

Regular Meeting-August 18, 2010

The Mayor and the Board of Trustees of the Village of Tularosa met in a Regular Meeting on Wednesday, August 18, 2010 at 7:00 P.M. 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 Joseph Lueras

Trustee Gloria Sainz

Also in attendance was Village Attorney Jeff Rhodes, Rick Gutierrez Grants Coordinator, Monica Voorbach Payroll/AP Clerk, as well as Village Clerk Dianna Brusuelas-Guilez.

Mayor Ray S. Cordova asked that all rise and join him in the Pledge of Allegiance.

Item 1. Consideration of Agenda and Consent Agenda

Trustee Joseph Lueras moved to change Item 11 to Item 2; Item 2 to Item 22; and Item 22 to Item 22A, motion was seconded by Trustee Gloria Sainz.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Sainz, aye. Trustee Tyler, nay. Motion carried with three ayes, and one nay.

Item 2. Unscheduled Correspondence and Public Comments

Moved to Item 22.

Item 11. (moved to Item 2) Amanda Diaz-Requesting Board Action to resolve water issue on July 2010 billing

Amanda Diaz stated that she was told by village maintenance and the Las Rosas Apartment maintenance that there was a leak on the line to her apartment and does not feel that she is responsible for the leak nor the bill. Ms. Diaz said her bill is usually \$53.64 and for July it was \$124.55.

Trustee Patrick Garcia asked Ms. Diaz if she talked to the people from the apartments. Ms. Diaz said she spoke to management and she said to her knowledge she did not know of any leak. Trustee Garcia asked if the village crew visited the site and verified that there was a leak on the apartment side. The answer was yes.

Village Clerk Dianna Brusuelas-Guilez suggested that Ms. Diaz get the address to the main company (J. L. Gray) from the water clerk Sallie and write to them sending a

history of her account showing where she always uses the minimum water and then the \$124.55 water bill and ask them to pay the overage.

Trustee Fred Tyler asked Ms. Diaz to write the company and if she received no results to put herself on the agenda for next month and in the mean time pay the minimum bill.

Trustee Patrick Garcia moved to table pending the outcome of contacting J. L. Gray Company. Motion was seconded by Trustee Fred Tyler.

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

Item 3. Reports from Village Departments

Susan Flores presented the Members of the Board her Community Service report from January to July 2010. Trustee Fred Tyler asked about a report from the Code Enforcement Department, Mayor Cordova reminded that Chief Ken Selman has been out of the office.

Item 4. Ron Darnell-PNM Representative-Discussion on rate increase

Mr. Ron Darnell explained what the PNM South Service area is naming the cities in the south which include Alamogordo, Ruidoso, Ruidoso Downs, Tularosa, Silver City, Lordsburg and Bayard. Mr. Darnell stated that the need for the increase is driven by infrastructure.

Item 5. Mike Espiritu-Otero County Economic Development-Discussion on PNM rate increase

Mr. Mike Espiritu stated that his posture on the proposed increase was to inform all the communities about the PNM increase and its impact, he feels that it will impact businesses from coming into the area and will be detrimental to small businesses. Mr. Espiritu stated that they are listed as an intervenor with the Public Regulation Commission and that they are not opposed to a rate increase but are opposed to an irresponsible rate increase.

Item 6. Adoption of Resolution 2010-2011-03 opposing the proposed PNM rate increase

Trustee Fred Tyler moved to approve the adoption of Resolution 2010-2011-03 opposing an irresponsible rate increase. Motion was seconded by Trustee Joseph Lueras.

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

Item 7. Adoption of Resolution 2010-2011-04 desiring the services of SENMEDD and becoming a member of the COG with an annual contribution of \$1,000.00

Trustee Patrick Garcia moved to approve the adoption of Resolution 2010-2011-04 desiring the services of SENMEDD and becoming a member of the COG with an annual contribution of \$1,000.00. Trustee Joseph Lueras seconded the motion.

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

Item 8. Rick Gutierrez-Adoption of Resolution 2010-2011-05 entering into a Co-Op Agreement with the NM State Highway & Transportation Department to rehabilitate and improve various village streets

Trustee Patrick Garcia moved to approve the Adoption of Resolution 2010-2011-05 entering into a Co-Op Agreement with the NM State Highway & Transportation Department to rehabilitate and improve various village streets. Trustee Gloria Sainz seconded the motion.

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

Item 9. Adoption of Ordinance 241 adopting the 2010 Compilation of the NM Uniform Traffic Ordinance and to Publish by Title and Subject Matter

Trustee Fred Tyler moved to approve the Adoption of Ordinance 241 adopting the 2010 Compilation of the NM Uniform Traffic Ordinance and to Publish by Title and Subject Matter. Trustee Patrick Garcia seconded the motion.

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

Item 10. David Brown-Request to drop protest to Application Number T689-Pod 5

Mr. David Brown explained that the property was bought as 20 acres and has been subdivided into two 10 acre plots, on the property there were 14.4 acres of water rights when the property was subdivided 7.2 stayed on 10 acres and 7.2 went with the other 10 acres. After some discussion Trustee Fred Tyler moved to ask Attorney Jeff Rhodes to withdraw the protest on application T689-Pod5 with the stipulation that Mr. Brown only use the 7.2 acre feet of water. Trustee Patrick Garcia seconded the motion.

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

Item 11. Amanda Diaz- Requesting Board Action to resolve water issue on July 2010 billing

Moved to Item 2.

Item 12. Vote on rezoning of Rhino Subdivision on St. Francis Drive from Residential to Commercial

Trustee Joseph Lueras moved to rezone the Rhino Subdivision on St. Francis Dr. from residential to commercial and was seconded by Trustee Gloria Sainz. Trustee Lueras then amended his motion to rezone from residential to commercial with the stipulation that each developer be required to interface with neighboring owners about sound walls and barriers etc. Trustee Patrick Garcia seconded the amended motion. Trustee Lueras then rescinded his original motion.

Item 13. John Montoya-Request assistance from Village for 20% matching funds for Fire Grant \$11,512.00

Trustee Joseph Lueras moved to assist the Fire Department for 20% matching funds for a fire grant which will be \$11,512.00. Trustee Gloria Sainz seconded the motion.

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

Item 14. Tim Duran-Request Confirmation of Manuel Reyes to Regular Full Time Status effective September 1, 2010-Date of Hire 3/1/2010

Trustee Gloria Sainz moved to approve the confirmation of Manuel Reyes to Regular Full Time status effective September 1, 2010. Trustee Joseph Lueras seconded the motion.

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

Item 15. Tim Duran-Request Confirmation of David Sanchez to Regular Full Time Status with a pay increase of \$1.00 from \$11.50 to \$12.50 Date of Hire 2/9/2010

Trustee Gloria Sainz moved to approve the confirmation of David Sanchez to Regular Full Time status with a pay increase of \$1.00 from \$11.50 to \$12.50. Trustee Joseph Lueras seconded the motion.

Roll Call Vote: Trustee Garcia, nay. Trustee Lueras, nay. Trustee Sainz, aye. Trustee Tyler, nay.

Mayor Cordova asked the Board if their intension was to not confirm Mr. Sanchez.

Trustee Patrick Garcia amended the motion to read, to confirm David Sanchez to Regular Full Time status and deny the \$1.00 pay increase. Trustee Joseph Lueras seconded the motion.

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

Item 16. Approve appointment of Dana Lopez as Motor Vehicle Clerk with a pay increase of \$1.74 from \$10.51 to \$12.25

Trustee Fred Tyler moved to approve the appointment of Dana Lopez as Motor Vehicle Clerk with a pay increase of \$1.74 from \$10.51 to \$12.25, motion was

seconded by Trustee Gloria Sainz. Trustee Lueras proceeded to ask Village Clerk Dianna Brusuelas-Guilez as her direct supervisor how she felt on this matter. Village Clerk Dianna Brusuelas-Guilez responded that the Mayor was the one who decided on the salary. Trustee Gloria Sainz made a point that she had checked with Motor Vehicle in Alamogordo on salaries and they start at \$9.70, the medium is \$13.50 and the high is \$17.00 and felt this was within the range. Trustee Joseph Lueras asked the clerk what her suggested rate was. The Village Clerk said \$11.75-\$12.00 but stated that from what she understood from the Mayor, Ms. Lopez will continue to be responsible for the Safety Training.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, nay. Trustee Sainz, aye. Trustee Tyler, aye. Motion carried with three members voting aye and one nay.

Item 17. Mayor Cordova-Request to increase Motor Vehicle Fees and ask Attorney to prepare ordinance

Attorney Jeff Rhodes was asked to prepare an ordinance to increase the motor vehicle fees.

Item 18. Trustee Tyler -Abuses of/to municipal court community service program

Trustee Fred Tyler explained that when he came to the Planning & Zoning meeting he saw his nephew in a company truck working on roses and asked him if Mr. Glover was donating a block of roses. Trustee Tyler said his nephew responded that no, that he was doing someone's community service, explaining that some guy got in trouble and he couldn't do the time so he asked him to do it and he would pay him. Trustee Tyler read a portion of state statute and stated that community service needed supervision. Mayor Cordova explained that the Administrative Office of the Courts is the authority over the courts and felt that community services are at the discretion of the judge.

Judge Timothy Flores addressed Trustee Tyler stating that he was disappointed that Trustee Tyler did not call him to ask what was going on but proceeded to put the item on the agenda and felt he misled everyone and took the time to explain how things came about. Judge Flores stated that a person owed 24 hours of community service and performed 30.5 hours but wanted to see the project complete and proceeded to invest approximately \$868.00 for equipment, material and gravel and paid people to lay the gravel etc.

Attorney Jeff Rhodes just reminded that there are three branches of government and invited all to read Mower v Rusk.

Item 19. Trustee Tyler-Report of Planning & Zoning visit - discuss their needs - Recommend new member by P & Z (Tom McKean)

Trustee Fred Tyler reported that the P & Z was going to start working on an ordinance in reference to cleaning up abandoned buildings. Attorney Jeff Rhodes said that the village already had statutory authority to clean up buildings and impose leans but also reminded the board that they have to have the money to do it too .

Attorney Rhodes also cautioned the board about liens in reference to there being a mortgage on the properties and the anti-donation.

Trustee Tyler brought to the board a recommendation of a P & Z member and stated that they do not get any help in transcribing minutes and agendas. Mayor Cordova stated that they select a secretary.

Item 20. Dianna Brusuelas-Guilez-Should the village pay \$739.04 to Tularosa Community Ditch Corporation, invoice 2010046

Village Clerk Dianna Brusuelas-Guilez was told to ask TCDC for clarification.

Item 21. Trustee Tyler-Environmental Impact Statement, results of SWCA - Snake Tank Wells - Request Attorney to do Protest

Trustee Fred Tyler was concerned that Alamogordo was stepping out of the Agreement. Attorney Jeff Rhodes got a copy of the Impact Statement and said he would look into the matter and take advantage of the 60 day review.

Trustee Patrick Garcia moved to ask Village Attorney Jeff Rhodes to look into the matter and if Alamogordo is stepping out of the contract to proceed with filing a protest. Trustee Fred Tyler seconded the motion.

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

Item 22. (made Item 2) Unscheduled Correspondence and Public Comments

Thomas McKean asked to have the description of the Rhino Subdivision put into the ordinance stating latitudes and longitudes. Attorney Jeff Rhodes stated that normally the map is changed.

Item 22. Old Business (Item 22A)

None

Item 23. New Business

None

Item 24. Adjourn

Trustee Patrick Garcia moved to adjourn, motion was seconded by Trustee Joseph Lueras. Meeting adjourned at 9:47 P. M.

The written minutes are the official minutes of the meeting. The recorded Compact Flash 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.

Ray S. Cordova, Mayor

ATTEST:

Dianna R. Brusuelas-Guilez, Village Clerk

Minutes approved by The Board of Trustees at the Regular Meeting of September 15, 2010.