

Minutes of the Regular Meeting of the Gallup City Council, City of Gallup, New Mexico, held in the Council Chambers at Gallup City Hall, 110 West Aztec Avenue, at 6:00 p.m. on Tuesday, November 13, 2018.

The meeting was called to order by Mayor Jackie McKinney.

Upon roll call, the following were present:

Mayor:	Jackie McKinney
Councilors:	Linda Garcia Allan Landavazo Yogash Kumar Fran Palochak
Also present:	Maryann Ustick, City Manager Curtis Hayes, City Attorney

Mayor McKinney recognized McKinley County Commissioner Bill Lee and State Representative Patty Lundstrom in the audience.

Presented to the Mayor and Councilors for their approval were the Minutes of the Regular Meeting of October 23, 2018. Councilor Palochak made the motion to approve the aforementioned minutes. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Landavazo and Mayor McKinney all voted yes.

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

1. Presentation of the Greater Gallup Economic Development Corporation (GGEDC) 2018 Annual Report – Patrick Mason, GGEDC Board of Directors

Mr. Mason presented an overview of the 2018 GGEDC Annual Report. The report contains information pertaining to the number of webpage views on the GGEDC's website; GGEDC's activities during the past year engaging with local companies and landowners, domestic and foreign companies, site selectors and potential recruitment opportunities; data concerning the number of business contacts during the year, requests for information, projects, site visits and active projects in the works; and the GGEDC's annual fiscal summary.

Discussion followed concerning the office expense and facility expense line items of the GGEDC's fiscal summary; the amount of time invested on active projects in the works; potential funding for Carbon Coal Road; and the solicitation process for Requests for Proposals (RFPs).

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2. Request for Street Closures for the Annual Christmas Parade to be Held on Saturday, December 1, 2018 – Bill Lee, Gallup-McKinley County Chamber of Commerce

Mr. Lee presented the request for the closure of Aztec Avenue from Eighth Street to First Street for the parade. He also provided an overview of the event.

Councilor Landavazo made the motion to approve the request for street closures for the Annual Christmas Parade to be held on Saturday, December 1, 2018. Seconded by Councilor Palochak. Roll call: Councilors Landavazo, Palochak, Garcia, Kumar and Mayor McKinney all voted yes.

3. Presentation of the Business Improvement District (BID) Annual Report – Louie Bonaguidi and Steve Gurley, BID Board of Directors

Mr. Bonaguidi and Mr. Gurley presented the BID's Annual Report and the history of the BID. They also provided an overview of the projects that were created and funded by the BID under the following six areas: 1) Organizational Growth, 2) Assessment Fee Rebate Program for Security and Façade Improvement, 3) Gallup BID Programs and Projects, 4) City Initiated Projects, 5) Event Support, and 6) BID Sign Grant Program. Mr. Bonaguidi and Mr. Gurley also asked the Mayor and Councilors for approval of the Ordinance continuing the BID for the next five years.

4. Ordinance No. C2018-15; Ordinance Extending the Term of the Business Improvement District Until 2023 – Curtis Hayes, City Attorney

Mr. Hayes presented the proposed ordinance which would extend the term of the BID until December 31, 2023. The ordinance amends the existing provisions concerning the makeup of the management committee of the BID to comply with state statute. The amendment changes the City's membership to two ex-officio, non-voting members and clarifies the length of the terms of the voting members to four years. The ordinance also amends the annual property assessment for each tract of commercial property in the BID to be 1% of the assessed value of the 2018 real property tax assessment under the McKinley County Assessor. The BID assessments are to be re-determined every two years under the proposed ordinance.

Ms. Ustick said a comparison was done between the 2006 and 2018 real property tax assessments of the properties in the BID under the McKinley County Assessor. As a result, the 2018 assessments are lower than the 2006 assessments, in which the current bid ordinance is based on. Discussion followed concerning the use of the 2006 assessments versus the 2018 or by other means as provided by state law.

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Councilor Landavazo made reference to the funds in the BID's money market account and based on the comments he received from the community, encouraged the use of the BID's funds for improving the downtown area rather than hoarding money.

Discussion followed concerning the following: 1) use of BID funds to assist property owners within the BID that are affected by the City's downtown alley project by upgrading the electric service on their properties; 2) the use of "shall" or "may" in the wording in the ordinance regarding the City's provision of its monetary match to the BID on a semiannual basis; 3) funds that are available for projects in the BID's money market account; 4) needed communication between the BID Board and the property owners concerning the BID's finances, direction and vision of the BID, etc.; and 5) bonding possibilities for the BID. Francis Bee, BID Executive Director, addressed the Mayor and Councilors regarding the funds that are available for use in the BID's money market account and the difficulty in creating an accurate budget for the BID if the word "shall" is changed to "may" in the ordinance regarding the City's dollar for dollar match to the BID. Mr. Lee, in his capacity as County Commissioner, said there may be legislation proposed this year at the state level allowing counties to conduct valuations every single year, which will result in timely and accurate valuations.

Brett Newberry said his family is the only "Friend of the BID," as provided by the BID ordinance. He spoke in support of continuing the BID and will continue to be a Friend of the BID as long as the Gurley, Menapace and Taira families, who pay 1/3 of the total BID assessment, continue to support the BID. In order to continue to be a Friend of the BID, Mr. Newberry asked for a new agreement with the City. Mr. Newberry expressed concerns with the BID's lack of funds which reduces the impact of the BID; therefore, he strongly recommended that the BID issue bonds and asked the Mayor and Councilors to maintain the word "shall" in the ordinance concerning the City's monetary match. He also expressed concerns with the lack of follow-through with objectives in the BID's current business plan and asked for more accountability from the BID.

Discussion followed concerning the BID's communication and visits with the property and business owners in the BID to explain the benefits of the BID and to receive feedback from the owners; the possible inclusion of informational fliers in the invoices mailed to the property owners; and the provision in the ordinance where the City shall not charge more than 10% against its matching funds for in-kind services and whether the amount should be changed. Patty Holland, Chief Financial Officer, provided an explanation of the City's administrative processes for billing and collecting the BID's tax assessments and providing the funds to the BID with the City's match. She also confirmed that the City's 10% administrative fee is a valid charge.

Mayor McKinney said the year of the County's real property tax assessment on which the

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BID's tax assessment are based needs to be determined by the Council should they adopt the proposed ordinance.

Ms. Ustick said the BID is not able to issue bonds because it is not able to include debt service costs in their budget unless it cuts the programs it currently offers to the BID property owners. She said if the BID assessments are tied to a real property tax assessment from the past, the BID's revenue will never grow.

Mr. Hayes provided clarification that the proposed ordinance requires the basis of the BID assessment to be re-evaluated every two years.

Following discussion, Councilor Kumar made the motion to approve Ordinance No. C2018-15; An Ordinance Extending the Term of the Business Improvement District Until 2023, based on the 2006 tax assessment. Seconded by Councilor Garcia. Roll call: Councilors Kumar, Garcia, Landavazo, Palochak and Mayor McKinney all voted yes.

### 5. **Public Hearing:** Resolution No. R2018-35; Larry's Auto Repair Shop Conditional Use Permit Revocation Appeal

Clyde (C.B.) Strain, Planning and Development Director, was duly sworn and said Larry Sinnott, business owner of Larry's Automotive and Repair Shop, has submitted a request to the Gallup City Council to consider an appeal from the Planning and Zoning Commission's action revoking a conditional use permit (CUP) to operate an automotive servicing and mechanical repair shop in the General Commercial (GC) Zoning District due to violations of the terms and conditions of Resolution No. RP2012-02 and require that the business is discontinued at the location. The property is located at 203 Burke Drive, and is more particularly described as Lots 10 through 13, Block 27, Ford Highway 66 Addition. Section 10-5-B-b-iii-3 of the City of Gallup Land Development Standards sets forth procedures for appeals from actions taken as follows: Any person aggrieved by; a decision of the board of adjustment on an appeal of administrative action, a variance or conditional use permit, may, within ten (10) days of the decision, file with the City Clerk a notice of appeal to City Council. At least fifteen (15) days after published notice of hearing, the City Council shall hear the appeal de novo and may reverse, affirm or modify the action of the board. The Council may consider the approved or not yet approved minutes of the board at the meeting the action was taken and a transcript of that hearing, provided copies of each are furnished all interested parties. After hearing testimony and reviewing finding of fact and conclusions of law the Planning and Zoning Commission revoked the conditional use permit approved by Resolution No. RP2012-02 to allow for the operation of an automotive servicing and mechanical repair shop in the General Commercial (GC) Zoning District and require the business to be

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immediately discontinued at the 203 Burke Drive location. Mr. Sinnott is now appealing the decision of the Planning and Zoning Commission to City Council. Mr. Larry Sinnott, owner of Larry's Automotive and Repair Shop was granted conditional use permit approval on September 12, 2012 with Resolution No. RP2012-02 to operate an automotive servicing and mechanical repair shop within the General Commercial (C2-A) Zoning District. Approval was contingent on complying with specific conditions as set forth in Resolution No. RP2012-02. Mr. Sinnott has consistently violated conditions d. and e. of said resolution. Those conditions are specifically as follows:

- d. All Vehicles waiting for service or repair shall be stored inside the structure and not parked or stored outside the building or within the Burke Drive right-of-way.
- e. Customers shall be permitted to park within the Burke Drive right-of-way when dropping off or picking up a vehicle only. The dropped off vehicle shall then immediately be transferred and stored inside the structure.

Mr. Strain explained the reasons for imposing the conditions on Mr. Sinnott's business. The lot at this location lot has two structures with one fronting Aztec Avenue and the other, which is Mr. Sinnott's business, fronting Burke Drive. Both structures take up the entire property, leaving no room for off-street parking and landscaping at Mr. Sinnott's place of business. The following site conditions were taken into consideration: the narrow right-of-way on Burke Drive, the business is located on a hill and the actual business frontage is about 30 plus feet with more than 25 feet being the actual driveway into the business. Based on these circumstances, the conditions imposed in the conditional use permit are for safety reasons. If vehicles are parked on both sides of Burke Drive, it narrows down access on Burke Drive and makes it difficult to navigate through the street in case of an emergency and for regular vehicular traffic.

After receiving several complaints of vehicles waiting for service or repair being parked all day and overnight within the Burke Drive right-of-way two letters were sent to Mr. Sinnott making him aware of the violation of the terms and conditions of his approval. The first letter was sent on November 12, 2012 at which time the violation stopped. Again the Planning and Development Department started receiving several complaints pertaining to the same violations and a second letter was sent out on July 10, 2018 making Mr. Sinnott aware of the violation. Mr. Sinnott has continued to violate conditions d. and e. of Resolution No. RP2012-02 and has demonstrated no willingness to cease these violations. Code Enforcement notices of violation and photographic evidence of said violations will be presented by Code Enforcement Officers Toby Tafoya and Charles Soto.

Mr. Tafoya presented the complaints received by the Planning and Development Department:

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- August 8, 2013: Complaints about vehicles parked along Burke Drive. Upon arrival at approximately 1:30 p.m., Mr. Tafoya witnessed two vehicles parked in front of 205 Burke Drive, which was A & J Produce at the time. Two orange tags were issued and both vehicles were removed.
- March 20, 2014: Complaint about vehicles parked along Burke Drive. Upon arrival at 1:30 p.m., Mr. Tafoya witnessed a truck parked in front of 205 Burke Drive, A & J Produce. A first notice was issued and the vehicle was removed.
- January 13, 2015: Complaint about vehicles parked along Burke Drive. One vehicle was orange tagged at 204 Burke, on the other side of A & J Produce. The vehicle was removed.
- January 22, 2018: Complaint about vehicles parked along Burke Drive. Two vehicles were orange tagged at 205 Burke Drive. The vehicles were removed.
- July 9, 2018: Complaint about vehicles parked along Burke Drive. Two vehicles were orange tagged and vehicles were removed.

Photographic evidence concerning the aforementioned complaints were shown on the overhead projector and were contained in the agenda packet.

Mr. Soto presented another complaint received about cars were being parked at towed into the area on August 20, 2018. Mr. Soto was dispatched to the location to take pictures to verify the complaint. Photographic evidence concerning the complaint was shown on the overhead projector. In the photograph, Mr. Soto said there is a white full-sized Chevy and a brown Ford F150. The brown F150 was towing-in a vehicle and was located directly across from 203 Burke. To the right of the F150, there as a maroon Oldsmobile with the hood up on the vehicle. At the time he took the picture, Mr. Soto said there was no one working on the vehicle. There were multiple vehicles on both side of the street. There was no citations, orange tags or notices issued on that date. There were only pictures taken for evidence of the complaint.

Mr. Strain said Mr. Soto was dispatched on that date due to the number of complaints received recently this year. Planning and Development Department discussed the issue with the City Attorney to move forward with the revocation action and present the matter to the Planning and Zoning Commission, which was the reason for the photographs being taken by Mr. Soto. Section 10-5-B-d-iii-3-ii-3) of the City of Gallup Land Development Standards states as follows:

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- 3) Violations of such conditions or safeguards as may be imposed by the board may result in revocation of any conditional use approval in addition to any other remedy for such violations provided for in this title. The board may revoke conditional use approval subject to such violations only after a public hearing where the alleged violator is given the opportunity to be heard.

A public hearing was held by the Planning and Zoning Commission in which the business owner was offered the opportunity to testify and did so. Two letters were sent to the business owner by certified mail and ground mail, in which the certified letters were returned and the ground letters were not returned. No effort was made to contact the Planning and Development Department about the violations or about why the letters were sent to the business owner. In conclusion, Mr. Strain said if Mr. Sinnott followed the rules and complied with the conditions of his approval, they would not be appearing before the Council. Mr. Strain said there is only one person to blame for the conditional use permit being revoked and the business being discontinued and that is Mr. Sinnott himself. The City has given every opportunity for Mr. Sinnott to comply with the conditions of his approval and Mr. Sinnott simply chose not to.

Lawrence or Larry Sinnott, owner of Larry's Automotive, was duly sworn and said he understands the violation on why his permit is being pulled is under the bylaw that states: any vehicle pending automotive repair at an automotive facility has to be stored inside the facility overnight and it does not state anything about using the street during business hours. Mr. Sinnott said it is a congested street as there are trucks from the other business there as well. He said he has pictures but did not have time to put them on a flash drive. Mr. Sinnott said there are several other businesses in town that are in violation of what the bylaw states, which is the vehicle has to be stored inside the facility overnight and cannot be stored in a bullpen, in which he brought to the Council at one point. He said one of the property owners of Aztec Auto was willing to rent his lot to Mr. Sinnott to set up a bull pen to store the vehicles. Mr. Sinnott said the proposal was brought before the Council and was denied. Mr. Sinnott reiterated that there are several businesses that are in violation and has no idea why he is being singled-out. He removed the vehicles that have been there for more than 30 days and towed them off to a tow yard. He also said he cleaned up the place as there are no vehicles in front of his business. Mr. Sinnott said the City is in violation at its own facility where vehicles are parked in the back with weeds have grown over the vehicles. If the vehicles are pending repair, the vehicles should be parked inside the facility just as well as his vehicles should be. Mr. Sinnott said for the City to pull the permit and for the City not abiding by the same stipulations is asinine and does not seem right to him.

Councilor Landavazo asked Mr. Tafoya that when he responded to complaints of vehicles

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parked along Burke Drive, if the vehicles were removed by the City or by Mr. Sinnott. Mr. Tafoya said he believes Mr. Sinnott may have removed the vehicles on the date of the violation or the following day; however, he never had contact with Mr. Sinnott and could not verify that the vehicles were his or not. Councilor Landavazo asked Mr. Soto if he had vehicles tagged and if they were remove. Mr. Soto said there were no citations, orange tags or notices issued and only took pictures of the violations to verify the complaint.

Regarding Mr. Sinnott's testimony about other businesses being in violation, Councilor Palochak asked if the City does not get involved unless someone files a complaint. Mr. Strain said the conditions imposed on the business with a conditional use permit are business specific and site specific. He said conditional use permits do not apply to every business in a similar nature in town. The purpose of a conditional use permit is to ensure that particular business does not have an adverse effect on the adjacent properties or to the public for that particular location. The reason conditional use permits are site specific is there are site conditions that might exist on one site that do not exist on another site. For the subject site, Mr. Strain said the building takes up the entire lot, leaving no room for off-street parking or landscaping; therefore, Mr. Sinnott was relieved of those requirements in the resolution. He said there are several conditions in the resolution including adherence to the building code requirements for vehicle repair shops and storage occupancies and Americans with Disabilities Act (ADA) requirements. When the building was first constructed many years ago, ADA regulations did not exist and as time goes by and if a business is closed for a certain period of time and reopens, the business has to comply with the current standards. Since the business does not have utilities on one of the frontages on Burke Drive, Mr. Strain said the City deferred the requirement because the business had utility service from another area. Overall, he said Mr. Sinnott was given many concessions and waivers to the City Code; however, the conditions required by the City was compliance with the building code requirements and no parking in the street due to the safety issues. Mr. Strain referred to an accident that occurred last year when a City snow plow hit cars parked along Burke Drive when coming down the hill. Mayor McKinney asked if Burke Drive is considered a snow route. Stan Henderson, Public Works Director, confirmed Burke Drive is a snow route. Mr. Strain wanted to clarify what a conditional use permit is so the argument that the City is not imposing the rule on anybody else is not valid since conditional use permits are site specific. Mr. Strain said the same conditions imposed on Mr. Sinnott's business were imposed on a similar business located up the street.

Councilor Landavazo asked Mr. Sinnott if his proposal to store vehicles in a fenced area on land owned by Aztec Auto was presented to the City Council or the Planning and Zoning Commission. Mr. Sinnott said it was the Planning and Zoning Commission. Councilor Landavazo asked where the property was located. Mr. Sinnott said the

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property is located behind the Aztec Laundromat near the old Pedro's Restaurant. Mr. Sinnott said the property owner agreed they could fence the property so the public could not see the vehicles. Since the proposal was not approved, Councilor Landavazo asked Mr. Sinnott if he pursued other possible solutions to save his business. Mr. Sinnott said he tried searching for other lots but such possibilities are not within his means. Mr. Sinnott said he cannot afford to relocate; therefore, he is fighting to stay at the current location. Councilor Landavazo asked Mr. Sinnott if he contacted any of the wrecking yards to see if he could lease a small portion of land to store vehicles. Mr. Sinnott said there are a couple of people he could contact but there are issues with transferring the vehicles back and forth. Councilor Landavazo said he does not like the idea of closing someone's business down and was throwing out ideas to help Mr. Sinnott save his business; however, Mr. Sinnott needs to conform to the conditional use permit and help from Mr. Sinnott is needed to get that done.

Mr. Hayes said there is a zoning problem with the proposal of storing vehicles off-site and was not an option in this case.

Mr. Strain said his department does not want to close any business either; they impose a set a rules on these businesses for a reason, usually for public safety. The problem with the proposed off-site storage of vehicles is the City's Land Development Standards requires the land use to be permitted in the zoning district. There has to be a use for permitting off-site vehicle storage and cannot be specific for one business and one business only. The land use would need to be allowed for any and every business that wants to store vehicles. If the land use was allowed, anyone with a vacant lot could store vehicles which would lead to many lots throughout town being used for vehicle storage. In this particular case, Mr. Athens demolished the house on the lot and a couple of weeks later, it resulted in vehicles being parked on the lot. City staff advised Mr. Sinnott he could not store vehicles on the lot because it is not permitted by the City's zoning ordinance. Mr. Strain said Mr. Sinnott did not go to the Planning and Zoning Commission regarding his proposal for the off-site storage of vehicles and there was no public hearing on the issue. Mr. Strain said Mr. Sinnott brought up the proposal later at the last Planning and Zoning Commission meeting. The Planning and Development Department denied Mr. Sinnott's proposal because the land use is not permitted. Mr. Strain said the City's zoning ordinance requires businesses to have ample off-street parking for their business. Local car dealerships that were established in the 1920's and 1930's, purchased properties throughout town which were all contained within a perimeter of their main lot. The dealerships are able to store the inventory of their vehicles and service vehicles on their nearby lots because they are grandfathered-in. The current standard does not allow the storage of vehicles in this manner. If a new dealership came in, they would need to provide for enough off-street parking on their site for their business.

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Councilor Kumar asked Mr. Sinnott how many vehicles he could store in the building. Mr. Sinnott said he could probably store about five vehicles. Mr. Sinnott asked if his place of business was already grandfathered-in because the building has always been an auto repair facility for several years. Mayor McKinney said the building is not grandfathered because a conditional use permit was issued in 2012. Mr. Strain said the use of the building as an auto repair shop was grandfathered-in and that is why Mr. Sinnott was allowed to conduct an auto repair shop in that zoning district.

Councilor Garcia asked Mr. Sinnott if the notices that were sent to him on the violations required him to go to court or respond to Code Enforcement. Mr. Strain interjected and said when Code Enforcement sends out notices for violations, they issue a first and a second notice and if the violation persists, staff will proceed with the enforcement provisions of the code. In this case, the enforcement provision of the code is the revocation of the conditional use permit. If there is no enforcement provision of the code, the matter is taken to court. Mr. Sinnott said when the vehicles were orange tagged he removed the vehicles immediately on the same day and there was no vehicle tagged twice. Councilor Garcia asked Mr. Sinnott for every time he was given a notice for a violation, he went out and did the violation again. Mr. Sinnott said unfortunately, the street is a tight street. Councilor Garcia asked if all of the vehicles were Mr. Sinnott's. Mr. Sinnott said not all of the vehicles were his but for vehicles that are left for more than 30 days he said he has to get rid of them. Mr. Sinnott said it was not only him doing it but it was the customers that do not come in and pay for the vehicles. Councilor Garcia asked if there was a reason why there were no yellow lines or no parking signs at the location. Mr. Sinnott questioned why the street is considered a snow route. Mayor McKinney said the City addresses the seniority roads for the public when severe weather hits.

Stan Henderson, Public Works Director, was duly sworn and responded to Councilor Garcia's question regarding the lack of yellow lines or no parking signs on Burke Drive. Mr. Henderson said staff can post no parking signs in the area if the Council desires but it cannot be done piecemeal as it will affect all the businesses up and down the street. He was not sure of the business hours of the businesses in that area. If the street is clear of no parking, Mr. Henderson anticipates an increased problem with speeders coming down the hill because motorists will not be worried about street parking. As a result, City crews have not previously posted no parking signs in the area.

Shauna Piano was duly sworn and said her family owns A & J Produce and has put up with the problem for years. Ms. Piano said every one of the vehicles is from Larry's Automotive and not one of them are A & J Produce's vehicles. Referring to one of the photographs, she said there is no way to drive down the street. She said during the past few weeks since Mr. Sinnott's permit has been revoked, the street has been the calmest

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it has ever been. Ms. Piano said there has been so many accidents, not only because of speeders, but drivers cannot see from the top of Burke Drive which side of the street vehicles are parked on. To her, Planning and Zoning is black and white; you are either in compliance or not. Ms. Piano said the problem affects her family's business; it is aggravating because the problem is constant. She has sent over 75 E-mails regarding the problem and took over 120 pictures of the violations. She was only allowed to present four of the pictures at the Planning and Zoning Commission meeting. Ms. Piano said it was ridiculous because you cannot let someone have a permit and let them slide on the violations.

Mr. Sinnott said most of the complaints are coming from Ms. Piano and her family. He also said the Pianos have started their own automotive repair business next door and are trying to shut him down. He said the Pianos also move vehicles in and out in the same manner as he does.

Mayor McKinney said the Planning and Zoning Commission's recommendation is before the Council for consideration and he has found that compliance is required under the conditional use permit. Mayor McKinney said the conditional use permit states that all vehicles waiting for service shall be stored inside and not parked or stored outside the building or within the Burke Drive right-of-way. He said it does not matter if it is during business hours or at night.

Mr. Sinnott referred to Ms. Piano's testimony regarding how calm it has been since his permit has been revoked. He said he has been in operation during this time while awaiting his appeal. Mr. Sinnott said he has cleaned up the place and is making the effort to comply.

Mayor McKinney said based on the testimony from City staff Mr. Sinnott has come into compliance by moving the cars after each violation; however, staff has to come back and ask him to move the vehicles again. Mayor McKinney said the problem is tying up City staff's time. Mayor McKinney asked Mr. Sinnott if any of the vehicles parked in front of the shop belong to his employees. Mr. Sinnott said two of the vehicles belonged to his employees.

Councilor Landavazo recommended tabling the matter for 30 days to give Mr. Sinnott time to contact other places that have a legal storage sites in order to come into compliance. Councilor Landavazo said he does not want to see the business shut down. Councilor Landavazo said Mr. Sinnott needs to comply with the conditional use permit. Councilor Landavazo made some recommendations on business owners for Mr. Sinnott to contact to see if they have an area that he may lease from them.

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Councilor Landavazo made the motion to table the matter for 30 days to give Mr. Sinnott time to contact other business owners so that he may have a place to store excess vehicles and every single day not have any vehicles outside Mr. Sinnott's building, not using on-street parking and complying 100% with Planning and Zoning. Seconded by Councilor Garcia. Roll call: Councilors Landavazo, Garcia, Kumar, Palochak and Mayor McKinney all voted yes.

Mayor McKinney advised Mr. Sinnott that this time period gives him an opportunity to potentially relocate his business since he is too large to operate at the current location. Mayor McKinney said Mr. Sinnott has been in violation of the conditional use permit and if the City's Code Enforcement Officers observes a violation during the next 30 days, then the matter will be brought before the City Council.

Mr. Strain said during this appeal the business has to remain closed according to the code. The only time the matter goes into a stay is for appeals to administrative actions. Mr. Strain said if the Mayor and Councilors are going to allow Mr. Sinnott to operate during the 30 days, the Mayor and Councilors need to include the provision in the motion.

Councilor Landavazo re-stated his motion to table the matter for 30 days and to allow Mr. Sinnott to operate his business during the next 30 days to give Mr. Sinnott a chance to come into compliance 100% of the time every single day. The re-stated motion was seconded by Councilor Garcia. Roll call: Councilors Landavazo, Garcia, Kumar, Palochak and Mayor McKinney all voted yes.

### 6. Ordinance No. C2018-16; An Ordinance Creating the Library Advisory Board – Tammi Moe, Library Director and Curtis Hayes, City Attorney

Ms. Moe and Mr. Hayes presented the proposed ordinance that would make the Library Advisory Board an official entity of the City. The ordinance formalizes some things that are not in the existing board's bylaws, including how members are appointed, term lengths and limits and a conflict of interest provision. It also creates two non-voting members from the library's teen advisory board.

Councilor Palochak made the motion to adopt Ordinance No. C2018-16; An Ordinance Creating the Library Advisory Board. Seconded by Councilor Garcia. Roll call: Councilors Palochak, Garcia, Kumar, Landavazo and Mayor McKinney all voted yes.

### 7. Ordinance No. C2018-17; An Ordinance Amending the Section of the Animal Control Code Dealing with Chickens – Curtis Hayes, City Attorney

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Mr. Hayes presented the proposed ordinance that would amend the Animal Control Ordinance to conform to changes implemented by the new Land Development Standards. The current Animal Control Ordinance allows chicken hens to be kept in RS-1 and RR zoning districts. The new Land Development Standards merged the RS-1 and RR zoning districts into a single new zone, SFR (Single Family Residential). The Animal Control Division and the Gallup McKinley County Animal Control Authority also recommended that the annual \$20 permit fee to keep chicken hens be changed to a one-time, no-charge permit. The ordinance also amends references to chickens as backyard chickens throughout the entire code.

Councilor Garcia asked if C.4 of the ordinance should read “backyard chickens” or “backyard chicken hens.” Mr. Hayes said the reference in the paragraph should read “backyard chicken hens” and should be referenced as such throughout the ordinance.

Councilor Palochak asked if roosters were allowed. Mr. Hayes replied in the negative.

Mayor McKinney also said there was previously a RS-3 district. Mr. Strain said there were RS-1, RS-2 and RS-OD districts in the previous code, which should all merge to the SFR designation. As provided by the proposed ordinance, all Single Family Residential districts will be able to have backyard chicken hens.

Councilor Palochak made the motion to adopt Ordinance No. C2018-17; An Ordinance Amending the Section of the Animal Control Code Dealing with Chickens with wording in the ordinance to reference “backyard chickens” where “chickens” appear and to allow backyard chicken hens in Single Family Residential districts. Seconded by Councilor Kumar. Roll call: Councilors Palochak, Kumar, Garcia, Landavazo and Mayor McKinney all voted yes.

8. Ordinance No. C2018-18; An Ordinance to Amend Section of the Animal Control Ordinance Dealing with the Transport of Animals – Curtis Hayes, City Attorney

Mr. Hayes presented the proposed ordinance which would amend the section of the Animal Control Ordinance dealing with animals in vehicles to refer to the interior temperature of the vehicle rather than ambient temperature. Animal Control Officers now have equipment that can measure the interior temperature of a vehicle from outside the vehicle. The proposed ordinance also provides for the creation of a new offense in the City Code that would cover endangering an animal by driving while intoxicated or driving recklessly with an animal in the vehicle. Increasingly, Animal Control Officers are being called to the scenes of DWI arrests to impound animals in vehicles.

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Councilor Garcia made the motion to adopt Ordinance No. C2018-18; An Ordinance to Amend the Section of the Animal Control Ordinance Dealing with the Transport of Animals. Seconded by Councilor Landavazo. Roll call: Councilors Garcia, Landavazo, Palochak, Kumar and Mayor McKinney all voted yes.

### 9. Resolution No. R2018-33; Supporting 2019 Legislative Appropriations – Curtis Hayes, City Attorney

Mr. Hayes presented the proposed resolution in support of an action taken recently by the McKinley County Commission requesting increased appropriations in three areas: housing state prisoners, transporting state prisoners and emergency medical services. As the City helps pay for the operation of the adult detention center, the first two areas affect the City. The emergency services fund can be used to support EMS services for cities and counties.

Mayor McKinney said the detention reimbursement is large. The New Mexico Association of Counties filed a lawsuit against the State over five years ago and won \$5 million in a settlement. Unfortunately, the \$5 million has never been paid by the State.

Councilor Kumar made the motion to approve Resolution No. R2018-33; Supporting 2019 Legislative Appropriations. Seconded by Councilor Palochak. Roll call: Councilors Kumar, Palochak, Landavazo, Garcia and Mayor McKinney all voted yes.

### 10. Acceptance of Easements for the Navajo Gallup Water Supply Project Reach 27.9 – Curtis Hayes, City Attorney and Dennis Romero, Water and Sanitation Director

Mr. Hayes and Mr. Romero presented the Easement Agreements with John Roper and George Athens and Cody Clinton Balok and Jessica Suzanne Balok Revocable Trust for Reach 27.9 of the Navajo Gallup Water Supply Project. The reach runs from Gamerco into the city limits in the area of Walmart and Home Depot. The reach has a spur that runs to the east to Ninth Street. There is no compensation required for one of the easements; however, the City was in the middle of a conflict between the property owner and the County over a road maintenance issue in the area of Coal Basin Road and Kachina Road. The County recently took action to take a portion of the road back into their maintenance schedule in order to resolve the conflict. As part of the same negotiation, the City will purchase the value of the easement in the amount of \$18,200. Mr. Hayes and Mr. Romero recommended approval of the two easement agreements, acceptance of the three easements and a budget adjustment of \$18,200 for purchase one of the easements from the Balok Revocable Trust from Fund 506.

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Councilor Landavazo made the motion to approve the acceptance of easements for the Navajo Gallup Water Supply Project Reach 27.9 with a budget adjustment of \$18,200 to purchase the easement from the Balok Revocable Trust from Fund 506. Seconded by Councilor Kumar. Roll call: Councilors Landavazo, Kumar, Garcia, Palochak and Mayor McKinney all voted yes.

### 11. 2018 Sewer Improvement Project – Formal Bid No. 1822-Request for Bid Award – Dennis Romero, Water and Sanitation Director

Mr. Romero said the project consists of sewer line installations on Verdi Drive, Jefferson Avenue and Puerco Drive. He presented the bid results as well as an overview of the work to be done under the project. The lowest qualified bidder was Adame Construction of Los Lunas in the amount of \$465,992.87. The proposed funding for the project will come from three sources as follows: 1) \$275,000 from 202-1525-474.48.45, which was approved as Project JU1977, Jefferson to Strong Sewer Replacement in the FY 19 ICIP Budget; 2) \$194,500 from 508-6062-443.48-4, which was approved for Sewer Collection MNR Improvements in the FY 19 ICIP Budget; and 3) \$10,500 from 508 Fund balance. Mr. Romero recommended approving the bid award of \$465,993 to Adame Construction using the funds as previously stated, which would include a budget adjustment of \$10,500 from 508 Fund balance.

Councilor Kumar made the motion to approve the 2018 Sewer Improvement Project, Formal Bid No. 1822, Request for Bid Award and a budget adjustment of \$275,000 from 202-1525-474.48.45, \$194,500 from 508-6062-443.48-4 and \$10,500 from 508 Fund balance. Seconded by Councilor Garcia. Roll call: Councilors Kumar, Garcia, Palochak, Landavazo and Mayor McKinney all voted yes.

### 12. Overtime Budget Increase for PW/Building Construction – Stan Henderson, Public Works Director

Mr. Henderson said the Building Construction's overtime was originally budgeted at \$2,500 for FY 19, in keeping with past budget history. The budget has been exceeded after one quarter this fiscal year. The overrun is attributable to the new traffic control and public safety requirements for Arts Crawl and downtown parades. Public Works is now required to man all traffic control points during each event. The Building Construction's overtime budget requires another \$8,000 for the fiscal year's remaining events. Mr. Henderson also said the after hour traffic control duties are shared with the Street Department. To date, the Street Department has spent over \$8,750 on overtime for Arts Crawl and the downtown parades. The Street Department is not in the hole yet, since they start out with a larger overtime budget for the year. If there is a mild winter,

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the Street Department can absorb their extra overtime costs in their original overtime budget. Mr. Henderson recommended approval of a budget increase in the Building Construction's overtime budget by \$8,000 from the City's General Fund cash balance.

Councilor Palochak made the motion to approve the overtime budget increase for Public Works/Building Construction of \$8,000 to be funded from the City's General Fund cash balance. Seconded by Councilor Kumar. Roll call: Councilors Palochak, Kumar, Garcia, Landavazo and Mayor McKinney all voted yes.

### 13. Resolution No. R2018-34; Assistance to Fire Grant Award Acceptance – Jesus "Chuy" Morales, Interim Fire Chief

Interim Chief Morales presented the proposed resolution authorizing acceptance of the Assistance to Firefighter Grant award in the amount of \$37,800, which requires a 10% local match of \$3,780. The purpose of the grant is to purchase 15 complete sets of new turnout gear. Interim Chief Morales recognized Mr. Romero and Elizabeth Barriga, Environmental Program Coordinator, for their assistance in obtaining the grant from the U.S. Department of Homeland Security. Funds are currently earmarked for the 10% match requirement; however, Interim Chief Morales recommended a budget increase in the amount of \$37,800 to recognize increased revenue and qualified expenditures in Fund 218.

Councilor Landavazo made the motion to approve Resolution No. R2018-34; Assistance to Fire Grant Award Acceptance and the related budget adjustment. Seconded by Councilor Garcia. Roll call: Councilors Landavazo, Garcia, Kumar, Palochak and Mayor McKinney all voted yes.

### 14. Budget Adjustment for 2018 Department of Homeland Security & Emergency Management Grant Award – Jesus "Chuy" Morales, Interim Fire Chief

Interim Chief Morales presented the request for authorization to accept the 2018 Department of Homeland Security & Emergency Grant Award in the amount of \$25,185 for the replacement of emergency communication repeaters and equipment. The grant requires a 50/50 match with local matching funds being identified in the Risk Management Fund 603. Interim Chief Morales recommended a budget adjustment of \$25,185 to increase Fund 218 Revenue and Expenditures and a budget adjustment to transfer \$25,185 from Fund 603 to Fund 218.

Councilor Kumar made the motion to approve the budget adjustment for the 2018 Department of Homeland Security and Emergency Grant Award as presented.

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Seconded by Councilor Palochak. Roll call: Councilors Kumar, Palochak, Landavazo, Garcia and Mayor McKinney all voted yes.

### 15. Budget Adjustment for 2018 State Homeland Security Grant Award – Jesus “Chuy” Morales, Interim Fire Chief

Interim Chief Morales presented the request for authorization to accept the State Homeland Security Grant Award in the amount of \$99,955 for the replacement of emergency communication repeaters for the Fire and Police Departments. He recommended a budget adjustment in the amount of \$99,955 into Fund 218 as revenue and expenditures for the communication equipment. The total cost of the project is approximately \$125,000 and with the funding provided by the 50/50 grant and match under item #14 and the funds provided under this grant (item #15), the City’s portion of the cost of the project will be about \$12,500.

Councilor Landavazo made the motion to approve the budget adjustment for the 2018 State Homeland Security Grant Award, increasing the budget by \$99,955 into Fund 218. Seconded by Councilor Palochak. Roll call: Councilors Landavazo, Palochak, Garcia, Kumar and Mayor McKinney.

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

None.

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

Councilor Garcia thanked Veterans in attendance, including Councilor Palochak, Franklin Boyd, Interim Police Chief, Eric Babcock, Interim Electric Director and Mr. Henderson for their service. She wished everyone a Happy Thanksgiving.

Councilor Landavazo commented on the Veterans Day events at Hillcrest Cemetery and the Downtown Plaza. The events went well and he commended all Veterans for their service. He encouraged everyone to be mindful of how thankful we should be during this time.

Councilor Palochak thanked all City crews and the Police and Fire Departments for their service. She appreciates the teamwork of the City. She thanked the City employees and the public for attending the meetings and sharing their views.

Mayor McKinney commended Vince Alonzo, Parks and Recreation Director, for his work in assisting a visitor from back east at the Red Rock Park Campground. The visitor was impressed with the immediate response to his request. Based on positive comments

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received from local citizens about the cleanup efforts being done on Maloney Avenue, Mayor McKinney commended Mr. Alonzo and his crews. Mr. Alonzo thanked Mr. Henderson for his crews' assistance with the project. Mayor McKinney also commended Mr. Babcock for providing emergency medical assistance to a passenger on a train in Flagstaff. For the sacrifices of the Veterans and their families, Mayor McKinney said we must never forget.

**Comments by City Manager and City Attorney**

Mr. Hayes said the City received the bronze award from Solar Builder Magazine for the Gallup Solar Park Project.

Ms. Ustick thanked City staff for their work and dedication. She also thanked the Mayor and Councilors for all the time they spend on local issues and the tough decisions they have to make on behalf of the community. She wished everyone a Happy Thanksgiving.

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

  
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Jackie McKinney, Mayor



ATTEST

  
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Alfred Abeita II, City Clerk

Approved 11/27/2018