

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, FEBRUARY 14, 2023; 6:00 P.M. CITY COUNCIL CHAMBERS



Louie Bonaguidi, Mayor

Linda Garcia, Councilor, Dist. 1

Michael Schaaf, Councilor, Dist. 2

Sarah Piano, Councilor, Dist. 3

Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager

The meeting will be accessible through the City of Gallup's Facebook Page:

[City of Gallup, New Mexico Government - Home | Facebook](#)

Members of the public may submit comment either in person or by telephone. To submit comment by telephone, please call 505-863-1254 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. Consent Agenda

These items are placed on the Consent Agenda so City Council can designate by unanimous consent those routine items they wish to be approved or acknowledged by one motion. If any item does not meet the approval of all Council members or if a citizen so requests, it will be heard as a separate item.

Action Needed:

Motion to approve or acknowledge Items 1-12 on the Consent Agenda by unanimous vote:

1. Approval Of Minutes

December 6, 2022 Work Session

January 3, 2023 Special Meeting

January 10, 2023 Regular Meeting

January 24 2023 Regular Meeting

Fiscal Impact: None.
Recommendation: Approve the minutes.
Speaker's Name None.

Documents:

[DRAFT MINUTES WORK SESSION DEC 6 2022.PDF](#)
[DRAFT MINUTES SP MTG JAN 3 2023.PDF](#)
[DRAFT MINUTES REG MTG JAN 10 2023.PDF](#)
[DRAFT MINUTES REG MTG JAN 24 2023.PDF](#)

2. Budget Adjustment To Fund Vehicle Replacement Plan

We have ended fiscal year 2022 with unspent expenditure funding in the general fund in the amount of \$5,155,707. The current policy is that we will move these funds into the vehicle replacement fund to help with the purchase of general fund equipment and vehicle needs for FY 2024. On September 13, 2022 you approved allocating \$2,500,000 of these funds to the new police building. I am requesting budget authority to transfer the remaining funds of \$2,655,707 from the general fund into the vehicle replacement fund.

Fiscal Impact: Budget and expenditure increase in transfers in/out in the amount of \$2,655,707 for each fund.
Recommendation: Approve budget adjustments listed above
Speaker's Name Patty Holland

3. Gallup Senior Program Budget Adjustment

The Senior Program has received and amended FY 21-22 ARP Contract from the Non-Metro Area Agency on Aging (NMAAA) state and federal contract. This award will cover Direct Service expenses associated with the Gallup Senior Program.

- A. Amended Contract NO. 2021-2022-60013 ARP Federal and State Sub-Award (\$9,508.00) - City Project No. GS2204
- B. NMAAA OAA-SYS Contracts and Reimbursement System document.
- C. City budget general ledger worksheet.

Fiscal Impact: Award will increase revenue and expenditure budget by \$9,508.00 as noted in general ledger worksheet.
Recommendation: To accept the ARP amended contract for FY 22-23 and approve budget adjustments.
Speaker's Name Kimberly Ross-Toledo, Senior Program Manager

Documents:

[GS2204 AMENDED ARP CONTRACT_2-6-2023.PDF](#)

4. Budget Adjustment For Overtime, Naviline And HR Training

Upon review of the current Information Technology (IT) budget, shortages were discovered in the Overtime, Maintenance, and Professional Service accounts. The IT Department requests a budget adjustment for the following:

- A budget increase to IT's Overtime account in the amount of \$3,000 to cover a negative balance and ensure funding for the remainder of the fiscal year for IT-related emergencies and public meeting streaming
- A budget increase to IT's Maintenance account in the amount of \$19,000 to cover an unexpected increase in the City's Naviline software maintenance
- A budget increase to IT's Professional Services account in the amount of \$1,600 to cover Human Resources training for staff

Fiscal Impact: Budget adjustments in the amount of \$23,600 from the General Fund.

Recommendation: Approval of the requested budget adjustment in the amount of \$23,600 from the General Fund.

Speaker's Name Suzanne Begay

5. Budget Adjustment For Additional Training And Travel Expenses For The Purchasing Department

Due to unforeseen circumstances, Purchasing Department's Travel account is short \$3500. for additional travel and training expenses which are essential in the updates of the Enterprise Resource Planning (ERP) software aka Naviline. The aforementioned training was scheduled after the budget was finalized.

Fiscal Impact: \$3500.00 to Travel Account Line Item 101-1019-411-43.10 from the General Fund

Recommendation: Approval of Budget Adjustment for Travel and Training Expenses

Speaker's Name Frances Rodriguez, Purchasing Director

6. Award Of Contract For General Legal Services

The current contract for general legal services has expired. This contract provides for consultation with city officials and employees on any matter referred by the City Attorney.

Fiscal Impact: None, funds are already in the City Attorney's budget

Recommendation: Approve award of contract to Mason and Isaacson

Speaker's Name Frances Rodriguez, Purchasing Director

Documents:

[TABULATION GENERAL LEGAL SERVICES.PDF](#)

7. Appointment Of Brent Crowe To The Keep Gallup Clean & Beautiful Board

The Keep Gallup Clean & Beautiful Board recommends the appointment of Brent Crowe to fill a vacant position on the board.

Fiscal Impact: None.
Recommendation: Approve the appointment of Brent Crowe to the Keep Gallup Clean & Beautiful Board.
Speaker's Name Mayor Louie Bonaguidi

Documents:

[KGCB APPOINTMENT FEB 14 2023.PDF](#)

8. Appointment Of Janet Li-Tempest, Carolyn Kuchera, Shawn Nelson And Percy Byron Anderson To The Octavia Fellin Public Library Advisory Board

Janet Li-Tempest, Carolyn Kuchera and Shawn Nelson are recommended for reappointment to the Library Advisory Board. Percy Byron Anderson is recommended as a new appointee to fill the remaining vacancy on the board.

Fiscal Impact: None.
Recommendation: Approve the appointments to the Library Advisory Board as specified above.
Speaker's Name Mayor Louie Bonaguidi

Documents:

[LAB APPOINTMENTS FEB 14 2023.PDF](#)

9. 2023 CDBG Fair Housing Proclamation

For CDBG funding, each local government must certify that it will affirmatively further fair housing. To that end, a "Fair Housing Proclamation" must be adopted by the local governing body at an open public meeting which publicizes the community's commitment to fair housing.

Staff proposes proclaiming 24 March 2023 as Fair Housing Day.

Fiscal Impact: None. CDBG grant administration and documentation requirement.
Recommendation: Approval of the attached proclamation, proclaiming 24 March, 2023 as Fair Housing Day
Speaker's Name C.B. Strain

Documents:

[2023_CDBG_FAIR HOUSING.PDF](#)

10. Resolution No. R2023-3 Adoption Of Required Community Development Block Grant (CDBG) Certifications And Commitments

For CDBG funding, each local government must annually certify the following:

Citizen Participation -- Developing a Citizen Participation Plan is a Federal requirement for grantees who receive CDBG funds. The Citizen Participation Plan states that citizens will be provided with reasonable notices and timely access to local meetings in order to solicit their input and project ideas for the CDBG program. Its adoption by resolution is a requirement for CDBG projects.

Fair Housing -- Certifies the City of Gallup's commitment to the Fair Housing Act of 1968 to affirmatively further fair housing, which prohibits discrimination in the sale, rental, leasing, and financing of housing or land to be used for the construction of housing on the basis of race, color, religion, sex, disability, familial status or nation origin.

Residential Anti-Displacement & Relocation Assistance -- Whenever Federal funds, such as CDBG, are used in a project involving the acquisition, rehabilitation, or demolition of real property, a Federal law known as the Uniform Relocation Assistance and Real Properties Acquisition Policies Act (URA) may apply. The purpose of the URA is to provide fair and equitable treatment for person whose real property is acquired or for persons displaced as a result of a CDBG funded project or activity.

Section 3 Plan -- Section 3 a provision of the HUD Act of 1968 that helps foster local economic development, neighborhood economic development, and individual self-sufficiency. The Section 3 Program requires that recipients of certain HUD financial assistance - to the greatest extent feasible - provide job training, employment, and contracting opportunities for low or very low income residents in connection with projects and activities in their community. Every CDBG grantee is required to adopt a "Section 3 Plan" by resolution for CDBG projects.

Procurement -- Certifies its compliance with Federal Procurement (24 CFR Part 85.36) and New Mexico Procurement Code (§13-1-120 NMSA 1978) by adopting a procurement policy for CDBG projects.

Fiscal Impact:	None. CDBG grant administration and documentation requirement.
Recommendation:	Staff recommends approval of Resolution No. R2023-3
Speaker's Name	C.B. Strain

Documents:

[RESOLUTION R2023-3 ADOPT CDBG REQUIREMENTS.PDF](#)

11. Recommendation Of Bid Award, Formal Bid No. 2224 To Adame Construction Inc. For The Highway 264 Well Collector Line Replacement And Related Budget Transfers

Formal Bid No. 2224 was advertised with only one (1) bid received. Adame Construction, Inc. of Los Lunas, New Mexico was the sole bidder in the total amount of \$372,403.01 including New Mexico Gross Receipts Tax.

Project Detail:

Replace the Ray Well collector line on State Road 264 crossing by open cut including 20" steel casing (L=105') and 12" AWWA C900 DRI8 restrained joint PVC waterline (L= 105') complete and in place. For removal and disposal of existing 10" waterline including 18" steel casing and fittings as shown in plans. For Tie-ins "A" and "B" to existing 10" waterline as detailed, For NMDOT asphalt pavement patch (8-inches of SP-111 or SP-IV HMA on 10-inches of Type II basecourse), complete and in place. Removal and proper disposal of asphalt.

For implementation, execution, and maintenance of traffic control including replacement of pavement markings removed during waterline construction. This item also includes installation of temporary asphalt medium crossovers.

Project Funding:

Bid - \$372,403.01 x 15% Contingency (\$55,860.46) = \$428,263.47

Allocated in Fund 306:

Ray Collector Line - \$284,680.06 project #JU2208

Budget Transfer to project # JU2208: (\$144,203)

\$80,876 project #JU2013 - replace waterline on Victoria - project complete

\$63,327 project #JU2105 - replace waterline on Marguerite Franco - project complete

Total project funding: \$ 284,680.06 + \$144,203 = \$428,883.06

Fiscal Impact: Expenditures in Fund 306 and related budget transfers. See detail above

Recommendation: Approval of bid award

Speaker's Name Adrian Marrufo, Acting Director SW/W/WW

Documents:

[RECOMMENDATION OF AWARD HWY 264 WELL COLLECTOR.PDF](#)

12. Acceptance Of Fee Proposal From DePauli Engineering And Surveying LLC For Design Services For The EDA Grant Project No.08-79-05634

On September 27, 2022 City Council approved the acceptance of the McKinley County Industrial Park water line extension and upgrade for the EDA Grant award funding in the amount of \$3,515,108.00.

DePauli Engineering and Surveying LLC has submitted a design proposal in the amount of \$277,900.04.

Scope of Work: City of Gallup - 2018/2019/07/P Design services - prepare water well house and equipping specifications and bid documents for two (2) City of Gallup wells and the same for a waterline to the McKinley County Industrial Park/Carbon Coal Road For EDA Project No.08-79-05634.

Fiscal Impact: None, 100% EDA grant with no match. EDA Project No.08-79-05634. Enterprise Fund 306 - project # JU2307

Recommendation: Approval of fee proposal.

Speaker's Name Adrian Marrufo - Acting Director SW/W/WW

Documents:

[WELL EQUIPPING AND WATERLINE DESIGN FOR EDA GRANT.PDF](#)

D. Discussion/Action Topics

1. Request For Street, Parking Lot And Alleyway Closures For A Film Shoot To Be Held On Wednesday, February 22, 2023

Stalwart Productions, LLC, has submitted a request for the closure of 5th Street between Highway 66 and Coal Avenue, the alleyway between Highway 66 and Coal Avenue from 3rd Street to 5th Street and the parking lot west of the Rex Museum. The purpose of the closures is to film scenes for the TV series *Dark Winds*. The film shoot was to take place on January 20, 2023; however, it was postponed due to unforeseen circumstances.

Fiscal Impact: TBD

Recommendation: Stalwart Productions recommends approval of the street, parking lot and alleyway closures.

Speaker's Name John Lucas, Stalwart Productions, LLC

Documents:

[EVENT PERMIT - DARK WINDS FILM SHOOT.PDF](#)

2. Approval Of Employment Agreement With New City Attorney

The City has advertised, conducted interviews and reached an agreement with David R. Eason to be the new City Attorney. An employment agreement has been negotiated with Mr. Eason who will work for an annual salary of \$115,000 and shall be entitled to:

- 160 hours of annual vacation leave, which shall accrue at the rate of 6.15 hours per pay period in accordance with the City's Personnel Policies;
- A mobile phone allowance of \$35.00 per pay period;
- All retirement, insurance, and other benefits made available to other City employees, subject to the same rate or percentage of contribution between the City and employees.

The agreement is conditioned upon Mr. Eason being licensed to practice law in the State of New Mexico pursuant to the Rules Governing Admission to the Bar (Chapter 15, NMRA) and shall become effective on the date Mr. Eason is so licensed. Mr. Eason shall not be entitled to any compensation or other benefits prior to the date of issuance of the license.

The term of the agreement is for three years unless terminated earlier as provided by the agreement. If the City terminates the agreement on or before March 1, 2024, Mr. Eason shall be entitled to six months' severance pay. If the City terminates the agreement after March 1, 2024, Mr. Eason shall be entitled to three months' severance pay. If Mr. Eason resigns his position, he must give the City 90 days written notice of his intent to resign, unless a lesser period is agreed to by the City and Mr. Eason.

The employment provided for in the agreement shall be Mr. Eason's sole employment. The City acknowledges that Mr. Eason is required to complete work (two appeals) from his previous law practice in Colorado. Under the agreement, Mr. Eason will not be allowed to perform legal services on the Colorado appeals during regular business hours, nor in a manner that interferes with his duties to the City.

Fiscal Impact:	Annual salary of \$115,000 plus benefits.
Recommendation:	Approve Employment Agreement with David R. Eason as City Attorney
Speaker's Name	Alfred Abeita II

Documents:

[EMPLOYMENT AGREEMENT 2-8-23 - DAVID R EASON.PDF](#)

3. Approval To Execute National Opioid Litigation Retail Pharmacy Settlement Participation Agreements

The National Opioid Settlement came before the Council three times in 2022: January 11, March 22, and June 14. During those meetings the Council approved (1) participating in a national settlement involving claims asserted against Jansen Pharmaceuticals/Johnson & Johnson and three distributors, (2) the allocation amounts for the proposed settlement, and (3) the election to receive settlement proceeds independent of those to be paid to McKinley County.

Tonight, the Council is asked to approve settlements arising from a lawsuit filed by the State of New Mexico against four retail pharmacy chains: Albertsons, CVS Pharmacy, Kroger, and Walmart Pharmacy. The settlements with these four pharmacy chains will result in payments totaling \$274,000,000. From that amount, approximately \$82,800,000 will be paid to the outside law firms who were retained to file the lawsuits. In addition, the City will be required to reimburse the State for a portion of its attorneys' fees and costs incurred in directing the litigation. From the total amounts available to local governments, and based on an allocation percentage of 0.7722895935%, the City's share is anticipated to be \$643,251.58. Up to 15% of the City's share of the settlement proceeds may be withheld by the State for an "attorney fee backstop fund" for the outside counsel involved in suing the defendants on behalf of the State and local governments. That amount may ultimately be paid to the City at a later date if outside counsel are able to obtain full payment of their requested fees from other sources. The settling pharmacies have already funded the settlements, and the funds are being held in an account controlled by the New Mexico Attorney General's office. The funds (minus the backstop funds) are to be paid within thirty (30) days of the date of execution of the required Participation Agreements.

The City is not required to participate in the settlement. In the event it elects not to do so, its allocated share of the respective settlements will be returned to the settling defendants. Pursuant to the New Mexico Opioid Settlement Agreement previously approved by the Council, the use of the settlement funds is subject to specific remediation purposes.

To receive funds from the settlement, the City is required to execute a Participation Agreement for each settling defendant and return it to the Attorney General by March 1, 2023. By executing the Participation Agreement, Gallup will be releasing any and all claims it presently has against each of the participating pharmacies, including claims that may exist at this time but of which the City is not actually aware. The underlying lawsuit filed by the State against the four retail pharmacies will be dismissed. That portion of the lawsuit that involved claims against a fifth pharmacy, Walgreens, has concluded and the parties are awaiting a ruling by the assigned Judge.

Recommendation:

Approval to authorize the City Manager to execute the New Mexico Opioid Litigation / Retail Pharmacy Settlement Participation Agreements.

Fiscal Impact:	Potential future revenue to be determined.
Recommendation:	See recommendation in the summary.
Speaker's Name	Lynn Isaacson

Documents:

[ALBERTSONS NM OPIOID SETTLEMENT AGREEMENT.PDF](#)
[ALBERTSONS NM OPIOID SETTLEMENT LOCAL GOVERNMENT ALLOCATION.PDF](#)
[ALBERTSONS NM OPIOID SETTLEMENT SUBDIVISION PARTICIPATION AGREEMENT FORM.PDF](#)
[CVS NM OPIOID SETTLEMENT AGREEMENT.PDF](#)
[CVS NM OPIOID SETTLEMENT LOCAL GOVERNMENT ALLOCATION.PDF](#)
[CVS NM OPIOID SETTLEMENT SUBDIVISION PARTICIPATION AGREEMENT FORM.PDF](#)
[KROGER NM OPIOID SETTLEMENT AGREEMENT.PDF](#)
[KROGER NM OPIOID SETTLEMENT LOCAL GOVERNMENT ALLOCATION.PDF](#)
[KROGER NM OPIOID SETTLEMENT SUBDIVISION PARTICIPATION AGREEMENT FORM.PDF](#)
[WALMART NM OPIOID SETTLEMENT AGREEMENT.PDF](#)
[WALMART NM OPIOID SETTLEMENT LOCAL GOVERNMENT ALLOCATION.PDF](#)
[WALMART NM OPIOID SETTLEMENT SUBDIVISION PARTICIPATION AGREEMENT FORM.PDF](#)

E. Comments By Public On Non-Agenda Items

Members of the public are invited to comment on matters not appearing on the meeting agenda.

F. Comments By Mayor And City Councilors

G. Comments By City Manager And City Attorney

H. 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.