

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, JULY 25, 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

Jon DeYoung, Interim City Manager

David Eason, City Attorney

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 1-7 on the Consent Agenda by unanimous vote:

1. Approval Of Minutes

July 11, 2023 Regular Meeting

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

Documents:

[DRAFT MINUTES JULY 11 2023 REG MTG.PDF](#)

2. Request For Street Closure For A Private Block Party To Be Held On August 12, 2023 On Vanden Bosch Parkway

Jeanne Kamps is requesting the closure of Vanden Bosch Parkway from Canyon View Drive to the dead end on Vanden Bosch for a private anniversary party for her parents. The closure would take place on Saturday, August 12, 2023 from 5:00 p.m. to 9:00 p.m. and would affect 3 residences on Vanden Bosch Parkway. All 3 residences are affiliated with the Kamps family.

Fiscal Impact: None.
Recommendation: The Kamps family recommend approval of their request.
Speaker's Name Jeannie Kamps

Documents:

[EVENT PERMIT - KAMPS STREET CLOSURE REQUEST.PDF](#)

3. Resolution No. R2023-20; 4th Quarter FY 2023 Budget Adjustments And Report Of Actuals

Each quarter, the Finance department reviews any changes to the budget and submits these changes to council for approval. The following areas are reviewed: personnel, operations, capital outlay and transfers in and out of each fund. The Department of Finance and Administration (DFA) requires Council to pass a resolution for all budget increases, decreases, and transfers between funds.

DFA further requires approval of the report of actuals showing cumulative activity for the fiscal year. The report to DFA regarding budget revisions is due July 31, 2023.

We had two funds that ended the quarter with a negative cash balance. We are required to provide a temporary cash transfer to fully fund this:

Airport Improvement fund \$525,000

Legislative Appropriations fund \$5,150,000

Fiscal Impact: None
Recommendation: Approval of Resolution R2023-20, the budget adjustments, report of actuals and temporary cash loans
Speaker's Name Patty Holland

Documents:

[RESOLUTION_FOR_BUDGET_ADJUSTMENT TO APPROVE.PDF](#)
[BAR 2023 Q4 TO CERTIFY.PDF](#)
[BAR DETAIL 2023 Q4 TO CERFITY.PDF](#)
[BAR RECAP 2023 Q4 TO CERTIFY.PDF](#)
[REPORT RECAP 2023 Q4 TO CERTIFY.PDF](#)

4. **Lodger's Tax Grant Recommendation**

The Lodger's Tax Committee has approved an application for consideration by the City Council. The Tourism Office respectfully requests approval to fund the marketing plans for the September 2023 Friends of Hubbell Native American Arts Auction.

Friends of Hubbell Native American Arts Auction - Sept. 27-30 - \$5,600

This event is a live Native American arts auction which allows buyers and collectors the opportunity to purchase and collect items. The event organizer says approximately 400 items will be auctioned, including rugs, blankets, baskets, jewelry, and paintings. Proceeds from the event go toward supporting college scholarships. The event has an overall budget of \$115,000 with anticipated attendance of 200.

Fiscal Impact: There is sufficient funding for \$5,600 in the approved FY24 budget.
Recommendation: Respectfully request approval
Speaker's Name Matt Robinson - Tourism & Marketing Manager

Documents:

[FRIENDS OF HUBBELL 2023_MINUSW9.PDF](#)

5. **Approval Of Legislative Junior Bill Appropriations Grant – Community Health Services**

Staff received the following 2023 Legislative Grant Agreement from the New Mexico Department of Finance 23-ZH9245 \$75,000.00 to contract for community health services. Funds unexpended by June 30, 2024, will be reverted to the State of New Mexico's general fund.

Fiscal Impact: Project revenue and expenditure budget in the amount of \$75,000.00 in Fund 391.
Recommendation: Approve requested revenue and expenditure budget Fund 391.
Speaker's Name JM DeYoung, Interim City Manager

Documents:

[GALLUP 23-ZH9245.PDF](#)

6. **Approval Of Legislative Junior Bill Appropriations Grant – Industrial**

Workforce Programming

Staff received the following 2023 Legislative Grant Agreement from the New Mexico Department of Finance 23-ZH9246 \$100,000.00 for industrial workforce programming. Funds unexpended by June 30, 2024, will be reverted to the State of New Mexico's general fund.

Fiscal Impact: Project revenue and expenditure budget in the amount of \$100,000.00 in Fund 391.

Recommendation: Approve requested revenue and expenditure budget Fund 391.

Speaker's Name JM DeYoung, Interim City Manager

Documents:

[GALLUP 23-ZH9246.PDF](#)

7. Approval Of Legislative Junior Bill Appropriations Grant – Police Vehicles

Staff received the following 2023 Legislative Grant Agreement from the New Mexico Department of Finance 23-ZH9247 \$75,000.00 to purchase and equip a vehicle for the Gallup police. Funds unexpended by June 30, 2024, will be reverted to the State of New Mexico's general fund.

Fiscal Impact: Project revenue and expenditure budget in the amount of \$75,000.00 in Fund 391.

Recommendation: Approve requested revenue and expenditure budget Fund 391.

Speaker's Name JM DeYoung, Interim City Manager

Documents:

[GALLUP 23-ZH9247.PDF](#)

D. Discussion/Action Topics

1. Approval To Execute Additional New Mexico Opioid Settlements

The State of New Mexico has entered into settlement agreements with Walgreens and three generic manufacturers, Hikma Pharmaceuticals, Amneal Pharmaceuticals, and KVK-Tech, Inc. The Walgreens settlement amount is \$500,000,000. Payments to local subdivisions will be made over a 15-year period. The Hikma settlement involves a cash payment of \$500,000 and "settlement product" (i.e., Naxolone) worth \$1,200,000 over a three-year period. The Amneal settlement involves cash payments totaling \$725,000 over a two-year period, and \$1,600,000 of "settlement product" over a three-year period. Finally, the KVK-Tech settlement involves a combination of cash and "settlement products" in the amount of \$1,750,000, payable over a two-year period. The State of New Mexico will receive a percentage of each settlement, and the outside counsel involved in securing the settlement will be paid from the total settlement amount. Gallup and other local subdivisions will then be entitled to share in the remainder of the four settlements based upon the previously approved New Mexico Opioid Allocation Agreement.

The Council is requested to approve, and authorize Interim City Manager Jon DeYoung to execute, four Participation Agreements. These Participation Agreements must be returned to the New Mexico Attorney General's office on or before August 4, 2023.

The Attorney General has estimated that the City's share of the four settlements will be \$1,170,577.32. Again, these funds will be received over a 15-year period.

By executing the Participation Agreements, the City will be releasing all claims it has against Walgreens and the generic distributors, and will agree to cease all litigation against the settling parties.

As with the previous settlements, the use of the settlement funds is subject to specific remediation efforts (treatment, prevention, training, etc.), and the City will be required to account for all expenditures.

Recommendation:

Approval to authorize the Interim City Manager to execute the Walgreens, Hikma, Amneal and KVK-Tech Participation Settlement Agreements.

Fiscal Impact:	Potential future revenue to the City (currently estimated to be \$1,170,577.32). The City will receive its portion over a period of 15 years.
Recommendation:	See recommendation in the summary.
Speaker's Name	Lynn Isaacson - Contract Attorney

Documents:

[NEW MEXICO AMNEAL SETTLEMENT AGREEMENT.PDF](#)
[PARTICIPATION FORM_AMNEAL.PDF](#)
[NEW MEXICO HIKMA SETTLEMENT AGREEMENT.PDF](#)
[PARTICIPATION FORM_HIKMA.PDF](#)
[NEW MEXICO KVK TECH SETTLEMENT AGREEMENT.PDF](#)
[PARTICIPATION FORM_KVK TECH.PDF](#)
[NEW MEXICO WALGREENS SETTLEMENT AGREEMENT.PDF](#)
[PARTICIPATION FORM_WALGREENS.PDF](#)
[NM ESTIMATED SUBDIVISION PAYMENTS \(AMNEAL, KVK, HIKMA AND WALGREENS\) 20230622.PDF](#)

2. Coles Grey Effluent Agreement

The City and Coles Gray, LLC have negotiated an Effluent Option Agreement ("Agreement"), a copy of which is attached. The Agreement's effectiveness is contingent on Council's approval.

Coles Gray is negotiating for the purchase of approximately 300 acres of land from Gallup Land Partners (the "Property") in the area near the terminus of Carbon Coal Road and the Santa Fe Rail Loop (Section 3, Township 15 South, Range 19 West). Assuming the purchase occurs, Coles Gray or its successor (collectively, "Coles") intends to construct a steel recycling and manufacturing

complex ("Complex") at the site. To operate that complex, a supply of effluent water is required. The Agreement addresses the terms on which the City will supply the effluent at and from its Wastewater Treatment Plant ("Plant").

The Agreement must be reviewed and understood in light of all its terms and conditions. However, to summarize, the Agreement grants Coles an option to purchase a guaranteed amount of effluent up to 109,500,000 gallons (approximately 336 acre-feet) during each of the City's fiscal years (the "Guaranteed Amount") while the Agreement is in effect. Coles must exercise the option within three (3) years following the Agreement's Effective Date (July 25, 2023). In addition, Coles must complete the purchase of the Property within one (1) year of the Effective Date. If the purchase is not completed during that year, the City may terminate the Agreement. The City may also terminate the Agreement if Coles does not commence construction of the Complex within three (3) years of the Effective Date. The Agreement provides that Coles will pay for the effluent at the City's 2023 published rate (\$4.04/1,000 gallons) for 15 years following the Effective Date, at which point the price will be adjusted to that specified by the City's 2038 published rate. The 2038 price will remain in place for the balance of the Agreement's term, including any extension (a maximum of 30 years from the date the Option is exercised).

The Agreement requires that beginning in the fifth year following the Effective Date, Coles must either take or pay for one-third (33%) of the Agreement's Guaranteed Amount. If it fails to do so, the City may terminate the Agreement. In addition, at the beginning in the 5th fiscal year following the Effective Date, Coles must provide the City a "Yearly Call Amount" (a statement of the amount of effluent it will purchase in the coming fiscal year). If the Yearly Call Amount is less than the Guaranteed Amount, the City will be entitled to sell or use the surplus. If Coles wishes to purchase more than the yearly Guaranteed Amount, it will be afforded that opportunity, subject to the City's other commitments.

The Agreement contains other provisions, including that Coles will pay for the construction of, and operate, a new delivery system from the Plant to the Property, and will support annexation of the Property and contiguous or other properties deemed necessary by City to such annexation. It commits the parties to cooperated with one another as needed to effectuate its terms. The Agreement is freely assignable by Coles Gray to another person or entity.

Fiscal Impact:

If approved, the Agreement should have no immediate fiscal impact, as it does not obligate the City to pay for any expense associated with its performance. Assuming the Agreement is approved and proceeds without termination, the City will incur administrative and personnel expense related to the Agreement, but such amounts are difficult to project. If approved, the Agreement will yield an immediate, non-refundable payment of \$5,000 to the City, and if the option is exercised, and the Agreement is not terminated, the Agreement will yield income to the City in exchange for effluent.

Fiscal Impact: See above.

Recommendation: Staff requests that the Council review and consider the Agreement, and determine whether to approve

Speaker's Name David Eason, City Attorney

Documents:

[CG GALLUP EFFLUENT - PROPOSED FINAL.PDF](#)
[EXHIBIT A TO EFFLUENT OPTION AGREEMENT.PDF](#)

3. **Settlement Agreement Between The City Of Gallup And The United Mine Workers Of America**

As provided by the Collective Bargaining Agreement (CBA) between the City and UMWA, both parties reopened negotiations on the limited issue of wage rates.

Based on negotiations, the parties have reached a settlement as follows:

1. Effective the first day of the first full pay period after this agreement is approved by the City Council, each collective bargaining unit employee shall receive a 5% across the board pay increase.
2. Holidays: During the current fiscal year (July 1, 2023 through June 30, 2024) the City will implement 3 additional holidays to be observed by City employees including members of the UMWA bargaining unit. The dates of the holidays will be determined by the City.
3. The parties are allowed to reopen negotiations on the limited issue of wage rates in the month of March 2024 and 2025.

UMWA ratified the proposed Settlement Agreement on July 14, 2023.

Fiscal Impact: Funding for pay increases are included in the FY 2024 budget.

Recommendation: Approve the Settlement Agreement Between the City of Gallup and United Mine Workers of America.

Speaker's Name Alfred Abeita II, Acting HR Director

Documents:

[SETTLEMENT AGREEMENT W UMWA 07_14_2023.PDF](#)

4. **Resolution No. R2023-21; A Resolution Proposing An Amendment To The Gallup City Charter To Authorize The City Council To Adopt An "Opt-In" Ordinance Pursuant To Section 3.1 Of The Local Election Act**

The Resolution directs submission to the City's voters of a proposed amendment to Article VI of the City's Charter authorizing the Council to adopt an "opt-in" ordinance under Section 3.1(B) of the Local Elections Act. The submission will take the form of a ballot question put to the voters at the regular local election scheduled for November 7, 2023. If the Charter amendment is approved by the voters, and if the Council adopts the ordinance, the election of the City's Mayor, Council and Municipal Judge will be moved from the first Tuesday in March of even numbered years to the first Tuesday following the first Monday of November

in odd numbered years. The proposed Charter amendment is narrowly drafted to authorize only the adoption of an “opt-in” ordinance and such actions as are necessary to make the ordinance effective, and does not authorize or permit any other alteration to the Charter.

Fiscal Impact: The cost of placing the question on the ballot for the upcoming regular local election is expected to be minimal. Any expense will be accounted for and paid through the general fund.

Recommendation: Staff recommends adoption of the Resolution.

Speaker's Name David Eason, City Attorney

Documents:

[RESOLUTION NO R2023-21 - FINAL.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.