

Minutes of the Regular Meeting of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at City Hall, 110 West Aztec, at 7:00 p.m. on Tuesday, February 9, 2010.

The meeting was called to order by Mayor Harry Mendoza.

Upon roll call, the following were present:

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 for their approval were the Minutes of the Work Session and Regular Session of January 26, 2010.

Mayor Mendoza said the word "has" should be changed to "as" on page 7, paragraph 3, line 4, of the Regular Session Minutes.

Councilor Enfield made the motion to approve the aforementioned Minutes with the recommended correction. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall, Landavazo, Azua and Mayor Mendoza all voted aye.

Presented to the Mayor and Councilors were the following Consent Agenda Items:

1. Award of Construction Contract for Clay Street Bridge Reconstruction Project – Stan Henderson, Executive Director, Public Works Division
2. Ordinance C2010-2; An Ordinance Concerning Zoning, Amending Subsection 10-4H-3B (Basics for Establishing Areas of Special Flood Hazard) of Section 10-4H-3, (General Provisions) by Deleting Certain Language and Inserting New Language in Subsection 10-4H-3B – Stan Henderson, Executive Director, Public Works Division
3. Resolution R2010-5; A Resolution Ratifying a Certain Lease Agreement Between the City of Gallup and the Southwest Indian Foundation – R. David Pederson, City Attorney

Mayor Mendoza said Consent Agenda Item 3 will also consist of the appointments of Councilor Enfield, Bill Lee and Cynthia Tanner to the Oversight Committee.

Councilor Landavazo made the motion to approve Consent Agenda Items 1-3, including the amendment for Consent Agenda Item 3. Seconded by Councilor Wall. Roll call:

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Councilors Landavazo, Wall, Enfield, Azua and Mayor Mendoza all voted aye.

Presented to the Mayor and Councilors was the following Discussion/Action Topic:

4. Suspension of the City Manager with Pay, Pending the Completion of the Process Concerning Resolution R2010-6; Preliminary Resolution Proposing Removal from Office – R. David Pederson, City Attorney

Mr. Pederson presented the proposed motion to amend Resolution R2010-6 as recommended by the majority of the Councilors. The proposed amendment would provide for the suspension of Mr. Herrera as City Manager, with pay, until the removal process is finalized. The amendment also provides for the appointment of Mr. Pederson as Acting City Manager until the removal process involving Mr. Herrera is completed.

Councilor Enfield made the motion to approve the amendment to Resolution R2010-6. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall and Landavazo voted aye. Councilor Azua and Mayor Mendoza voted nay. Motion carried.

Comments by Public on Non-Agenda Items:

None.

Comments by Mayor and City Councilors:

Councilor Enfield recommended the creation of a pothole hotline for citizens to report all potholes, including the potholes that are the responsibility of the State to repair. He said City personnel could report the potholes to the New Mexico Department of Transportation (NMDOT). Mayor Mendoza said the potholes can be reported to Mr. Henderson. Mr. Henderson said the City has also contacted the NMDOT; however, the State has experienced problems with its current budget shortfalls. Although Interstate 40 is a priority, NMDOT has advised that they have been within the City limits to address potholes. Mr. Henderson said the calls received by City staff concerning the State's potholes are reported to the State; however, it comes better across to the State if the constituent calls the State themselves. Mayor Mendoza said he has called District 6 of the NMDOT and the State has advised that the problem of repairing potholes is due to the lack of supervisors due the State's current budget shortfall. Councilor Wall said he spoke with Frank Kozeliski, former owner of Gallup Sand and Gravel, concerning suggestions for the pothole problem. Based on Mr. Kozeliski's suggestions, the City may be able to use cement or cold asphalt. Mr. Henderson said the Street Department has concerns with the use of cement against asphalt surfaces. Mr. Henderson said the Street Department is almost out of the cold mix purchased by Vernon Hamilton Construction and an order for the "bag stuff" will be submitted to Gallup Lumber and Supply with the first shipment expected to be received by next Thursday. Councilor

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Landavazo asked about the State's financial liability for anyone that damages their vehicle due to a pothole. Mr. Henderson said he would have to defer the question to Mr. Pederson concerning the liability issues; however, Mr. Henderson said he has been asked why the City does not step in and repair the potholes for the State. As an example, Mr. Henderson said the City stripped the Boardman Avenue crosswalk for the State and one week later, a fatal accident occurred at the crosswalk and the City was named in a lawsuit as a result of the accident. Mr. Pederson said for there to be liability, the City has to have advanced knowledge of defective potholes and that the City has not rectified the problem promptly. Councilor Landavazo asked if staff is documenting the calls received and made to the State regarding the State's potholes to support a person's claim that the pothole was reported. Mr. Henderson said the telephone call may not be recorded; however, there are numerous E-mails between himself, the Street Department and NMDOT on the matter. Mr. Pederson said the E-mails should be sufficient for persons submitting claims to the State for damages. Although the State is short of money and manpower, Mr. Pederson said the State also has a responsibility to take care of potholes once the problems are reported to them. Councilor Enfield asked about the possible advantages or disadvantages of obtaining a contract with the State to maintain the State's rights-of-way within the City limits. Mr. Henderson said there are problems with available resources from the State due to their current budget shortfall. Councilor Wall suggested fixing the potholes for the State if the State releases the liability from the City. Mr. Henderson said he doubts that the State's attorneys would agree to limit the liability from the City. Mr. Pederson also said the problem is the City and the State is covered by two different insurance providers. Mr. Henderson said he sent an E-mail to the Mayor and Councilors with the contact information for the NMDOT as well as the identification of the State rights-of-way.

Councilor Wall expressed concerns with ice removal in various areas of the downtown business district. Mr. Henderson said ice has been substantially removed with the appearance of a small ice film due to the existing moisture. Overall, Mr. Henderson said the Street Department has cleaned the curb-lines to the best of their ability. Following discussion, Councilor Wall and Mr. Henderson will meet after the Council Meeting to look at various problem areas downtown.

Councilor Landavazo asked for an update concerning a road closure on Tocito Drive and Aztec Avenue. Mr. Henderson said there has been a problem with groundwater flooding the waste water system through the manhole in the street. The work that is currently being done is to seal the manhole.

Councilor Azua asked how far west does the City plow the snow. Mr. Henderson said City crews will plow westward to County Road 1. Mr. Henderson said if there is a huge storm, the City's plows will not go that far west since they have to maintain the snow routes and bridges. During a normal cleanup after a storm, Mr. Henderson said City crews will plow from Exit 16 to Exit 26.

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Mayor Mendoza expressed concerns with two or three of the Councilors going to Santa Fe to draft legislation that has possible ramifications on the City Charter and Home Rule status. He said a topic of this nature should involve all members of the Council since it affects the citizens of Gallup. Councilors Landavazo and Enfield said there have been no Councilors that have gone to Santa Fe. Mayor Mendoza said it was his understanding two of the Councilors were supposed to testify on the proposed legislation in a committee hearing on the matter. Councilor Landavazo said there have been no Councilors that have gone to Santa Fe concerning the issue. Although the Councilors did not go to Santa Fe, Mayor Mendoza said the State Legislature did not draft the proposed legislation on its own as the legislation was drafted by one of Gallup's Senators at the direction of the Gallup City Council. Councilor Wall said he would like to see the legislation pass.

Comments by City Manager:

Mr. Herrera said employees within the collective bargaining unit will be working on Presidents' Day, February 15, 2010, in accordance with the contract with the United Mine Workers of America. He said there will be supervisory staff to oversee employees during the holiday; however, the Utility Customer Service Department will be closed.

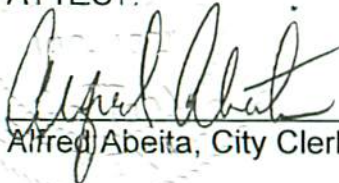
Mr. Pederson said he would like to schedule the public hearing as requested by Mr. Herrera for Thursday, March 4, 2010 at 7:00 p.m. He said there are scheduling conflicts with the date of March 2, 2010 as previously discussed. There were no objections by the Mayor and Councilors.

There being no further business, Councilor Enfield made the motion to adjourn the meeting. Seconded by Councilor Landavazo. Roll call: Councilors Enfield, Landavazo, Azua, Wall and Mayor Mendoza all voted aye.



Harry Mendoza, Mayor

ATTEST:



Alfred Abeita, City Clerk

Approved 2/23/2010