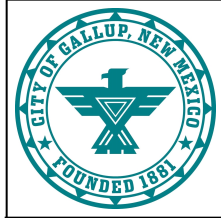


**GALLUP CITY COUNCIL
REGULAR MEETING
TUESDAY, MARCH 13th, 2018; 6:00 P.M.
CITY COUNCIL CHAMBERS**



Jackie McKinney, Mayor

Linda Garcia, Councilor, District #1

District #2

Yogash Kumar, Councilor, District #3

District #4

Allan Landavazo, Councilor,

Fran Palochak, Councilor,

Maryann Ustick, City Manager

Curtis Hayes, City Attorney

A. Pledge Of Allegiance

The members of the body and the public are invited to recite the Pledge of Allegiance.

B. Roll Call

C. Approval Of Minutes

Regular Meeting of February 27th, 2018

Documents:

[MEETING MINUTES - 27 FEB 18.PDF](#)

D. Discussion/Action Topics

1. Acceptance Of Fiscal Year 2017 Audit Report

Summary: Each year the City of Gallup undergoes an audit as required by New Mexico law. The firm of Hinkle + Landers conducted the audit. As required the audit has been filed with the Office of the New Mexico State Auditor who has approved the audit report for release. We are proud to announce that the City of Gallup has an unmodified report which is the best type of report issued.

Fiscal Impact: The services of conducting the audit are part of the general fund budget process. Presentation of the report has no further fiscal impact.

Recommendation: Staff recommends acceptance of the Audit Report.

Speaker's Name: Patty Holland, Chief Financial Officer

Documents:

[6076 CITY OF GALLUP AUDIT REPORT 2017 - FINAL.PDF](#)

2. Ordinance No. C2018-2; An Ordinance Providing For A Criminal Penalty For Violation Of The Property Maintenance Code

Summary: The Gallup Property Maintenance Code has incorporated the provisions of the International Property Maintenance Code which provides that violations are a misdemeanor or civil infraction as determined by the municipality. Our ordinance does not specify whether violations of the International Property Maintenance Code are a misdemeanor or a civil infraction. The proposed ordinance designates violations as a misdemeanor. This provision would make the Property Maintenance Code consistent with Gallup's Fire Code and Building Code which both provide that violations are a misdemeanor. The language that each day that a violation continues is a separate violation is also consistent with the provisions in the Fire Code and Building Code.

Fiscal Impact: None.

Recommendation: Adopt the proposed ordinance amendment.

Speaker's Name: Curtis Hayes, City Attorney

Documents:

[PROPERTY MAINTENANCE CODE.PDF](#)

3. Ordinance No. C2018-3; An Ordinance Amending Section 5-1-25 Of The Gallup City Code By Enacting The Pedestrian Safety Ordinance

Summary: Currently, Gallup City Code §5-1-25 makes it unlawful "to hinder, annoy or molest persons passing along any street, sidewalk, crosswalk or other public way, or to lie, sit or stand around the entrance of any church, theater, public building or other place of public assemblage in any manner so as to unreasonably obstruct such entrance or to place or to erect upon any public way an obstruction of any type, except temporary barriers or warning signs placed for the purpose of safeguarding the public against any hazard." The prohibition against "annoying" others is problematic as it could cover activities protected by the First Amendment's free speech clause. However, there are legitimate public safety concerns that can be addressed by the ordinance. Therefore, it is recommended that the ordinance be re-written to be more specific as to the prohibited behaviors and to cover other types of behavior directed at, or committed by, pedestrians that pose a legitimate threat to public safety and are not adequately covered by existing ordinances.

Fiscal Impact: None.

Recommendation: Adopt Ordinance No. C2018-3.

Speaker's Name: Curtis Hayes, City Attorney

Documents:

PEDESTRIAN SAFETY ORDINANCE.PDF

4. Ordinance No. C2018-4; An Ordinance Repealing The City's Solicitation Ordinance

Summary: Gallup City Code §5-1-36 prohibits soliciting (asking for money or some other thing of value) in an aggressive manner. It also prohibits soliciting on public transportation, or at a bus stop; within 15' of an ATM, from the occupant of a motor vehicle that is in traffic, or coming within 5' of the person solicited unless the person solicited indicates that he or she wishes to make a donation. In 2015, the United States Supreme Court in *Reed v. City of Gilbert*, struck down a sign ordinance on the grounds that it was not "content neutral" because it had different rules for different types of signs, depending on the purpose of the sign. Since then, lower courts have uniformly struck down solicitation ordinances similar to Gallup's ordinance on the grounds that they are not "content neutral" because they focus on only one type of speech: asking for donations. The Supreme Court said that regulations that are not content neutral are "presumptively unconstitutional" and will be upheld only if the government can prove the regulation serves a "compelling government interest" and is narrowly tailored to achieve that interest." The lower courts have said that public safety can be a compelling interest, but find the aggressive panhandling statutes to not be "narrowly tailored" as they generally cover behavior that might not be a threat to public safety. For example, provisions such as Gallup's which prohibit soliciting within 15' of an ATM, coming closer than 5' to the person solicited, or soliciting from people in their cars are uniformly struck down. But even bans on aggressive soliciting have been struck down as the courts have said that the government must present "actual evidence" that the regulation is necessary and that it actually tried other methods, such as existing laws, to address the problem before adopting the ordinance. So ordinances similar to Gallup's ban on aggressive soliciting have also been struck down. Based on the fate of ordinances almost identical to Gallup's, it is unlikely that the existing ordinance would survive a court challenge. Laws which are not tied to speech are generally upheld as long as they are evenly enforced and not used to suppress speech. So laws prohibiting standing in roadways or medians have been upheld, but laws that prohibit soliciting from a roadway or median are struck down. The courts are saying that the best way to deal with public safety is by way of laws that are not tied to any particular category of speech.

Fiscal Impact: None.
Recommendation: Adopt the ordinance repealing Section 5-1-36 of the Gallup City Code.
Speaker's Name: Curtis Hayes, City Attorney

Documents:

REPEAL ORDINANCE.PDF

5. Ordinance No. C2018-5; An Ordinance Creating An Indigenous Peoples Commission

Summary: This ordinance creates a six member "Indigenous Peoples Commission" with the responsibility to advise the city council, and the community, "concerning matters of cultural diversity, fairness, equal opportunity, and respect for indigenous peoples and cultures." The Commission is also tasked to work with other entities to facilitate training for organizations "to reduce the incidence of discrimination and culturally insensitive behaviors and attitudes." Five members are voting members; one member is an ex-officio member that is a city

employee. All members are appointed by the mayor with the approval of the council. Members serve staggered four year terms with a two term limit. The commission must meet at least quarterly, but can meet more frequently.

Fiscal Impact: None.
Recommendation: Approval of the ordinance.
Speaker's Name Curtis Hayes, City Attorney

Documents:

[INDIGENOUS PEOPLES ORDINANCE.PDF](#)

6. Approval Of Appointments To Indigenous Peoples Commission

Summary: Council approval of members appointed by the mayor to serve on the Indigenous Peoples Commission. Two of the voting members will have an initial term of two years; three of the voting members will have an initial term of four years. Three members must be residents of McKinley County and two members must be residents of Gallup. A sixth ex-officio non-voting member must be a city employee or official.

Fiscal Impact: None, there is no entitlement to per diem or mileage under the ordinance.
Recommendation: Approval of the appointments.
Speaker's Name Mayor Jackie McKinney

7. Resolution No. R2018-9; A Resolution Proclaiming Wyland National Mayor's Challenge For Water Conservation Pledge – During The Month Of April 2018

Summary: Wyland National Mayor's Challenge for Water Conservation - My Water Pledge is a friendly competition between cities across the country to see who can be the most "water-wise." Mayors nationwide will challenge their residents to conserve water, energy and other natural resources on behalf of their city through a series of informative, easy-to-use pledges online. The Mayor calls upon local citizens and business to "Take the Pledge" to conserve water during the month of April and beyond to conserve our most precious natural resource. The City and its residents can take the pledge online at [HTTP://WWW.MYWATERPLEDGE.COM](http://www.mywaterpledge.com) during April 2018.

Fiscal Impact: None
Recommendation: Staff recommends approval of Resolution No. R2018-9.
Speaker's Name Dennis Romero, Director, Gallup Water and Sanitation Department

Documents:

[ATTACHMENT 1 - WYLAND FOUNDATION RESOLUTION 3-2-18.PDF](#)
[ATTACHMENT 2 - WYLAND CHALLENGE TOOLKIT.PDF](#)

E. Comments By Public On Non-Agenda Items

The public is invited to comment on items not appearing on the published meeting agenda.

F. Comments By Mayor And City Councilors

G. Comments By City Manager And City Attorney

H. Motion To Adjourn

Auxiliary aides for the disabled are available upon request. Please contact Alfred Abeita, City Clerk, at 505-863-1254 at least (1) week prior to the meeting or as soon as possible in advance of the meeting to make any necessary arrangements.

Pursuant to the "Open Meetings Act", NMSA 1978, Section 10-15-1 through 10-15-4 of the State of New Mexico, this Agenda was posted at a place freely accessible to the public 72 hours in advance of the scheduled meeting.