

Regular Meeting-October 21, 2008

The Board of Trustees of the Village of Tularosa met in a Regular Meeting on Tuesday, October 21, 2008. The meeting was held in the Court/Conference Room of the Public Safety Facility located at 609 St. Francis Drive, Tularosa, New Mexico.

**Present:** Mayor Ray S. Cordova, Trustee Fred Tyler, Trustee Patrick Garcia, Trustee Thomas McKean, Trustee Gloria Sainz, Village Attorney Jefferson Rhodes as well as Village Clerk Dianna Brusuelas.

Mayor Cordova asked that all rise and join in the Pledge of Allegiance and called the meeting to order.

### **Item 1. Consideration of Agenda and Consent Agenda**

Trustee Thomas McKean moved to consider the Agenda with changes as follows: deleting Item 15 and Item 16 and the changes made to the minutes of September 16, 2008 clarifying Item 8A listing the local matching funds separately. Motion was seconded by Trustee Patrick Garcia.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting aye.

Items on the consent agenda included the minutes of September 15, 2008 Workshop, minutes of September 16, 2008 Regular Meeting, minutes of September 23, 2008 Special Meeting, minutes of September 30, 2008 Workshop, minutes of September 30, 2008 Special Meeting, village bills, September business registrations and site and sign permits and the announcement of the next regular meeting for November 18, 2008.

### **Item 2. Unscheduled correspondence and Public Comments**

Anthony Tafoya presented evidence against the villages solid waste collection and stated that he is willing to be a witness if the situation comes to litigation. Mr. Tafoya also requested for the village to grade W. 9th Street where his daughter lives. Mayor Cordova asked Mr. Tafoya to have his daughter come into the office and ask Sallie to submit a t a work order.

Village Clerk Dianna Brusuelas extended an invitation to the Mayor and Board of Trustees to meet the members of the Tularosa Rotary Club on Thursday, October 30, 2008 from 6 pm to 8 pm at Casa de Suenos.

Trustee Thomas McKean reminded everyone about the "Fall Clean-Up" from November 1 thru 16th.

Trustee Thomas McKean also asked if the park could be closed at the Veterans Park because they are going to pour cement.

Trustee Thomas McKean invited everyone to the Veteran's Day Celebration at 10:00 A.M. on November 11, 2008 at the Veteran's Park.

**Item 3. Approval of Adoption of Resolution 2008-09-05 entering into an Agreement with the NM Environment Department (08-1269-GF) Federal Clean Water Regulation Implementation for \$22,500.00 and authorizing Mayor Ray S. Cordova & Village Clerk Dianna Brusuelas as signatory authorities and Richard Gutierrez as Grantee Representative**

Page 2-Regular Meeting 10/21/2008

Motion was made by Trustee Patrick Garcia and seconded by Trustee Gloria Sainz to adopt Resolution 2008-09-05 entering into an agreement with the NM Environment Department.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 4. Approval of Adoption of Resolution 2008-09-08 Budget Increases for Older American Program & Capital Projects**

Trustee Thomas McKean moved to approve the Adoption of Resolution 2008-09-08 and was seconded by Trustee Fred Tyler.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 5. Approval of Adoption of Resolution 2008-09-09 Budget Increases for Keep Tularosa Beautiful & Tularosa Library**

Trustee Thomas McKean moved to approve the Adoption of Resolution 2008-09-09 Budget increases for Keep Tularosa Beautiful & Tularosa Library. Motion was seconded by Trustee Gloria Sainz.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 6. Approval of Adoption of Resolution 2008-09-10 Supporting the effort of R. D. Hubbard & the Ruidoso Downs Race Track & Casino to achieve equal statutory treatment for the Ruidoso Downs Race Track & Casino**

Trustee Fred Tyler moved to approve the Adoption of Resolution 2008-09-10 and was seconded by Trustee Gloria Sainz.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 7. Approval of Adoption of Resolution 2008-09-11 supporting the Keep Tularosa Beautiful organization in Tularosa, NM and establishing a Keep Tularosa Beautiful Advisory Council**

After a lengthy presentation by Susan Flores the Board of Trustees questions arose about the agreement being attached to the Resolution and the reference to item VI "supplying additional funds for Advisory Council activities involving travel or training for the Executive Director". It was noted that the \$2,500.00 match was not budgeted. Mayor Cordova praised the efforts of Ms. Flores but was puzzled as to why the \$2,500.00 was not budgeted. Village Clerk Dianna Brusuelas stated that at previous meetings it was stated that the village would only have to pay a \$1,000.00 certification fee. Ms. Flores said she would be willing to pay for her travel and be reimbursed by the village at a later date. A member of the audience, Chris Jones was curious as to why the training and certification and travel are necessary. Mr. Jones felt that he has picked up a lot of trash without receiving certification nor training. Ms. Flores stated that by being an affiliate you receive trash bags, litter tools and funding, with the funding you can get more supplies.

Page 3-Regular Meeting 10/21/2008

Trustee Thomas McKean moved to postpone until the next Regular Meeting, one to review the Resolution and two to review the Agreement of Support and have the lawyer review the agreement and check the budget.

Ms. Flores stated that she had to have her packet in by November 1st.

Trustee Thomas McKean then amended his motion to have a Special Meeting to address the issue. Trustee Fred Tyler seconded the motion.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 8. Consideration of Adoption of Ordinance 230 amending Section 31.01 of the Tularosa Municipal Code setting the salary of the Municipal Judge & enacting a new Section 30.02 setting salaries for the Mayor and Trustees**

Trustee Patrick Garcia moved to approve and was seconded by both Trustees Tyler and Sainz.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, nay. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with Three members of the Board voting in the affirmative and one voting nay.

Trustee Patrick Garcia moved to publish the ordinance by Title & General Subject Matter. Motion was seconded by Trustee Gloria Sainz.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, nay. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with three members of the Board voting in the aye and one member voting nay.

**Item 9. Dianna Brusuelas-Requesting the following days off: November 28, 2008 (day after Thanksgiving); December 26, 2008 (day after Christmas) & January 2, 2009 (day after New Years)**

Trustee Patrick Garcia moved to allow staff to have November 28, 2008, December 26, 2008 and January 2, 2009 as days off. Motion was seconded by Trustee Fred Tyler.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, nay. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with three members of the Board voting in the affirmative and one member of the Board voting nay.

**Item 10. Bryce Anderson-Presentation of the State of New Mexico Deferred Compensation Plan and to adopt the State of New Mexico Deferred Comp Plan**

After Mr. Bryce Anderson gave his presentation on the Deferred Comp Plan Trustee Thomas McKean moved to approve allowing the Village employees to participate in the Deferred Comp Plan. Motion was seconded by Trustee Patrick Garcia.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 11. Information: Susan Flores travel expense of \$1,091.75 in July was reimbursed \$350.28 on August 5, 2008**

Page 4-Regular Meeting 10/21/2008

**Item 12. Chief Virgil Mayberry-Approval of hiring Matthew Mirabal as a Probationary Employee at \$8.00 per hour as PT Dispatcher effective 9/25/2008**

Trustee Thomas McKean moved to approve the hiring of Matthew Mirabal and was seconded by Trustee Fred Tyler.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 13. Eric-Split property within three miles of village limits (Sun Valley)**

With Mr. Eric not present no action was taken on Item 13.

**Item 14. Pam Clarke-Otero Habitat for Humanity-Approval of Site Plans for two (2) Single Family Homes in Blk 28, Lots 11 & 12 Monterrey Addition**

Ms. Pam Clarke representing Otero Habitat for Humanities asked for approval of the site plans for the two homes they anticipate to build starting right after the first of the year. Ms. Clarke stated that she went before the Planning & Zoning twice but there was never a quorum.

Trustee Fred Tyler moved to approve the two site plans for two single family homes in block 28, Lots 11 & 12 Monterrey Addition. Motion was seconded by Trustee Patrick Garcia.

Trustee Thomas McKean asked if they were going to have sidewalks, curbs and gutters. Ms. Clarke said they have not been required to put sidewalks, curbs and gutters on that street before and they already have four homes there.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, nay. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried by a vote of three to one.

**Item 15. (Deleted) Pam Clarke-Otero Habitat for Humanity-Request for variance access to homes**

**Item 16. (Deleted) Gary & Sharon Miller (1) Information request-What discussion has taken place and has any action plan been established to prevent flooding of homes by sewer backup? (2) What financial assistance will be available for repair of damages resulting from the sewer backup into homes?**

**Item 17. Joan Price-Listen to presentation & provide the Municipal Court Room**

Ms. Joan Price talked about a Water Fair and Project Wet and asked for the Court Room for February 7, 2009. It was suggested to use the Community Center. Ms. Price stated that the acoustics were not good. Mayor Cordova suggested using the Recreation Room and waiving the fee since it was another state agency.

Trustee Thomas McKean moved to reserve the Community Center for February 7, 2008 for the Tularosa Water Fair, motion was seconded by Trustee Fred Tyler.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

Page 5-Regular Meeting 10/21/2008

**Item 18. Cynthia Riedlinger-Reimbursement for cost to have garbage liquid tested**

Trustee Fred Tyler moved to reimburse Cynthia Riedlinger for the cost to have garbage liquid tested. Motion was seconded by Trustee Patrick Garcia.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 19. L. B. Beardslee-Report my findings regarding Waste Disposal Residue currently being distributed throughout the village**

Mr. Beardslee said he noticed at least a 50% improvement with the Waste Disposal company though there are still some fluids. Mr. Beardslee noted hydraulic fluid dropped in front of the Children's Learning Center on 1st Street and continued by reading portions of the contract. Mr. Beardslee requested that the Board of Trustees consider making a change.

It was noted that they would take it under advisement.

**Item 20. The Prairie Subdivision-Mr. Morel, Mr. Scott & Mr. Zimmerle**

Mr. Morel representing Mr. & Mrs. Scott and proceeded to present information to the Board going over the history of the situation. Mr. Morel mentioned three other subdivisions that were without curbs, gutter and wanted to know what to do to move forward and asked for a waiver.

Trustee Fred Tyler stated that it was the sub-dividers responsibility to follow the subdivision ordinance.

Trustee Thomas McKean moved to table the Prairie Subdivision, item number 20 and was seconded by Trustee Gloria Sainz.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting aye.

Mayor Ray S. Cordova explained that item 21, item 22 and item 25 were all for executive sessions.

**Item 21. Possible Executive Session as per 10-15-1 (H) of the Open Meetings Act subject to the Attorney-Client privilege pertaining to the Prairie Subdivision**

Attorney Jeff Rhodes reminded the Board to include on item 21 also pertaining to threatened or pending litigation.

**Item 22. Executive Session as per 10-15-1 (H) of the Open Meetings Act subject to the Attorney-Client privilege pertaining to threatened or pending litigation in the matter of the Application by David & Julia Christopher OSE File No. SP-4896**

**Item 25. Trustee Thomas McKean-Executive Session as per 10-15-1 (H) of the Open Meetings Act subject to Attorney-Client privilege pertaining to threatened or pending litigation: Re: Enforcement of Alamo Disposal Waste Collection contract, including the right to terminate under Default paragraph of contract**

Trustee Thomas McKean moved to go into Executive Session subject to Attorney Client  
Page 6-Regular Meeting 10/21/2008

privilege pertaining to threatened or pending litigation on Items 21, 22 and 25. Motion was seconded by Trustee Fred Tyler. Mayor Cordova announced that only the items announced would be discussed in the closed session.

**Roll Call Vote:** Trustee McKean, aye. Trustee Garcia, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting aye.

The Board then retired into executive session. Upon returning from the closed session Mayor Ray Cordova announced that the items discussed in the closed session were limited only to those that were specified in the motion to close and proceeded to go back to Item 20.

Trustee Fred Tyler moved to grant Mr. Scott an exception (at Prairie Subdivision) to curbs and gutters and sidewalks based on undue hardship. Trustee Thomas McKean seconded the motion and told Mr. Scott that he was having a problem on the water rights on the 5 acre feet requesting Mr. Scott's signature. It was decided that Attorney Jeff Rhodes could get a hold of Mr. Scott. Mr. Morel stated that Mr. Scott was still being taxed for the property on which the well sits on. The Board Members stated they would check on that.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the board voting aye.

On Item 22, no action was taken.

The Board then addressed Item 25.

Trustee Gloria Sainz moved to postpone Item 25 because their time is not up yet. Trustee Thomas McKean amended Trustee Sainz motion to have a Special Meeting on the 27th of October for Items 25 and 26. Trustee Fred Tyler included Item 7 and proceeded to second the motion.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the board voting aye.

**Item 23. Trustee Pat Garcia-What is the status with Carl Kelley Construction and the Waste Water Plant**

No Action.

**Item 24. Trustee Fred Tyler-Ordinance to allow abatement of Water bills**

Trustee Tyler said that the water ordinance would have to be amended and would like for it to read as follows: due to the aging infrastructure of the Village of Tularosa the village Trustees may consider abatement of water bills that have arisen from broken lines, the abatement will require the land owner or tenant to present to the Board of Trustees receipts for materials used in the repair of said broken water lines or receipts from a qualified contractor showing charges for the repairs at a Regular Meeting of the Board of Trustees. Abatement of water bills will be to tier one levels for all usage above the prior six months if which ever is higher.

Village Clerk Dianna Brusuelas asked if everyone had to hire a contractor to do repairs.

Trustee Fred Tyler explained no that one would only have to present receipts for materials *or* receipts from a contractor.

Village Clerk Dianna Brusuelas also asked to include in the ordinance not to use fire hydrants. Trustee Tyler agreed not to use fire hydrants for contractors. Mayor Cordova asked Trustee Tyler to draft something for the attorney .

Page 7-Regular Meeting 10/21/2008

Trustee McKean asked about the ordinance changing the number of members to the Planning & Zoning from seven to five.

**Item 27. Trustee Thomas McKean-Would like to have three more street lights installed on utility poles at Veterans Park**

Trustee Fred Tyler moved to approve the installation of three street lights on utility poles at the Veterans Park, Trustee Patrick Garcia seconded the motion.

**Roll Call Vote:** Trustee Garcia, aye. Trustee McKean, aye. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with all members of the Board voting in the affirmative.

**Item 28. Old Business**

Trustee Thomas McKean asked about the fire hydrants.

**Item 29. New Business**

None

**Item 30. Adjourn**

Trustee Thomas McKean moved to adjourn. Trustee Gloria Sainz seconded the motion. The meeting adjourned at 10:10 P. M. by voice vote

The written minutes are the official minutes of the meeting. The recorded tapes are part of the minutes only for interpreting any ambiguity in the written minutes. When the minutes are approved and signed the written minutes are the official minutes of the meeting.

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Ray S. Cordova, Mayor

ATTEST:

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Dianna R. Brusuelas, Village Clerk

Minutes approved by The Board of Trustees at the Regular Meeting of November18, 2008.