

Minutes of the Work Session of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec, at 6:00 P.M. on Tuesday, January 26, 2010.

The meeting was called to order by Mayor Harry Mendoza.

At such meeting, the following were present, constituting a quorum:

Mayor: Harry Mendoza

Councilors: John J. Azua
Mike Enfield
Allan Landavazo
E. Bryan Wall

Also present: Gerald J. Herrera, City Manager
R. David Pederson, City Attorney

Presented to the Mayor and Councilors were the following discussion items:

1. Presentation on Refunding the City's Series 2000 Bonds – Kit Caldwell, Southwest Securities, Inc.

Mr. Caldwell said the bonds that were issued in 2000 were originally for \$7 million with about \$3.7 million of the bonds being outstanding until 2016. The interest rate on the outstanding bonds range from 4.9% to 5.25% and the bonds are callable beginning June 1, 2010. By refunding the Series 2000 bonds at today's interest rate, the City will benefit from a savings of over \$200,000 over the remaining life of the bonds.

Mayor Mendoza asked what will happen if the City delays action on calling the bonds. Mr. Caldwell said the City will be leaving money of about \$3,000 per month on the table. Mayor Mendoza asked if the market will stay the same or descend. Mr. Caldwell said the interest rates are historically low at this time and it would be difficult to obtain better rates in the future. Mr. Caldwell said the City should take advantage of the current market and refund the bonds.

Councilor Azua said there is a genuine opportunity for the City to save money.

Councilor Enfield asked about the payment schedule for refunding the bonds. Mr. Caldwell said the City would still have to make its September 1, 2010 payment and the remaining payments thereafter, would be refinanced.

Councilor Wall asked about interest rate for refinancing the bonds. Mr. Caldwell said each maturity has its own interest rate and estimates that the rates for the new bonds would range from 1% to 3%. Councilor Wall said if the City is going to save \$200,000, then how much would it cost the City to refinance the bonds. Mr. Caldwell said the \$200,000 is net savings, which includes the costs for refinancing the bonds, such as

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bond insurance, legal fees, etc. Councilor Wall asked about the actual costs for refinancing the bonds. Mr. Caldwell said the City would be saving about \$320,000 overall and would pay about \$120,000 for the cost of refinancing the bonds, resulting in a net savings of about \$200,000. Councilor Wall asked about the City's cost if it decided to issue about \$2 million in new bonds and incorporated the new bonds with the refinancing of the old bonds. Mr. Caldwell said if the City used the same source of revenue for the new bonds as used with the old bonds, both bond issues could be combined. Mr. Caldwell said the cost of issuance for the two bond issues would go up; however, the cost of issuance would not double as there would be a cost savings to the City for combining both bond issues. Mr. Caldwell also said the cost of issuing the bonds depends on the par amount of the bond issue.

The following items that will be considered during the next Regular Session were presented to the Mayor and Councilors for discussion only:

1. Request from Na'Nizhoozhi Center, Inc. (NCI) for \$85,000 to be Used as Matching Funds for New Mexico Department of Transportation Grants – Matthew Ortiz, Transit Director, Gallup Express
2. Reinstatement of Annual Funding for Na'Nizhoozhi Center, Inc. (NCI) Into the Fiscal Budget for New Mexico Department of Transportation Grants – Matthew Ortiz, Transit Director, Gallup Express

Councilor Azua said Mr. Ortiz will present items 1 and 2 during the Regular Session.

3. Ordinance C2010-1; An Ordinance Concerning Zoning, Amending Section 10-3-2 and Subsection 10-4D-3B of the Gallup Municipal Code Regulating Assembly Uses Within Commercial Zoning Districts – Clyde (C.B.) Strain, Community Planner

Mr. Strain said there has been a rise in the number of illegal assembly uses, such as concerts and dances, in buildings that are not designed for such uses, which results in many life safety concerns. Most of the buildings where the illegal assembly uses are taking place do not have an adequate egress to accommodate the number of occupants in the building, lack of a designated occupant load and requires the installation of a fire protection system. Currently, the only assembly uses that are permitted are bars and nightclubs that serve alcohol and are only permitted as accessory uses to a restaurant, hotel or motel and not as a principal use. The following language is proposed to be added to the definition of assembly in the Municipal Code as follows: "concert halls (no alcohol), dance halls (no alcohol), lounges (no alcohol), night clubs (no alcohol), community service clubs, lodges, retreat centers and similar facilities." The proposed Ordinance provides specific use provisions in order to regulate assembly uses for religious institutions and community service clubs not only in the C-1

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zoning district, but the C-2 and C-3 districts as well. The proposed Ordinance prohibits the location of all concert halls, dance halls, lounges or night clubs located within the C-2 or C-3 districts as principal uses within 300 feet of a church, a school, a licensed child care facility or any residential zoning district. The proposed Ordinance prohibits the serving of alcohol and requires private security for all events held at concert halls, dance halls, lounges or night clubs located within the C-2 or C-3 districts as a principal use. All assembly uses would also need to comply with all applicable building and zoning codes regulating such uses. The Planning and Zoning Commission sends a positive recommendation to the City Council for adoption of the proposed Ordinance.

Councilor Enfield asked about the uses within the Rio West Mall area. Mr. Strain said the mall is located within a commercial zoning district and the existing uses within the mall are grandfathered since the uses previously existed prior to the proposed Ordinance. Mr. Strain said the proposed Ordinance would be for new assembly uses.

Councilor Azua said he received several phone calls from individuals stating that the proposed Ordinance would impose an undue burden on small neighborhood churches and small businesses by requiring them to comply with applicable building and zoning codes. He expressed concerns with restricting churches from expanding, from holding weddings and other events. Mr. Strain said the proposed Ordinance would not have any affect on existing religious institutions and would focus primarily on concert halls, dance halls, lounges, night clubs, and related uses. Mr. Strain said churches are permitted within all districts of the city with the exception of the MH-2 district. Mr. Strain said the limitation for assembly uses that would have a maximum of 3,000 square feet of gross floor area would only be for the C-1 district. Councilor Azua asked about the proposed assembly use in the basement of Sammy C's Sports Pub. Mr. Strain said when the building of Sammy C's was remodeled the basement was designed for storage only. Mr. Strain said if the owner wants to include assembly uses in the basement the owner will need to provide adequate egress to accommodate the number of occupants in the basement and adhere to requirements under the Americans with Disabilities Act (ADA). Mr. Strain said the intent of the Ordinance is not to impose undue hardships on anyone but to provide regulations addressing the safety concerns for assembly uses. Councilor Azua asked if the proposed Ordinance would restrict organizations, such as the Knights of Columbus or the Gallup Lions Club, from holding dances and other events. Mr. Strain responded no as the proposed Ordinance would focus on the principal use of their facilities. Councilor Azua expressed concerns with the identification of the specific uses within the proposed Ordinance. Mr. Strain said the places of public assembly include the specific uses but are not limited to the specified uses within the Ordinance. Mr. Strain said the proposed Ordinance will not affect existing uses, including existing religious facilities.

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Councilor Landavazo asked if the proposed Ordinance would require an existing small church to install a new sprinkler system and to comply with the current code if they wanted to move a wall to make a room larger to accommodate more children for a Sunday school class. Mr. Strain said the requirements for the renovations would fall under the Life Safety Building Code and not under the proposed Ordinance. Councilor Landavazo asked if alcohol is permitted in a C-1 district. Mr. Strain said the only types of uses permitted within a C-1 district are religious institutions and community service clubs. Based on the information provided, Councilor Landavazo said potentially, alcohol could be served in a community service club in a C-1 district. Mr. Strain responded yes as the proposed Ordinance could be changed as recommended by the Mayor and Councilors.

Councilor Enfield asked about Wowie's Activity Center on the north side of town. Mr. Strain said the business is able to continue since it was licensed and designed for an assembly use prior to the creation of the proposed Ordinance. Councilor Enfield asked about the Juggernaut's business operation. Mr. Strain said the assembly use for the Juggernaut is permitted; however, the site is not large enough for the assembly use, lacks sufficient parking and lacks adequate egress to accommodate the number of occupants in the building. Councilor Enfield asked if the proposed Ordinance would affect existing businesses. Mr. Strain said the proposed Ordinance will not affect existing businesses as long as the existing businesses are currently licensed.

Councilor Wall asked if there are establishments in commercial districts that hold dances without a liquor license and allow their patrons to bring their own liquor to their dances. Mr. Strain said he was not aware of this type of activity being allowed; however, his department has contacted various business owners and ordered them to cease their illegal uses.

Mr. Pederson said the proposed Ordinance is not against religious organizations but is directed against illegal dances and the illegal activities by under age individuals that occur at such events. He said the intent of the proposed Ordinance is to control the misuse of properties primarily located on the fringes of residential zoning districts. He also said the City does not want to overly prohibit owners from using their private commercial properties; however, the City wants the owners to use their properties in a responsible and safe manner.

Pastor Dennis Gallegos presented his concerns regarding the proposed Ordinance. He said the Ordinance is vaguely written and would like to see areas of the Ordinance more defined. He said his church is located in a C-3 district and has been impacted by requiring a sprinkler system for his construction project. He said he has been complying with the City's regulations even though the City has put him out of his building. He asked why the City is requiring him to install a sprinkler system when the

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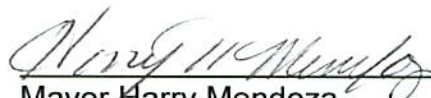
code does not require a sprinkler system for areas of less than 12,000 square feet.

Jim Brown said he is not affiliated with Pastor Gallegos' church; however, he believes his church would be shut down under the proposed Ordinance. He said if the churches are not included in the proposed Ordinance, he asked why churches are grouped together with bars, dance halls and taverns. He would like to believe City officials concerning the proposed Ordinance but there is a perception in the community that the City singled-out Pastor Gallegos' church and shut him down. He believes the proposed Ordinance is loosely written and would feel more comfortable if churches were not mentioned in the Ordinance.

Mr. Strain said there is a difference between building code and life safety issues as opposed to the proposed Ordinance. He said the building code designates different occupancies and uses. An assembly covers a wide range of uses, including churches, night clubs and a governmental meeting room such as the City Council Chambers. Rather than listing each an every possible assembly, a generalized definition is included in the proposed Ordinance. Mr. Strain reiterated that the proposed Ordinance has nothing to do with churches other than allowing churches within the C-1 district. Mr. Strain said the City is trying to drive other assembly uses away from being nuisances to churches, schools, child care facilities and residential zoning districts. Mr. Strain said the issue concerning Pastor Gallegos' church can be debated at length; however, it is the City's responsibility to prevent harm to the public and to ensure that building violations are corrected. Overall the proposed Ordinance is being confused with the building code.

Mayor Mendoza said it is not the intent of the City Council to target churches or any other group or organization. He recommended that the proposed Ordinance be removed from the Consent Agenda and to be tabled at the next Regular Session in order to allow staff to provide language revisions to the Ordinance.

Due to time limitations, the Work Session adjourned.



Mayor Harry Mendoza

ATTEST:



Alfred Abeita, City Clerk

Approved 2/9/2010