

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, FEBRUARY 9, 2021; 6:00 P.M.



Louie Bonaguidi, Mayor

Linda Garcia, Councilor, Dist. 1 Michael Schaaf, Councilor, Dist. 2
Yogash Kumar, Councilor, Dist. 3 Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager
Curtis Hayes, City Attorney

PUBLIC NOTICE: In accordance with the public health order issued by the New Mexico Department of Health, the meeting will be physically closed to the public; however, the meeting will be accessible via the following technology service:

Facebook Live stream through the City of Gallup's Facebook Page:
<https://www.facebook.com/CityOfGallup/>

To testify at the public hearing on the transfer of ownership of Liquor License #0572 for Allsup's at 112 Arnold Street or to comment on non-agenda items, please call 863-1254 to leave your name and a return phone number.

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 January 26, 2021

Documents:

[DRAFT MINUTES JAN 26 2021 REG MTG.PDF](#)

D. Recognition Of City Of Gallup Wastewater Collection Department

E. Discussion/Action Topics

1. **Public Hearing: Proposed Transfer Of Ownership Of Existing Liquor License #0572, Located At 112 Arnold Street, From Allsup's Convenience Stores, Inc. To BW Gas And Convenience Retail, LLC**

The Alcoholic Beverage Control Division has granted preliminary approval for this application. The application and preliminary approval is attached as Transfer of Ownership Allsup's 222-3. The application was submitted by BW Gas & Convenience Retail, LLC which is a Delaware limited liability company that has properly registered with the New Mexico Secretary of State's Office to do business in New Mexico. (see attached "BW Gas and Retail Convenience Retail, LLC New Mexico registration"). This company is a subsidiary of BW Gas & Convenience Holdings, LLC d/b/a Yesway. Yesway is a chain of convenience stores owned by Brookwood Financial Partners which is a private equity company. (see attached "Press release issued by Brookwood Financial Partners").

"NMSA §60-6B-4 provides that a local governing body may approve or disapprove the transfer of a liquor license after holding a public hearing. "The governing body may disapprove the . . . transfer of the license if (1) the proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico; (2) the . . . transfer would be in violation of a zoning or other ordinance of the governing body; or (3) the . . . transfer would be detrimental to the public health, safety, or morals of the local option district."

The location does not violate any laws or zoning code provisions concerning where alcohol may be sold. The New Mexico Supreme Court has held that "the discretion that the city council has to deny a transfer on moral grounds must be based on the moral effects of the operation by a specific applicant or at a particular location." Dick v. City of Portales, 1994-NMSC-092. Similarly, to deny a transfer based on safety issues, there must be substantial evidence that the transfer . . . would be detrimental to safety. City of Santa Fe v. Woodard, 1996-NMSC-098. Testimony concerning the negative effects of alcohol alone is not sufficient.

Recommendation: None. This is a quasi-judicial hearing and the decision of the Council must be based solely upon the evidence presented at the hearing.

Fiscal Impact: None.
Recommendation: See above.
Speaker's Name Curtis Hayes

Documents:

[TRANSFER OF OWNERSHIP ALLSUPS 222-3.PDF](#)
[BW GAS AND CONVENIENCE RETAIL, LLC NM REGISTRATION.PDF](#)
[PRESS RELEASE ISSUED BY BROOKWOOD FINANCIAL PARTNERS.PDF](#)

2. **Commitment To Not Terminate Lions Club Rodeo Fee Waiver Contract**

In 2015, the City entered into the attached contract which provides a fee waiver at Red Rock for the annual Lions Club Rodeo. A provision in the contract provides

that it may be terminated if the "Lion's (sic) Club fails to put on its annual rodeo for two consecutive years."

The Lions Club did not conduct the rodeo during 2020 due to the Public Health Order then in effect. The rodeo is normally conducted in June and, while it is possible that current restriction on outdoor recreation facilities to 25% capacity will not be in place in June, there is no longer adequate time for the Lions Club to do all the necessary advance work to conduct a rodeo this year. And a rodeo conducted with 25% capacity restriction in place would result in the Lions Club losing money on the event.

The contract does not have a "force majeure" clause which would provide that contract provisions cannot be enforced if it would be unreasonable due to unforeseeable circumstances such as Acts of God, natural disasters, etc. However, even without such a clause, the defenses of "Impossibility of performance" and "impracticability of performance" can excuse performance when an unforeseen circumstance makes it impossible or financially impracticable to do so.

In order to remove an uncertainty as to whether the City would attempt to terminate the contract based on the failure of the Lions Club to conduct a rodeo for two consecutive, it is asking for City Council action granting a "waiver" of that provision of the contract for 2020 and 2021. This would basically be a commitment by the City to not attempt to terminate the fee waiver contract due to the Lions Club not conducting a rodeo for two consecutive years.

Fiscal Impact: None
Recommendation: Council grant a "waiver" of the contract provision for calendar years 2020 and 2021.
Speaker's Name Johnty Cresto and Curtis Hayes

Documents:

[AGMT W LIONS CLUB RE WAIVER RRP FEES.PDF](#)

3. Application For Private Security Guard Business License By Whelan Security Co. DBA GardaWorld Security Services

Whelan Security Co. DBA GardaWorld Security Services has submitted a City of Gallup Business License and Registration Application for contract security services to the City Clerk. In accordance with Section 3-11-4 of the City Code, the Chief of Police shall determine whether the public convenience and necessity would be served by the issuance of the license applied for and shall certify these findings to the City Council. Whelan Security Co. DBA GardaWorld Security Services has submitted all the appropriate documents and has been granted a license by the State of New Mexico Regulations and Licensing Department.

Fiscal Impact: None
Recommendation: Approval of City of Gallup Business License to Whelan Security Co. DBA GardaWorld Security Services
Speaker's Name Chief Franklin Boyd

Documents:

[GARDAWORLD SECURITY SERVICES.PDF](#)

4. Approval Of Police Officer Recruitment And Retention Plan

Chief of Police Franklin Boyd has initiated a proposal to reduce certified Police Officer staffing by five (5) positions and utilize the salary and benefits for these positions to implement a competitive pay plan to increase recruiting and retention efforts for the Gallup Police Department. There are currently 66 full time Police Officer employees funded by the city. If approved this reduction will result in 61 full time positions.

Currently the starting rate for a certified Gallup Police Officer is \$19.22. A certified "lateral" officer recruited by the Department (regardless of years of experience) has a starting rate of \$19.80. These rates are the lowest compared to the other two local LE agencies in McKinley County.

Chief Boyd has worked with the GPOA, the City Human Resources and Finance Departments to create a new pay plan as referenced in the attached MOU as "Appendix A revised 122820". The Gallup Police Officers Association membership has also formally voted to accept this revised pay plan resulting in the attached "Memorandum of Understanding between the City of Gallup and the Gallup Police Officer Association".

As part of this initiative, the current hiring incentives for new and lateral officer applicants will also cease. Currently this hiring incentive offers new officer and lateral officer applicants \$5,000 and \$7,500 respectively. To maintain competitiveness in recruiting new and lateral officers, the proposed pay plan increases the starting to \$21.45 for new certified and lateral officers. The pay plan will also allow the Department to offer competitive starting pay based on the lateral applicants' years of experience as a certified officer.

Recommendation: Chief of Police Franklin Boyd recommends the Approval of the Memorandum of Understanding Between the City of Gallup and the Gallup Police Officers Association, the reduction of five (5) Certified Police Officer Positions to implement the new pay plan, and the elimination of current hiring incentives.

Fiscal Impact: The elimination of five (5) Police Officer positions will supplement the new pay plan to include the elimination of the hiring incentives for future new and lateral applicants at \$5,000 and \$7,500 respectively.

Recommendation: Please see above.

Speaker's Name Chief Franklin Boyd

Documents:

[MOU W GPOA JAN 26 2021.PDF](#)

5. New Regional Library Site Selection

Attached for City Council's review and approval is an alternative site for the new Regional Library. Alternative site selection was voted on and unanimously approved by the Library Advisory Board (LAB) during the January 15, 2021 meeting. The proposed site would replace the existing approved site at 200 W. Aztec where the current Children's Library branch and Gallup Joint Utility building are located. The chosen location is City-owned property just north of the railroad tracks, and south of Maxwell, between 2nd Street and 3rd Street. Presentation will convey the advantages of the proposed site over the current site and seek

Council approval to move forward with a new conceptual design.

Fiscal Impact: No immediate fiscal impact. If approved by Council the cost of the conceptual design will be included in the upcoming Community Improvement Plan (CIP) for 2021-22.

Recommendation: Staff requests the consideration and acceptance of the alternative site in order to move forward.

Speaker's Name Tammi Moe

Documents:

[CITY OF GALLUP OWNED PROPERTIES WITHIN THE DOWNTOWN DISTRICT.PDF](#)
[_MG_8101.JPG](#)
[_MG_8096.JPG](#)
[_MG_8097.JPG](#)

6. **Resolution No. R2021-3; Adoption Of The Finalized McKinley County Hazard Mitigation Plan**

The McKinley County Hazard Mitigation Plan was developed as the result of an ongoing collaborative effort between the full range of stakeholders in the planning area, local authorities, public school district, municipal jurisdictions, and the State of New Mexico. This effort was led by the McKinley County Office of Emergency Management in coordination with the City of Gallup Office of Emergency Management (represented by the GFD).

Hazard mitigation planning reduces loss of life and property by minimizing the impact of disasters. It begins with local governments identifying natural disaster risks and vulnerabilities that are common in their area. After identifying these risks, they develop long-term strategies for protecting people and property from similar events. Mitigation plans are key to breaking the cycle of disaster damage and reconstruction.

Fiscal Impact: No fiscal impact

Recommendation: Staff recommends approval of Resolution NO. 2021-3

Speaker's Name Jesus "Chuy" Morales, Fire Chief

Documents:

[R2021-3 HAZARD MITIGATION PLAN.PDF](#)
[MCKINLEY COUNTY HAZARD MITIGATION PLAN APA.PDF](#)

7. **Approval Of Adjustment To NCI Preventing Alcohol Related Deaths Agreement**

The FY21 Preventing Alcohol-Related Deaths (PARD) Grant has allocated funding for services to include enhanced treatment services. Originally this was budgeted under the NCI contract. This amendment will adjust the NCI Agreement to enable the city to contract Licensed qualified substance abuse providers and clinical supervision directly. NCI supports this approach to providing treatment services and clinical supervision at the Detox Center.

Fiscal Impact: None.
Recommendation: Approval of Adjustment to NCI PARD Agreement
Speaker's Name Debra L. Martinez

Documents:

[FY21 PARD NCI CONTRACT 1.22M.PDF](#)
[AMENDMENT TO PARD NCI AGREEMENT FY21.PDF](#)

8. Request For Budget Adjustment - Ford And Aztec Sewer Rehabilitation

During its January 12, 2021, Regular Meeting, Council directed Staff to ensure that there were no outstanding utilities issues with respect to the Ford and Aztec Road Reconstruction Project.

Acting on Council's direction, Staff inspected a sewer manhole and wastewater collection line on Ford Drive, north of Aztec Avenue. Upon inspection of the video of the line and manhole, Staff made the determination that it would be necessary to replace the manhole and a section of wastewater collection line prior to the road project beginning.

Upon consulting with the Public Works and Purchasing Departments, Staff noted that it would be possible to create a more favorable bid environment by bundling the Ford and Aztec Road Reconstruction Project with the proposed sewer rehabilitation in the road project area, along with the already designed and approved NM118 Waterline Replacement Project. With respect to the Ford and Aztec Road Reconstruction Project, there was only one bid submitted, which was higher than the Engineer's Opinion of Probable Construction Costs.

Bundling the road, waterline and sewer projects together will entice additional contractors to submit bids and will allow for better coordination of both the waterline and roads projects which will lessen the impacts of traffic closures and detours to the area by allowing better project coordination and staging.

Staff requested a cost proposal from DePauli Engineering Services, under its current on-call contract with the City for the design of the sewer improvements and a bid package that will combine (1) the road project; (2) the waterline replacement project; and (3) sewer rehabilitation.

Designs for the Ford and Aztec Road Reconstruction Project and NM 118 Waterline Replacement project are complete. Design of the sewer rehabilitation can be complete within 3-4 weeks, with a bid advertised shortly thereafter, which would allow the combined projects to begin at the end of March.

Recommendation:

Staff recommends approval of budget adjustment of \$16,600 from Fund 508, Wastewater Enterprise Fund.

Fiscal Impact: Budget adjustment and expenditure of \$16,600 from Fund 508, Wastewater Enterprise Fund.
Recommendation: Please see above.
Speaker's Name Dennis Romero

Documents:

[ATTACHMENT 1 - FORD SEWERLINE REPLACEMENT ENGINEERING COST PROPOSAL.PDF](#)

9. Request For Budget Adjustment In The Amount Of \$88,750 For Change Order No. 1 For Navajo Water Supply Project (NGWSP) Reach 27.10 Construction

NGWSP Reach 27.10 construction was awarded to SmithCo Construction last year and is approximately 55% complete, with a target completion date of July 2021 still on track.

Change Order 1 (CO 1) to Reach 27.10 includes the additional material, labor and equipment to bore through rock using a 30-inch casing underneath NM Highway 602 and from Station 33+03 to Station 35+15. The rock was an unforeseen site condition and outside of the original scope of work bid out.

Total cost for CO 1 is \$88,738.75. The original contract amount, including NMGRT, is \$7,321,201.84. CO 1 represents an increase of 1.21% to move to a revised contract amount of \$7,409,940.59.

Costs for CO 1 will be covered via the City's Financial Assistance Agreement with the US Bureau of Reclamation.

Approval of CO 1 will require a budget adjustment showing both revenue and expenditure of \$88,738.75.

Recommendation:

Staff recommends approval of Change Order 1 and budget adjustment in the amount of \$88,750 from Fund 306.

Fiscal Impact: A budget adjustment to show revenue and expenditure in the amount of \$88,750 to and from the Operating Funds in Fund 306.

Recommendation: Please see above.

Speaker's Name Dennis Romero

Documents:

[ATTACHMENT 1 - NGWSP REACH 27.10.PDF](#)

10. Request For Budget Adjustment In Overtime In Wastewater

Due to the COVID-19 pandemic, its associated issues and the need to repair deteriorating manholes and wastewater collections lines in house, there has been an increase in Overtime within the Wastewater Services line item of the budget.

In addition, an increase in wipes, rags and debris that has been disposed of into the wastewater collections system has caused an increase in Staff time and overtime to addresses these problems.

Finally, a large amount of overtime was expended to repair the effluent pipeline and pump, which delivers reclaimed effluent for use as irrigation water at City facilities.

Overtime budgeted for this FY was \$105,000. Amount spent to date is

\$107,750. A budget transfer of \$7,295 was made in October 2020. Remaining balance for this line item is \$7,295.

Staff requests a budget adjustment of \$50,000 from the Fund Balance in Enterprise Fund 508 into Wastewater Overtime budget line item to cover the rest of Fiscal Year 2021.

Fiscal Impact: A Budget Adjustment in the amount of \$50,000 from the Fund Balance in Enterprise Fund 508.

Recommendation: Staff recommends approval of a budget adjustment in the amount of \$50,000 from Fund 508.

Speaker's Name Dennis Romero

11. Request For Approval Of Transmission Construction Items

Staff is recommending approval of construction contracts to build a temporary reroute, called a "SHOOFLY", of the existing transmission line which is directly over the site where the new substation is being built. This is primarily a safety issue to provide adequate clearance for construction activities. The second part of this process will be to construct a new transmission line that will align more appropriately with the entrance to the new substation, and then the removal of the Shoofly.

We apologize for the lateness of this request as the bid tabulation was done just this afternoon, therefore it will be provided during your proceedings. No excuses as we got the cart before the horse in this process.

Fiscal Impact: There is no fiscal impact as the cost was estimated for in CIP Project CI1771.

Recommendation: Staff recommends approval of the construction contracts which includes materials and labor.

Speaker's Name John Wheeler

F. Comments By Public On Non-Agenda Items

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

G. Comments By Mayor And City Councilors

H. Comments By City Manager And City Attorney

I. Motion To Adjourn

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.