

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, June 14, 2011.

The meeting was called to order by Mayor Jackie McKinney.

Upon roll call, the following were present:

Mayor:	Jackie McKinney
Councilors:	Mike Enfield Cecil Garcia Allan Landavazo E. Bryan Wall
Also present:	Dan Dible, City Manager R. David Pederson, City Attorney

Presented to the Mayor and Councilors were the Minutes of the Work Session and Regular Session of May 24, 2011.

Councilor Enfield made the motion to approve the aforementioned Minutes. Seconded by Councilor Landavazo. Roll call: Councilors Enfield, Landavazo, Garcia, Wall and Mayor McKinney all voted aye.

The Mayor and Councilors proceeded with the Agenda of the previous Work Session:

5. Update on the Burned Structure Located at 3201 West Historic Highway 66 (Former Days Inn Building) – R. David Pederson, City Attorney

Mr. Pederson presented a copy of a letter from Attorney Lynn Isaacson representing the City in litigation involving the subject property. Mr. Pederson said the lawsuit is very convoluted. HSVC Bank filed foreclosure action on the property shortly after the hotel caught fire in January 2010, alleging that the mortgage had not been paid. Some of the involved parties include Buja Investments, a New Mexico corporation owned by the Kwon family, the Small Business Administration and the City of Gallup which had a \$4,000 utility lien on the property. During the lawsuit proceedings, HSVC Bank amended its complaint to bring in another party in the lawsuit identified as Nemeth, an entity based in California that claimed an interest in the subject property because the entity also had a mortgage. There was debate between the bank and Nemeth concerning which entity has the first mortgage on the hotel. In July 2010, HSVC Bank notified all parties in the lawsuit that it had settled its claims with the fire insurance company. After paying off the mortgage there was \$425,000 left over and the bank filed an inter-pleader action to deposit the \$425,000 with District Court to allow remaining parties to file various claims. During the process, Nemeth is disputing HSVC Bank's claim that it had the first mortgage on the property. Based on the all of the

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aforementioned proceedings, the property has sat in its derelict state since January 2010. The City is claiming that the money currently being held by District Court should be used to either demolish the structure or to improve the structure on the property. City staff feels that the structure cannot be repaired and recommends demolishing the building. The City is in the process of filing a motion for a summary judgment to allow District Court to proceed with action on the remaining claims. Action by District Court may be taken as early as August 2011. The City is unable to file an independent action since the current case is still pending.

Councilor Garcia said the blighted property is the first impression visitors see as they drive into town. He asked if there is anything that could be done to address the graffiti on the building. Mr. Pederson said the determination has not been made concerning responsibility of the property. Mr. Pederson said the City may have to request permission from District Court to paint over the graffiti and to include the expenses for reimbursement from the Court.

Councilor Wall asked which party would be liable in the event someone is injured on the property. Mr. Pederson said there is currently has a chain link fence surrounding the property as police officers and community service aids patrol the area to keep transients and juveniles out of the property. If someone is seriously injured or killed while on the property the finger pointing would be endless over which party bore the responsibility. The City is doing what it can to remove the health and safety hazard that currently exists at the property.

Mayor McKinney asked Mr. Pederson to relay the concerns of the Council to Mr. Isaacson concerning the appearance of the property and the health and safety concerns that exist at the property.

6. Proposed Revisions to the City's Nuisance Ordinance – R. David Pederson, City Attorney

Mr. Pederson presented a draft of the proposed revisions to the City's existing Public Nuisance Ordinance. The current Ordinance is extremely cumbersome, antiquated and focuses entirely on criminal law violations rather than civil infractions and quality of life issues. The proposed Ordinance would also allow for private causes of actions for citizens affected by repeated violations to be brought forth in Municipal and District Court. The proposed Ordinance is modeled after the Public Nuisance Ordinance of Phoenix, Arizona which is more practical and addresses quality of life issues, primarily the violations of certain property occupants which affect the tranquil environment of nearby residents. He presented a summary of the proposed Ordinance which is

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attached hereto and made an official part of these Minutes. He asked the Mayor and Councilors to review the draft ordinance and to provide any comments and feedback on the matter. He will finalize the Ordinance and present it for final adoption within the next two months.

Councilor Enfield said he and Councilor Garcia have blighted properties within their districts and the proposed Ordinance will be useful in addressing such issues. Councilor Garcia said he is already receiving complaints from his constituents concerning three problem properties in his district where the occupants are terrorizing surrounding residents. Councilor Garcia said the City needs to have an Ordinance in place that will address unacceptable behavior that will protect the citizens of the community.

The Mayor and Councilors commended Mr. Pederson for his work on the proposed Ordinance. Mayor McKinney said the City needs to have teeth in the Ordinance that will address the abandoned structure located between Mission Auto Wash and the Giant Convenience Store on Highway 66.

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

1. Re-appointments of Sheila Brewer, John Rains, Gary Schuster and Olin Clawson to the Trails and Open Spaces Advisory Board – Mayor Jackie McKinney

Mayor McKinney recommended the aforementioned appointments.

2. Re-appointments of Coye Balok, Janet Tempest and Claudette Perales to the Octavia Fellin Public Library Advisory Board – Mayor Jackie McKinney

Mayor McKinney recommended the aforementioned appointments.

3. Community Wide Clean-Up Initiative – Lance Allgood, Executive Director, Gallup Joint Utilities

Mr. Allgood presented a tentative schedule on the proposed initiative as discussed during the Work Session of May 24, 2011. With the assistance of Adrian Marrufo, Solid Waste Superintendent, the City has been divided into six areas with each area scheduled for the pick-up and free removal of unwanted items to be placed at the curb by local residents during specified times from July 16, 2011 through September 24, 2011. The dates for scheduled pick-ups as well as the boundaries of the specified areas are subject to change. The Junior Police Athletic League and Red Rock

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Motorsports have volunteered their services to assist residents in moving unwanted items to the curb. His staff has also made arrangements for the recycling of white goods, metals and oils as well as the disposal of household hazardous wastes, such as paints, cleaners, etc. He asked the Mayor and Councilors for authorization to proceed with the plan.

Councilor Wall said he was in favor of the plan and recommended a better description of the designated areas in the advertisement of the plan. Mr. Allgood said maps will be posted and advertised when the program information is disseminated. He also said the area descriptions will be enhanced and will be posted on the City's website.

Mayor McKinney said the Council was pre-warned that the program may take a couple of years to get off the ground before the public becomes adjusted and takes advantage of the program. Mr. Allgood said the Solid Waste Department will also continue its open truck program during the month of October. Mayor McKinney commended the volunteer organizations for their assistance with the program.

4. Final Payment for Project 3 of the Gallup Rural Water Supply Project – Lance Allgood, Executive Director, Gallup Joint Utilities

Mr. Allgood recommended final payment approval of \$30,885.44 to New Mexico Underground Contractors. The construction has been satisfactorily completed and the payment disbursement to the contractor will be made by the New Mexico Finance Authority. He presented copies of a map of the project, which is a component of the Navajo Gallup Water Supply Project. He also said the 2011 Water Trust Board Grant was approved in the amount of \$4.3 million and will be used towards the Gallup Regional System. To date, over \$17 million in State grants has been awarded to the City for the Gallup Regional System.

Mr. Allgood also provided information on how much the City has spent for infrastructure improvements as discussed during the previous Work Session. He said the revenues derived from the water rate increase in 2005 were used for a utility revenue bond issue in the principal amount of \$21 million. \$10 million was used for the water system and \$11 million was used for the Waste Water Treatment Plant (WWTP). The revenues from the waste water rate increase in addition to a \$2 million Environmental Protection Agency (EPA) Grant was also used for the improvement of the WWTP. He continued to provide a summary of improvements that have been made to the water and waste water system and administrative work that has been done for the acquisition of new water supplies.

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4. Resolution R2011-22; A Resolution Proposing a Non-Profit Corporation for City Economic Development Initiatives – Dan Dible, City Manager

Mr. Dible presented the proposed Resolution which would authorize the City Manager and City Attorney to move forward with the creation of a 501 (c) (3) non-profit corporation to handle the City's economic development functions. The Gallup Community Development Leadership Commission unanimously adopted a Resolution in support of the formation of the corporation. Once the corporation is created a private sector oriented team consisting of specialists in finance and business management would serve as the core group dealing with the City's economic development efforts. The corporation will be funded 50% by the City's General Fund and 50% by the Joint Utilities Fund.

Councilor Enfield made the motion to approve Consent Agenda Items 1-5. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall, Landavazo, Garcia and Mayor McKinney all voted aye.

Councilor Landavazo made the motion to adjourn into closed session for the purpose of discussing the purchase, acquisition or disposal of real property or water rights by the City of Gallup. Seconded by Councilor Garcia. Roll call: Councilors Landavazo, Garcia, Wall, Enfield and Mayor McKinney all voted aye.

The Mayor and Councilors adjourned into closed session, pursuant to Section 10-15-1-H.(8) of the Open Meetings Act, NMSA 1978.

Following the closed session, Councilor Garcia made the motion to reconvene the Regular Session. Seconded by Councilor Enfield. Roll call: Councilors Garcia, Enfield, Wall, Landavazo and Mayor McKinney all voted aye.

Mr. Pederson certified for the record that the only matters discussed during the closed session was the purchase, acquisition or disposal of real property or water rights by the City of Gallup. Mr. Pederson further certified that there was no official action taken during the closed session. The certification by Mr. Pederson is made pursuant to Section 10-15-1-J of the Open Meeting Act, NMSA 1978.

Comments by Public on Non-Agenda Items

Jay Dee Pfannenstiel handed out green folders to the Mayor and Councilors containing the following contents:

- A business card of an architectural firm. Mr. Pfannenstiel stated that he and others do not see any progress being made with the Northside Neighborhood

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Center Project. Mayor McKinney said the City is following the construction schedule that was presented during the Work Session on May 24, 2011.

- A letter concerning the personnel file of Ben Welch, Executive Director, Recreation Division. Mayor McKinney said Mr. Dible is currently reviewing the personnel records of City staff.
- An unspecified article from the Gallup Independent. Regarding Mr. Dible's comments on the petition submitted during the May 24, 2011 Regular Meeting, Mr. Pfannenstiel said the petition was requesting the removal of Mr. Welch as the director of the Senior Centers; not to fire Mr. Welch from City employment.
- Tort Claim Notice filed against the City.

Cassie Henderson, President of the Gallup Lions Club, said the Lions Club would like to either create a partnership with the City or to request permission from the City to install permanent flag brackets on the utility poles on Highway 66. She was unable to provide a cost estimate for the project; however, the brackets would need to be built and installed 6 feet or higher on the poles with steel bands to secure the brackets. Mayor McKinney commended the Lions Club for their display of American flags over the years. He asked Ms. Henderson to prepare a cost analysis to see if the City is able to assist with the project.

Comments by Mayor and City Councilors

Councilor Garcia thanked Mr. Pederson for his work on the proposed revisions to the Public Nuisance Ordinance.

Mayor McKinney encouraged the citizens of Gallup to dress in their western wear to show support of the Gallup Lions Club Rodeo, the National Junior High Finals Rodeo and Wild Thing Championship Bull Riding events which take place this month and into next month.

Comments by City Manager

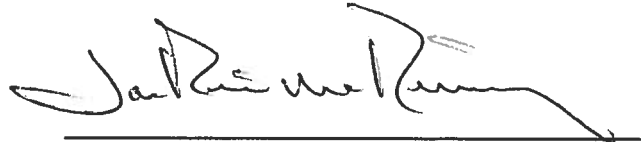
Mr. Dible said he was pleased he was feeling well as opposed to the previous Council Meeting.

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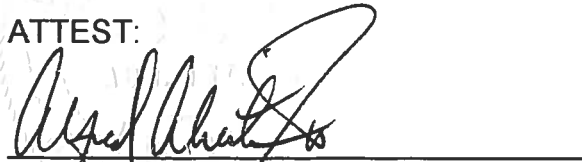
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There being no further business, Councilor Enfield made the motion to adjourn the meeting. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall, Landavazo Garcia and Mayor McKinney all voted aye.



Jackie McKinney, Mayor

ATTEST:



Alfred Abeita, City Clerk

Approved 6/28/2011