

**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, May 23, 2023.**

**The meeting was called to order by Mayor Bonaguidi. Upon roll call, the following were present:**

<b>Mayor:</b>	<b>Louie Bonaguidi</b>
<b>Councilors:</b>	<b>Michael Schaaf Fran Palochak Sarah Piano</b>
<b>Absent:</b>	<b>Linda Garcia, Councilor</b>
<b>Also present:</b>	<b>Maryann Ustick, City Manager David Eason, City Attorney</b>

**Mayor Bonaguidi said the legislative updates by Senator George Munoz and AJ Forte from the New Mexico Municipal League have been postpone to a later date.**

**Chief Erin Toadlena-Pablo, Gallup Police Department, provided information regarding rehabilitation fraud occurring in and around the City and a viral video depicting two African American males luring a Native American elder into a vehicle with the promise of rehabilitation. She presented Carl Benally, who recorded the video and Leo Mann who spoke to the elder in the Navajo language, with a certificate of appreciation from the Gallup Police Department for their intervention and benevolence in this matter.**

**Presented to the Mayor and Councilors were the following Consent Agenda Items:**

- 1. Request for Street Closures for the Annual Memorial Day and Veterans Day Parades**
- 2. Request for the Closure of Churchrock Street for the Chris Johnson Memorial Parade to be Held on Wednesday, May 24, 2023**
- 3. Capital Projects Budget Transfers for Dash Camera Installation**
- 4. Approval to Adjust Pay Out for the Police Department**
- 5. Budget Adjustment for Project JU1903 Alleyway Electric Conversion**
- 6. Approval of Resolution No. R2023-11 to Allow for Applications to the NMDOT Transportation Project Fund for Phase IV of the Nizhoni Boulevard Reconstruction Project**

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- 7. Approval of Budget Adjustment of the Playground of Dreams Funding**
- 8. Lodger's Tax Grant Recommendation**
- 9. Budget Adjustment Request for Lodger's Tax Grant Program**

**Councilor Piano requested items 5 and 6 removed from the Consent Agenda for additional discussion.**

**Councilor Schaaf made a motion to approve Items 1 through 4 and Items 7 through 9 of the Consent Agenda. Seconded by Councilor Palochak. Roll call: Councilors Schaaf, Palochak, Piano and Mayor Bonaguidi all voted yes.**

- 5. Budget Adjustment for Project JU1903 Alleyway Electric Conversion – Chuck Nourse, Electric Director**

**Brief discussion followed regarding businesses potentially affected by the conversion.**

**Councilor Schaaf made a motion to approve the budget adjustment. Seconded by Councilor Piano. Roll call: Councilors Schaaf, Piano, Palochak and Mayor Bonaguidi all voted yes.**

- 6. Approval of Resolution No. R2023-11 to Allow for Applications to the NMDOT Transportation Project Fund for Phase IV of the Nizhoni Boulevard Reconstruction Project – Clyde (C.B.) Strain, Planning and Zoning Development Director**

**Mr. Strain provided details regarding construction and project time of Phase 2 and 3, explained approval of the proposed resolution is for Phase 4 consisting of the 2<sup>nd</sup> Street and Nizhoni intersection, a NMDOT right-of-way. He said the City is applying for funding to complete the project and highlighted the urgency of the TPF application submission.**

**Discussion followed regarding the project's completion; which is not contingent on the receipt of funding, funding availability for the corridor, exclusion of any roundabouts in the design and the purpose of executing the project in phases.**

**Councilor Piano made a motion to approve Resolution No. R2023-11. Seconded by Councilor Schaaf. Roll call: Councilors Piano, Schaaf, Palochak and Bonaguidi all voted yes.**

**Presented to Mayor and Councilors were the following Discussion Only Items:**

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### **1. Gallup Express Services and Funding – Tommy Mims Gallup, Express Director**

**Mr. Mims presented details regarding the Gallup Express, a non-profit public transit system, partially funded by the federal government. He explained the local match, partially funded by the City, as the biggest challenge, highlighted operations as the greatest expense and provided detailed comparisons of the past 7 years with regard to annual wages, fuel costs, riderships and the total local and federal annual budget. Mr. Mims requested a local match of \$147,000 and his intentions to contact the McKinley County and the Navajo Nation for additional funding**

**Discussion followed regarding the total required match for 2024 of \$289,000, the requested amount of \$180,000, current contribution from the County, ridership origination, transit routes and times, the importance of the transit service, cost of service, application and match deadline and employee pay rates.**

### **2. Proposal to Opt-In to the Regular Local Elections Held in November of Odd Numbered Years – Alfred Abeita II, City Clerk and David Eason, City Attorney**

**Mr. Abeita said he originally planned to present a proposal to opt-in to the Regular Local Elections in November of odd numbered years, however Mr. Eason analyzed the proposal and raised concerns with implementing it under the current provisions of the City Charter. Mr. Abeita explained the Local Election Act enacted by the State in 2018 and explained the election process prior to this. Upon the State's enactment of the Local Election Act, two options were created for municipalities, including the Regular Local Election conducted on the first Tuesday, after the first Monday in November of odd numbered years, includes municipalities and other local entities, is a non-partisan conducted by the County Clerk and paid for by the State. The second option is the Municipal Officer Election conducted on the first Tuesday in March of even numbered years, is a non-partisan election conducted by the City Clerk and is paid for by the City. He said the City did not opt-in and held their position by adopting Resolution R2019-7, provided information regarding the number of cities that have opted in, the processes to do so, effects on the terms of Mayor, Councilors and the Municipal Judge and run-off elections as provided by the City Charter. Mr. Abeita said opting-in would save approximately \$43,000 and would potentially increase voter turnout.**

**Mr. Eason explained the options presented exist in the state statute and is in contrast to the City's Charter. He provided his legal interpretation of the City's Charter, the state statute and if or when one overrules the other. He said the Charter is clear and concluded any changes to the Local Election could only be done by amending the City's Charter and advised further discussion with the Secretary of State's office regarding the matter.**

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A lengthy discussion followed regarding conversations Councilor Piano had with Mr. Forte and Senator Daniel Ivey Soto, who wrote the bill, regarding clarification of the Election Code with regard to home-rule municipalities, concerns with state statute interpretations, other home rule cities that have opted-in, differences between the Election Code and the Local Election Act, mechanical issues and deadlines, potential referendum, City staff's election control, concerns with shortened terms and explanation of the referendum process.

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

1. Ordinance No. S2023-5, Mr. Rick Murphy, Proposed Text Amendment, Amending Certain Text Regulating Proximity Distance Requirements for Cannabis Land Uses and Prohibited Uses within the Downtown Overlay District – Clyde (C.B.) Strain, Planning and Development Director

Mr. Strain presented the proposed Ordinance on behalf of Rick Murphy to amend the City of Gallup Land Development Standards allowing certain protected land uses within the minimum required separation distance provided there is adequate barrier separating the protected land uses and the cannabis land uses. He said Mr. Murphy is also requesting to amend the code to allow certain prohibited uses within the Downtown Overlay District that lie within an underlying Industrial Base Zone District. Mr. Strain provided current regulations within the Gallup Land Development Standards prohibiting Mr. Murphy from operating a cannabis cultivation business at 101 North Third Street due to the distance from Iglesia Hispana Pentecostal El Pueblo De Dios Church located within 300' at 403 W Historic Highway 66 and provided proposed language in reference to a waiver that would relinquish proximity distance requirements granted by the Planning and Zoning Commission, if an adequate barrier exists, in addition to language that would allow Cannabis Cultivation and Manufacturing as well as Heavy Manufacturing and Special Manufacturing at the location; thus staying consistent with what is allowed within the underlying Industrial Zone District. Mr. Strain explained the occupied uses according to a provision in the Downtown Overlay District that require a minimum of 50% of the total ground floor area of buildings but with consideration that the underlying base zone district is Industrial and primarily caters to industrial uses requested the 50% requirement reduced to 30%, however remain the same in areas that do not lie in an Industrial Base Zone. He said another provision related to Cannabis Cultivation and Cannabis-related Manufacturing uses references street facing property lines, privacy wall setback and landscaping and explained the intent was to provide screening between outdoor Cannabis Cultivation and Manufacturing facilities with adjacent properties, however the Planning and Zoning Commission and City Council prohibited outdoor Cannabis Cultivation and Manufacturing, therefore requested removal of the language from the regulations. Mr. Strain said the Planning and Zoning

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Commission reviewed the request at their meeting on May 10, 2023 and provided a positive recommendation with Resolution Recommendation No. RP2023-4.

Discussion followed regarding clarification on underlying Industrial Zone District permitted uses with regard to Cannabis, importance of amending the code strategically and with the intention of benefiting the City, specific areas of the Downtown Overlay District effected by the recommendation to reduce the total ground floor area, reasons for the Downtown Overlay North of the railroad tracks and the intent to prevent vacant buildings.

Dennis Gallegos, Paster of the Joshua Generation Church for Jesus, addressed the Mayor and Councilors regarding City staff's attempts to contact the Pastor of El Pueblo De Dios Church.

Councilor Palochak made a motion to approve Ordinance No. S2023-5. Seconded by Councilor Schaaf. Roll call: Councilors Palochak, Schaaf, Piano and Mayor Bonaguidi all voted yes.

Presented to the Mayor and Councilors was the following Presentation and Information Item:

### 1. Presentation on the 2023 Drought Conditions – Jon Pairett, Fire Marshal

Fire Marshal Pairett presented a PowerPoint presentation providing previous and current drought conditions depicting the City of Gallup is not in any type of drought, explained the specific timeframe necessary to proclaim a drought for the purpose of banning fireworks, U.S. seasonal drought outlook, fire behavior over the next couple of months, fireworks not permissible according to the Fireworks Safety Act and how the Fire Department regulates the sale of restricted fireworks.

Brief discussion followed regarding previously banned fireworks due to consistent droughts.

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

William Newton, owner of Wacky Waffles Food Truck expressed concerns with regard to language in the current Vendor Code including the hours of operation while on private property, four-hour restriction, limited number of vendors per lot, clear distinction of a Food Truck and Vendor and overall clarity in the verbiage with consideration of growth within the food truck industry. Councilor Piano suggested a Work Session to discuss a possible food truck policy.

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Mayor Bonaguidi announced guidelines for public testimony regarding a proposed ordinance making Gallup a “Sanctuary city for the unborn,” presented by Mark Lee Dixon and Pablo Martinez and allowed 11 citizens in favor of the ordinance to comment and 11 citizens opposed to the ordinance to provide comment. He also allowed for citizens who called in to provide comment. The ordinance was not on the agenda for action by the Mayor and Councilors.

Citizens in favor of the proposed ordinance addressed the Mayor and Councilors citing personal and religious beliefs, concern regarding an influx of people coming to Gallup for the purpose of obtaining an abortion, referenced House Bill 7, mentioned additional cities in support of the initiative, compliance with federal law, unsafe and unregulated abortions, physical and mental health concerns and the preservation of life. Those speaking in favor of the ordinance included:

Pablo Martínez, Resident and Ordinance Presenter  
Amanda Brieno, Resident  
Dennis Gallegos, Joshua Generation of Jesus Pastor  
Nicole Walker, Resident  
Mark Lee Dixon, Rights of Life Director and Founder of the Sanctuary City Initiative  
Mike Seibel, Abortion on Trial Senior Council  
Fred Long, All Nations Assembly of God Pastor  
Dennis O’Keefe, Resident  
Ella Wilson, Resident  
Jill O’Keefe, Resident  
Eileen D’Orazio, Resident

Citizens in opposition to the ordinance stated the importance of the absence of politics in terms of reproductive healthcare, consequences of anti-abortion laws, acknowledged the Council’s support of quality and accessible healthcare, honoring a person’s choice and the hardships created when not provided a choice, generational trauma, importance of bodily and patient autonomy, studies demonstrating abortions are safe, lack of scientific data to provide when life begins, the importance of a protected space between a doctor and patient, prioritization of the protection of women and children, the separation of church and state and consideration of all people this ordinance would affect, the current economy, the current poverty levels, those without health insurance and the risks of legislating abortions. Those speaking against the ordinance included:

Dr. Connie Liu, local physician and OB-GYN  
Christina James, Resident  
Deidra Thomason, Healthcare Worker  
Candice Bekis, Resident

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Dr. Hannah Palm, physician and OB-GYN  
Loxitawny Campbell, Local Student  
Emily Ellison, Battered Families Executive Director  
Lea Chaudrey, Student  
Gwen Wilson, Retired Healthcare Provider  
Dr. Erin Lorencz, local physician and OB-GYN  
Dr. Daniel Mays, local physician (Caller #1)  
Nicole Torrez, Resident (Caller #2)  
Nicole Martin, Resident (Caller #3)

### **Comments by the Mayor and City Council**

Mayor Bonaguidi noted the eventful past few weeks including economic development and many exciting things occurring in Gallup, mentioned a press conference regarding a form of human trafficking in and around the city targeting Native Americans and a conversation with the FBI who praised the Gallup Police Department for their work. He also provided information regarding the success of Run for the Wall, the enthusiasm the community showed at the event. He provided information regarding a meeting with the New Mexico Department of Transportation and announced a ribbon cutting ceremony at Western New Mexico University.

Councilor Palochak invited Ben Welch, Community Service Coordinator to provide Memorial Day event details, announced information regarding the 2023 Fallen Officers Memorial Run on Friday, June 9th at 9:00 a.m. and recognized fallen officers including Officer Louis Silva, Sergeant Barney Montoya, Officer Larry Brian Mitchel, Officer Ronald T. Baca, Chief of Detectives John B. Arvizo and Officer Richard Madrid.

Mr. Welch provided a detailed agenda for Monday, May 29th starting at 10:00 a.m. at Hillcrest Cemetery, followed by the parade and then to the Court House Plaza for the ceremony and encouraged everyone to attend. He also recognized the Mayor, Councilor Schaaf and staff for their support of the Run for the Wall event.

Councilor Schaaf thanked all the Run for the Wall participants and expressed appreciation for his involvement in the event. He mentioned his participation in the Gallup McKinley County Schools Social Studies Fair and Gallup McKinley County Schools Career Pathway made possible by Mike Hyatt, GMCS Superintendent and announced graduation dates. Councilor Schaaf said the city-wide cleanup of the east side will take place on June 3<sup>rd</sup>. He congratulated Doug Decker as the new District Court Judge and thanked all City employees for all they do.

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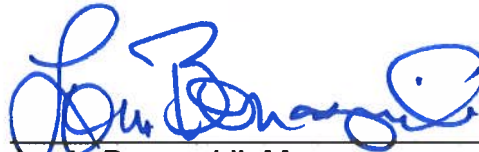
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Councilor Piano thanked everyone in attendance and encouraged everyone to attend future City Council meetings. She said she attended the Project Search Graduation and recognized the extraordinary program as well her attendance at the Cinderella Play recently held by local citizens and the grand opening of Happy Paws where customers can self-wash their dogs.

**Comments by the City Manager and City Attorney**

Ms. Ustick said she is glad there is no drought but is still working on the fireworks for a potential 4th of July celebration. She will provide updates when available.

There being no further business, Councilor Schaaf made a motion to adjourn the meeting. Seconded by Councilor Palochak. Roll call: Councilors Schaaf, Palochak, Piano and Mayor Bonaguidi all voted yes.



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Louie Bonaguidi, Mayor

ATTEST:



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Alicia Palacios, Deputy City Clerk

