

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, February 9, 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

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

1. Award of Construction Contract for Clay Street Bridge Reconstruction Project – Stan Henderson, Executive Director, Public Work Division

Mr. Henderson presented the bid results for the proposed project. He recommended award of the contract to Moore & Cowart in the amount of \$1,307,573.01.

Mayor Mendoza asked if the contract amount was lower than the engineer's estimate. Mr. Henderson said the engineer's estimate was almost \$1.7 million.

Councilor Landavazo asked how the proposed contract amount compares to the amount from the previous bid. Mr. Henderson said both amounts are almost similar.

Councilor Wall asked about the funding for the project. Mr. Henderson said funds for the project are from the American Reinvestment and Recovery Act (ARRA). Councilor Wall asked about the remaining ARRA funds for the project. Mr. Henderson said the remaining funds from the \$2.1 million allocation will be used for the materials testing and construction management. Councilor Wall asked what will happen with any unexpended funds. Mr. Henderson said unexpended funds will be returned to the federal government. Councilor Wall asked if there was a time limit on the contract. Mr. Henderson said there is a nine month time limit on the contract with a penalty clause for exceeding the time limit.

Councilor Enfield asked when the construction will begin. Mr. Henderson said construction will begin the first part of March 2010.

Mayor Mendoza asked about the commencement of the Second Street and Park Avenue Project. Mr. Henderson said the project is about ready to begin.

MINUTES

City Council Work Session – 2/9/2010

Page 2

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

Mr. Henderson said the County discovered they were not participating in the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA). Local agencies not participating in the NFIP are not eligible for federal funding for disaster relief. FEMA has recently completed a Flood Insurance Study for the County and has included the City's data into said Study without the City's knowledge. FEMA notified the City that it must incorporate the County's Flood Insurance Study into its own floodplain management ordinance by February 17, 2010 or face the risk of being suspended from the NFIP. To avoid suspension, the City must immediately adopt a text amendment to its ordinance concerning the basis for establishing areas of special flood hazard. During the next two months the City will need to work on repealing and replacing the existing floodplain management ordinance in its entirety for 2010 standards since the ordinance is based on standards dated December 16, 1988. FEMA has agreed to the conditions outlined by Mr. Henderson as the Planning and Zoning Commission sends its favorable recommendation for adoption of the proposed ordinance.

Councilor Wall asked about the responsible party conducting the Study. Mr. Henderson said the Study is sponsored by FEMA since they administer the NFIP and underwrites flood insurance policies. Mr. Henderson said new flood insurance policies cannot be sold and existing policies cannot be renewed if the City fails to participate in the NFIP. Mayor Mendoza also said some financial institutions require flood insurance policies for mortgages. Mayor Mendoza also said if the ordinance is not adopted, people will not be able to obtain flood insurance. Councilor Enfield asked if private flood insurance policies can be obtained. Mayor Mendoza responded no. Mr. Henderson said he was not aware of any private flood insurance policies available and if there are private policies available, the fees are significant. Mr. Pederson said the purpose of the Study is to expand the availability of flood insurance policies for unincorporated areas of the county. Mr. Pederson said the County was not able to obtain federal funding for disaster relief efforts after a flash flood in the Church Rock area a few years ago. Mr. Pederson said the City was able to buy time from FEMA by adopting the proposed Ordinance referencing the updated Study for McKinley County; however, the existing ordinance needs to be amended in its entirety. Councilor Enfield asked the deadline for adopting a new ordinance. Mr. Pederson and Mr. Henderson said the new ordinance must be adopted by the end of March, 2010. Councilor Azua asked if the Study will have any affect on the existing flood insurance policies of private property owners. Mr. Henderson said if private property owners need flood insurance the City must

MINUTES

City Council Work Session – 2/9/2010

Page 3

participate in the NFIP. Mayor Mendoza said if property owners own property within a flood zone, mortgage companies require the owners to obtain flood insurance.

3. Resolution R2010-5; A Resolution Ratifying a Certain Lease Agreement Between the City of Gallup and the Southwest Indian Foundation (SWIF) – R. David Pederson, City Attorney

Mr. Pederson presented the proposed lease agreement with SWIF for the use of the Multi-Modal/Multi-Cultural Center, located at 218 East Highway 66. The proposed lease will be back dated to July 1, 2008 and run through June 30, 2015 with 5-year options to renew. The fair market rental value of the leased premises is \$60,000 per year which will be paid by SWIF with cash or in-kind services. SWIF will be responsible for the payment of utility services at the municipal rate. The agreement provides for the creation of a museum at the Multi-Cultural Center and requires \$200,000 each to be paid by both parties on an annual basis for the project and the creation of a joint account to be used for maintenance purposes. The initial \$400,000 will be invested a Certificate of Deposit with a local financial institution. Each party shall appoint three persons to serve as the Oversight Committee for the museum project. Both parties agree to operate and oversee a Gallup Visitor Center in the main entry area of the Multi-Modal/Multi-Cultural Center. Both parties agree to provide one employee each to maintain the operation of the Visitor Center. The sublease with Angela's Café will be retroactively approved as SWIF will be allowed to keep the small amount of rental income derived from said sublease. The proposed lease also recognizes Amtrack as a continuing tenant of the facility. The City will be responsible for the exterior maintenance of the leased property and will provide janitorial services for the public restrooms. SWIF will provide an annual report of the activities and expenditures on the facility to satisfy their rental obligation. Mr. Pederson recommended approval of the proposed resolution and lease agreement with SWIF for the operation of the Multi-Modal/Multi-Cultural Center.

Mayor Mendoza recommended the appointment of the City's representatives to serve on the Oversight Committee during the next regular session.

Councilor Wall asked about the commencement of the proposed contract. Mr. Pederson said the lease is retroactive to July 1, 2008 and SWIF's financial commitment will begin following the execution of the proposed lease. Councilor Wall asked if the current year will be prorated. Mr. Pederson said the rental obligation will commence on an annual basis beginning this year as the City will not be asking SWIF to pay any back rent.

Councilors Enfield, Landavazo and Wall commended Mr. Pederson for his work on the proposed lease agreement.

MINUTES

City Council Work Session – 2/9/2010

Page 4

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

Mr. Pederson presented documentation concerning 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.

Mayor Mendoza asked the Councilors, who are also proponents of the proposed amendment, if the amendment had anything to do with the E-mail requested by the Northwest New Mexico Council of Governments (NWNMCOG) for the strategic planning for the retreat. Councilor Landavazo said he does not believe the request for the suspension of Mr. Herrera has anything to do with the E-mail. Councilor Landavazo said the situation has become volatile with words exchanged through the media concerning the removal process and the Council needs to remove itself from an explosive situation until the removal process is completed. Councilor Enfield agreed. Councilor Azua said he was curious if the explosive point came before or after the request for the suspension. Councilor Azua said if there were comments made on the radio that led to the volatility of the situation, unless the motion that was first made led to the volatility, the comments do not allow for the reasoning of the suspension since the proposed action has become "after the fact." Councilor Landavazo said he believes Mr. Herrera has every right to respond according to his views; however, in terms of damage control, Councilor Landavazo believes it is in the best interest for the Council to remove itself from the volatile situation, which has the potential of being explosive for the next 30 days. Councilor Azua said the answer to his question would be that the situation became volatile "after the fact." Councilor Landavazo said whenever there is a situation that is uncomfortable between both parties, the proposed personnel action is usually taken. Councilor Azua continued to ask what led to the proposed amendment. Councilor Landavazo reiterated his comments concerning damage control and the proper handling of the personnel action. Councilor Azua said he does not believe his original question was ever answered. Councilor Enfield said the suspension of a person pending termination is a normal process and should have been done two weeks ago. Councilor Azua asked for the reason for the proposed amendment if the E-mail is not the reason for such action. Councilor Azua also asked for an example for the reason that led to the proposed amendment. Councilor Landavazo said the situation is a matter of damage control and the proposed course of action should be taken in order to remove a potential volatile situation from happening. Councilor Azua said his question is being evaded. Mayor Mendoza said it is clear that the question is not going to be answered. Councilor Azua said he does not want to belabor the point any further.

Councilor Landavazo said the issue behind the proposed amendment is on the basis of damage control.

Mr. Herrera said he does not understand Councilor Landavazo's comments concerning damage control since he has never said anything derogatory about the members of the City Council. Based on what he has heard on the radio, Mr. Herrera said he feels the situation is "the other way around."

There being no further business, the Work Session adjourned.



Mayor Harry Mendoza

ATTEST:



Alfred Abeita, City Clerk

Approved 2/23/2010