

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, AUGUST 24, 2021; 6:00 P.M. CITY COUNCIL CHAMBERS



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

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 regarding the proposed Ordinance on cannabis zoning regulations. Comment is also welcomed 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. Consent Agenda

These items are placed on the 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 1-6 on the Consent Agenda by unanimous

vote:

1. Approval Of Minutes

August 6, 2021 Joint Work Session with the McKinley County Board of Commissioners

August 10, 2021 Regular Meeting

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

Documents:

[DRAFT MINUTES JOINT WORK SESSION AUG 6 2021.PDF](#)
[DRAFT MINUTES AUG 10 2021 REG MTG.PDF](#)

2. Appointment Of Tracy Lassiter And Adrian Armijo To The Keep Gallup Clean & Beautiful Board

There are two vacancies on the Keep Gallup Clean & Beautiful (KGCB) Board. Tracy Lassiter and Adrian Armijo are proposed for appointment to the board.

Fiscal Impact: None.
Recommendation: Approve the appointments of Tracy Lassiter and Adrian Armijo to the KGCB Board.
Speaker's Name Mayor Louie Bonaguidi

Documents:

[APTS TO KGCB BOARD.PDF](#)

3. Fire Fund FY'22 Budget Adjustment

The Gallup Fire Department has received notice of Fiscal Year 2022, Fire Protection Fund Distribution. The fire department has been allotted \$594,972. This allotment has been pre-budgeted for FY' 22, Fire Dept. operations and approved capital projects.

In addition, the fire department request approval to budget unallocated cash from FY'21, Fund 209 in the amount of \$236,300, for FY' 22 Fire department operations budget.

Fiscal Impact: Decrease in Fire Fund FY' 22 Budget Revenue of \$5,028.
Increased expenditure of Fire Fund 209 of \$236,300
Recommendation: Staff recommends budget approval.
Speaker's Name Jesus "Chuy" Morales, Fire Chief

Documents:

[CITY OF GALLUP \(1\).PDF](#)

4. EMS Operations Funding

New Mexico Department of Health, EMS Medical Systems Bureau tentatively approved funding for Gallup Fire Department EMS operations \$12,032 on letter dated May 24, 2021.

Ultimately, GFD EMS Operations received a check for EMS funding and operations in the amount of \$15,942.20 on 8/18/2021.

Fiscal Impact: Result is increase of revenue and expenditures for the (206) EMS Operation fund.

Recommendation: Staff recommends budget approval.

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

Documents:

[2021_08_18_16_19_21.PDF](#)
[EMS FUND ACT PMT. - FY22.PDF](#)

5. Fiscal Year 2020-2021 Law Enforcement Protection Fund (LEPF) Carryover

The Gallup Police Department received \$66,000.00 in LEPF funding in fiscal year 2020-2021 and expended a majority on the state mandated body worn cameras for all certified police officers of the Gallup Police Department. A remaining balance of \$4,901.00 remains unexpended for the FY21 fiscal year.

The Gallup Police Department intends to expend this remaining funding on ammunition to meet state required firearms qualification and training. Therefore the Gallup Police Department Chief of Police is requesting approval of a budget adjustment increase of \$4,901 in fund 211 from the FY 2020 - 2021 LEPF carryover.

Fiscal Impact: Increase in expenditures of \$4,901 in fund 211.

Recommendation: Approval of budget adjustment increase of \$4,901 in FY 2021 LEPF carryover.

Speaker's Name Franklin Boyd - Chief of Police

6. Budget Adjustment For Lodgers Tax Event Grants

The Lodgers Tax Committee has requested a budget increase to the Grant Fund to support events throughout the rest of the year.

There are at least six events that may occur in the winter/spring/summer months that the committee would like to create funding opportunities for. Jennifer was tasked with creating an amount based on previous applications.

Fiscal Impact: Budget increase for grant fund in the amount of \$75,000 from fund balance

Recommendation: Approval of \$75,000 from fund balance

Speaker's Name Jennifer Lazarz

D. Discussion/Action Topics

1. **Ordinance No. S2021-6; Ordinance Concerning Zoning, Regulating Cannabis For Recreational Use By Amending Sections 10-2-B-D-I-C, 10-3-B, 10-3-C-C, 10-3-C-J, 10-3-C-K, 10-3-C-U, 10-3-C-V, 10-5-B-D-ii, And 10-6, Of The Land Development Standards Of The City Of Gallup And Declaring An Emergency**

The City of Gallup Planning and Development Department has initiated a request before the Gallup City Council for review of draft Ordinance No. S2021-6 which puts zoning regulations in place in order to regulate cannabis for recreational use.

The State of New Mexico Legislature is on the process of legalizing cannabis for recreational use as well as cultivation, sales and manufacturing. The State will start issuing licenses beginning September 2021. As part of this process the State of New Mexico has given municipalities within the state the authority to adopt zoning regulations to regulate cannabis use. As it is not mandatory the State strongly recommends that all municipalities adopt zoning regulations for this use. As a result the City of Gallup has retained Bohannon Huston and Decker Parish Sabatini to create draft regulations pertaining to cannabis related uses, such as but not limited to allowable uses, allowable locations within certain zone districts, hours of operation, distance separations, etc.

Included within your agenda packets is draft Ordinance No. S2021-6 for your review. This ordinance contains the sections of the Land Development Standards being amended or created to regulate recreational cannabis use, sales and cultivation within the City of Gallup. This draft ordinance was presented to the Gallup Planning and Zoning Commission at their regular meeting held August 11, 2021. The Commission went through the draft ordinance in great detail and as a result has forwarded their recommended changes to the ordinance for City Council to consider. Also included in your packet is Resolution of Recommendation No. RP2021-6 which contains the Planning and Zoning Commission's recommendations for changes to draft Ordinance No. S2021-6.

Fiscal Impact:	None
Recommendation:	Staff recommends review and approval of Ordinance No. S2021-6 with any changes Council desires.
Speaker's Name	C.B. Strain

Documents:

[CANNABIS ZONING REGULATIONS ORDINANCE NO S2021-6.PDF](#)
[RP2021-6 \(1\) SIGNED RESOLUTION OF RECOMMENDATION \(CANNABIS\).PDF](#)
[CANNABIS REVISIONS MEETING 08-24-2021 REVISED.PDF](#)

2. **Request For Street Closure For Leadership McKinley And Gallup McKinley County Chamber Of Commerce Business Expo**

Leadership McKinley and the Gallup McKinley County Chamber of Commerce will have a combined Business Expo on Saturday, September 18, 2021 from 10:00 a.m. to 2:00 p.m. Tommy Haws, Event Chairman for Leadership McKinley, will present the request for the closure of Aztec Avenue from Second Street to Third Street for the event.

Fiscal Impact: TBD - City staff to provide support services.
Recommendation: Leadership McKinley and the Gallup McKinley County Chamber of Commerce recommend approval.
Speaker's Name Tommy Haws

Documents:

[BUSINESS EXPO EVENT PERMIT.PDF](#)

3. Request For Street Closures For The 2021-2022 Arts Crawl Events

Rhonda Quintana, Arts Crawl Coordinator, will present the request for street closures for the 2021-2022 Arts Crawl events.

Fiscal Impact: TBD - City staff to provide support services for the monthly event.
Recommendation: Business Improvement District is recommending approval of the request.
Speaker's Name Rhonda Quintana

Documents:

[STREET CLOSURE REQUEST ARTS CRAWL.PDF](#)
[2021-2022 ARTS CRAWL EVENT PERMIT.PDF](#)

4. Request For Street Closures For Miyamura High School Homecoming Parade To Be Held On Friday, September 10, 2021

The Patriot Booster Club at Miyamura High School (MHS) is requesting approval of the closure of Aztec Avenue from 8th Street to 1st Street for the 2021 MHS Homecoming Parade. The proposed street closure is set in accordance with the standardized parade route established by the City Council. The parade is scheduled to begin at 4:00 p.m.

Fiscal Impact: TBD - City staff to provide support services for the event.
Recommendation: Patriot Booster Club recommends approval of the street closures.
Speaker's Name Melinda Alderete, Patriot Booster President

Documents:

[EVENT PERMIT MHS HOMECOMING PARADE 2021.PDF](#)

5. Ordinance No. C2021-5; Small Cell Wireless Ordinance

Small cell wireless transmitters are low power, short range transmission systems designed to cover a much smaller geographic area than traditional cell towers, but they fill in gaps in coverage and add capacity to existing cell tower networks without building additional large cell towers. Small cell wireless transmitters will be used to support 5G (5th Generation) cell phone technology. They will use higher frequencies than 3G,4G, and LTE transmitters and will be able to transmit data at much higher speeds than those technologies. 5G will supplement, not replace existing cell phone technologies and will allow much wider use of mobile internet devices.

In advance of the deployment of 5G, the industry began lobbying at the state and Federal level to impose laws and regulations that limit the ability of local governments to regulate small cell transmitters through zoning and other types of regulation. The industry also lobbied for laws and regulations requiring governmental entities with utility poles within their right of ways to allow small cell transmitters to be placed on existing utility poles, traffic signal poles, and light poles.

New Mexico adopted such a law in 2018 known as the Wireless Consumer Advanced Infrastructure Investment Act. That law mandates time limits or “shot clocks” that cities and counties must follow in reviewing applications to install small wireless transmitters and limits the application fees that may be charged by local governments, and the rates that local governments may charge for the continued use of right of ways in which small cell transmitters are located.

In October of 2018 the Federal Communications Commission adopted FCC Order 18-133 which became effective January 14, 2019. Like the NM statute, it has “shot clocks” that local governments must meet in reviewing applications to install small wireless technology. They are generally shorter than those contained in the NM statute, however they do not have a “deemed approved” provision meaning that the application is not “deemed approved” if the local government does not act within the prescribed time period. The shot clocks in the NM law do have a deemed approved provision.

The FCC Order limits application fees and annual rates for use of right of ways. It also requires local governments to allow the use of its right of ways and poles for the placement of small cell wireless transmitters.

The FCC Order, the NM law, and this ordinance address two categories of applications for installation of small cell wireless transmitters. First are transmitters which are proposed to be installed on “an existing utility pole or on an existing tower or other wireless support structure.” For these, the FCC Order imposes a 60 day shot clock and the NM law imposes a 90 day shot clock. Second, are applications for installation of small cell wireless transmitter on “on a new or replacement pole.” The FCC shot clock is 90 days and the NM law shot clock is 150 days. The ordinance also adds installations on “a building or structure other than an existing utility pole or tower.” The ordinance addresses the differences in the Federal and state shot clocks by stating that the City must act on an application within the applicable FCC imposed shot clock. If the City does not act within that shot clock, the applicant’s remedy would be to ask for a court injunction. However, if the City does not act within the NM law imposed shot clock, the application is deemed approved.

This ordinance also address a third category of applications that are not covered by the FCC Order or the New Mexico law, but which are covered by an existing Federal law, the Spectrum Act of 2012. These are “eligible facilities requests.” An eligible facilities request is an application “for modification of an existing tower or base station involving the collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment; that does not substantially change the physical dimensions of such tower or base station.” The Spectrum Act imposes a 60 day shot clock on these applications so that is the shot clock contained in the ordinance.

The ordinance sets the following application fees:

- Eligible Facilities Request application fee is \$100 for each Eligible Facilities Request.
- Small Cell Wireless installation application fee is \$100 for each of up to five (5) small wireless facilities and \$50 for each additional small wireless facility whose collocation is requested in a single application.
- The application fee for installation of a new or replacement utility pole located in a right-of-way is \$500.

Fiscal Impact: None
 Recommendation: Adoption of the proposed ordinance
 Speaker's Name Curtis Hayes

Documents:

- [GALLUP SMALL WIRELESS FACILITIES ORDINANCE FINAL DRAFT 6-20-21.PDF](#)
- [60-DAY FLOW CHART.PDF](#)
- [90-DAY FLOW CHART.PDF](#)
- [EFR FLOW CHART.PDF](#)

6. Lodgers Tax Event Grant Awards Round 2

The Lodgers Tax Committee met on August 17th to review two applications:

- Turquoise Roping (August 28-29) \$3,500
- 40th Annual Red Rock Balloon Rally (December 3-5, 2021) \$35,000

The committee recommended funding in full of the two events, as well as requested Jennifer Lazarz submit a budget adjustment to support the grant fund for events through the remainder of the year.

Fiscal Impact: \$22,500 of remaining grant funds plus an additional \$16,000 added budget pending approval of separate budget adjustment
 Recommendation: Approval of \$38,500 in grants funds for lodgers tax events
 Speaker's Name Jennifer Lazarz

Documents:

- [TURQUOISEROPING.PDF](#)
- [RED ROCK BALLOON RALLY.PDF](#)

7. Final Multi-Color Logo Approval Of Visit Gallup Logo

Bandwagon LLC submitted three multi-color logo options from the design by its subcontractor Victor Pascual of Digital Navajo (www.digitalnavajo.com) for the Visit Gallup logo, as well as a secondary logo palate for use with the logo.

The three primary logo options include the colors turquoise, yellow, and red in three different combinations.

Fiscal Impact: None
Recommendation: Approval of a primary logo selection for Visit Gallup
Speaker's Name Jennifer Lazarz

Documents:

[GALLUP-FINAL_COLOR-OPTIONS.PDF](#)

8. City Of Gallup Senior Program Budget Approvals

1. The Senior Program has received **\$161,853.00 in an American Rescue Plan Federal Sub-Award, and \$356,254.00 of the Non-Metro Agency on Aging (NMAAA) Federal and State Award**, to provide services until June 30, 2022 based on the assessed need of the community and individuals receiving services in accordance with the Older Americans Act of 1965 (OAA). The services provided shall promote the development of a comprehensive and coordinated service delivery system to meet the needs of older individuals (age 60 and older). The program has also received **\$45,646.00 of the Nutrition Supplemental Incentive Program (NSIP)**, to purchase United States agriculture commodities and other foods produced in the United States for the use in program feeding operations (No imported foods can be purchased with these funds.)

A. Contract No. 2021-22-60013 - \$56,329.00 from ARP-Title III of the OAA (Transportation); \$61,870.00 from ARP Title III-CI of the OAA (Congregate); \$43,654.00 from the Title III-C2 of the OAA (Home-Delivered)

B. Contract No. 2021-22-60013 - \$38,380.00 from Title IIIB of the OAA (Transportation); \$90974.00 from Title III-C-1 of the OAA (Congregate); \$22,461.00 of Title III-C2 of the OAA (Home-Delivered); \$182,323 from NMGAA-State/HB-2; \$16,379.00 from Supplemental III-C2 of the OAA; \$5,737.00 from the NMGAA State Non-Recurring; *\$95,523.00.00 City Cash Match Total for FY 21-22*

C. Contract No. 60013 - \$45,646.00 from Nutrition Supplemental Incentive Program (NSIP)

Fiscal Impact: The Title III Federal/State Award, ARP Sub-Award, and NSIP Award reflects city budget as approved by the City Council for FY 21-22. Total approved FY 21-22 budget amount \$686,276.00.

Recommendation: Accept the NMAAA Title III, the ARP federal award and NSIP award as presented.

Speaker's Name Kimberly Ross-Toledo

Documents:

[GALLUP FY22 SUBRECIPIENT CONTRACT AWARD.PDF](#)
[AMERICAN RESCUE PLAN SUB-AWARD_FY 2021-2022.PDF](#)
[CITY OF GALLUP TITLE III CONTRACT.PDF](#)
[NSIP CONTRACT_FY 2021-2022.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.