

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, October 11, 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 George Kozeliski, City Attorney

Mayor McKinney welcomed the newly appointed City Attorney, George Kozeliski.

Presented to the Mayor and Councilors were the Minutes of the Special Session of September 20, 2011 and the Special Session, Work Session and Regular Session of September 27, 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.

Presented to the Mayor and Councilors were the following Discussion/Action Topics:

1. Appointments to the National Junior High Finals Rodeo Event Board – Mayor Jackie McKinney

As discussed during the previous Work Session, Mayor McKinney asked for the Councilors ratification to appoint Dudley Byerley, Walt Eddy, George Munoz, Tony Tanner, George Kozeliski and Mayor McKinney to the Board.

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

2. Public Hearing: Resolution No. R2011-31; A Resolution Affirming, Reversing, or Modifying the Decision of the Planning and Zoning Commission to Reject an Appeal to an Administrative Action Denying the Recommencement of a Nonconforming Automobile/Truck Servicing and Mechanical Repair Garage at 712 South Sixth Street – Clyde “C.B.” Strain, Community Planner

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Mr. Strain was duly sworn and said Lawrence Sinnott submitted a City Business License Application on August 1, 2011 to conduct a repair garage at 712 South Sixth Street. The City's standard procedures require a review of the zoning district of the proposed business location and the proposed permitted use within the specified zoning district. The proposed business location lies within a Multiple Family Residential (RM-5) Zoning District and the proposed use, an automobile/truck servicing and mechanical repair garage, is not permitted within the RM-5 zoning district. The structure was built in 1965, prior to current zoning regulations, and was utilized as a vehicle repair garage. The property was subsequently zoned RM-5 after the use of a vehicle repair garage was already established. Since the garage was in use and was in place prior to the current zoning regulations, the use was classified as nonconforming and was permitted to continue under the provisions of the City's Land Development Standards. The nonconforming status of the garage may stay in effect for the life of the business as long as the nonconforming use is not expanded or discontinued/abandoned for six consecutive months or for eighteen months during and three year period. It was discovered that the last active Business License for a mechanical repair garage was terminated in March 2008. Since the garage has been closed for more than six consecutive months, the land use must now conform to current zoning regulations. As previously stated, an automobile/truck servicing and mechanical repair garage is not a permitted land use within the RM-5 district and the previous use cannot be reactivated. The only zoning districts where automobile/truck servicing and mechanical repair garages are permitted is within the Heavy Commercial (C-3) District by right and the General Commercial (C-2) District and the Industrial (I) Districts, both as a conditional use. Since the repair garage is not a permitted use in the RM-5 district, the Business License Application was denied. Mr. Sinnott appealed Mr. Strain's decision to deny the Business License Application to the Planning and Zoning Commission and the Commission upheld Mr. Strain's decision based on the provisions set forth in the Land Development Standards. The use of a repair garage is not compatible within a residential zoning district since it is an industry that involves the use and disposal of solvents, oils, grease, mechanical parts and the presence of exhaust fumes and noise from vehicles being worked on that may have an adverse effect upon a residential neighborhood. Mr. Strain presented a review of the site photographs included in the agenda packet as well as the aerial imagery of the proposed business location which is situated in the middle of a residential neighborhood. Mr. Sinnott is now appealing the decision of the Planning and Zoning Commission to uphold Mr. Strain's decision to the City Council. Mr. Strain said the City Council may affirm, reverse or modify the Planning and Zoning Commission's decision rejecting an appeal to an administrative action denying the recommencement of a nonconforming automobile/truck servicing and mechanical repair garage within the RM-5 zoning district at 712 South Sixth Street.

Mr. Sinnott, appellant and Benny Jaramillo, owner of the property at 712 South Sixth

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Street, were duly sworn. Mr. Sinnott said the garage has been in existence for a number of years and has always operated as a shop. Mr. Sinnott said he was informed by Mr. Strain that a beauty salon can be housed in the subject building; however, Mr. Sinnott said the intended use of the building is for the sole purpose of a garage. Mr. Sinnott illustrated a petition signed by residents within a six block radius of the proposed business location on a large poster board supporting Mr. Sinnott's operation as a vehicle repair shop. The poster board also contained an illustration of a map depicting the location of his proposed business location. The poster board was not submitted as an exhibit into the official record of the public hearing. Mr. Sinnott said he spoke with all of the residents in the neighborhood and there were no residents in opposition to his proposed business operation. Mr. Sinnott said the building was previously a mechanical shop and an upholstery shop in previous years. Mr. Sinnott said when Mr. Jaramillo purchased the property, Mr. Jaramillo was unaware of the City's regulations concerning the lapse of the business license for six months which would prevent the reopening of the business. Mayor McKinney said he could see no language on the petition on the poster board. Mr. Sinnott said he left the other half of the poster board containing the petition in his car. Mr. Sinnott left the Council Chambers for a few minutes to retrieve the petition. Mr. Jaramillo said when he purchased the property, he was informed that as long as he paid taxes on the property under a commercial classification, the property can be maintained as a shop. Mr. Jaramillo also said he was never informed when the zoning of the property was changed. Mr. Jaramillo said he cannot do anything else with the building other than maintaining it as a shop. Mr. Jaramillo said Mr. Sinnott is out of job and is trying to help him. Mr. Sinnott illustrated the approvals on the petition for a repair shop at 720 South Sixth Street and said there were no disapprovals for him to operate the shop. Mr. Jaramillo reiterated that he should have been informed of the zone change and asked if the City's regulations were drawn from a hat.

Mayor McKinney said as a property buyer, he is confident that the zoning of a property would be registered. Mayor McKinney asked Mr. Jaramillo when he purchased the property. Mr. Jaramillo said he purchased the property in 2004 and had to repair the building at that time.

Councilor Landavazo asked if there are publication requirements for public notices for zone changes in the local newspaper. Mr. Strain said state law requires the notification of residents within a 100-foot radius of the property and the official posting of the notice of the public hearing before the Planning and Zoning Commission.

Councilor Garcia said he conducted his own study of the matter by calling ten constituents concerning the proposed business. He said there were only two constituents in favor of the proposed business as eight people were against it. The

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constituents against the proposed business were concerned with the heavy traffic in the area. Mr. Sinnott asked where the area of concern was. Councilor Garcia said he cannot release the names of the individuals he called. Mr. Jaramillo said he does not understand the concerns about heavy traffic since he owns 2½ lots in the back of the subject property. Councilor Garcia said he was relaying the concerns of his constituents. Mr. Jaramillo said the garage has existed for many years and there have never been any complaints about traffic.

Mayor McKinney asked if there was anyone else that would like to testify for or against the appeal. There were none.

Councilor Landavazo made the motion to approve Resolution No. R2011-31 by affirming the decision of the Planning and Zoning Commission to reject an appeal to an administrative action denying the recommencement of a nonconforming automobile/truck servicing and mechanical repair garage at 712 South Sixth Street. Seconded by Councilor Enfield. Roll call: Councilors Landavazo, Enfield, Wall, Garcia and Mayor McKinney all voted aye.

### 3. Harold Runnels Pool Equipment – Dan Dible, City Manager

Mr. Dible said there is a mechanical problem at the pool that requires the replacement of the heat exchanger unit which required the closure of the pool for about one week. Due to the current situation with the City's budget and the proposed closure of the pool, he wanted to inform the Mayor and Councilors of the situation. The cost for replacing the heat exchanger at the pool is \$4,869.34 and will take over a week to acquire and install the unit. Mr. Dible also presented a memorandum from City staff outlining the additional repairs needed for the pool in the future.

Councilor Wall asked if other contractors were asked to submit a quote to replace the heat exchanger. Vince Alonzo, Executive Director, Parks and Recreation Department, said the quote from Dallago Corporation was the only quote obtained.

Councilor Enfield said the quote does not contain the remaining costs for the additional repairs needed for the facility. Mayor McKinney read the following issues concerning the pool need to be addressed: 1) the HVAC system needs to be removed and replaced; 2) the wading pool piping needs to be separated from the main system; 3) the motors in the circulating pumps need to be replaced; 4) the filter system is leaking; 5) the heat exchangers are damaged; and 6) the pool trenches are shifting from the pool deck. Councilor Enfield said he would like to obtain information concerning the total estimated costs to address the outstanding issues at the pool. Mr. Dible said the matter can be presented and discussed during the next regular meeting.

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Councilor Wall asked if the heat exchanger was replaced, if the pool could remain open until the end of October. Mr. Dible said he was uncertain of the exact amount of time required to replace the heat exchanger; however, the City could be in a situation where once the heat exchanger has been replaced, the pool may be re-opened for a very short period of time and then having to consider the closure of the pool at the end of October due to budgetary constraints. Councilor Wall asked how long the pool has been closed due to the failure of the heat exchanger. Mr. Alonzo said this coming Friday the pool will have been closed for two weeks. Regarding the list of repairs needed at the pool, Councilor Wall said there was discussion regarding the HVAC system about 8 or 9 months ago where the large pool could remain open by closing down the wading pool. Regarding the proposed expenditure for the heat exchanger, Mr. Dible said City officials could be viewed as being foolish by proceeding with the expenditure of close to \$5,000 when the closure of the pool is being considered due to budget constraints.

Following discussion, Councilor Enfield made the motion to table Item #3 until information is provided to the Mayor and Councilors concerning the total estimated costs for the additional repairs needed at the pool. Councilor Landavazo also asked for a transitional plan to be submitted to the Mayor and Councilors which would accommodate the schedule and needs of the current Harold Runnels Pool patrons at the Aquatic Center in the event the Harold Runnels Pool is closed. Councilor Enfield's motion was seconded by Councilor Garcia. Roll call: Councilors Enfield, Garcia, Landavazo, Wall and Mayor McKinney all voted aye.

#### 4. Authorization to Proceed with the Foreclosure of the Shalimar Inn Property for Outstanding Liens – George Kozeliski, City Attorney

Mr. Kozeliski said the City Council condemned the west building of the Shalimar Inn in 2003 due to the dilapidated condition of the structure. In 2006, the City filed three liens on the property totaling \$153,393.65 for the asbestos surveys, asbestos abatement, demolition of the structure and the removal and disposal of the debris and asbestos. Since 2006, there has been no action concerning the outstanding liens by the City or by the property owner. He asked the Mayor and Councilors for authorization to proceed with the foreclosure of the Shalimar Inn property for the outstanding liens. Based on the condemnation, if the City does not proceed with the foreclosure action, the City will inherit at least three additional dilapidated buildings on the property that will need to be demolished.

Mayor McKinney said by foreclosing the liens the City would be demanding payment on the liens. Mr. Kozeliski agreed as the City would give the property owner a certain amount of time to pay. If the property owner does not pay-off the liens, the City will file a foreclosure action in District Court.

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Councilor Garcia asked if the foreclosure action will affect the remodeling of the building in front of the property and the opening of the business. Mr. Kozeliski said if the property owner is planning to remodel and open the business on the front portion of the property, the liens will need to be paid since the legal description is for a single tract of land.

Councilor Landavazo asked about the condition of the housing portion of the hotel. Mr. Strain said all of the structures on the property are not recoverable as any attempts to rehabilitate the structures would cost more than what the buildings are worth. The City required the property owners to board-up the old motel rooms since transients were breaking-in and vandalizing the rooms which were creating a health and safety concern for the adjacent property owners. Since winter is approaching, the transients will be tearing down the boards to gain access to the motel rooms for shelter. Mr. Strain also said the bar is also in a dilapidated state which will require extensive work to bring the structure into compliance with the City Code.

Councilor Garcia asked if there has been any work done to the buildings besides improving the sign. Mr. Strain said the property owner finally complied with the City's sign regulations, painted the exterior of the buildings and repaired the soffits. Mr. Strain also said the owner was planning to replace the carpet and paint the interior walls, which does not require a building permit.

Mayor McKinney said the property owner has a debt that has not been paid but is investing money into the property.

Councilor Enfield made the motion to authorize the City Attorney to proceed with the foreclosure of the Shalimar Inn property for outstanding liens. Seconded by Councilor Wall. Roll call: Councilors Enfield, Wall, Landavazo, Garcia and Mayor McKinney all voted aye.

### **Comments by Public on Non-Agenda Items**

Chief Johnny Greene, Gallup Fire Department, provided information concerning the Fire Prevention Week activities that are taking place this week. He invited the Mayor and Councilors to an Open House at Fire Station No. 1 on October 15, 2011 from 10:00 a.m. to 3:00 p.m.

### **Comments by Mayor and City Councilors**

Councilor Landavazo encouraged citizens to "buy Gallup, believe Gallup."

Mayor McKinney said the month of October is Domestic Violence Awareness Month as

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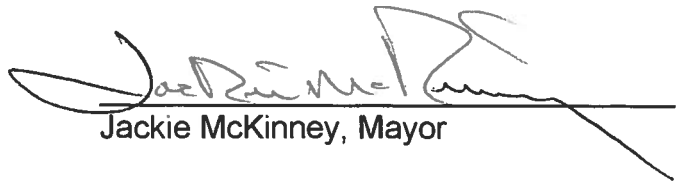
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we would all hope to live in a community free of abuse. He also said it is Breast Cancer Awareness Month and encourage everyone to wear pink.

**Comments by City Manager**

None.

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



Jackie McKinney, Mayor

ATTEST:



Alfred Abeita, City Clerk

Approved 10/25/2011