirth wished the Governing Body had better news, but it has been solid work. Coming in as an outsider, She asked Director Oster for her assessment on getting the work done.

Director Oster believed they could get it done. The 2021 and 2022 audits were achievable. And the 2024 budget will be priority work during that time. She has assigned a point person to each of the three tasks. With the support of contractors, it was an achievable timeline, and they will shave time off wherever possible. The system upgrade was mission critical. It was a lot of work, and the Staff can do it.

Councilor Romero-Wirth thanked her for taking the job and for the work that lies ahead. And Mr. Bejarano has been holding feet to the fire and straighten things out.

Councilor Cassutt thanked them for the presentation. She did wish the timeline was different. Thanks to Councilor Romero-Wirth for walking us through the tasks. Staffing has been an issue repeatedly. CLA was filling many of the gaps and she would like to know where they were in filling the vacancies. She asked if they were doing recruiting differently now.

Mr. Bejarano said the market was tightening up a little and they were getting more capable people on board. And as they were getting new people on board, others were seeing competent people here and becoming more interested in joining at the City. They were getting inquiries on positions and was looking promising. Our goal was to stop contracting.

Director Oster was also interested in more training for Staff to develop skills and make greater contributions to the City. This Staff was exceptionally dedicated. They want to be here and to do a good job.

Councilor Cassutt understood the factors that led us to where they are. One of them was training on how to utilize the system. She asked what lessons have been learned since the launch and what the plan was to make sure people on Staff and new hires get the training necessary to get us on the right track.

Mr. Bejarano said IT has done an incredible job coordinating the training which has begun. As things go along, there was some redundancy in the training which was an important way to learn. Any people affected by the new module were being trained on it. As the training builds, they see the deficits of the past which were at every level. He was attending entry level training so He can do the things any other staff member would be doing. It was going very well.

Director Oster said training on the system has also been very important to her. It was always the number one request. They started last week with exposure training and then experienced the controls in a test environment, leading up to postproduction support after the go-live date.

After the initial training last week, at the team meeting she asked how it was going round robin around the room. The people felt good about it and felt they could do the work. Also, at her request, the trainings were being recorded for on-demand access as new employees come on board.

Councilor Cassutt asked why the City was not going for the most recent upgrade.

Manager Blair said It was intentional to go to the version that was the most widely used across the country.

Councilor Cassutt appreciated the work being done to get us in line. They were hoping for an earlier 21 and 22 audits. But putting things in place will help with hitting the monthly closes on time and getting the building blocks in place. She was grateful for the updates and seeing what the building blocks look like. It was building the Finance Department to get out of that bad cycle.

Councilor Michael Garcia thanked Director Oster and Mr. Bejarano for the update. He wanted to make sure they have every tool necessary to get through the next year. Know that all Councilors were here to support you. They want you to have every capability to get FY23 done on time. For four years in a row, they were late. He was nervous and wondered when DFA would step in. It was a cycle almost unbreakable. They seem to not be able to figure it out. He was extremely nervous about their future. This news was very troubling. He had never seen anything like this in his professional career. And he thought Mr. Bejarano said that too. It was the biggest black mark on their financial history.

He said he has the utmost confidence in their team, but it will take all of us to get it done. It puts us at risk on federal and state funds being withheld. Mr. Bejarano said nothing has been withheld yet (by federal or state) but they have many significant projects in front of us that total about \$9 million. That funding was at risk. He read through the list of those awards. And said those were expenditures for which they can't ask for reimbursement yet and bonds have not been sold. When they don't have their fiscal house in order, they cannot get more funds. The public needs to be aware they were at risk now. They need the information timely so they can work together.

He said to Director Oster that he got the notice a couple of hours ago that the audits would be late. He asked when the Mayor, Finance Chair, City Manager were informed.

Director Oster said that happened during the entrance conference. The Mayor, City Manager and Finance Chair were at that meeting. They submitted notification for each of the two years this afternoon and laid it out

in detail. There was also a representative of the State Auditor at the entrance conference.

Councilor Michael Garcia asked if DFA has been notified of the delayed date.

Director Oster said not yet but they will be notified as well.

Mr. Bejarano said they had to go through the entrance conference before notifying DFA.

Councilor Michael Garcia assumed they could get that update at the Finance Committee meeting.

Director Oster agreed.

Councilor Michael Garcia observed that Unis was causing delays for the Governing Body. He asked if Staff have been able to pinpoint what has caused the major delays.

Director Oster said the primary factor was the change of audit firms. The system upgrade was not the problem but was the path to solving it. It also required changes in behavior they need to work through. The system upgrade was absolutely necessary for the City to function.

Councilor Michael Garcia said the Governing Body wants to be made aware of any roadblocks that happen.

Mr. Bejarano said the primary roadblock was timing and delay to be able to issue the RFP. They couldn't contract with the external auditor until late September. Being able to retain a new auditor and bring on CLA to help. He agreed to keep the Governing Body informed every step of the way.

Councilor Michael Garcia asked if CLA was only assisting with the FY22 audit.

Mr. Bejarano explained there were rollovers from 2021 to 2022 and they had to be confident of those numbers to assure that 2022 was ready to flow. The data from 2021 had to be accurate and balanced in order to pick up 2022. They were ensuring it ties out and balances.

Councilor Michael Garcia recalled vacancies last December was a 40% vacancy rate. They heard it was now about a 20% vacancy rate. He asked what the plan to fill them was. This was critical work with the deadlines. It was an absolute expectation, and he was surprised DFA has not taken over their finances already. The City can't use vacancy rates as an excuse.

He wished the Finance Staff all the best. This was a huge undertaking, and the new expected completion date was a significant body blow to us right now. Five out of last six audits being late was huge.

Councilor Romero-Wirth asked if the City has lost any funding to date as a result of what was happening here.

Director Oster said some of it was on hold, but none has been lost.

Councilor Romero-Wirth asked if the audits that were late were clean.

Director Oster said that was correct

Councilor Romero-Wirth asked if CLA was on contract to help us internally with the work that needs to be done to get the audits in and shore up their vacancies.

Director Oster agreed. Contractors were needed because they were behind. They have three fiscal years open right now and soon the budget for 2024 will be open. Once they get through the backlog, they will need fewer contractors.

Councilor Romero-Wirth understood the contractors were on board and working right now.

Mr. Bejarano agreed they have been for the last month and a half and working with us daily.

Councilor Romero-Wirth added that over the summer, they worked through the McHard Report to get their financial house in order. The list was long. They know that work won't happen overnight to get the City caught up to this century. They continue to work on McHard issues and follow recommendations to get things straightened out.

Mr. Bejarano agreed. That report was about controls, and it was an ongoing process to adjust internal controls. They were working toward that.

Councilor Romero-Wirth said the Finance Committee also worked through the vacancies issue.

Mr. Bejarano said yes. He went through a number of critical positions and now the major vacancies were down to Controller and Accounting Manager.

Councilor Romero-Wirth said the Finance Committee will continue to monitor what was going on to meet the deadlines and how they will ensure

they stay on time. Since their previous auditor pulled out, they have met deadlines through spring and summer and into the fall. And they were getting information out to the public on their progress.

Mayor Webber assumed Mr. Bejarano and Director Oster have read the McHard Report. One recommendation was an investigation to determine if fraud had happened.

Mr. Bejarano agreed. No fraud has been found. They were monitoring the cash process daily. Our balances have been stable and increasing. He has been monitoring A/P daily also and comparing from one month to the next. All internal controls have been tightened up. It was an ongoing process improvement.

Mayor Webber said they do need to dig deep for fraud. That was a severe indictment and they have improved all the steps to make sure of no fraud or abuse along the way.

Mr. Bejarano agreed. Fraud was always a risk and must be addressed on a daily basis. They were all very aware of that risk.

Mayor Webber remembered Councilor Michael Garcia had asked if it was the worst either of you have ever seen.

Mr. Bejarano said it was not the worst. He had to deal with actual fraud in the past. This was more challenging because of loss of Staff. The Finance Department was shortest in July 2021 at the height of COVID. They had a cash control section of one person left due to illnesses and vacancies that caused a lot of delays.

Mayor Webber asked Director Oster if she has dealt with bad problems.

Director Oster said late audits were an administrative problem but in the past, she has dealt with criminal activity, bankruptcy, and other challenges. Although audits were a serious issue, there were not among her top five. The worst was criminal activity and there was no evidence of that here at all.

Mayor Webber asked if the Teen Center was being built on schedule.

Director Oster said it is.

Mayor Webber asked if there were risks here that could result in loss of city services and if that was something to be concerned about.

Director Oster was not aware of any that were due to the late audit.

Mayor Webber concluded that on a daily basis, residents don't need to be concerned their ongoing services would be interrupted or diminished. Director Oster agreed. Those were funded by GRT which was coming in higher than projected.

Councilor Michael Garcia clarified he was explicitly stating the services funded by grants were at risk, and because of an Executive Order, the State could withhold those funds. Nobody was saying the Teen Center was not being built. But DFA could say they would not reimburse us or hold the funds until their audits were finished and approved. That was the premise of that list.

Mayor Webber said the premise was that they might not get reimbursed for those expenditures. He understood they might hold them until the audit was turned in and then they would get reimbursed.

Mr. Bejarano affirmed there has not been any denial of reimbursement but agreed it could be delayed.

Councilor Michael Garcia was astonished that they were still going back to a five-year-old report.

Councilor Romero-Wirth observed that talented people were working hard to get it fixed. They were not trying to justify it, but they were owning it. It was a problem and even through McHard was five years old, it was not fixed yet. But they were working to fix the problems in it. They won't take or eyes off the ball. It was taking everybody. People in all departments were working on it. People have to change their behaviors and were doing that. They were trying to help the public understand the problem and what they were doing to fix it.

Mayor Webber thanked Mr. Bejarano and Director Oster for bringing this to the Governing Body The Governing Body wants to support them in getting the audit done and continue to provide daily services of the City.

- b. Updates on Midtown Redevelopment Plans (Daniel Hernandez, Redevelopment Project Manager, Proyecto; Rich Brown, Director of Community Development Department: rdbrown@santafenm.gov, 505955-6625)

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

Director Brown said Mr. Hernandez was on Zoom to help with the presentation. This was an update on the progress at Midtown and looking

at their upcoming application. They were moving forward with their nine action plans. One was the RFP for the legacy buildings and have a Planning Commission meeting on October 20 and bring it to the Governing Body on November 6. He was excited about their next steps.

Mr. Hernandez said the Master Plan, with rezoning and GPA were presented to the Planning Commission. They wanted to make sure all voices were heard but also regulation of the plans will guide and direct the type of building to be constructed and rehabilitated. What they changed must be brought for approval. It will be considered as a resolution on what was built there not only for residential but also for commercial spaces and jobs development, land trust issues, etc. It all comes together with driving force, located in the center of the City with lots of history and stories. It was the gold standard for landscaping.

Director Brown added the maps were revised from the previous presentation.

Mr. Hernandez said they used inclusionary zoning for affordable housing and the restrictions of the Community Land Trust were in effect for 10 years. Live-Work units for small businesses were encouraged.

He shared some basic studies done that were conceptual and aspirational. Expansion of Garson Studios, collaboration with local schools, 1,100 units planned. 30% for LMI households, and 6.4 acres of open space

The final hearing will come to the Governing Body on November 9. And all information was on the website.

Director Brown invited any questions and, since they were an applicant, might not be able to answer all of them.

Councilor Cassutt said this presentation was given at EDAC today. It was good to see how the pieces all come together. She recommended the Land Economics Class for individuals interested in balancing the issues with the finances. She encouraged people to watch them. The next one - ROI was on October 31. That was a crucial piece.

Director Brown agreed. They would go into details with the team.

Councilor Cassutt was looking forward to the Land Use hearings.

Councilor Michael Garcia thanked Lee Logston, Director Brown, and Mr. Hernandez. One thing not covered during Finance was disposal of property. He asked what properties were being reviewed for disposal by the end of this calendar year.

Mr. Hernandez said they did present that to Finance. They will first issue an RFP, and, hopefully by end of next week, get it out the door. He listed the three that will go out by this time in 2023. They will enter into negotiations later next year and bring that to the Governing Body for final approval. The Visual Arts Center has a series of individual buildings – the Miriam Center for Photography, Tipton Hall, Tishman Hall, The Garson Studio Lot 49k building on ten acres to allow for expansion, and the Garson Performance Center at 32,000 square feet.

Councilor Michael Garcia reminded him the Governing Body passed a resolution to require staff presentation when any City property wants to be disposed of. When they issued the resolution, the Governing Body did not approve any sale of those buildings. They need to follow the resolution's process and provide justification why staff thinks it was a good idea to sell them. The Governing Body needs an update and presentation and a vote before any RFP is to be issued.

He knew some residents oppose any land sale of Midtown property. So he urged them to make a presentation of the intent to sell parcels at Midtown.

Director Brown said they will come to the Governing Body before any sales process was undertaken.

Councilor Michael Garcia read the resolution. Nowhere in there does it say sale of land or sale of Garson Studios. Once rezoning is done, comes the step for proposing to sell anything.

Mr. Hernandez said with either sale or leasing, they will ensure the success of it with what City wants to see. They will write the specific deed restrictions per public interest. The draft of the Development Plan includes that sales intent. It was posted on the web site.

Councilor Cassutt noted this was different properties than others they have discussed. They were acting as the Master Developer. The ownership of that land will vary, depending on what they were trying to do with it and the value return on investments, economically and socially.

She pointed that out to the public. She disagreed with Councilor Michael Garcia. There would be a patchwork of ownership that will stretch to reach the highest community value. The Community Development document does provide valuable information. It will vary from parcel to parcel. And they will need to continually reassess and monitor the whole process.

Councilor Romero-Wirth said 2022-12 was the resolution adopting next steps including applying for rezoning, In this resolution that was adopted, it

specifically said nine things the County Manager was authorized to do. Three were RFPs for the Garson Theater, Performance Center, and Library. That was to provide ideas for how to use these properties. The Governing Body adopted that, and the City Manager was moving forward, and Director Brown and his team were moving forward for the RFP. This was a unique development project. Some of the ideas may include buying or leasing some parts of the property. Those proposals will be evaluated, and some will be approved. But the Governing Body was not there yet. She wanted the public to be aware and that no steps were being skipped.

Ms. McSherry had one additional issue. The RFP was more recent, and it was not clear if any property would be posted as for sale. It was open for multiple options. As long as they follow the qualifications, that would be an appropriate way to move forward.

Mayor Webber noted there were many steps to take before that, including a lot of community input before a proposal to sell is considered.

Councilor Michael Garcia asked his colleagues to show where it says in the resolution that it authorizes any land sale. If it was there, he would have introduced an amendment that says they were interested in sale. Nowhere in here does it mention sale of property. It was more about development. It would likely be more like the Railyard where the City retains land ownership and leases the parcels.

Councilor Chavez thought the resolution focused on a planning goal. The RFP would take that up. Whether sale or lease, it would be to further the plans of the Midtown.

Director Brown said there were options within it.

Councilor Chavez said they were soliciting for proposals that would best meet the Midtown goals.

Director Brown agreed. The Governing Body has the authority to create deed restrictions or lease restrictions. There were many steps before getting to a disposition.

Councilor Chavez added that they would consider a final approval of any of that and would need to have all that was included in the resolution, and it would be a land grant.

Director Brown said that was his understanding.

Mayor Webber said the Governing Body heard a variety of options on it. They once talked about one buyer buying the whole site. Some people

would like that on the table. Others wanted to know the technique for tying the whole property together and whether that was possible. He asked how the design would be achievable. There was no presumed outcome with it - just discussion on how to get the best result. There were many different choices involving the land and best way to achieve that goal. It might be a mixture of solutions, economic and social, to get it achieved.

Mayor Webber thanked them for the presentation.

AGENDA AMENDMENT.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Cassutt, to amend the Agenda to hear Petitions from the Floor next.

Councilor Villarreal noticed there were people here for the presentation also, She felt the Governing Body should honor their time too.

Mayor Webber understood but noted the Governing Body has articulated a preference for advertising that 7:00 pm as the time they would take petitions from the floor. And if we can move rapidly through that, we can go to the third of our presentations.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, and Councilor Romero-Wirth.

Against: Councilor Rivera and Councilor Villarreal.

PETITIONS FROM THE FLOOR

Stefanie Beninato brought to the Governing Body's attention the Plaza was a no smoking area. There is only one sign on the Plaza and says it is a non-smoking area. And people are regularly smoking there. Recently, she observed three people smoking tobacco and one smoking cannabis. There were police officers on bicycles going around, but nobody stopped the smokers or bothered to do anything. She asked the Governing Body to direct Director McDonald or to the Parks Staff to put up more no smoking signs around the Plaza so there would at least be a basis for enforcing no smoking.

Ms. Beninato thanked the Recreation Department for the longer hours at Salvador Perez and Genoveva Chavez Community Center now.

There were no other petitions from the Floor at 7:37 p.m. Mayor Webber announced they would return now to the third presentation on the agenda.

- c. Quarterly Update from the Community Health and Safety Task Force. (Councilwoman Villarreal and Councilor Rivera)

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

A member of the Task Force, Valeria Alarcon, provided the presentation. She mentioned the other members of the Task Force were here on Zoom and recognized them for their participation in the work of the Task Force, some of whom were present on Zoom at this meeting.

She listed the various activities that were undertaken in the third quarter. She announced that their meetings were open to all people. For third quarter, they had five special learning sessions which she listed and briefly discussed.

They plan to reintroduce a bill authorizing supervised drug use in controlled settings.

She then reviewed the achievements of the work groups.

Coming up for the fourth quarter were two special learning session: The 30x30 Initiative that focused on gender equity, and one on Traffic Enforcement Alternative Model led by Monica Ault and Emily Kaltenbach.

Lastly, the Task Force will request an extension to continue their work.

She invited people to attend their meetings and she thanked the Governing Body for their support and to Julie Sanchez for the quality of her work. Thanks for your time.

Mayor Webber invited Councilor Villarreal and Councilor Rivera to speak to this matter.

Councilor Villarreal thanked Valeria for her report. She also thanked all the folks who came, including Geno Zamora and Marcella Diaz. She said the learning sessions have much rich information and she hoped the media and public would look at the recordings. Those were what inform us of what was being tried in other communities and whether it would make sense to

make it applicable here. The UNM Contract was extremely long in the negotiation, but that was out of their control.

She wanted to hear community voices which was why they asked for an extension.

Councilor Rivera thanked Valeria for presenting and to Gino Zamora for being present here and for working hard on the Task Force. They looked at the agreement in February and there was no delay from the City's side until the end of September when UNM finally signed it. He looked forward to the outreach process. They were targeting people who don't normally respond to surveys and Dr. Sanchez from UNM will help the Task Force get there.

Ms. McSherry asked for presenters to touch base with her before presenting. The City Attorney signed off in May and UNM signed in July. Public perception was important here.

Mayor Webber commented that an extensive document was attached to the packet for this presentation.

Councilor Lindell asked why the contract took nine months to get signed.

Ms. McSherry said her office did a red-line version. Some parts of it were illegal for her to sign. That was in July.

Councilor Lindell noted that in this extensive third quarter report, it revealed "scope creep." The Task Force was now adding on a whole new dimension with a public survey. She was not sure how it fits in with policy and procedure. She asked any person on the committee to respond.

Councilor Villarreal didn't understand the question.

Councilor Lindell said the task was a review of policy and procedures for the City. It was to be finished by the end of 2022. It seems like the third quarter report has a massive amount of information. This was a massive amount of work later in the period.

Councilor Rivera said the community outreach piece ties it all together. He has not had contact with the police in a long time. But this is bringing it all together.

Councilor Lindell thought that work would have been done on the front end instead of the back end.

Councilor Villarreal said they did not have a choice. Because it took so long to implement, that was where it was, and it won't stop their work. It ties very nicely. It goes hand-in-hand and they found out the best practices to inform themselves. And how they can reenact public safety. They couldn't have public engagement at the front.

Councilor Lindell hoped the survey would be a good valid survey and not a "push-pull" that was put out as a survey. It should be done with those who have high standards for surveys.

Councilor Chavez asked why there was so little focus in the survey on suicides and the mental health crisis we are in.

Councilor Villarreal said everything it ties into behavioral health. The presentations have done that. It was talking about people's' experiences and how they were supported in the community. Mental health services will help reduce the incidence of suicides.

Councilor Cassutt thanked the group for the wide spectrum in the survey. How it all gets consolidated was a big task. She would be interested to hear the public perspective and mental health.

Councilor Rivera said they've had one meeting with Dr. Sanchez on community mental health in general. And their access to food and other things. He asked if they need to do more than that.

Councilor Cassutt said there will likely be policy recommendations but there may be other areas they should focus on, as well. This was not the end but the beginning. These were tough topics, and it was unfortunate the contract was delayed. She promised to review them.

Mayor Webber seconded Councilor Chavez's comment on the mental health issue. They were in the middle of a mental health emergency nationally and locally. The subject came up on page 7 – under items for more participation. He read from them. This was the critical issue in front of the Governing Body.

He had a ride-along last week and saw on the monitor that they all included homeless people or those in the midst of mental health problems. They were severely under resourced, especially after previous Governor got rid of the mental health services in New Mexico.

The mental health paragraph has become a matter of national and local emergency. It was ground zero for so much of what public was concerned with. As something to focus on. They should have discussions about overdose prevention and overdose prevention centers, including the

paragraph on page 14 that he read aloud. It said the OPCs do not increase crime and actually save lives.

Councilor Rivera said that came from the women who started those centers in New York. He added that the main goal of the centers was to prevent them from dying. It was a great presentation. It was also recorded.

Councilor Villarreal suggested all the ideas on how to get more information to the public would be good for focus groups and mental health services incorporated in a survey and get the public feedback. All of us leave the learning sessions inspired.

Mayor Webber thanked them for presenting. We do have to study things and find out what works. Health and safety needs do fit together and have community buy-in. He invited interim recommendations to the Governing Body in the form of proposals, large or small.

Instead of returning to the original agenda, Mayor Webber thought they agreed to move the agenda so that Appointments came next. The Governing Body went to Agenda Item #20, Appointments, without a motion to amend the Agenda.

Ms. Bustos-Mihelcic agreed.

20. APPOINTMENTS:

- a. Santa Fe Public Library Board
Flavian Mark Lupinetti – Appointment – Term Ending 07/2023

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

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Cassutt to approve the appointment to the Library Board.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

- b. Bicycle and Pedestrian Advisory Committee

- Candice Martinez – Appointment – Term Ending 6/2024
- Steven R. Pilcher – Appointment – Term Ending 6/2023

Ms. Bustos-Mihelcic read the appointments for Bicycle & Pedestrian Advisory Committee.

Councilor Michael Garcia said with these appointments, it gets representation from all four Districts.

MOTION: Councilor Michael Garcia moved, seconded by Councilor Villarreal to approve the appointment to the Bicycle and Pedestrian Advisory Committee.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

- c. Charter Review Commission
- Paul Dirdak (Signe I. Lindell)
 - Maria Perez (Renee D. Villarreal)
 - Elicia Montoya (Carol Romero-Wirth)
 - Peter Ives (Michael J. Garcia)
 - Sarah Amador-Guzman (Jamie Cassutt)
 - Lilliemae Ortiz (Amanda Chavez)
 - Nancy Long (Mayor’s At-Large Appointee)

Ms. Bustos-Mihelcic read appointments to Charter Review Commission.

Councilor Rivera said he and Councilor Lee Garcia made some recommendations from District 3 that were not listed. He asked if the Governing Body was going to leave District 3 out.

Mayor Webber said no. There were three from District 3 whose applications were submitted late. Each Councilor was to submit three names. This was by no means complete. He now has three names from District 3, one of which was by both of the District 3 Councilors, and one was attributed to Councilor Michael Garcia. A third name had not been submitted.

Ms. McSherry said the third one was received yesterday.

Mayor Webber clarified this was just the pool he had received for this meeting.

Councilor Chavez proposed not appointing them until the next meeting.

Ms. McSherry replied that the Governing Body was supposed to approve them by today and they cannot amend the resolution.

Councilor Chavez explained she was just trying to get clarification. The appointments were not complete.

Ms. McSherry recommended the Governing Body do the best they could do.

Mayor Webber said the resolution called on him to do certain things by this date This just attempts to complete the work that was due now. It will not shut out the process. Those who were on this list fulfills the resolution and District 3 could add more names.

MOTION: Councilor Cassutt moved, seconded by Councilor Chavez to approve the appointments to the Charter Commission.

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

For: Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: Councilor Lindell and Mayor Webber.

At 8:30, the Governing Body returned to the original agenda.

9. ACTION ITEMS: CONSENT AGENDA

- a. Request for Approval of the September 28, 2022 Regular Governing Body Meeting Minutes. (Geraldyn Cardenas, Assistant City Clerk: gfcardenas@santafenm.gov, 505-955-6519)

Committee Review:

Governing Body: 10/12/2022

- b. Request for Approval of the October 3, 2022 Special Governing Body Meeting Minutes. (Geraldyn Cardenas, Assistant City Clerk: gfcardenas@santafenm.gov, 505-955-6519)

Committee Review:

Governing Body: 10/12/2022

- c. Request for Approval of Real Estate Donation Agreement to Convey the Property Located at 635 Alto Street from the City to Habitat for Humanity for the Purposes of Developing Five (5) Low-Priced Dwelling Units for Sale to Income-Qualified Homebuyers. (Alexandra Ladd, Office of Affordable Housing, Director: agladd@santafenm.gov; and Terry Lease, Office of Economic Development, Asset Development Manager: tjlease@santafenm.gov, 505-629-2206)

Committee Review:

Public Works & Utility Committee: 09/26/2022

Finance Committee: 10/03/2022

Quality of Life Committee: 10/05/2022

Governing Body: 10/12/2022

- d. Request for Approval of General Services Contract with Travers Mechanical for Refrigeration and Mechanical Services for the Ice Arena at Genoveva Chavez Community Center in the Amount of \$245,000, Expiring on June 30, 2026. (Tom Miller, Ice Arena Manager, temiller@santafenm.gov, 505-955-4031).

Committee Review:

Quality of Life: 09/21/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

- e. Request for Approval of a Termination Agreement with Descartes Labs, Inc., and Associated Local Economic Development Act Funding Claw Back. (Casey Dalbor, Business Growth Manager: cjdalbor@santafenm.gov, 505-955-6912; Andréa Salazar, Assistant City Attorney: asalazar@santafenm.gov, 505-955-6303 and Rich Brown, Community and Economic Development Director: rdbrown@santafenm.gov, 505-955-6625)

Committee Review

Finance Committee: 10/03/2022

Quality of Life: 10/05/2022

Economic Development Advisory Committee: 10/12/2022

Governing Body: 10/12/2022

- f. Request for Approval of a Budget Adjustment Resolution (BAR) to Move \$95,622 from FY22 GRT in Excess of Budget to FY23 Public Works Complete Streets Supplies to Fund the Banner Brackets Being Installed on St. Francis Drive & Cerrillos Road. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 505-955-6622 and Andy J Hopkins, Budget Officer: ajhopkins@santafenm.gov, 505-955-6177)

Committee Review:

Public Works & Utilities Committee: 09/26/2022
Finance Committee: 10/03/2022
Governing Body: 10/12/2022

- g. Request for Approval of Amendment No.1 to the Professional Service Agreement Item #19-0749 with Weston Solutions Inc., in the Amount of \$500,000 Excluding NMGRT for On-Call Professional Design Services for Public Works Department. (Romella Glorioso-Moss, PW Capital Projects Manager: rsglorioso-moss@santafenm.gov, 505-955-6623)

Committee Review:

Finance Committee: 10/03/2022
Public Works & Utilities Committee: 10/11/2022
Governing Body: 10/12/2022

- h. Request Approval of a Budget Adjustment Resolution (BAR) to Transfer \$367,003 of Roads Impact Fees to Supplement NMDOT Funding to Design Bishop's Lodge Road Reconstruction Project. (Romella Glorioso-Moss, Public Works Capital Projects Manager, rsgloriosomoss@santafenm.gov, 505-955-6623).

Committee Review:

Finance Committee: 10/03/2022
Public Works & Utilities Committee: 10/11/2022
Governing Body: 10/12/2022

- i. Request for Approval of Local Government Road Fund Cooperative Agreement in the Total Amount of \$73,599 for the Planning, Design, Construction and Pavement Rehabilitation of Buckman Road; New Mexico Department of Transportation. (Romella Glorioso-Moss, Public Works Project Manager, rsglorioso-moss@santafenm.gov, 505-955-6623)

- 1. Request for Approval of Budget Amendment Resolution (BAR) in the Total Amount of \$55,199 for Engineering Design of Buckman Road Bicycle and Pedestrian Improvements Project Under Org/Obj: 3559980.572960.

Committee Review:

Finance Committee: 10/03/2022
Public Works & Utilities Committee: 10/11/2022
Governing Body: 10/12/2022

- j. Request for Approval of Service Agreement with B&D Industries, Inc., for Installation of Ultra-Violet C Emitters in Various City Buildings in the total Amount of \$482,028.51. (Caryn Grosse, Project Administrator: clgrosse@santafenm.gov, 505-955-5938)

Committee Review:

Finance Committee: 10/03/2022
Public Works and Utilities Committee: 10/11/2022
Governing Body: 10/12/2022

- k. Request for Approval of a Purchase Agreement with the New Mexico State Game Commission to Purchase Approximately 23.08 Acres Located at 1085 Richards Avenue, Known as a Portion of Lot 12, for the Amount of Three Million Dollars (\$3,000,000). (Terry Lease, Asset Development Manager: tjlease@santafenm.gov)

- 1. Request for Approval of a Budget Amendment Request (BAR) Appropriating \$3 Million Funded by FY22 (Prior Year) General Fund Gross Receipts Tax to Support the Purchase Agreement with the New Mexico State Game Commission for Approximately 23.08 Acres.

Committee Review:

Public Works and Utilities Committee: 10/11/2022
Governing Body: 10/12/2022

- I. CONSIDERATION OF RESOLUTION NO. 2022-54. (Councilor Rivera, Councilor Lee Garcia)

A Resolution Requesting a Term Extension to a Local Government Road Fund Cooperative Agreement from the New Mexico Department of Transportation Identified as Control Number L500444 for the Planning, Design, and Construction of Agua Fria Street and South Meadows Road Intersection Improvements. (Romella Glorioso-Moss, Senior Project Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

- 1. Request for Approval of Amendment No. 1 to the Local Government Road Fund Cooperative Agreement (Munis Contract #3202844) with the New Mexico Department of Transportation for the Planning, Design, and Construction of CIP 853C-Agua Fria and South Meadows Rd. Intersection Improvements Project to Extend the Agreement Term to December 31, 2023 with No Additional Funding.

Committee Review:

Governing Body (Introduced): 09/14/2022
Public Works and Utilities Committee: 09/26/2022
Finance Committee: 10/03/2022
Governing Body: 10/12/2022

- m. CONSIDERATION OF RESOLUTION NO. 2022-55. (Councilor Rivera, Councilor Lee Garcia)

A Resolution Requesting a Term Extension for a Local Government Road Fund Cooperative Agreement from the New Mexico Department of Transportation, Identified as Control Number L500306, for the Planning, Design, and Construction of Agua Fria Street and South Meadows Road

Intersection Improvements. (Romella Glorioso-Moss, Senior Project Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

1. Request for Approval of Amendment No. 3 to a Local Government Road Fund Cooperative Agreement, Item 18-1060 (Munis Contract #3201396) with the New Mexico Department of Transportation for the Planning, Design, and Construction of CIP 853X-Agua Fria and South Meadows Road Intersection Improvements Project to Extend the Agreement Term Only to December 31,2023 with No Additional Funding.

Committee Review:

Governing Body (Introduced): 09/14/2022

Public Works and Utilities Committee: 09/26/2022

Finance Committee: 10/03/2022

Governing Body: 10/12/2022

10. **ACTION ITEMS: DISCUSSION AGENDA**

- a. Request for Approval of Amendment No.1 to Contract #21-0322 with Mountain River Consulting Inc., for Utility Billing in the Amount of \$900,000 for Year Two (2) of its Four (4) Year Contract. (Nancy L Jimenez, Utility Billing Division Director, nljimenez@santafenm.gov, 505955-4364)

Committee Review:

Public Works and Utilities Committee: 09/26/2022

Finance Committee (Denied): 10/03/2022

Governing Body: 10/12/2022

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

Councilor Romero-Wirth/ ?? to approve

MOTION: Councilor Romero-Wirth moved, seconded by an unknown Councilor, to approve the Contract Amendment as presented.

Discussion on the Motion:

Director Jimenez made the request for the contract to provide technical assistance and other support on the advanced billing system.

Councilor Chavez said she was able to visit the Water Department and saw the magnitude of work taking place by very few individuals. The need was easy to see, and it was shocking how few were taking care of it every day. The staff obviously needs more support.

Councilor Rivera agreed. We are in the ninth inning of getting the new billing system in place, and to put brakes on the new billing system would be totally inappropriate now.

Councilor Romero-Wirth added that the budget was approved with this money in it, and this is the contract for using that money. She agreed with Councilor Rivera that it was an operational necessity. Software things do take time.

Mayor Webber cited the memorandum and pointed out this is a mission critical activity, and we must make efforts to perfect it. Mr. Jones' memo laid it out clearly.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, and Councilor Romero-Wirth.

Against: Councilor Villarreal.

- b. Request for Ratification of the City Manager's Approval to Approve the New Mexico Department of Transportation (NMDOT) FY22 Memorandum of Agreement Grant Agreement in the Amount of \$542,354 for 5310-1C Enhanced Mobility of Seniors and Individuals with Disabilities for FY22 Program Funding Award. (David A. Chapman, Grant Administrator: dachapman@santafenm.gov, 505-660-2619 and Thomas Martinez, Transit Operations and Maintenance Director: tamartinez@santafenm.gov, 505-955-2006)

Committee Review:

Governing Body 10/12/2022

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

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to ratify the City Manager's approval of the Grant Agreement as presented.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

- c. CONSIDERATION OF RESOLUTION NO. 2022-56. (Councilor Rivera and Councilor Romero-Wirth)
A Resolution Directing the City Manager to Identify and Apply for Federal and State Funding Sources for Water, Wastewater, and Other Water Related Projects. (Alan Hook, Water Resources Coordinator Assistant: aghook@santafenm.gov, 955-4205)

Committee Review:

Public Works and Utilities (Introduced): 10/11/2022

Governing Body: 10/12/2022

Ms. Bustos-Mihelcic read the caption for this matter. Director Shannon Jones was present.

Councilor Romero-Wirth moved, seconded by Councilor Chavez, to approve the resolution as presented.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Chavez, to approve the Resolution as presented.

Director Jones explained that the Water Division submitted the application to the Water Trust Board and a requirement of the application was approval of a resolution from the Governing Body directing Staff to seek these funds. This is something Staff does annually. He was here to stand for questions.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

RECESS

MOTION: Councilor Rivera moved, seconded by Councilor Lindell, to adjust the agenda for a 10–15-minute recess before the Public Hearings.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

The Governing Body recessed and returned from recess at 9:00 pm.

Upon return, the Governing Body went next to the Public Hearings.

11. MATTERS FROM THE CITY MANAGER

The Governing Body skipped over this item.

12. MATTERS FROM THE CITY ATTORNEY

The Governing Body skipped over this item.

EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion of Threatened and Pending Litigation by the City. (Erin K. McSherry, City Attorney: ekmcsberry@santafenm.gov, 505-955-6512)

The Governing Body skipped over this item.

13. MATTERS FROM THE CITY CLERK

The Governing Body skipped over this item.

14. COMMUNICATIONS FROM THE GOVERNING BODY

The Governing Body skipped over this item.

15. INTRODUCTION OF LEGISLATION

- a. CONSIDERATION OF RESOLUTION NO 2022-57. (Councilor Romero-Wirth, Councilor Cassutt and Councilwoman Villarreal)

A Resolution Calling on the New Mexico State Legislature to Take Action During the 2023 Legislative Session to End Driver's License Suspensions for Failure to Pay and Failure to Appear. (Kyle Hibner, City Prosecutor: kjhibner@santafenm.gov, 955-5195)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

The Governing Body skipped over this item.

- b. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilwoman Villarreal and Councilor Rivera)

A Resolution Extending the Term of the Community Health and Safety Task Force Until June 30, 2023, to Allow the Task Force to Complete Its Duties and Responsibilities. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

The Governing Body skipped over this item.

- c. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Chavez, Councilor Lindell, Councilor Lee Garcia, Councilor Cassutt)

A Resolution Creating a One-Year Pilot Program to Encourage and Incentivize Employers to Pay for Employee Parking in City of Santa Fe ("City") Parking Facilities at Sandoval Street, the Santa Fe Community Convention Center, and the Railyard. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 505-955-6622)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Public Works and Utilities Committee: 10/24/2022

Finance Committee: 10/31/2022

Governing Body: 11/09/2022

The Governing Body skipped over this item.

- d. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilwoman Villarreal, Councilor Rivera, and Councilor Cassutt)

A Resolution Supporting the Santa Fe Public Schools (“SFPS”) in Adopting a Community Schools Model and Directing the City Manager to Support the City’s Continued Collaboration and Participation with the SFPS’s Community Schools Steering Committee. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 505955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

The Governing Body skipped over this item.

- e. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Cassutt, Councilor Chavez, Councilwoman Villarreal, Councilor Michael Garcia) A Resolution Adopting the City of Santa Fe Multimodal Transition Plan. (Erick Aune, MPO Officer: ejaune@santafenm.gov, 955-6664)

Committee Review

Governing Body (Introduced): 10/12/2022

Bicycle and Pedestrian Advisory Committee: 10/13/2022

Quality of Life Committee: 10/19/2022

Public Works and Utilities Committee: 10/24/2022

Governing Body: 10/26/2022

The Governing Body skipped over this item.

16. PETITIONS FROM THE FLOOR

Petitions from the Floor were heard earlier in the meeting.

17. PUBLIC COMMENT ON BILLS (FIRST PUBLIC COMMENT, NO ACTION)

There were none.

18. FINAL ACTION ON LEGISLATION (PUBLIC HEARING)

There were none.

19. PUBLIC HEARINGS

The Governing Body considered Public Hearings starting at 9:00 p.m.

Ms. McSherry explained to the public what was different about these cases and described the processes for considering these matters.

Ms. McSherry added that none of the appeals would affect the next case, the Master Plan. The appeals dealt with the Development Plan that was separate from this first case.

Mayor Webber said if that was not understood, Ms. McSherry could correct as they go. And it is quasi-judicial and acting on the facts presented.

a. **CONSIDERATION OF RESOLUTION NO. 2022-____. Case #2022- 5205. 455 St. Michaels Drive Cancer Center Master Plan Amendment.**

JenkinsGavin Inc., Agent, for Christus St. Vincent Regional Medical Center, Owner, Requests Approval of a Master Plan Amendment to the Existing CHRISTUS St. Vincent Campus Master Plan to Develop an 80,880 Square Foot Regional Cancer Center Located at 455 St. Michaels Drive on a 7.407 Acre Parcel within an Approximately 47-Acre Campus that is Zoned “HZ” (Hospital Zone) and Located within the South Central Highway Corridor Overlay District. (Daniel Alvarado, Case Manager: djalvarado@santafenm.gov, 505-955-6670)

Ms. Bustos-Mihelcic read the caption for this hearing on the Master Plan Amendment request.

Mayor Webber asked Ms. McSherry to describe the difference in the procedures for this case.

Ms. McSherry explained that the Planning Commission often allows people to cede their time for testimony to others. An expressed Governing Body rule does not allow for that and is not permitted during the Governing Body hearing.

Mayor Webber went through the processes for these cases, first to consider disclosures and recusals, Staff Report, Sworn Opening Statement from the Applicant; Sworn Public Comment, Questions from the Governing Body, Close the Public Hearing, Motion, discussion, and Vote.

Disclosures

There were no disclosures made.

Daniel Alvarado presented the Staff Report for Case 2022-5205 on the Master Plan Amendment at 455 St. Michael’s Drive. This was the 3rd Master Plan for the Cristus St Vincent campus Master Plan to develop the

Cancer Center located on a 7.4-acre parcel within the 47-acre campus. The portion amended was zoned HZ (Hospital) and partially in the South-Central Overlay District. The remainder of the campus was in a commercial district. He reviewed the events in this case with application submitted almost a year ago, a pre-application meeting, the ENN in February, 2022, final application submitted in March, Staff review. First hearing at the Planning Commission was on July 7 and then final decision was made on July 21 where the Master Plan Amendment was recommended for approval to the Governing Body. The Development Plan was approved, subject to conditions of approval which is being appealed by the Applicant and a height variance which was approved and is appealed by residents of the community. The slope variance was denied and appealed by the Applicant here tonight. The Master Plan Amendment is governed by the City Code.

There were four Approval criteria. The first is that the Master Plan is consistent with the General Plan. The second is that the Master Plan is consistent with the purpose and intent of the zoning district that applies to the Master Plan area with the applicable use regulation and development standards of those districts.

The third criterion is development of the Master Plan area to contribute to the coordinated and efficient development of the community, and criterion four is the existing and proposed infrastructure such as water lines, fire and park can accommodate the impacts of the planned development.

Mr. Alvarado shared an overview of the third amendment to the St. V Master Plan, showing the existing master plan on the left of the screen and the bottom right corner was the area being amended. He shared the current conditions of the recorded master plan which was the second amendment and Tract D or Area 5 as being planned to be a storage facility, which was not built and not now being proposed. There is an access road there that follows roughly where the entrance is located.

He showed the proposed amendment to the Master Plan. The main campus would be unchanged. Tract D is amended to show the development of the cancer center, its parking facilities, and pedestrian bridge over the arroyo. Staff recommended approval to the Governing Body subject to conditions and technical corrections as did the Planning Commission. He provided a sample set of motions for the Governing Body to use, if desired.

Applicant Statement

Ms. Bustos-Mihelcic swore in several members of the applicant's team, including Ms. Jennifer Jenkins and Mr. Karl Sommers.

Ms. Jenkins introduced the other members of the team. She noted that St. Vincent Hospital has served Santa Fe for one hundred and sixty years. They purchased the current property in 1994 from the Christian Brothers. This case is to build a state-of-the-art cancer center. The goal was for patients to be treated “at home in a world-class facility.”

She said this case was the first of three – an amendment of the Master Plan. Tract D was the parcel purchased in the 1990’s for expansion as healthcare needs change. The original approval was in 2005, and then in 2016. Previously it was intended to be a 10,000 sq. ft. storage area. It is adjacent to the main hospital for access to ancillary services by a pedestrian walkway. It was semi-rural 45 years ago and has urbanized since then. Access is off St. Michael’s Drive. On that west side is the Arroyo del los Amigos and it will be protected. She pointed out the City’s new water tank and shared several artist renderings in views of the proposed structure with access points.

Ms. Jenkins noted the building is set far back from St. Michael’s Drive for opportunities to celebrate the landscaping there.

She reviewed the eight intersections included in the TIA and those that would be improved. She affirmed that all would continue to operate at acceptable levels of service with the new Cancer Center in place. She explained why a signalized intersection at the entrance was not warranted and why no left turn exit could be incorporated.

Public Comment on the Master Plan Amendment

Lawrence Pardy, 202 West Lupita Road, was sworn. He disagreed with Ms. Jenkins’ contentions here on the movement of traffic on the Cancer Center and how he thought it would affect Lupita Road. Houses on Lupita Road were built in the sixties before the hospital ever came. It was a dirt road, no curbs, no sidewalks, rutted and full of holes. His concern was that as people leave ... The hospital said they get 240 patients a day when they reach capacity. Some portion of those people were not going to make that U-turn. First of all, those patients are going to be mostly senior citizens. 75% of cancers are in people over the age of 65. And they are just going to have chemotherapy or radiotherapy and they are going to come down to the intersection of St. Michael’s and Hospital Drive with the traffic limit is 45 mph and traffic is routinely at 50-55 mph coming down that road. And they were going to try to make a U-turn, or they were going to wait for the light and try to make a U-turn and avoid people coming from Boltulph. He didn’t think most of those patients, when they do that, some of them wanting to go north or northeast were going to see Hospital Drive, the first

exit to the north, take it, and the next exit is Lupita Road. And they are going to take Lupita Road. What proportion of those 240 people, he didn't know. But be conservative. Say it is even 30 or 40 or 50. We don't see 40 cars on Lupita Road now. It would double the traffic that comes down that road. We have senior citizens – most of the houses there are populated by senior citizens. They walk up for exercise and walk dogs. We have bicyclists who avoid San Mateo because of the bumps. They instead go on Lupita. So, if we have more and more traffic on Lupita, it endangers the residents that live on Lupita and the people that use Lupita unnecessarily. He didn't know the traffic rules. [2-minute timer]. The hospital here is seeking a violation or variance of the Code to build what they want to build and essentially say, "no" they cannot bury the traffic there. I think you have the power to do that. And I think you should do that for the safety of the people who live on Lupita Road. Thank you very much.

The next person said "Good evening, Mayor, members of the Governing Body, I want to preface my remarks by that I was really happy to see that diagram of where the hospital is. It is squeezed in north of St. Michael's and yet there is not one left turn, other than Hospital Drive onto St. Michael's. They have squeezed in acres of parking, and they are planning on another 250. And yet, no egress to the left.

Mayor Webber asked to get her name for the record.

Polly Langley, 1512 Don Gaspar, thank you. The issue is very simple. The amended Master Plan would allow for a one-point exit from the cancer center, which will limit departing patients to the right, west-bound. Even those wanting to go northbound to I-25 or northbound Old Pecos Trail when they discover they can't simply turn left, they will find Lupita Road or San Mateo. Lupita is unsuitable as Larry spoke of. It's unsuitable for steady traffic. We already see plenty of it. We already see plenty of it because their parking lots are stuck with no egress out. I watch hospital employees and patients try to wait and they are stacked like cord wood, trying to turn left on Hospital Drive so they can then gain access to St. Michael's. Chapter 14 requires an assessment of a development of a development's impact on surrounding streets and infrastructure. I don't believe they studied Lupita's or San Mateo's street infrastructure – only St. Michael's. So they have no count of what we've already ... what we're beginning, and they won't be able to count what happens to us later. The Governing Body should require the Applicant to fund a traffic light at the intersection of the cancer center, at the very least. I think they should put a traffic light in the middle of Hospital Drive to let the employees leave. At a minimum, they should do a study comparing cut-through traffic on Lupita before and after the opening of the cancer center. It should be a conditional approval.

Kathy Grand, living on East Lupita said, I am a fairly new resident in the neighborhood. I've been here now for five years in this particular neighborhood. And one of the first things you notice about the neighborhood is what a looming presence the Hospital really is. You can see it from practically every vantage point on Lupita. And traffic will be a serious issue. I just completed the AARP Driving Safely Class. And I can tell you that one of the things this class recommends for every senior is avoid left turns if you are at all uncomfortable. Turn right, turn right, and turn right again. It may take you a longer period of time to get where you are going but it's the safest way to do it. And for people who are older, drivers who may not have much confidence, they are going to be turning right onto Hospital Road and right onto Lupita on that gravel road, which, by the way, is in bad shape right now. Thank you.

Karen Cook, 205 West Lupita, said, "I believe, as Molly stated, that another traffic study is in order to consider our street, Lupita, and San Mateo. Every day there are cars going way over the speed limit, trying to find their way, people stopping when I am outside, all the time, trying to find the hospital. We were the neighbors that requested that the hospital actually put-up signs. I feel like it was to appease us for this very meeting, they were ineffectual. In the beginning, they put up signs this big. You had to go back, they tell us, the City has determined the sizes of these signs. There are no arrows that go with the signs. You can barely even notice them, and I go by every day.

So I request that you hold your decision until another traffic study is done that includes our community. And for than just the future potential from hospital traffic but for the way it is right now. Thank you."

Harriet Foreman, 110 Camino Teresa, one block south of Lupita, said, My wife was an 80-year-old cancer patient, and we are receiving service at the New Mexico Cancer Center. Our doctors at the cancer center have been wonderful and they plan to stay with the cancer center. We are also working with the doctors at Mayo Clinic, and we received fabulous service there, as well. I am speaking in support of the Lupita neighborhood. And all I can say is that the traffic on Lupita is horrible as it is. And I won't take your time much longer, except to say that I am in complete support of the Lupita neighborhood. Thank you. This whole process has created an enormous stress on cancer patients, and I certainly hope that cancer patients are taken into account in this whole process, which I don't believe they have been. Thank you.

Ernie Romero, 2011 Boltulph Road, said, "Mr. Mayor, members of the City Council, I was hesitant to come tonight because it is going to date me with what I have to say. But I've been here all my life. And I've been in business here 45 years. My office is within two blocks of St. Vincent's Hospital. I'm

happy to be there. I probably travel seven or eight times a day here, there, and everywhere. I don't go through Lupita, but I never have any problem with traffic in that area. St. Vincent's Hospital – all seven of my brothers and sisters were born there. All of my kids were born there. My last granddaughter was born there. When I needed a new knee, I went there and got a new knee. When I had pneumonia, they took me to the emergency room and I stayed there two or three days, and they made me better. When I had my appendix ready to burst year before last, I went across the street from my office that that's where they took care of me. I think we have a chance to build like Jennifer said, a world-class state-of-the-art facility for Santa Fe and all of northern New Mexico. I believe that we should do everything in our power as citizens of Santa Fe, as the businesspeople of Santa Fe, to make this successful for regional medical care in our community. Thank you.”

Bruce Brunstein, at the corner of San Mateo and Encino said, “The view from our home is directly into St. Vincent's where there is no fence or wall to block the noise pollution or light from the view of the building itself. I agree that a new cancer center is very much needed in our town. I'm very happy the New Mexico Cancer is building a facility which will be greatly enhanced by Christus's plan for the new facility. And we are not debating that part of things tonight. St. Vincent's, when they chose that spot, when they moved from the downtown area, they chose the edge of town, as many of us know. Many of our children were born there. Many of us tried to stay out of the hospital for good reasons too. And we need to... the needs of the community have changed in what was given to say about a semi-rural area. We all cherish that part of Santa Fe being semi-rural. We want to maintain that. And we don't see any reason why the hospital could speed that along. We think the hospital would just follow the rules and codes for building that everybody else is following, there would be little problem with that. And I urge the Council to ask for more traffic studies. If U-turns were safer, given all left turns and U-turns at this point. Thank you very much.

Ms. Bustos-Mihelcic noted there were others waiting in the Zoom room to speak. She invited Heather to comment.

Heather and her husband were sworn in.

Geo and Heather Liguera, 1191 West Lupita Road. We want to support our neighbors. I do agree with reference to W. Lupita Rd. which is a dirt road and quiet, and we hope it's going to stay that way. We believe what the hospital is going to do will increase the traffic. So we hope that it's not going to happen. We hope there will be more traffic studies and take into consideration all our lives because it does affect us directly. We have had dogs killed on this road because of traffic and if a child is going to be next,

will the hospital take responsibility for that. We want it to be a place where we can raise our children.

There was no other public comment on this case.

Questions from the Governing Body

Councilor Michael Garcia thanked the presenters and the public that showed up. His first question was for Staff regarding signage. He asked if city signage had to meet certain criteria or specific standards. What needs the needs of public signage?

Mr. Alvarado said he would ask Leroy, the contract engineer to answer the technical side of the question. She pointed out the signage plan was part of the conditions for approval for the development plan but is attached to the master plan, as well as traffic calming study on Hospital Drive.

Mr. Leroy Pacheco, 313 Lomita, was sworn in. He is part of the Development Review Team.

Mr. Pacheco thought that question came up during the ENN meeting. As part of the traffic review. Mr. Pacheco worked in coordination with Wilson and Company which is a Professional Engineering company. The traffic engineering scope determined what would be included in the study. Certainly, the Governing Body should have full confidence in the study which they did. It was dictated by a professional staff and team. Regarding the signage, the review team is looking specifically at traffic operations and signage, and all the City would inherit with respect to the street. They look at what it would do to affect the streets and what would be needed to operate and maintain and manage. The technical team did review the signage plan and the issue of directional signage with the intention to divert as much traffic from a residential street and get them on arterials or collectors that were appropriate for use. San Mateo from St. Francis to Galisteo is an emergency response route. There is a whole network of streets around Lupita. During the Planning Commission review process, the public requested additional signage and the Applicant agreed. The signage was not only reviewed by the City professional team, which was taken through Public Works for additional comments, mainly with respect to specifications of the signage itself. We want signage that will last not deteriorate. That was done, and he hoped that answered the question.

Councilor Michael Garcia thanked him for that response. A resident testified earlier that the signage was too small. The past is this plan was approved if there would be an entirely new signage installed.

Mr. Pacheco said signage is entirely determined by the Manual of Uniform Traffic Control Devices. It is not subjective. So the signage is sized appropriately that would be normative to the standard. That process was professionally managed.

Councilor Michael Garcia asked Mr. Alvarado part one of the conditions for potential approval was to have the signage plan.

Mr. Alvarado said the signage plan was created as part of the applicant's secondary submittals and Public Works went through that process and reviewed the signage claim. So that condition of approval has been met.

Mr. Pacheco agreed they have approved the signage plan and given it back to the Applicant. He was not involved in the inspection of installed signage.

Councilor Michael Garcia said that discussion revealed that there will be traffic on Lupita searching for the hospital. He didn't understand why we would not go forward with the traffic study to understand what the impact will be. Why was it not recommended that traffic study would be conducted on Lupita and San Mateo and all of those streets that are going to have this signage plan installed?

Mr. Alvarado suggested to Mayor Webber that question might better be posed to Public Works and the Traffic Engineer for the Applicant. But Staff did ask for it as a condition of approval for the Master Plan that they conduct a traffic study on Hospital Drive which was part of the residents' concerns. He did not believe that is been completed yet. If the Governing Body wants to add those streets, that is their prerogative. But it was the conclusion of Staff and Public Works that those streets would not be impacted enough to warrant that.

Councilor Michael Garcia said it is evident that it is our responsibility to take that traffic study further and do the traffic study. He was in favor of doing that extended traffic study to fully understand the impacts. We can all agree this institution will be widely accepted given the need for cancer treatment. There is the hope that it will serve this community for decades to come.

He supported having the signage mirrored from the traffic study and extended the traffic study to be conducted wherever signage is to be installed.

Mr. Pacheco agreed that they have not counted traffic on Hospital Drive. That impact of the \$70,000 traffic calming project and its impact has not been studied so that the City would know what traffic is on Hospital Drive. Two locations were identified that will be studied prior to the building being

built and the Developer agreed to do that. That is unique and differentiated specific to Lupita's potential impact, which we don't know. They will use real data. There is enormous intersection data and impact data that the development, itself, will have to track the principal arterials and the collectors that are impacted directly by that Center. That scope, we gave the developer. He wanted to make that clear to the Council.

Councilor Cassutt followed up on traffic. From her understanding traffic patterns, what comes into play is obviously where we build our streets and roads and the other is human behavior. How typical is it for people residential streets as opposed to going to the other major and minor arterials or collectors that they know of? Traffic studies look at what they expect people to be based on normal behavior. Why wasn't Lupita included in this traffic study if we do find people's driving behavior cannot inform why Lupita would not be impacted?

Mr. Pacheco replied that a well-functioning arterial which is what St. Michael's Drive is with well-spaced signals, with good Levels of Service, creates an optimal pattern that people will stay on them rather than go looking for shortcuts. An unwarranted signal will cause excessive delays on the arterial. And will cause excessive use of less adequate routes. Such signals would cause drivers to look for alternate routes that were not warranted. It would increase the incidence of rear-end collisions and more signals add more conflict points which increases potential of crashed involving pedestrians and bicycles.

So optimizing the Levels of Service on the arterials really serves the neighborhood networks best. So, we will get the data on what this development is to Lupita before it is built so that we can measure it after it is built and be able to address that. The scope of the traffic study that was given to them was quite extensive and determined through a Professional Engineering company with that kind of expertise. There is also a limit to how much traffic we can expect a developer to chase.

Councilor Cassutt understood the traffic levels on St. Michael's Drive has actually been going down since the early 2000's. So there seems to be a little bit more space on St. Michael's for people to be comfortable taking those U-turns. The City has done that all up and down Airport Road as well.

Mr. Pacheco said Ms. Jenkins did a good job talking about U-turns. He didn't know why they have taken on a negative connotation recently. Well-designed U-turns are positive for public safety and operations. It is not a negative.

Councilor Cassutt understood there will be a traffic count on Hospital Drive, not necessarily on Lupita and will be taken before build.

Mr. Pacheco agreed, so we know the before level and after and compare them. That will determine whether Lupita is a good candidate for traffic calming or not.

Councilor Cassutt asked if the agreement around signs had to do with hard data or more reported perception. We have hard data for traffic count and also people perceiving there is an increase in traffic. The decision to put up signs to direct people is qualitative data from the neighborhood or quantitative that has really shown an increase from the hospital.

Mr. Pacheco said the traffic study was complete professional civil engineering. And it was a condition of approval we added to the Planning Commission that they would do destination signage to address the issue of concern of possible rerouting through Lupita. So it was proactive but wasn't anecdotal at all. It did get modified during the Planning Commission meeting from public comments. The Commissioners agreed with the neighbors to look at a few more streets and to become more comprehensive. The engineers and Public Works Staff reviewed them and approved them.

He agreed to look at the implementation of where signs were placed and make sure they meet the standards.

Councilor Cassutt, regarding need for traffic calming afterward, asked what options a dirt road really has for traffic calming. Most of what she has seen was happening on paved roads and was curious about what could be done on a dirt road.

Mr. Pacheco said there were physical things that could be done as well as enforcement to consider. They would work with the neighborhood on what to do.

Councilor Romero-Wirth noted Mr. Alvarado had said there was a condition of approval to the Master Plan regarding a traffic study and signs. Correct?

Mr. Alvarado agreed.

Councilor Romero-Wirth thought that was for this Master Plan the Governing Body is considering right now.

Mr. Alvarado agreed.

Councilor Romero-Wirth asked if it was for a traffic study on Hospital Drive.

Mr. Alvarado agreed.

Councilor Romero-Wirth understood the signage was already up. She asked if this was about different signage or a different signage plan. Would they be different signs or added signs?

Mr. Alvarado – the signs have been up but there may be additional signs coming. The plan has already been completed.

Councilor Romero-Wirth understood it was a promise to do additional traffic study on Hospital Drive.

Mr. Alvarado agreed.

Mr. Pacheco said it was traffic counts to compare before and after and was not another traffic study. We also asked the Applicant to have destination signage directing traffic. That has been done and reviewed and the condition was to do before the construction, but it is already done.

Councilor Romero-Wirth said when they did the traffic study, did they look at the demographics of what types of drivers would be doing U-turns. We heard that older drivers were encouraged to turn right, turn right, turn right, even if it was a longer path. Was that taken into consideration?

Mr. Pacheco said the data showed 16% of those drivers would be heading back east and north.

Councilor Romero-Wirth asked if they looked at the age of the drivers.

Mr. Pacheco didn't think that demographic was looked at. They looked at engineering but how the road was operating. The studies also looked at the age of the roads.

Mr. Mike Gomez said they used the National Transportation Safety Engineers Manual on trip generation based on the type of development being built. [his microphone was not working properly.]

Councilor Romero-Wirth asked him why Lupita was not considered in the traffic scope. Was it based on ITE studies that people would not make three right turns?

Mr. Gomez said they started with a scoping meeting with the Public Works Department Engineer and outlined the areas that should be counted. Nobody anticipated there would be a route through there that people would use since it was a dirt road. People can go further north and use arterials

and collectors instead. Or to use St. Francis and go north. The population indicated more people from the southwest would be using this facility and would not be going to Lupita Street to get to Tierra Contenta. So it was done by analogy. They counted cars leaving the doctors' office building next door and used that data to predict the traffic.

Councilor Romero-Wirth pointed out that building does not have the traffic the cancer center would have since it is much smaller.

Mr. Gomez said it has quite a few offices and had a significant amount of data. He shared some of the data with her. Most of the traffic from that area goes to the west, not the east.

Councilor Romero-Wirth thought most people prefer major arterials and don't seek neighborhood streets.

Mr. Gomez agreed. When major arterials are working properly, they choose it because it is faster. Usually time is essential to get to work or back home. That is the majority of traffic in Santa Fe.

Councilor Lindell referred to Attachment 3, Land Use Department Planning Commission Staff Report at page 14. Item VI Master Plan Amendment Approval Criteria – from Chapter 14. It was shown on the screen. The criteria had an Applicant response and then a Staff response. All responses said "yes" and an agreement between Applicant response and Staff response.

Criterion 4 dealt with infrastructure and traffic system, and it said those would accommodate the impacts of the proposed development. And the improvements required by the City as conditions of approval. She asked if Mr. Alvarado had any disagreement with that.

Mr. Alvarado agreed with it.

Councilor Lindell knew any change in traffic on any street could be inconvenient and sometimes, even small changes seem large, but we adjust to it. She had no idea how many houses were on Lupita Street.

She asked Ms. Jenkins when the hospital was located on that site.

Ms. Jenkins said it was 1977.

Councilor Lindell noted that was 45 years ago and has gone through several different changes and the whole area built up around it.

Ms. Jenkins agreed.

Councilor Lindell said what Chapter 14 asked of her was to look at the criteria, which she just went through and make her decision on.

Councilor Michael Garcia asked about streetlights and what threshold must be met for those to be installed. Was it a set number or could we make streetlights installation as a condition of approval?

Mr. Gomez asked if he meant traffic lights.

Councilor Michael Garcia agreed.

Mr. Gomez said traffic signals are controlled by the Manual of Uniform Traffic Devices which was a national standard. Not following it opens up the City to liability for every accident that occurs there.

Councilor Michael Garcia asked what criteria must be met to install a signalized intersection.

Mr. Gomez said it included proper spacing between traffic signals which now prohibits such a signal. Second was traffic volume and this intersection does not meet the minimum volume requirement to warrant a signal.

Councilor Michael Garcia recalled it was said that roughly 200 vehicles pass through that intersection daily.

Mr. Gomez said the requirement pertains to peak hour traffic volume. St. Michael's is a peculiar street. There was more traffic there in 2003 than there was in 2022. It has been going down steadily. There is no mall on that area. It is a medical office building. This doesn't meet the volume or the spacing to warrant a traffic signal. Right now, every state in the country follows the Manual.

Councilor Michael Garcia asked if anything stood in the way of placing additional conditions on approval of the Master Plan now.

Mr. Alvarado did not believe so.

Ms. McSherry said if it relates to one of the criteria it would be appropriate.

Mr. Feghali agreed with that.

Councilor Romero-Wirth asked what "related to the criteria" meant.

Ms. Feghali said she could answer better with an example.

Ms. McSherry said it would need to relate to some identified impact of the Plan to accommodate that impact.

Councilor Romero-Wirth understood.

Councilor Cassutt observed there was a traffic signal at St. Michael's and Hospital Drive with a protected left turn and a permitted U-turn.

Mr. Alvarado agreed.

Mayor Webber felt it was worthwhile to read the criteria into the record.

Councilor Rivera asked how many cancer patients average they foresaw each day.

St. V Doctor said the cancer center sees about 6,000 patients. They have outgrown the space. The good part is that we continue to live longer. But gives people more opportunity to get more cancer. So they have seen continual growth in the numbers year after year, which is why they are in desperate need of a new cancer building.

Councilor Rivera understood it was 6,000 per year – 365 days so roughly 16 patients each day?

St. V Doctor said– most providers probably see 18-20 patients per day. Xray Associates see more than just cancer patients. They are doing regular radiology for people in the community.

Councilor Lindell asked her if we have a demographic for cancer patients across all walks of life or if that was wrong.

St. V Doctor said that was correct. Santa Fe has an older population too, which skews the numbers higher.

Mayor Webber asked Mr. Pacheco to say more about the difference between traffic counts and traffic studies.

Mr. Pacheco said that was one of the toughest questions of the evening. First is the site threshold Verizon analysis. No assumptions are made but Wilson and Company do check the assumptions based on their experience and use the State Access Manual that impact traffic studies have. [microphone malfunctioning] We call it the State Access Management Model. The specifics of the traffic study – this is the highest level of study in the Manual. So they did it based on extensive review of the intersections – eight intersections, three signals – and based on their experience with

developers in the state, there is only so far one can push developers. Developers cannot pinpoint the traffic way beyond the impact area. But the Hospital Drive and directional signage will be done.

Mayor asked for any further questions.

Councilor Lee Garcia said it seemed the conversation all revolved around the traffic will be. From his view, we won't know that until the development is built. Regarding Lupita, the most questions were about that, once the development goes through, could there be signs to hinder people from using that street included in the signage part?

Mr. Pacheco said, of the right turns leaving the center, the model showed 16% of those right turns are making U-turns. So 84% are going right to the west. And with the propensity to use arterials and major connectors, the propensity is to use Galisteo, San Mateo, St. Francis. We have focused highly on this little street of Lupita which was two-way and now one-way signage. We will measure those impacts. We have not ignored Lupita and will continue to work with them.

Councilor Lee Garcia understood that most people would use the main thoroughfares. Some people might get lost and end up there.

Mayor Webber thought engineering would reveal that two-way street traffic is slower than one-way streets typically.

Mr. Pacheco though Galisteo and Don Gaspar were probably slower when they were two-way streets.

Mr. Gomez said Mayor Webber was correct.

There were no other questions and Mayor Webber closed the public hearing for this case at 10:47 pm.

Motion:

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt, to approve Case # 2022-5205 for 455 St. Michael's Drive Cancer Center Master Plan Amendment adopting the associated Resolution.

Discussion on the Motion:

Councilor Michael Garcia was having difficulty with Criterion 4 and, given that we identified the area that would have increasing traffic and why we were installing the signage, and in Mr. Pacheco's

comments that they cannot go beyond the impact area to study traffic, justified that it is an impact area, so this is not going beyond it, It is incumbent of us to fully ensure the community, through a traffic study, that we conduct the study, get the results, and then moved forward with potentially approving this Master Plan amendment. That would show that we will have full faith and confidence in how things will play forward. We know there will be an increase in traffic with the signage. If we delay this by a short period of time to do the study to ensure to the neighbors whether there will be or won't be an increase in traffic, it will be seen through certified data. He didn't know how to move forward, given the motion to approve. He would like to hold off on the approval until we get the traffic plan completed. He asked the City Attorney for direction on that.

Ms. McSherry said it would need to wait for disposition of this motion to make a different motion if it doesn't pass. The current motion is to approve.

Councilor Michael Garcia asked if the motion could be amended.

Ms. McSherry agreed. It could be to approve with an added condition, but we can't make this motion into the opposite motion.

Councilor Michael Garcia understood but wished in these instances, we would work with the residents to provide reassurance of some type of data to say, "Here is the study and we are seeing increase by x or decrease by x." And we are not doing that which is unfortunate.

Councilor Romero-Wirth said we heard about the difference in study and count and agreed to the count and they would be done on the front end and the City would count after it is built. Then we could look at the numbers to see what was warranted and she believed that was listening to the neighbors.

Councilor Cassutt agreed with Councilor Romero-Wirth that a balance was being struck. She also thought it important to realize that when traffic analyses are done, it is not to say there would be no increase of traffic anywhere close to the site. It rather has to do with if the roads we expect to be impacted have the ability to carry that impact in traffic. That is an important distinction. There will likely be an increase in traffic in the surrounding area. She described the route she would likely take. The difference is important in striking the balance in traffic counts afterward and what mitigation was

possible if the street qualified. There is already a condition that take the education into account.

Councilor Michael Garcia said that was a great point and this is a dirt road, and his mind immediately went to need to pave that road, but the dirt road was part of the appeal of the rural nature of the neighborhood. What could the next steps be? Potholes happen on dirt roads and the residents would rather keep it dirt and regrade it. He didn't know other mitigation efforts that could be considered.

Councilor Cassutt the other is education and enforcement and then the engineering. She didn't know what could happen on dirt roads.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None. Councilor Michael Garcia abstained.

Councilor Michael Garcia explained that he strongly felt with Criterion 4, much more information could be obtained through what signs would be installed. There is more information needed on this one.

MOTION TO SUSPEND THE RULES

MOTION: **Councilor Romero-Wirth moved, seconded by Councilor Villarreal, to suspend the rules to go beyond 11:30.**

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

- b. **Appeal #2022-5759 of Case #2022-5206.** Appeal by Sommer Karnes and Associates LLP for Christus St. Vincent Regional Medical Center of the Planning Commission's Imposition of Staff Condition No. 11 to Christus St. Vincent Cancer Center's Development Plan for a Development Located at 445 and 455 St. Michael's Drive. (Patricia

Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955 6501)

Ms. Bustos-Mihelcic read the caption for this Appeal. Mayor Webber the Governing Body was still in a quasi-judicial proceeding and applying the criteria in the Code. The process was very similar.

Disclosures

There were no disclosures or recusals.

Staff Report

Ms. Feghali said this is an appeal of a condition of the Development Plan that was approved by the Planning Commission by the Applicant. The Appellant stated the imposition of this condition of the approved Development Plan requires that an amendment of a minor drainageway remain undisturbed is inappropriate.

This Development Plan was mentioned in Mr. Alvarado's Staff Report in the previous case. The arroyo they want to disturb runs through the area for the parking lot and pointed it out on a topo map. She showed a sixty-foot drop along the arroyo. It is the Arroyo de los Amigos and where the pedestrian bridge goes. This arroyo is the smaller arroyo and unnamed that goes under the parking area. In the City Code is an ordinance, 14-8.2 that said for arroyos, streams or water courses that carry less than one - hundred cubic feet per second in a one percent chance event, the City Engineer may require a setback, based on soils and hydrologic information provided by the Applicant. The ordinance pertains to this arroyo. The condition in the Staff Report that was what the Planning Commission voted on and approved, said that there should be a 25' setback from either side of the arroyo.

The Planning Commission actually received additional information between the first meeting they had and the second, from the City Engineer, who should be on Zoom to respond to any questions. She clarified and said that in this case, the setback should actually be 12 feet. But the Planning Commission voted on the Staff Report which had not been changed. So the Governing Body could vote on 25 feet or 12 feet or some other recommendation based on the testimony. But there was a discrepancy there. Another ordinance in 14-8.2 d or e1. The one read was e2 that said an arroyo that has more than 100 cubic feet per second – there is a required setback of 25 feet. When the City Engineer clarified the setback that said, “unless waived by the City Engineer” and for a smaller

one, the City Engineer said this one was 60 cubic feet per second so she determined a 12-foot setback would be appropriate. Hopefully, that made sense. She also said a twelve-foot setback would be inadequate setback if it was enough to ensure the banks of the arroyo were stable. That is something the City Engineer would be helping to determine, if that would be the case.

She showed a picture of the arroyo, looking east and commented that it was pretty deep with a slope on the north side of the photo. That was where the water goes in the arroyo. It was deep and had rugged terrain.

She showed the decision tree in the packet. And she summarized the City Engineer could require an appropriate setback. The Applicant said there should be no setback in their appeal. Or the Governing Body could deny the appeal and determine what the setback should be.

Appellant's Statement:

Ms. Jennifer Jenkins, 130 Grant Avenue, was sworn again. She provided a little background. There were two appeals this evening. The first just related to the condition of approval from the City Engineer. The second was related in terms of a variance request they took to the Planning Commission to disturb the small areas of 30% slopes that were associated with the drainage.

When they first started working with the site plan for the project, there was a small remnant drainage that leads into the large Arroyo del los Amigos and in assessing this, in order to ensure that we maximize the amount of on-site parking proximate to this facility, for ease of access by cancer patients. It was clear that in the best interests of this program and these healthcare outcomes to pipe this little segment of this drainage.

She reached out to the City Engineer, explaining their situation and looked at an aerial and noted this drainage was piped all the way upstream and under the driveway the City constructed to access the water tank. So they would like to pipe it to have a continuous parking area. In order to do so, they would have to disturb about 1,500 square feet of 30% slopes. That seemed reasonable to her, and she would be totally supportive of that. It still required a variance, but she always engaged with the City Engineer on these matters.

So they designed the project, understanding they needed a variance, but knowing they would move forward with Staff support for that request. They submitted the application to the City for review and the City Engineer changed her position, which she was allowed to do, and said she didn't

want the arroyo to be piped and they need to maintain a setback and preserve it.

So we have these two issues and trying to work around a setback that the arroyo remains basically untouched. The other was the variance to disturb the slopes necessary to pipe it. They are connected.

There was lots of discussion on it both at the Planning Commission hearing and the Engineer did amend her condition of approval to say it should be a twelve-foot setback. That also included the depth of the arroyo. So it is twelve feet, plus the depth, which takes it to an 18-foot setback. It was pretty clear in the hearing, and she wrote a memo to that effect.

This arroyo is shown in an aerial from 1951 with the lot lines shown as existing conditions - the existing urbanization of this area. She pointed out the Arroyo de los Amigos and the associated flood plain.

There was a tributary drainage that went off to the northeast all the way to Old Pecos Trail. And this little tributary drained into the Arroyo de los Amigos. It is not there anymore. As the area developed, the arroyo was piped, filled in, paved over. The City of Santa Fe permitted all of this development because it wasn't important. It did not carry vast quantities of water – perfectly accommodated the properly engineered culverts. It wasn't important. So everything in yellow was the subject property and showed the City's water tank. Everything in yellow upstream was gone. In the middle was what was left – about 170 linear feet. To the left of that was where the City constructed their access drive through a FEMA flood plain without a permit to get to the water tank.

So Christus is now charged with amending the FEMA Flood Plain Map with FEMA to address the driveway and the culvert. But we will go through that. It is fine. We know it is on the list of things we need to do.

So we have pipes and that is what is left in the middle that is, all of a sudden, very important.

She showed several views of the area and pointed out the culvert that carried the stormwater underneath that driveway. It shouldn't cross the FEMA floodplain, but it does. She stressed how important it was to provide access to the facility for the safety of the patients.

As Ms. Feghali pointed out, if the arroyo carried 100 cubic feet per second, it had to have a setback. Everyone in her line of work knew that was the rule. At less than 100 fps, the Engineer was granted discretion. So it was an interesting question. Most of the Code was pretty black and white but certain areas had questions.

Those discretions required a value judgment on what we value. You can see at the bottom of the map how much water is conveyed in a hundred-year storm event. In order to comply with an 18' setback all of that parking in orange would be gone – 63 parking spaces. What do we value? Based on the patient count, we are able on the current design to provide adequate parking and parking on the main campus for able-bodied employees to park and use the pedestrian walkway. That parking is critically important to the cancer patients and their families. It is appealed because they didn't believe it was appropriate to enforce a setback there. They properly engineered it to ensure proper access to their care.

She asked Dr. Teague to speak briefly to the context and it would complete their presentation.

Dr. Teague thanked the Governing Body and said she has been an oncology doctor in Santa Fe for six years and watched their volume grow and grow. This Cancer Center is being built because the community of Santa Fe deserves to have an exception comprehensive cancer center, and a building that will give Christus St. Vincent's the opportunity to house bigger and better cancer services in one place. That is the goal. The treatment of cancer takes a village with medical oncologists, radiation oncologist's nutritionists, social workers, nurses, radiation therapists, and the list goes on and on. And the new building gets us the chance to expand and offer all these services. This site was also chosen because of the proximity to the hospital, which gives patients even better access to the ancillary services that the hospital can provide. After learning we might now have access to 25% of our proposed parking, she was disheartened. She was used to fighting with insurance companies every day to try to get the right treatments for her patients and the right access to care, she honestly believed parking was an access to care issue that needed to be taken seriously. They are trying to build an amazing cancer center where patients can continue to receive all their care in Santa Fe and feel they are getting the exceptional care they deserve. So of all that her patients worry about, it should not be whether they could find a parking space. So she appealed on behalf of her patients. She mentioned a patient needed a prosthesis and a couple who both have cancer and how parking was absolutely necessary. Some of her pregnant patients couldn't have someone drop them off quickly into the cancer center, who were spending lots of time here. Thanks for your time.

Karl Sommer was sworn and addressed three things: the complicating factor that this condition has on a very practical issue related to the site. It affects the City and the hospital – the easement in place and how the hospital intended to address it, the discretion that is supposed to be based

on soils information provided by the Applicant, and the volume of water as provided by the Applicant.

Finally, he wanted to address one thing that was clear in the record for what the Planning Commission thought we were trying to do that was not correct.

There is an easement of record in favor of the City that that gets the City to the water tank in the back. That easement goes right through that building as a channel and has the ability of St. Vincent to move it so that it can accommodate the development of their property. The City has big vehicles that must go to that tank, and they must maintain it. Public Works and Utility Department have asked them to make available, part of this parking lot when they need to stage, because that tank is not accessible at the lower part except through this property. We are good with that. And, as you can see, it cuts out the ability to route the traffic on the easement around this parking lot and that was what they were going to do. The only way to route the traffic for what the City will be bringing with these vehicles. It will right in front of this building. That is the only way to the tank and presents a practical problem for the Applicant and for the City. And the back becomes more difficult because of the access to it. He brought it to the Governing Body's attention because that easement terminates. We are intending to make it permanent for the City. It terminates next year. We are willing to make it permanent but can't make it permanent right in front of the building. That creates the practical problem to be aware of.

The second thing is the criteria. We provided no information about soils – none. So there is no information in the record that says the City Engineer based her decision on soils. We provided information about cubic feet per second – 47 cubic feet per second in a hundred-year storm. That was less than half the trigger of a required setback. There is no setback required. The essence of what happened here was the City Engineer went out to the site and said this was a nice area. It's got wildlife in it. And there is probably wildlife in it. He has a deer in this back yard frequently and lives just down the road. That is what changed here.

But what we are talking about is creating a hole in the middle of a parking lot that will have to have rail around it and it would be surrounded on the east, west, north, and south with cars and people and building. The Staff in their memo said it was a wildlife corridor. It is not a corridor. That is important because the Planning Commission had the same impression. Mainly the Arroyo de los Amigos. But that is on the west side of this property, and it runs up and down and is a wildlife corridor where wildlife goes in and out of this neighborhood. In Finding of Fact number 12, the Planning Commission found that we would be effectively removing a portion of the Arroyo de los Amigos. We are not doing that. That was a

mistake on their part – a misunderstanding. It was confused by this idea we are somehow obliterating a wildlife corridor. We are not doing that.

So we have a practical problem with rerouting this easement with this condition. Secondly, there is no evidence in the record other than the City Engineer likes this, but that is not the criteria by which this regulation should be imposed. And finally, the Planning Commission believed we are obliterating a portion of the arroyo and that was not correct.

Questions of the Appellant:

There were no questions by the Appellant.

Public Comment

Ms. Bustos-Mihelcic said no one in the Zoom room was asking to speak.

Mr. Ernie Romero was sworn and said he didn't want to repeat his family's history again. He put on his real estate cap, and this was a tough site. He went out there and all his concentration was on the Arroyo de los Amigos and did not realize this was about the little tributary there. He thought their request was quite reasonable. No one has asked for a reduction of that arroyo. They could go to FEMA since everything has changed with upstream development. We could do a COMAR or a LOMAR. We can change that floodplain map and we can develop further into that arroyo. That's not what is being asked for here. What is being asked for here is to pipe a very small section to move that water. And he was sure that water does to go the Arroyo de los Amigos. He thought the Governing Body should grant that variance.

Anna Darrah was sworn and said she was actually the appellant for the following case. She didn't think she would be speaking to this case but felt she needed to. It is 171 feet long – this arroyo. They said that. That is not a blip or tiny little thing. And because the City didn't do well and paved over it or put the dirt road over where they should not have, doesn't mean it shouldn't be reclaimed. They did that without a permit and maybe that is what we should look at refixing. The easement Mr. Sommer talked about was a really good point. That easement should have the trucks going around the back. But she lives right behind that water tank. And she knew because she often saw it, that the trucks come from the Calle Medico side since it is much closer to the water tank – much easier to get to. And they pull right onto the lot right next to the water tank. So she was not sure they needed to continue the easement. She didn't want to speak for the City but thought it was not an issue. She agreed it was a matter of care for patients

but didn't understand why they needed so many spaces there. She was not clear about how many spaces were needed. "I would appreciate you denying them this appeal."

Molly Wheeler, 1512 Don Gaspar, was apparently sworn though not on the record. She said she collects data. She wrote her comment. She also had a question on how many parking spaces they need. She did the math 64000 patient encounters per year. 83 examination rooms they anticipate and 250 patients per day. It all works. Those 83 examination rooms could be used three times each day. But they are not all there at the same day. The cars of staff would be parked elsewhere, and they come across the skyway. So they really don't need 300 parking places. They will be coming and going. They have 250 cars per day but not all at the same time over the course of the whole day.

Keith Devlin was apparently sworn off the record. If I were the Mayor, I would say the City has need of a modern, functioning cancer facility, but lament that these plans are functionally a compromise by choice – an inappropriately arroyo interlaced flaw that is much too small for the ambitious plans of the Hospital. He was concerned about the small lot size and the arroyos do crisscross it and probably more than it ought to be in a room like this. I also work in arroyos and work with water throughout federal lands in the north and know what the arroyos can look like. I understand the movement of waters – soils through those. What concerns me about this small lot size and it being smaller by the arroyos, as to what would happen due to the lot size. And that would be an increase of the height of the building – because they are trying to squeeze more of the building into a smaller square footage of the 7 acres. So I stand before you, both personally and as part of our neighborhood to be in opposition to the variance. Thank you.

Bruce Brunstein, 204 West San Mateo, was apparently sworn off the record. "The one with the calming that doesn't work."

Karen Cook, 205 West Lupita was sworn. I agree with the statements made that we are squeezing out a beautiful arroyo for the sake of more parking that is dubiously required. And I would encourage the City Council to examine the site themselves to see what a huge change this is going to be to this old beautiful arroyo, which many of us have walked and I think I'm just going to mention the tree devastation that is going to occur, that will ultimately affect our environmental – trees are the most important thing we can preserve for climate change and I wish the City would pay more attention to tree destruction and keep trees alive. I am not confident that the cancer center is going to help us keep these old trees in that arroyo alive by its destruction and building so close to what they claim. I urge the Council to see it and see how narrow it is. Any grievance the City has

caused to date, we do not have to repeat. Let's start fresh and move forward. It is one of the most egregious things I think we are doing by allowing a variance from the City for 30% slopes to create more parking that may not be required.

There were no other public comments.

Mayor Webber noted the City Engineer was also in the Zoom room for questions.

Questions from the Governing Body:

Councilor Cassutt wanted to hear from the City Engineer why an 18-foot setback was needed for the arroyo.

Dee was promoted but had no audio.

Councilor Cassutt asked of Ms. Jenkins the number of parking spaces required by the Code.

Ms. Jenkins said City Code requires 301 parking spaces for this facility. With the current design, they are accommodating 237 parking spaces on site and 64 spaces on the main campus which were allocated for doctors and other staff members. There are also industry standards for this type facility which were not necessarily the same requirement. So they had 83 examination/procedure rooms. Industry requirements were three spaces per exam room. So there was overlap during the course of the day. Industry required 249 spaces. It was not perfect but close and very important.

Councilor Cassutt asked what it would be with no variance.

Ms. Jenkins said they would lose 63 spaces, and a total of 174 spaces.

Councilor Cassutt asked if that would be enough spaces.

Ms. Jenkins agreed.

Councilor Cassutt asked if they considered underground parking structure.

Ms. Jenkins said they considered it in the design phase and considered a fiscally responsible way for a non-profit healthcare organization to build a cancer facility to find the money. A lot of options were considered. The cost implications are significant whether going down or up. We landed on surface parking for many reasons including access. It felt this was the most fiscally responsible way.

Councilor Cassutt asked about the industry standard. Did they discuss distance of parking spaces from entrance to the site.

Ms. Jenkins did not know. But from common sense, proximity matters.

The variance criteria are challenging in Santa Fe. We conferred with staff about it.

Karl Sommer said he was under oath in this case. Assuming that lost 60 spaces, there would be inadequate parking on site for patients. So it raises this issue of how you get people across for treatment in various states they would be in. The Planning Commission was under the impression that we could put people in buses and drive them over. That can't be done because we don't have a license for transporting them on public right-of-way and then over here. We don't do that with people right now. The shuttle shown in the packet was for employees coming from the train. We also cannot use a golf cart to transport patients. The loss of the spaces creates a very practical problem for patients having to deal with it. They have to walk into the main building and then across or shuttled across in some fashion if they cannot walk.

Councilor Cassutt felt a little disconnect from the previous case where the location was said to be in close proximity with the rest of the hospital services.

Ms. Jenkins' response was broken by microphone problems. They might be taken by wheelchair for testing in the hospital. It is also different if the person driving them has to drop them off. They, themselves, will park somewhere else, walk over while that person is waiting for them, because they can't get themselves in to the cancer center. That could take ten minutes or more just to wait for their person to arrive. That is not the same circumstance from going to the building.

Councilor Cassutt asked to hear from Dee's perspective why she was requiring an 18' setback – 12' plus depth of the arroyo – and where that was coming from.

Dee Beingessner was sworn.

She said she is tasked with the Code which has a purpose and intent in her section of it for terrain management. Part of the intent was to protect arroyos and waterways and riparian habitats and other things like that. She had nothing in front of her to read to the Governing Body. But then in the specifics are what Ms. Feghali put up for an arroyo with a hundred cps and for arroyos with less than a hundred it would be hydrologic information as

well as soils reports that would determine the setback. When she was first shown this project, they didn't state that this was an arroyo – the minor tributary of the arroyo. They did show a pipe, which she didn't believe went across the entire property and that it was going to disturb 30% slopes. She thought it was the man-made slopes so, at that point, she said that she would support that they could put that pipe through there. Then when I went out to the site later, I realized it was an arroyo and not something she could say could be paved over. That was when she changed her information for them that they would have to get a variance and she would not support a variance, because they were basically obliterating an arroyo and not following the Code.

Councilor Cassutt said the soil and hydrologic that is supposed to be provided by the Applicant ... Is that still applying here, or not as much because we determined this to be an arroyo?

Ms. Beingessner said they were still supposed to provide the hydrologic data which they did with 77 cfs and then the soils they have not yet provided. She didn't think there would be a problem with the soils report because it is a parking lot, not a heavy structure being built at the edges. They still need to provide the soils information, but she didn't think that would be a problem.

Council Cassutt noted that Mr. Sommer played a little "chicken and egg" argument, knowing this was coming and asked if he made an attempt to get a soils report.

Mr. Sommer said no because it is not a requirement of the Code to submit a soils report as part of the application. The question about soils is twofold. Ms. Beingessner is talking about the soils on the banks and their stability if there is going to be building around them. That is not what the Code refers to. It talks about the soils in the drainage way. Whether they are fragile and what kind of soils they are. It is not required to be submitted and wasn't required for the application process. The reason he raised it, not to play chicken or an egg, was to say the decision was made to say, "I am going to regulate this." Ms. Beingessner said, "The Code doesn't require you to do anything. I get to tell you what I am going to do. I don't have any soils information, but I think this is a sensitive area." I understand that decision. She could have said, "I don't think this is an important drainage way." And we would be here not talking about it. That she left us with – the ability to say, regulation or no regulation, And what she did it on and is clear in the record and the report. She thinks this is an important wildlife corridor. She said that. It is in the record in a couple of places. And I submit to you that it is not. That's why we think it is wrong.

Councilor Cassutt asked Ms. Beingessner if she concurred with that assessment of what she reported at Planning Commission and her logic now.

Ms. Beingessner said she didn't, although she did say it is a wildlife corridor. But that was not her reasoning at all. Her reasoning was that she was supposed to protect an arroyo, and this is an arroyo.

Ms. Feghali reminded the Governing Body that this is not one of the variance appeals. This is just the appeal on the setback from the arroyo. The variance criteria are not part of this. The parking is not really relevant to this discussion – regarding what the criterion for setback is. She showed the relevant section of Code. The City Engineer believes how she determined, based on hydrologic information and soils (one or the other). There is a required setback. The variance requirement is for the other cases.

Councilor Cassutt said that was helpful.

Councilor Lindell said she and Councilor Villarreal were so happy they were talking about that water tank again.

She asked Ms. Jenkins if she would put up again the map or photo that showed the history of this drainage ditch/arroyo – where it used to run and where it runs now.

Ms. Jenkins showed the historic aerial photo that showed the extent of what that tributary – how it used to run prior to the organization of this area. These are the existing conditions, and this is an aerial taken while the tank was under construction by the City.

Councilor Lindell asked if all the area that was in yellow is now a ...

Ms. Jenkins either a building or a parking lot or a driveway and the area just upstream from the subject parcel is pipe or culvert that outlets into the property and in terms of how far that culvert goes, it is unknown how far the culverting goes or if there were areas that were just open sometime historically. But it is piped upstream, and it is piped downstream from the remnant area.

Councilor Lindell thought the City gave permission at some time for that to be piped or somebody piped it.

Ms. Jenkins agreed. It was probably part of a development permit application for a new development.

Councilor Lindell thought it was about 170 feet.

Ms. Jenkins said that was correct.

Councilor Lindell said if she heard this properly, a hundred cfs requires a setback.

Ms. Jenkins agreed. It is 25 feet plus the depth of the arroyo.

Councilor Lindell continued, less than a hundred cfs is discretionary.

Ms. Jenkins agreed.

Councilor Lindell said we are at 47 cfs. It bothers me that this is discretionary for pretty much this whole channel since it doesn't exist anymore. The red section there – what did the City do in that red section there on the left in the last few years?

Ms. Jenkins said they put in a culvert at where this tributary merges with the Arroyo de los Amigos. They put the culvert and built a driveway across that culvert in order to access the water tank site. Unfortunately, that affected the FEMA flood plain that extends into that area. So that FEMA map will need to be amended to reflect that change.

Councilor Lindell knew they were talking about arroyos and drainage pipes. She observed that the Governing Body cannot get people to park in parking garages. They don't want to walk anywhere. She had the experience in the last seven days of six trips either to St Christus, Pres, or another medical facility. I loved hearing the suggestion about golf carts. But my partner in a golf cart would be torturous. This is discretionary. It bothers me that we are looking at a first-class cancer center and looking at this map, is to have the discretion to do something different for the benefit of the community, and we use the term "value." What is the value? There is a very sizable arroyo that on the west side, no one disagrees that arroyo has a lot of value. We were reminded of the number of spaces. Our Code calls for 301. And people say, "you don't need that many." I don't know what you need. The Code says 301 – best practice of people that deliver crucial care is different. This isn't a very hard decision for me. And I think that it is discretionary makes it very easy for me.

Councilor Villarreal thanked everyone for sticking it out and listening to testimony and our questions. I think all of us are getting tired and will try to articulate well.

The question for Ms. Beingessner and thank her for being with us. She was curious if there was ...if we have tracked any historic storm activity in this

area, specifically, Arroyo de los Amigos and also the tributary that we have in question. I guess I'm thinking back to at least 2018 when we had the great storm and the recent rains this summer. Has Staff looked at that for issues that came about for that great storm and anything we should know about this area.

Ms. Beingessner was not aware of any issues in that area, but she wasn't the City Engineer at that time. She has not been informed there were issues there then or even with the recent storms.

Councilor Villarreal wished they had some historical information about that because it was a significant storm. And she didn't consider it the norm now. When we think about development, she did think about the 100-year precedent the City had. The Code was not legitimate anymore and the Governing Body needed to think beyond that.

She wondered about this year, if Ms. Beingessner was aware of things the Governing Body should be concerned about.

Ms. Beingessner heard there were some issues right at the crossing under St. Michael's Drive but didn't know how bad they were because it didn't flood anything, and no one was living right there. But she was concerned about piping a hundred-year size storm through piping on that property from upstream if the pipe wasn't able to handle a storm of greater intensity that we are more likely to have.

Councilor Villarreal also thought about the pipe that ran from the east side and we don't know where it ends.

She asked if there was anything that affected the road to the water tank - any flooding or not.

Ms. Beingessner said it didn't appear there was any flooding there.

Councilor Villarreal said it would be good to know the flows there and track storm runoff.

Her other question was about patients and parking. We all think that is extremely important. She was curious about those running the facility if they have thought about how to direct who could park in the parking area like most people do when accommodation their guests and patrons

Ms. Jenkins said that was correct. The 64 spaces on the main campus are restricted to staff and employees or perhaps for visitors.

Councilor Villarreal asked if the 174 spaces would be prioritized for the patients.

Ms. Jenkins said 63 parking spaces on site and now 120 spaces out of the total request on the main campus and the rest on site would be prioritized for the patients. But lots of patients would be forced to park on the main campus.

Councilor Villarreal didn't understand that. If staff knew about it, the ones right in front would all be prioritized for patients and the rest of the staff would be on the main campus area. She asked how that would change without the variance applied.

Ms. Jenkins said they would need those 63 spaces denied by not granting the variance. They already needed to prioritize all 237 spaces in onsite places.

Councilor Villarreal noted we never heard about going from the original 25-foot setback that was the original requirement at Planning Commission and going to the twelve-foot setback. The applicants never commented on that.

Ms. Jenkins said based on the 12 feet plus depth of the arroyo sets it at an 18-foot setback and is what was reflected in their display. That would lose 63 parking spaces. Clearly, she is only asking for 12 feet. If it was 25-foot setback it would become 31-foot setback and the number of spaces lost could easily double.

Mayor Webber asked them to imagine the City Engineer's recommendation was upheld and there was an 18-foot setback in the lower section of the parking lot. If he understood the proposal correctly, that area would be carved out and undeveloped.

Ms. Jenkins said it would be carved out and have a railing around it per Code, because it could be a fall hazard, that there would be parking around it. It would essentially be a hole in the parking lot with retaining walls and a railing and be surrounded by vehicles.

Mayor Webber surmised they would not refrain from building parking in that area but keep the piece of land that is currently an arroyo in that location intact, but not remove the parking from all areas around it.

Ms. Jenkins agreed.

Mayor Webber saw they were still asking staff and employees to park further away and reserving on this site for the patients who come and go to the Center.

Ms. Jenkins agreed.

Councilor Lee Garcia asked what happens with the easement.

Ms. Jenkins said right now, Christus granted the City an easement, straight through with the existing driveway to get to the back of the site for access for maintenance of the tank. She pointed out the retaining walls and said the tank was quite a bit lower. The City needed access from both sides to properly maintain the tank. The request that came was to relocate the easement. The Utility Staff wanted to expand the scope of the easement to allow them to accommodate big equipment like a crane they might need periodically to service the tank. The logical answer is to relocate the easement around the perimeter of the site.

Without the variance, that route would not be available, and it would be a challenge to navigate the parking lot. She didn't know how often the Utility Division were accessing the tank. City Staff felt they needed a staging area when a crane was needed.

Councilor Lee Garcia saw a view from the driveway.

Ms. Jenkins displayed it.

Councilor Lee Garcia understood without the variance, they would lose the area on the bottom.

Ms. Jenkins agreed

Councilor Michael Garcia asked Dr. Teague how many patients were being seen at any given time or expected to be seen.

Dr. Teague said they have various services to provide. They could have as many as 83 at one time.

Councilor Michael Garcia added those waiting to be seen and calculated that with 173 spaces, it would be sufficient to cover all patients at any given time.

Dr. Teague agreed it was hard to estimate and was why they relied on the standards imposed by Code. The regulation was to have 301 spaces. That number was studied and acknowledged it.

Councilor Michael Garcia understood the 301 would accommodate all staff and patients and that 63 needed to be provided in the main campus parking area.

Dr. Teague said they anticipated growth too so they would maximize all parking space.

Councilor Michael Garcia said 249 was proposed.

Dr. Teague said that was best practices for best patient experience and for best patient care. It would not accommodate the physicians or staff or other visitors. Explained how patients could be getting different services at the same time. They also needed a lot of overlap, considering patients who were waiting to be seen.

Councilor Romero-Wirth understood it was industry standard to have 249 spaces. She asked what industry the industry standard was based on.

Ms. Jenkins said it was best practices for design of similar types of facilities. She did not know the name of the industry.

She was told it was all the services of healthcare.

Councilor Romero-Wirth was not understanding who provided the standard.

Ms. Jenkins said it is based on the experience of the health care facility designers.

Councilor Romero-Wirth mentions the TreeSmart Santa Fe website and spoke of the initiative on trees in the City.

Councilor Cassutt on determining parking spaces, noted in a recent discussion, there will be a mix of patients, including those who could not walk very far. Here we are making sure the patients who need really close parking were getting it. But she was not sure they all would be able to get such parking spaces. It is a hard mix of services to calculate parking needs for any one time.

Dr. Teague agreed it is a constant state of flex. It is not the same for every patient. We must assess the risks and the benefits to find the best projection. How do you get as many people as close to the building as possible in the constraints they have? Every space is different, but they have relied on the experts in the design, the way the building is facing, and the structure is designed to maximize its use. The industry standard was not just from the experts hired. It is the best practice of the people who design this type of building for treatment of cancer. It is not the same as the City Code.

Mr. Sommer pulled up a study by one of the industry specialists who works in all fifty states. John W. Dorsett had a study, and his recommendation was that there should be 3.5 or 4.5 spaces per thousand square feet of building. 4.5 times 80 in this, it is over 300. 3.5 times 80 puts in the range of the request. That is a comparison for the Governing Body.

Councilor Rivera asked Ms. Jenkins how many handicapped spaces were around this building.

Ms. Jenkins said there were twelve right in front.

Councilor Rivera noted that also limits their parking since probably not all patients had handicapped placards.

Ms. Jenkins agreed.

Councilor Rivera didn't think they have enough spaces for the future. When his mother passed, he estimated they had about 30 cars at the hospital. Northern New Mexico families travel in packs and that would happen here. A lot would be taken up by family and friends. So they probably need more parking.

Councilor Lee Garcia thought they were at capacity now with the projected number. He asked when they would reach full capacity and need more parking.

Dr. Teague said much of this is future projection. With growth we have now, it would take a few years to max out the parking. They are building to a future and what makes the most sense to build for now. This more than doubles the spaces for the current cancer center.

Councilor Chavez emphasized how much she agreed with earlier comments by Councilor Lindell made earlier and Councilor Rivera has made. We really need to look at the purpose of this facility and how much greater that is. There is a mental challenge that comes with the nature of this facility. Convenience should always be key. Mental states should be considered in addition to physical capacity. The Governing Body needs to base the decision on the facts we have now.

Councilor Villarreal regarding growth, and the potential of what this center could be, asked why they did not consider a parking garage. In spite of cost now, it would become much greater down the road.

Ms. McSherry wanted the Governing Body to be cognizant that the next appeal has this type of factors and is not necessary part of the analysis for this one.

Ms. Jenkins said all factors and options were considered through the schematic design phase. We looked at all considerations and the decision

Appellant's Closing Statement

Mr. Sommer said this case is about the section of the code and it does not require a setback in this circumstance. It is a recommendation Ms. Beingessner came up. She could have said nothing – no requirement. There is no standard and there is no evidence to support it.

Final Staff Statement (if needed)

Ms. Feghali reminded the Governing Body that this appeal is about the setback. The requirements for setback are in 14-8.2 which is not about variance. Parking is not addressed in that section of the Code.

Mayor Webber closed the public hearing portion of this appeal.

Motion and Discussion

MOTION: Councilor Lindell moved, seconded by Councilor Chavez, to grant the appeal and remove Condition 11 from the Development Plan, leaving the other recommended Staff conditions of approval and technical corrections, on the grounds that the Planning Commission misapplied Chapter 14 and ask Staff to prepare Finding of Fact and Conclusions of Law consistent with this motion.

VOTE: The motion was approved on a majority 5-4 Roll Call vote with:

For: Mayor Webber, Councilor Chavez, Councilor L. Garcia, Councilor Lindell, and Councilor Rivera.

Against: Councilor Romero-Wirth, Councilor Villarreal, Councilor Cassutt
Councilor Michael Garcia.

- c. **Appeal #2022-5756 of Case #2022-5209.** Appeal by Sommer Karnes and Associates LLP for Christus St. Vincent Regional Medical Center of the Planning Commission's Denial of Christus St. Vincent Cancer Center's Request for a Slope Variance for a Development Located at 445 and 455 St. Michael's Drive. (Patricia Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955- 6501)

Disclosures

There were no disclosures or recusals.

Staff Report

Ms. Feghali reported. This is an appeal of the denial of 30% slope variance. It is not intended to allow development on natural slopes exceeding 30%. The development in the code does include paving. So where the parking lot is intended to go is still Council's development here in this section of the Code.

The Appellant is appealing the denial of the slope variance, claiming it was arbitrarily and capriciously disregarded the facts for the variance and denied it and that it will deprive the Applicant of the reasonable use of the property because access and parking for the proposed cancer treatment center will be restricted and hindered and create an unnecessary hardship for the Appellant.

She shared a picture provided by the Appellant in which all slopes greater than 30% were colored. She pointed out the Arroyo de los Amigos on the property. The blue section was the only part the Applicant was requesting to disturb in this variance. The ones in yellow were man-made when the City was constructing the access road. The green sections were staying.

There are five requirements for a variance. They must all be met in order to grant the variance. She listed them: first, is that unusual physical characteristics exist that distinguish this land from others in the vicinity; second is that special circumstances make it infeasible for reasons other than financial costs to develop the property in compliance with the standards of Chapter fourteen; third is that the intensity of development shall not exceed what is allowed on other properties in the vicinity; fourth is that the variance is the minimum variance that makes use of the property or structure and other factors to be considered; fifth is that the variance is not contrary to the public interest.

As seen from the picture, this is the only area affected – much smaller in this case. She also pointed out a flow chart and decision tree in the

packets. Only one motion is needed, either to grant the appeal, which would approve the slope variance, or to deny the appeal and deny the slope variance.

Appellant's Statement

Mr. Karl Sommer was presumably sworn but not on the record.

Mr. Sommer said the Governing Body knows all the background facts. He went to the heart of the matter which was that the Planning Commission made findings that were in error in not granting the variance requested. Ms. Feghali pointed to the drawing and the blue areas are a total of 1,546 square feet among all of them for areas in the little drainage that happened to be over 30%. The project will cover them over which was why they needed the variance.

The questions you have are for the five criteria. The variance allows the Applicant to take advantage of the 63 parking spaces they will have if the variance is granted with this design. Earlier, he had said that the Planning Commission made a finding in this particular case and in the packet, there were Findings of Fact and Conclusions of Law. Number 12 is demonstrative of what the Planning Commission thought it was doing. Under the first criterion – the Planning Commission said there was an unusual physical characteristic that distinguished this land from others in the vicinity. It was largely covered on the west with the flood plain and the Arroyo de los Amigos, and the drainage.

But in number eleven, they found that the building area was limited by the Arroyo de los Amigos. The fact is that it is limited not just by the Arroyo de los Amigos but also the little remnant of the drainage. The Planning Commission then went on to find the Applicant was asking to intensify the existing access road and construct a surface parking lot that would effectively remove a portion of the Arroyo de los Amigos. That finding is just wrong. They were not removing anything from the Arroyo de los Amigos. They were restoring the portion that had previously been disturbed by the placement of the driveway back and the culvert and the grading that went on. So that particular finding was wrong on its face and was part of the appeal.

They went on in that paragraph to say, “furthermore, the hospital shuttle system can provide service to this site, thereby reducing the overall demand for onsite parking. That finding is just wrong. We cannot shuttle people from one side of this hospital property to the other. So part of the appeal is that there is an unusual circumstance, but they are not destroying the arroyo and they are not able to shuttle people.

We believe there is an unusual circumstance, and that criterion has been met.

He moved on to the infeasibility issue and the reasonable use and enjoyment of a property. The question was, "Is it feasible? Without the granting of this variance, is it infeasible? It goes directly to the reasonable use of this property for this facility. He believed, on its fact, that granting variance makes this design feasible. And without the variance, makes it infeasible to use the property in the way that it should be designed with all the parking spaces just discussed.

The intensification of use is a non-issue. The Planning Commission found that the Applicant was not intensifying the use, because the use was going to be the 80,000 square foot center outpatient center with all the ancillary supporting services. And that is what the building will be used for. The variance doesn't allow them to intensify that particular use. And The Planning Commission found as much.

The next question was whether this was the minimum variance. He said they were not asking to do anything more than what as necessary to allow the parking lot to be built. But the Planning Commission disagreed.

Finally, the question arises, have we met the time period that it is not contrary to the public interest. Public interest was not well defined. It is what the Governing Body believes serves the needs of the public, serves the needs of the community, and does not do violence or damage to the fabric of the community. They are very broad standards for you to consider.

He submitted that the variance in this case allows for the development of this property in a reasonable way for a vital service from an institution that has served this community and will continue to serve it in the future.

Questions of the Appellant:

There were no questions by the Appellant.

Public Comment

A man stated his name off the record and was sworn. He said the public interest could best be judged by what the City Council in the 1980's gave unhurried consideration to the public interest, decided to enact the Zoning Law. The burden of asking and receiving a variance from that zoning law

was to show that the public interest already defined was not going to be harmed. That is the burden the applicants have. In this case, the parking lot is the main issue. Its compliance with the laws that govern the preservation of an arroyo, vs. how big the parking lot should be. It was pointed out that 250 or 300 parking slots reserved only for patients is not going to be occupied by all those 250 patients that will be there during the course of the day because they don't all start their appointments at the same time. It is staggered, so it is reasonable to think there was nothing immovable at a certain number of spaces. The need for parking spaces in the immediate vicinity of the building is a lot less than 250 and that should play second place to the overriding public interest in preserving the arroyo.

There was no further public comment.

Question from the Governing Body

Ms. McSherry said the questions asked in the last hearing are not automatically part of the record in this case. But if the information is in the record already, it doesn't need to be entered again. All the questions asked by the Planning Commission are already in this record.

There were no questions from the Governing Body.

Mayor Webber closed the public hearing portion.

Final Appellant's Statement

Final Staff Statement (if needed)

Motion and Discussion

MOTION: Councilor Lindell moved, seconded by Councilor Chavez, to grant the appeal and approve the slope variance on the grounds that the Planning Commission's decision was not supported by substantial evidence and ask Staff to prepare Finding of Fact and Conclusions of Law consistent with this motion.

Discussion on the Motion:

Councilor Cassutt saw that all five criteria for a variance were met. The special circumstances make it infeasible for reasons other than financial costs to develop the property in compliance with the standards of Chapter 14. When Mr. Sommer was reading the Findings of Fact and Conclusions of Law, number 12, he did skip a portion of that which states, "The required parking could be reallocated from the main campus parking lot or reconfigured into structured parking onsite to accommodate the same parking load."

According to the Applicant's parking counts, there is a surplus of 118 parking spaces in Zone A, the main hospital campus, which could be reallocated to meet the needs of Zone D (the Cancer Center) and negate the need to disturb the 30% slopes. And the reasoning for not doing a structure had to do with cost. So she did not believe that variance requirement was met.

There was number 4, which was the minimum variance to make possible the reasonable use of the land structure with factors of whether the property has or could be used with variances for a different category or lesser intensity of use. Maybe that one does not apply here.

She went back to cost not being the main factor. She believed a parking structure could be used except for its cost.

Councilor Romero Wirth said she needed technical assistance. Her I-Pad froze and kicked her out of Prime.Gov. And Prime Gov thinks it is a new day – which it technically is. How do I go back?

Councilor Villarreal – the packet material is different although related. In this packet material for the sub variances, is actually a letter about the arroyo setback. That is what is confusing us. They are similar but separate and the packet material flows back and forth on it. It talks about all the variances as one thing. It is hard to follow.

VOTE: **The motion was approved on a majority 5-4 Roll Call vote with:**

For: Mayor Webber, Councilor Chavez, Councilor L. Garcia, Councilor Lindell, and Councilor Rivera.

Against: Councilor Romero-Wirth, Councilor Villarreal, Councilor Cassutt
Councilor Michael Garcia.

- d. **Appeal #2022-5749 of Case #2022-5208.** Appeal by Anna Darrah and Edmund Preston Lottimer of the Planning Commission's Approval of Christus St. Vincent Cancer Center's Request for a Height Variance for a Development Located at 445 and 455 St. Michael's Drive. (Patricia Feghali, Assistant City Attorney: pfeghali@santafenm.gov, 505-955 6501)

Disclosures

There were no disclosures or recusals.

Staff Report

Ms. Feghali presented the Staff Report for this appeal. The appellant is not the applicant in this case. There are more parties involved. It is about the height variance. Neighbors who will be presenting next are the appellants in this case. They claim that the Applicant failed to meet four of the five preconditions to qualify for a height variance. The criteria for a variance are the same for all variance requests and she read them again. The height allowed in this area is 25 feet with no variance. The Applicant asked for and was granted a height of 33.5 feet from the Planning Commission. They actually asked for 32 feet. The hospital next door is 65 feet high. This appeal is to not grant the height variance. The unusual circumstance in this case is the structure, not the property. In this case, not granting the appeal would approve the height variance.

Appellant's Statement

Anna Darrah, 611 Don Gaspar, was sworn on the record. She introduced her husband, Ed Vladimir. We live directly behind the lot where Christus is hoping to build their new cancer center. We are here to appeal the decision, which was a divided decision of the Land Use Planning Commission, to allow Christus to build its cancer center eight and a half feet higher than the 25' zoning maximum height. They have noted the completed building will be 40' tall, including parapets and mechanical equipment. We currently have a beautiful view of the Ortiz and Sandia Mountains from our south-facing windows. We have been in this house for over 25 years and have been in Santa Fe for 28 years. There have been a lot of changes and we are not averse to changes. We've also lost many loved ones to cancer. And I want this town to have the highest level of cancer care available. With a population of 320,000 people, northern New Mexico tends to grow slowly. Over the past decade, we've averaged less than a two percent population growth rate per year. This is a relevant number for reasons in the case.

I know I am not entitled to see mountains out my window and not entitled to zoning rules that can never be changed. But what I am entitled to, and what all my neighbors here to support me tonight are entitled to are zoning rules that cannot be changed lightly, that cannot be changed upon demand by a neighbor more powerful than we are; that cannot be changed for reasons that don't meet the standards set forth in Santa Fe City Code.

That Code at section 14-3.16 says that the hospital doesn't get tight hearing unless it proves all of the following: 1 – that there is something special about the land or the circumstance which 2 - makes it infeasible to build the cancer center in compliance with the zoning laws; 3 – that any variance granted is the minimum possible variance and 4 – that the variance is not contrary to the public interest. She felt they failed to meet the burden of proof on every one of those required showings. And the Planning Commission's determination that the Applicant did meet its burden is simply incorrect. The Planning Commission's Finding of Fact – 12, 13, and 15 say that the special circumstance, justifying the height variance, is that the land on which the hospital wants to build the cancer center is too small to build horizontally, and that the hospital only feasible alternative is to build vertically, one-third higher than the zoning allows.

But the Commission didn't make any Findings at all on the feasibility of other alternatives such as building elsewhere on hospital-owned property in the immediate area, such as a vertical parking lot with a ramp instead of horizontal parking lot that would create more space on the ground. And what about digging down into the earth to bury the extra feet required by the current design? This case revolves around their need to build a radiation vault within this new cancer center. It is called a Linac Vault. And because of the radiation, it must have extra thick walls, which they claim necessitates their height variance request. The Commission did find that constructing the 17' high first floor, which allows for the Linac Vault, partially below grade is infeasible for the head-scratching reason that it will deprive persons of a high-quality, well-lit space with ample ventilation. She referred to Exhibit A of the exhibits she submitted, titled "Benefits of virtual skylights in Linac Rooms." From the installer of fake skylights for radiation vaults like the one in question here.

Paragraph 2 states, "For cancer patients undergoing radiation therapy, the Linac treatment room is a windowless high tech solitary confinement vault. There are absolutely no natural connections to the outside walls" which is why all across the nation, so many of them are sunk into the ground. There is no way to have windows or outside air flow within a Linac vault. Why waste above the ground walls that cannot allow windows? Most cancer treatment facilities don't. The Applicant stated that

it would “be difficult for patients to navigate a grade change physically by way of stairs or a ramp and mentally taxing on patients to feel like they were going underground for treatment.” Yet the building is already planned to be a two-story building and would certainly have an elevator, adding a back door exit from that elevator onto a half floor lower, which opens into the radiation vault, would not only be imperceptible to patients, but, as we have seen, the Applicant would lose nothing in putting the solitary confinement vault underground. And there are virtual skylights available that would make them feel as though they were looking at the sky. And it is a false claim to state that the industry standard is to build Linac vaults above the ground, which is part of what they claimed.

So is the height variance necessary? It has not proven that it is. And I am here hoping that the zoning regulations this City has put in place to carefully protect the quality of life we Santa Feans enjoy cannot be lightly changed. I ask you not to allow the zoning rights this Body has enacted for the benefit and reliance of the whole community to be casually tossed aside, based on a powerful neighbor’s forceful demands when they cannot prove the necessity of a height variance request.

She addressed one more thing, which was the necessity of this project. All of this is based on – Is this height variance necessary. She referred the Governing Body to three additional pieces of evidence she submitted – evidence that did not exist when the Planning Commission made their decision to approve this variance, and evidence she wished she could have presented at the beginning.

Exhibit C was a letter from Christus, dated September 1, 2022 and addressed generally to patients at a zeroed cancer center, under the care of New Mexico Cancer Care Associates (NMCCA). That is what the Zia Road Center is called. It noted that the contractual separation that was going to take place between NMCCA and Christus on December 31, 2022. Christus has been partnering with NMCCA for over a decade to allow Christus patients to receive their cancer care through NMCCA. The Zia Road building gets around 37,000 patient visits per year, with both medical and radiational oncology. It is a very busy center. Exhibit B was a letter from NMCCA, received the same week that the Christus letter arrived, reiterating the point that they are separating at the end of this year. Together, these letters indicate a new development in cancer treatment in Santa Fe. Each out of the ten healthcare practitioners who have been historically caring for patients at NMCCA, are leaving the Zia Road building in January. They will be continuing to offer their patients cancer care at the discounted price (it should be noted) and an independent practice. They will have their own Linac vault. Christus has stated that the new 80000 state-of-the-art cancer center they want to build will need in excess of 200 parking spaces because they expect to

have 64,000 patient visits per year. This is a number they repeated a lot during the Planning Commission meeting. That's a lot. NMCCA, the only cancer center in northern New Mexico, currently gets around 37,000 cancer patient visits a year. These letters clearly show there is about to be a new practice, started by 8 out of the 10 practitioners that have been serving the NMCCA and Christus patients. If this new practice only takes half of those patients with them, that will only leave fewer than 20,000 patient visits less to continue on at the Zia Road building with Christus. Yet Christus wants to build an 80,000 sq. ft. cancer center for 64,000 cancer patient visits per year with 249 parking spaces in a place where the population grows less than 2% per year. And they want to pay for it with a 40-million-dollar community campaign. We would be funding this unnecessarily incredibly expensive center. Why not take a portion of those funds and renovate what will be a nearly empty Zia Road Center into a state-of-the-art Cancer Center. Starting out with 20,000 cancer patient visits per year seems like the kindest thing to do for the patients who would be able to stay at the center they know and love. And for the City who wouldn't have to dig into their wallets for a \$40 million redundant cancer center.

Exhibit D is an affidavit from the Don Gaspar neighbor who watched on Youtube the September 1 Planning Commission meeting at which the 4,000 Beckner Road development plan, which will eventually house this new independent doctors' center, complete with a Linac Vault, was unanimously recommended for approval. This has been submitted for evidence because on Planning Commissioner noted that there will indeed be competition and implied that their earlier approval of the height variance should be reconsidered in this new light. The relevance of this new competition on our request to deny the height variance is obvious. Is the height requested necessary when the size of the building may not be necessary? If they shift estimated patient visits to 40,000 a year, doubling what their likely about to have, would it be possible to lessen the footprint? The purchase price of this new building also likely to affect the number of parking spaces? Would this new evidence affect any realistic determination of whether the height variance is necessary and whether all alternatives to it are really infeasible?

I asked the Council to find that the Applicant has not carried its burden of proof to show that it is entitled to a height variance under the approval criteria of Chapter 14-3.16 and to remand the case to the Planning Commission to further investigate in light of these changed circumstances. She thanked the Mayor and City Councilors.

Applicant's Argument Presentation

Councilor Michael Garcia noted in the last three cases, they had the Applicant, or the Appellant give their case for 15 minutes and then what he would consider the closing Council had two minutes per speaker. Now, in this case, the Appellant filled 15 minutes but the opposing – the developer – has ten minutes. Should they not have more time?

Ms. Feghali said in the previous cases, there was only one party, and the party was the Appellant and the Applicant. In this case there are two parties: the Appellant who just spoke, and the Applicant. In both cases, the parties got ten minutes each. But in this case, there are two separate parties and still the public comment with the same time limit as before.

Ms. Jenkins, 130 Grant Avenue, was sworn on the record.

City Staff recommended approval of the height variance. The Planning Commission approved the height variance request. City Staff determined we met the variance criteria. That was no small feat. The Planning Commission concurred we had met the variance criteria for a modest increase in height to accommodate very unique needs of this facility, not dissimilar to the height variance that was granted to the Frost Pavilion in 2016 – a medical facility of very unique needs that primary relate to the mechanical space between floors – the ventilation requirements, the air circulation requirements, the mechanical load of ?? the space. It is not an office building. There are very unique needs. So in addition to the standard medical facilities height of 14-15 feet, floor to floor to accommodate that mechanical plenum space where ductwork travels through the building. As the Appellant correctly stated, there is a Linac Vault that requires six feet of concrete for protection. It does not have windows. It does not have access to the outside for obvious reasons. She pointed out that section of the building that depicted the Linac vault which pushed the first floor to that 17' height. She said they worked hard to bring that building down everywhere they could squeeze it. They were limited to 25 feet for the roof deck and got it down to 32 feet. The design team and consultant worked diligently to bring it down.

For how the building related to its surrounding, she showed a site section. On the top, looking east at the building, St. Michaels Drive was on the left and the nearest residential neighbors to the right. They showed the 32 feet to the roof which was still below the residential neighbors to the north, and seven feet lower than Frost Pavilion across the arroyo. On the next section, you could see how it relates to the medical office building directly east of the site at essentially the same height. So contextually, they were not towering over their surroundings in any way whatsoever.

Although no one is entitled to a view, they went to the property line and looked at the view. The Arroyo de los Amigos provided a view corridor to the mountains. This building is not blocking a view.

Regarding the suggestion to lower the building into the ground, that it had been determined that forcing patients into subterranean rooms was not a best practice. The ramping that would be required was a serious concern also.

Dr. Teague was sworn off the record.

She said the delivery of radiation to patients is extremely complex and more than just about a linear accelerator. Less and less are linear accelerators placed subterranean anymore and part of that was because of the workflow that needs to be associated with it. The vault holds the linear accelerator that delivers the radiation. In the development of that radiation plan are staff in various roles and best to place the linear accelerator next to the radiology oncology clinic next to the radiology because that workflow for all of them needs to flow that way. It puts a huge burden on having a well-oiled machine to run, if all of that isn't designed properly. Those are almost always on the same floor to make it work most efficiently. All of that could be put below ground but no one wants to go into a basement for radiology. No one likes to work underground. The only time the patient would not see light is when they were in the vault. And those treatments are very short. We put up decorative light to make it enjoyable for them.

Ms. Jenkins said in conclusion that they had the Findings of Fact and Conclusions in the packet relative to the variance criteria. The Planning Commission noted again the unique circumstances and constraints of this particular site, and the needs of this particular facility. It is designed to deliver the best care and reduced the height as much as possible, in line with the building around them and not blocking any view.

Quality patient care was why they were here.

Mr. Sommer was sworn again on the record.

The Appellant in this case bears the burden of proof and the burden of persuasion. And at the very end of her presentation, what she said was – “Oh, I've got this new evidence that goes to the central question of whether we need this facility at all.” That is not a standard in the variance criteria. What she posed had nothing to do with the variance criteria. But what she did not tell the Governing Body was that these ten doctors who were going to staff another facility don't own that land. They are speculating on that. We have no idea whether it would be built or not.

That is in the public record. And we don't know if that other center will ever happen. We are here now with an institution that has invested for 150 years or more and continues to invest in this community. And it is vested in our future. Compare that with ten doctors who were going to open a for-profit cancer center that was not going to provide all of these services which are the ancillary services in this building for a more regional serving facility. He submitted that the Appellant had not met the burden of proof, but we did meet our burden of proof at the Planning Commission.

Questions from the Appellant:

Ms. Darrah asked for more information about the second floor, which is part of the height and part of the reason for the height request. They stated it was to be leased offices. So what she wanted to know was what each office had to have for parking spaces and if that was part of the pressure existing on the parking issue. Did they have to have a certain amount of parking spaces?

Ms. Jenkins said there was 6,000 square feet on the second floor that is intended to accommodate ancillary services as part of comprehensive care in this treatment facility. She lifted those services. It is very much a part of the comprehensive care at this facility. Some may be provided internally by Christus or using local providers within the community they partner with to provide those services. They are all intended for this facility for patient care. The parking requirements are all together. There was no separate parking requirement for the second floor.

Public Comment

Those waiting to make public comments were sworn in together. Lawrence Pardy said in listening to Ms. Darrah's presentation, she was absolutely struck by the question if it was necessary to have a building at a height the hospital wants when it appears to be a good likelihood would not occur – that they would instead go to the other facility. We don't know how many but there will certainly be a split. So it goes to the question of necessity. A height variance might not be needed if the building could be smaller, given the number of patients. This is all new information coming out since the Planning Commission met. The best way to fill out the record is to go back to the Planning Commission and determine whether the 80,000 square foot building with its height variance was necessary. I'd like for you to think about that.

David Gonzales at 1613 Don Gaspar, said he had questions about the photographs regarding the mountains. They were shown at the Planning Commission, and she did not think they were representative of Ms. Darrah's needs. He had two lots on Don Gaspar. The views from his property were very different with the new building put up.

Ernie Romero said this was an easy one for him because he didn't have a dog in this fight – no financial interest. He gave a historical perspective. The Zia Road facility was built by a developer out of Albuquerque and built as an "MOB" Medical Office Building. It was not built as a cancer treatment facility. The experience of those patients going there in the middle of a shopping center behind what once was Office Max is not the same experience when you walk into Christus St. Vincent's newly renovated facility. I think we are lucky that Christus has worked so hard to put this facility right next to the hospital as an infill project that takes into account all of the services around them. St. Michael's Drive was really built for the future. It can handle the traffic that is thrown at it. District 3 does not have traffic problems – I mean District 2. I just want to reiterate that we should appreciate that we have this huge investment by St. Vincent's Hospital = a nonprofit hospital. And to address the other cancer facility, I don't think that is going to get built. The markets have changed for a for profit facility and just a possibility vs. a reality. Thank you.

Tim Langley, 1512 Don Gaspar, noted the Beckner Road facility was approved unanimously on September 1 to go ahead with no variances required. It is not exactly a speculation that there are questions about the necessity for the size of the building that Christus is asking for. Normally, it wouldn't be any of our business what size of the building was appropriate or an over expansion. But they make it our business when they ask for an exception in the variance rules that this body has had in place for 35 years under the Southwest Corridor and that we rely on as citizens of the community. It eventually comes down to what Chapter 14 says and it is pretty stark. The narrow issue is pretty clear and pretty stark. If you want a variance from the City, you have to prove there are no feasible alternatives to it. That is one of several things. In this case, one obvious alternative would be to put seven feet below grade. The Planning Commission in a Finding of Fact why that is infeasible. And they only give you one sentence. That is #13 to properly care for the patient's physical and mental well-being, every effort should be made to maintain a high-quality space with ample ventilation. What does that mean? Below grade floors can be well lit, well ventilated, well appointed. There are several of them on the existing Christus campus. I will stop there and ask you to apply the law. That is what this is about.

Kathy Browning on East Lupita said in conclusion that she hoped the Governing Body understood this is not a NIMBY issue. All the neighbors have some sort of relationship as patients with the hospital. But as a neighborhood, we know Christus is part of the neighborhood, and we want them to be a good neighbor. We shouldn't have to fight for everything they want to do – every variance they request. She hoped the Governing Body would take to heart what Tim just said and follow the rules that are in place.

Karen Cook, 205 West Lupita Road was sworn on record. I am supporting the appellant here in not granting a variance for height. I would hope the Council would consider tabling a decision until they are better informed about the potential need that will potentially built and not as well utilized as projected. She was really considered about the one-off height variances the Council has granted all around the City. She recently sent a letter to the editor and was overwhelmed with the response of other people with this concern. She hoped the Councilors were also reading the letters to the editor. The community is not longer behind those height variances and asking for a new City plan where all an become more involved in what the city would look like in the future. The variances are destroying the views. Santa Fe once had a democracy of views as a horizontal city. Hoping you will table it and investigate the need. Thank you.

Geo Liguera 119 West Lupita Road was sworn on the record.

I would like to support his neighbors with all the reasons why this height seems to be absolutely not necessary and does become a pattern to approve height variances without proper reasons. The only thing he heard as a response was ventilation and that all the person who would work in the facility didn't prefer to work underground. He was sorry but there was a law – a height requirement and should only be changed in extreme cases. This only seems only an attempt of a more powerful neighbor to save money and not abide by the laws of the City. He hoped the Council was not going to allow them the height variance. That was all he had to say.

There were no other public comments.

Questions from the Governing Body

Councilor Romero-Wirth asked about the question about the view corridor to the Appellant.

Ms. Darrah said it is not her view which was 350 feet to the west. And it was wide open because the land goes over a little bit, and she could see right over it to the mountains. She didn't want to argue about that here. She did not think that was what she wanted to be doing here so she didn't

bring that up. In their first neighborhood meeting with the Applicant, they asked for site poles and were told they would get site poles. They said it was a good idea. But they never put up a site pole and the neighbors have absolutely no idea what it would do. But 40 feet is higher than the mountains in her view.

Councilor Romero-Wirth asked for help on her viewpoint.

Ms. Darrah said the photo was taken about 350 feet to the right of her home (facing south). And that would be west of my home. Our house is directly behind the edge of the water tank. It has an enormous parking lot where the trucks pull up. So she didn't see why they couldn't get to the front of the tank either.

Councilor Romero-Wirth to Ms. Jenkins regarding the second-floor leased space.

Ms. Jenkins said the second floor was the top floor.

Councilor Romero-Wirth asked why a second floor was needed if it was leased space. Was it to make it economically feasible?

Ms. Jenkins said it was only 6,000 square feet and had nothing to do with economic feasibility. It was about making sure we are providing all of the services under one roof that these patients need. Not all of the services were available by the Christus team and wanted to partner with them.

Mr. Sommer – said the 6,000 square feet was only a part of the second floor. There will be a second floor without those 6,000 square feet.

Dr. Teague clarified the services to be offered including a transplant service in partnership with transplant experts from Colorado who would lease space in the center.

Councilor Romero-Wirth asked Ms. Feghali, with new information about competition and might not have the patient count they forecast. Is that relevant information at this level?

Ms. Feghali – said they didn't put in the number of patients anticipated.

Councilor Romer-Wirth asked for a list of the criteria on a slide. Then she found the list. It was also on the screen. So patient count did not apply to any of the criteria.

Councilor Michael Garcia had a question about providing the best surroundings for the patient. Was that used as a justification for the height variance.

Ms. Feghali thought that related to #5.

Councilor Michael Garcia said he asked about it because the Applicant said they wanted to provide the best service to the patients which included windows, ventilation, etc. but he knew Christus doesn't follow that practice with a lot of their facilities. There were no windows in the ER which he knew from personal experience. He was having a challenge with why it was not always the case.

Ms. Jenkins said, as Dr. Teague explained, there are various doctors in the facility with relevant experience who have to coordinate care to ensure the best care of the patient. The main facility is 45 years old and areas that might be developed differently today. And it has no Linac Vault. WE have learned a lot over time on what works and what doesn't. Every decision about this building site and design was about quality patient care.

Councilor Michael Garcia asked Ms. Darrah about the potential alternate facility if their Linac was subterranean.

Ms. Darrah said UNM's was subterranean. It was logical. Why would you waste wall space when you cannot have windows? It is a vault with secured solid concrete walls. Most east coast hospitals have them. Her brother, a videographer in hospitals said they were all underground

Councilor Villarreal asked clarification from the Applicant on total square footage of the second floor.

Ms. Jenkins said the entire building was 80,000 square feet. So the second floor was in the 35,000 range.

Councilor Villarreal asked if all providers on the second floor were leased providers.

Ms. Jenkins said some could be Christus providers and others would be partners. It would not be intended just to lease out to other doctors but for use by partners.

Councilor Lee Garcia to the developer, asked what it would look like without the variance on building size and opportunity to build.

Ms. Jenkins said it would be limited to 25 feet which would be incredibly challenging not only for the Linac but for any medical facility, which was

the reason they proposed the same height as the Frost building. And could not connect in between floors for the pedestrian walkway.

Councilor Cassutt asked what a height maximum not in a highway corridor would be.

Ms. Jenkins said it was 36 feet.

Councilor Cassutt said this one is now 32 feet to the roof deck. She asked how high it was to include mechanical, etc at the to.

Ms. Jenkins said it is an 8-foot allowance for rooftop appurtenances. With those, the height would be 40 feet.

Mayor Webber said the Governing Body has tried to follow the instructions of the City Attorney as best they could in the quasi-judicial role, and he asked Ms. Feghali to walk through those criteria that applied.

Ms. Feghali – said the first was unusual physical characteristics in the land or the structure. In this case, the Planning Commission found the land did have unusual physical characteristics in that there was a big arroyo on the west side.

Mayor Webber said it was not being disturbed.

Ms. Feghali agreed. It is the one with the pedestrian walkway to go over. They found the cancer facility requires extra floor to ceiling space to accommodate necessary medical and mechanical equipment within the facility. That was found for criterion 1.

Mayor Webber said #2 had to do with feasibility

Ms. Feghali said the Planning Commission found that having the vault at grade instead of below ground would satisfy that criterion. And that they could not accommodate it all in a single story.

Criterion 3 was to not exceed the height limit in the rest of the campus.

Mayor Webber said #4 has to do with minimum variance possible.

Ms. Feghali agreed. And this is the minimum variance possible as the Planning Commission found without reducing the load. So they agreed they met that criterion.

Mayor Webber said #5 was serving the public interest.

Ms. Feghali agreed. And the Planning Commission found it was in the public interest.

The sixth criterion was not applicable to this case.

Final Appellant's Statement

Ms. Darrah thanked the City Council for sticking this all. She explained she was not questioning the need for this facility at all. She was asking if it needs to be as large as they have planned. And she thought it was relevant to these five showings because one talked about land use and structure which was completely tied to the size of the building and the size dependent on what was going to happen there. She considered that elemental to the question of height variance.

She added that she was grateful for the medical services of St. Vincent Hospital where she gave birth to her daughter and was on hand for deliveries of babies with four of her friends. She was grateful for their care that saved her husband's life and later helped him into a new hip. All the better to have two best cancer centers and offer a choice to the people of Santa Fe and northern New Mexico. But the Applicant has not proven that there is something special about the land or circumstances that make it infeasible to build a cancer center in compliance with zoning laws. And there is no sensible reason not to build the Linac Vault below grade. And yet we have never seen any kind of alternative to their original plan or that they would reimagine their plan on any level. Three, that any variance granted is the minimum possible variance which is impossible to determine with the new information. Four, that the variance is not contrary to the public interest when surely, the loss of view from one's home, along with the community's view of the Sangre de Cristos from St. Michael's and the whopping \$40,000 that would be coming out of our own wallets to build an unnecessarily immense cancer center. Surely all of that is contrary to public interest. Christus owns the land outside of our bedroom window. And I assume they will build something there if they need to expand. But I don't believe we have to roll over because they requested a variance. Why can't they be held to the same regulations all of Santa Fe held to? The Governing Body has spent countless hours deliberating the most fair and equitable zoning regulations for buildings, meant to maintain our quality of life, while offering the possibility for growth. Do we really need to issue variances whenever they are requested? Why can't the challenges that come with zoning regulations stipulate the designs for our growth so that what is being built is as kind and beautiful as our state? You set these rules in place. Let's stick to them and have no more variance hearings and appeals like this one. This height variance should

be denied, and the entire issue put back to the Planning Commission for further exploration. Thanks you Mayor Webber and City Councilors.

Final Applicant Statement (if needed)

Mr. Sommer said the burden of proof has not been met and the burden of persuasion has not been met by the appellant. Your Staff recommended approval and walked you through tonight how the Planning Commission found that each of the criteria had been met. There is nothing far fetched or illogical about their conclusions they drew as to each item. The idea that there might be a competing facility is a red herring. It has nothing to do with the criteria or this case. It is unknown if it will ever get built. To say we have to go back to the planning Commission is a red herring and very punitive on this applicant. The Variance was properly granted, and the Planning Commission's Findings should be upheld.

Mayor Webber closed the public hearing and entertained a motion.

Motion and Discussion

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt to deny the appeal, and approve the height variance on the grounds that the Planning Commission's decision was supported by substantial evidence and to direct Staff to prepare Findings of Fact and Conclusions of Law consistent with this motion.

Mayor Webber thanked everyone for their work on a very challenging night. He also complemented all the people who spoke tonight, for their thoughtfulness and courtesy. It is a hard series of cases and a hard series of criteria to apply time after time after time, with so many determinants to grapple with.

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

For: Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Villarreal, and Mayor Webber.

Against: Councilor Michael Garcia.

11. **MATTERS FROM THE CITY MANAGER**

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

Manager Blair said the crews cleaning up leaves was doubled and getting weeds out. He had been remiss in getting the contracts over \$200,00 list to the Governing Body and would get that done quickly.

The Finance Director, Accounting Manager and he sent out the notice and was absolutely certain they would get the City back on track. He highlighted that DFA has been a tremendous partner since CLA pulled out and their team bent over backward to help our Finance Team and assured that we were not in jeopardy of being taken over.

A tremendous thanks to Kyra Ochoa and Police Department for their assistance during Indigenous Peoples' Day.

The CHART Study Session was scheduled for November 2 from 1:00 pm to 4:00 pm.

He hoped to finalize the hiring of a new Airport Manager very soon.

He announced that Brad Purdy has been chosen to be on the New Mexico Cybersecurity Plan Committee.

He flagged that Tuesday was National Coming Out Day. AS a gay man, it is important for us to be out because it changes people's lives. And everyone who is queer knows the City of Santa Fe is a safe place for them to work and know you can be who you are.

He remembered it was the 24th anniversary of the killing of Matthew Shepherd who was tied to a fencepost and left to die because he was a gay man.

12. **MATTERS FROM THE CITY ATTORNEY**

Ms. McSherry apologized that she needs the executive session to be done.

AGENDA AMENDMENT.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Cassutt, to amend the Agenda to consider the Executive Session last on the agenda.

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

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L. Garcia, Councilor M. Garcia, Councilor Lindell, and Councilor Romero-Wirth, Councilor Rivera, and Councilor Villarreal.

Against: None.

13. **MATTERS FROM THE CITY CLERK**

Ms. Bustos-Mihelcic announced the new website has received ADA approval. She is test driving closed captioning which is extremely accurate. Community Engagement is working with the Library for a Harvest Festival for children on Saturday, October 29.

14. **COMMUNICATIONS FROM THE GOVERNING BODY**

Councilor Lee Garcia had a question on CHART before the meeting and have a discussion. Have we decided anything about the Soldiers' Monument when we get together. Can the City Attorney do the legwork for that.

Mayor Webber duly noted it.

Councilor Cassutt wished her brother a happy birthday. She said yes to the Harvest Fest and invited others to participate.

Councilor Romero-Wirth had none.

Councilor Lindell passed.

Councilor Villarreal had nothing.

Councilor Michael Garcia wished everyone a good night.

Councilor Rivera passed.

Councilor Chavez acknowledged the walk for mental health hosted by NAMI. It was rainy but lots of people turned out. She thanked Councilor Lindell for inviting her to speak at the event.

Mayor Webber saluted Councilor Chavez's speech at the Walk for Mental Wellness for her eloquence and her humanity.

He announced later "tonight" would be the Mayor's Annual Arts Awards at Site Santa Fe recognizing people who contribute to the arts and cultural vitality of our community.

Solar Car Port ribbon cutting on October 14 at the Southside Library.

Trunk or Treat at the Santa Fe Place Mall.

15. **INTRODUCTION OF LEGISLATION**

- a. **CONSIDERATION OF RESOLUTION NO 2022-__.** (Councilor Romero-Wirth, Councilor Cassutt and Councilwoman Villarreal)
A Resolution Calling on the New Mexico State Legislature to Take Action During the 2023 Legislative Session to End Driver's License Suspensions for Failure to Pay and Failure to Appear. (Kyle Hibner, City Prosecutor: kjhibner@santafenm.gov, 955-5195)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

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

Councilor Romero-Wirth noted this is a continuation of the work around fines and fees and the bill passed earlier that applies to the City.

- b. **CONSIDERATION OF RESOLUTION NO. 2022-__.** (Councilwoman Villarreal and Councilor Rivera)
A Resolution Extending the Term of the Community Health and Safety Task Force Until June 30, 2023, to Allow the Task Force to Complete Its Duties and Responsibilities. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

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

Councilor Rivera noted people heard some of the reason why it needs to be extended. He believed they would have it completed by June 30.

Councilor Villarreal said it does show the commitment of the task force members and this work is really hard with meetings every other week. We want to make sure it is done right, and the community phase is very important.

- c. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Chavez, Councilor Lindell, Councilor Lee Garcia, Councilor Cassutt)
A Resolution Creating a One-Year Pilot Program to Encourage and Incentivize Employers to Pay for Employee Parking in City of Santa Fe (“City”) Parking Facilities at Sandoval Street, the Santa Fe Community Convention Center, and the Railyard. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 505-955-6622)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Public Works and Utilities Committee: 10/24/2022

Finance Committee: 10/31/2022

Governing Body: 11/09/2022

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

Councilor Chavez said this came about because there were members from District 3 who had been paying for parking while at work. After a survey, they also learned there were some businesses paying a very large amount for their employees’ parking. They wanted to do a pilot to weigh benefits and risks. It is a year-long program and reduced the fee from \$35 to \$25 for employees in hopes to identify the need for expanding it downtown. With people working all kinds of hours, they cannot always take the bus or ride a bike. They will work with the Railyard and Chamber of Commerce to collect the data.

- d. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilwoman Villarreal, Councilor Rivera, and Councilor Cassutt)
A Resolution Supporting the Santa Fe Public Schools (“SFPS”) in Adopting a Community Schools Model and Directing the City Manager to Support the City’s Continued Collaboration and Participation with the SFPS’s Community Schools Steering Committee. (Julie Sanchez, Youth and Family Services Division Director: jjsanchez@santafenm.gov, 505955-6678)

Committee Review:

Governing Body (Introduced): 10/12/2022

Quality of Life Committee: 10/19/2022

Governing Body: 10/26/2022

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

Councilor Villarreal said this is really to support Communities in Schools and Santa Fe Community Schools.

- e. CONSIDERATION OF RESOLUTION NO. 2022-___. (Councilor Cassutt, Councilor Chavez, Councilwoman Villarreal, Councilor Michael Garcia) A Resolution Adopting the City of Santa Fe Multimodal Transition Plan. (Erick Aune, MPO Officer: ejaune@santafenm.gov, 955-6664)

Committee Review

Governing Body (Introduced): 10/12/2022
Bicycle and Pedestrian Advisory Committee: 10/13/2022
Quality of Life Committee: 10/19/2022
Public Works and Utilities Committee: 10/24/2022
Governing Body: 10/26/2022

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

Councilor Cassutt said the plan will inform a lot of other plans including the General Plan and Transit Plan for how we move more to multimodal forms of transportation and what can be put in place to get it done. There was a change in the schedule to have it heard also at Finance Committee. She didn't know if it needed an action.

Ms. McSherry said it does need a motion.

MOTION: Councilor Cassutt moved, seconded by Councilor Romero-Wirth to approve this Resolution going also to Finance on October 31 and to the Governing Body at the following meeting.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, and Councilor Romero-Wirth.

Against: Councilor Villarreal, Councilor Cassutt.

19. **PETITIONS FROM THE FLOOR**

Petitions from the Floor were heard earlier in the meeting.

20. **PUBLIC COMMENT ON BILLS (FIRST PUBLIC COMMENT, NO ACTION)**

There were none.

21. **FINAL ACTION ON LEGISLATION (PUBLIC HEARING)**

There were none.

20. **APPOINTMENTS**

The appointments were acted upon earlier in the meeting.

EXECUTIVE SESSION

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion of Threatened and Pending Litigation by the City. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov, 505-955-6512)

Ms. McSherry recommended the Governing Body go into executive session on this matter pursuant Attorney-Client Privileged Discussion of Threatened and Pending Litigation by the City in City of Santa Fe v. Pharma, and unfiled litigation by the City.

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt, to enter an executive session pursuant to the Open Meetings Act, Section 10-15-1 Part (H) (7) for discussion of threatened or pending litigation in which the Governing Body is or may become a participant.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

The Governing Body went into executive closed session at approximately 3:01 a.m. The Governing Body ended the executive closed session at 3:15 a.m.

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt, to return to open session, pursuant to the Open Meetings Act, Section 10-15-1 Part (J), stating for the record that the only matters discussed were those listed on the agenda for closure.

VOTE: The motion was approved on a unanimous voice vote with:

For: Mayor Webber, Councilor Cassutt, Councilor Chavez, Councilor L Garcia, Councilor M. Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None.

21. **ADJOURN**

Having completed the agenda and with no further business to come before the Governing Body, the meeting was adjourned at 3:16 a.m.

Approved by:



Mayor Alan Webber

ATTESTED TO:



Kristine Bustos Mihelcic, City Clerk

Respectfully submitted by:



Carl G. Boaz, Council Stenographer

**GOVERNING BODY MEETING
EXECUTIVE SESSION
October 13, 2022**

The Governing Body of the City of Santa Fe met in an executive session duly called on October 13, 2022, beginning at 3:04 a.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion of Threatened and Pending Litigation, Including, but Not Limited To, *City of Santa Fe v. Purdue Pharma, et al.* and Unfiled, Threatened Litigation by the City. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov, 505-955-6512)

PRESENT

Mayor Webber
Councilor Cassutt
Councilor Chavez
Councilor L. Garcia
Councilor Lindell
Councilor Romero-Wirth
Councilwoman Villarreal
Councilor M. Garcia
Councilor Rivera

STAFF PRESENT

John Blair, City Manager
Erin McSherry, City Attorney
Kristine Bustos Mihelcic, City Clerk

There being no further business to discuss, the executive session adjourned at 3:13 a.m.



Kristine Bustos Mihelcic, City Clerk