

Regular Meeting-December 21, 2011

The Mayor and the Board of Trustees of the Village of Tularosa met in a Regular Meeting on Wednesday, December 21, 2011 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

Absent: Trustee Gloria R. Sainz

Also present was Village Attorney Jefferson Rhodes and Village Clerk Dianna Brusuelas-Guilez.

At 7:00 P. M. Mayor Ray S. Cordova called the meeting to order asking that all rise and join him in the Pledge of Allegiance and the Salute to the Flag of the State of New Mexico.

Item 1. Consideration of Agenda and Consent Agenda

Trustee Joseph Lueras asked to remove Item 10 from the agenda. Trustee Patrick Garcia then asked to remove Item 3A from the agenda.

Trustee Fred Tyler moved to consider the agenda and consent agenda with the deletions as stated. Motion was seconded by Trustee Joseph Lueras.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 2. Unscheduled Correspondence and Public Comments

Mrs. Cynthia Riedlinger presented the Board of Trustees with a concern of the audience's inability to hear. It was suggested that people speaking from the audience go to the speaker and talk. Mayor Cordova said possibly the village could call someone to check the equipment out.

Mr. Ernesto Ornelas said his interest was Item 6, the discussion of changes to the Unreasonable Noise Ordinances.

Trustee Fred Tyler thanked the Utility Department, the Clerks office and the Fire Department for their monthly reports.

Trustee Patrick Garcia was concerned about the NFIP, whether the village was on board and wondered why we were not on the register yet. Mayor Cordova stated that all the paperwork has been sent and received by FEMA. Mr. Borthwick (FEMA) assured the village that we should be on the register soon. Mayor Cordova said he received a call from Senator Bingaman's office last Friday and they are getting involved in getting the village off the flood map.

Trustee Patrick Garcia thanked the police officers for their diligence on the Code Enforcement issues.

Item 3. Approval of Resolution 2011-12-11 Budget Increases and Decreases

Trustee Fred Tyler moved to approve Resolution 2011-12-11 Budget Increases and Decreases, motion was seconded by Trustee Patrick Garcia.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 3A. Approval of Adoption of Resolution 2011-2012-12 Adopting an Infrastructure Capital Improvement Plan (ICIP)

Removed.

Item 4. Dianna Brusuelas-Guilez-Approve request to pay part of Sonya Gililland's salary from Older American Program for the hours she works there

Trustee Patrick Garcia moved to approve the request to pay part of Sonya Gililland's salary from Older American Program for the hours she works there. Trustee Joseph Lueras seconded the motion.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 5. Monica Voorbach-Approve to lease Water Rights-Minimum bid \$500.00

Trustee Joseph Lueras moved to approve to lease the water rights with a minimum bid of \$500.00. Trustee Fred Tyler seconded the motion. Mayor Cordova suggested leasing out all seven water rights and the board agreed.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 6. Discussion of changes to Unreasonable Noise Ordinance

Attorney Jeff Rhodes reminded the Board that this came up in reference to the music at Tulie Cantina but there was no way the Police Department could determine if there was a violation since the village has no noise levels in the current ordinance. The ordinance presented is a rough draft but has some language that would give some standards that are read at any residential property line and would probably require purchasing a meter that reads decibels.

Trustee Joseph Lueras asked the police officers present if they knew anything about that. The response from Officer Matthew Mirabal was that the officers have had several discussions among themselves but it's been on the fence because what is loud to one person is not loud to another and they cannot determine what is unreasonable because it varies even among the officers so they would need a standard. There was a question as to how much a meter would cost.

Trustee Patrick Garcia felt that a happy medium has to be reached in keeping the residents happy but not chasing business away either.

Trustee Fred Tyler said he did some research and all the cities in New Mexico have the same general noise ordinance. A citizen commented that the village need not go overboard with decibels and asked to just have the ordinance enforced. Mayor Cordova said the police have to have enforceable levels.

Another citizens voiced his complaints stating that he would call the sheriff's or the state police if he had to but all that is necessary is to enforce the ordinance.

Trustee Patrick Garcia said another suggestion would be to limit the music to inside the building and for everyone to look at the ordinance to see what we could do with it.

Item 7. Discussion of Mia Estates

Village Attorney Jeff Rhodes said he was e-mailing the Jones' as they want to present the village with underground water rights. Mayor Ray S. Cordova said that at the beginning of the subdivision he was under the impression that the village would be receiving ditch rights. Mr. Rhodes said the village ordinance does not require one or the other and if we want ditch rights for all subdivisions we would need to change the ordinance or the other alternative would be to put a dollar amount if they don't have water rights. Mayor Cordova said the subdivider always made reference to Certificate #'s, which surface water is issued certificate numbers. Mayor Cordova also said the village has two wells that need work and the village doesn't need another well that will cost the village money to get water out of it. Mr. Rhodes said he would wait for a response from Paul and Marian Jones.

Item 8. Trustee Joseph Lueras-Possible purchase of Mr. Mickey Samuels well

Mr. Maurice Hobson made a presentation to the Mayor and Board of Trustees about water, wondering if the Village was interested in buying the Mickey Samuells well. Mr. Hobson's suggestion was to put the well water into the current system since the well is about three miles from the plant. It was known that the well used to pump 800-1,000 gallons per minute. Mr. Hobson realizes the village has no money and would have to try to get funding. Trustee Fred Tyler asked if he had a price for the well and the response was 1 million dollars. Mr. Hobson said he would help the village look for money. Trustee Tyler then asked if he would be a volunteer or a consultant? Mr. Hobson said he would volunteer for two years and wants the village to sign a Letter of Intent with Mr. Samuells then find money for an engineering study. Mayor Cordova said money is the issue and as long as the village receives a grant or appropriation with no matching funds then we can give it a try.

Item 9. Trustee Joseph Lueras-Joining with Tularosa Community Ditch Corporation in litigation

Mr. Norvall Bookout came before the Mayor and Board of Trustees asking that the village join the Tularosa Community Ditch Corporation in their litigation with Davalos and Kelsey Smith. Village Attorney Jeff Rhodes said the village is already taking part in the Davalos case. Mr. Bookout said no trial date has been set but wants the judge to uphold the decree and have Mr. Smith remove all the pipes and things he has put in. Mayor Cordova asked the attorney if the village was involved. Mr. Rhodes responded that we were involved indirectly as shareholders in the Ditch Corporation and we could file a motion to intervene as a party simply because of our position in treating water. Mr. Bookout would like for the village board and citizens to attend the trial when it is scheduled.

Attorney Jeff Rhodes gave a history on the Davalos case stating that Davalos filed an application with the State Engineer, the Village of Tularosa and the Tularosa Community Ditch Corporation filed an application to prevent that from being heard. The village relied on some litigation from the 1980's involving Mr. Davalos doing some things on the Indian Springs Ditch. That went to trial, a hearing before Judge Doughty had some findings but were never entered. There was an injunction and the judge ruled, but it never got followed up on. Judge Counts basically took the ruling and made it fine with us so it could be appealed. It was appealed by Mr. Davalos and remand back to the District Court. It has been determined that Mr. Davalos cannot take anything out of Indian Springs Ditch but what was left open in that hearing was whether or not he has any rights in the Tularosa Creek. If he does have rights in it then the State Engineer can proceed to hear the application, change of place and diversion. The State Engineer has now filed a motion to dismiss the proceedings completely on the basis that the District Court should not hear it until it goes through the Administrative process with the State Engineer. There is a question as to

whether there are any rights that Mr. Davalos has. The State Engineer wants to make that administrative ruling that there is or is not a water right in Tularosa Creek. If there isn't the State Engineer dismisses the action but if there is then we will appeal to the District Court, the District is the only one that can adjudicate water rights.

Trustee Fred Tyler then moved to join the Tularosa Community Ditch Corporation in litigation against Davalos and Kelsey Smith as a party plaintiff Attorney Jeff Rhodes reminded Trustee Tyler that we are already part of the Davalos case so it would only be joining the Kelsey Smith. Motion was seconded by Trustee Joseph Lueras.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all Trustees present voting aye.

Item 10. Trustee Joseph Lueras- Discussion of Mr. Ken Selman as Administrative Chief for Tularosa Police Department

Deleted.

Item 11. Mayor Ray S. Cordova-Approval of appointment of R. Ken Selman as Police Chief at \$19.55 per hour, date of hire December 12, 2011

Trustee Fred Tyler asked for discussion stated that he had a copy of Mr. Ken Selman's resignation letter in which he stated he was unable to fulfill his duties as Police Chief and felt the village needed a working chief to offset the case load for the police officers.

Mayor Cordova explained that Item 10 which asked for an Administrative Chief was off the agenda and Item 11 was just to confirm Mr. Selman's appointment as Police Chief not Administrative Chief.

Trustee Patrick Garcia also read parts of Chief Selman's resignation letter saying that Mr. Selman himself has said that his injury has stopped his ability to perform as a police officer, that the Tularosa Police Chief position is a working position and he is unable to fulfill the requirements. That it was probable that he would not be able to retain his police officer certification. Trustee Garcia said he really appreciates what he has done in the past but feels someone in that department is capable of assuming that position.

Mayor Cordova said he did not know why Mr. Selman now felt he could fill the position and wondered if Mr. Selman's doctor told him he could come back to work.

Trustee Joseph Lueras wondered if the village had a full medical release.

After positive support on behalf of Ken Selman from several officers and dispatchers Trustee Joseph Lueras moved to approve the appointment of R. Ken Selman as Police Chief at \$19.55 per hour, date of hire December 12, 2011 with a 6 month probationary period. Motion died for lack of a second.

Item 12. Trustee Fred Tyler-Request village approval and help in developing and having a Fall Event (i.e. Scare Crow Festival)

Trustee Fred Tyler made a presentation on a 'Scare Crow Festival' he had attended and would like the village to have something like that. Mayor Cordova said the village could provide a site but didn't think the village could provide funding. The Mayor also asked who would organize. Trustee Tyler felt the Rotary Club would help and suggested the first weekend in October. What Trustee Tyler requested from the village was a site, security and trash pick up.

Trustee Joseph Lueras moved to help develop a fall event and asked what it would be called. Trustee Tyler suggested Scare Crow Festival and having the citizens decorate their yards and have a scarecrow contest. Trustee Garcia seconded the motion.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 13. Trustee Fred Tyler-Report on annual Community Ditch Corporation Meeting held December 5, 2011

Trustee Fred Tyler updated the board on the Tularosa Community Ditch Corporation meeting beginning with the election of officers, Norvall Bookout Chairman, Maurice Hobson Treasurer, Karen Lerner Secretary, the litigation with Davalos and Smith, reservoir clean-up is complete.

Item 14. Trustee Fred Tyler-Status of the following:

1) Front loader garbage truck

Mayor Cordova responded that there was no grant money available and did not think the village should get another loan.

2) Progress of sewage's sludge removal

Mayor Cordova referred everyone to the time line provided by Gannett-Fleming.

3) Shelter building for garbage truck

Mayor Cordova said it was also dependent on the funding.

4) Condemnation proceedings on 615 Hunter, 1011 Pecan, 404 & 406 Gabe Lane, 423 Central

Mayor Cordova responded that the Police Department is handling

5) St. Francis Highway Improvement

Mayor Cordova said they would start in January. Trustee Tyler asked if the State Highway was still going to do ADA compliant sidewalks and the Mayor said yes.

Item 15. Ken Selman-Approval of Daniel Markham as a Regular Full-time Patrol Officer

Trustee Joseph Lueras moved to approve Daniel Markham as a Regular Full Time Patrol Officer. Motion was seconded by Trustee Fred Tyler.

Roll Call Vote: Trustee Garcia, aye. Trustee Lueras, aye. Trustee Tyler, aye. Motion carried with all members present voting aye.

Item 16. New Business

None

Item 17. Old Business

None

Item 18. Adjourn

Trustee Joseph Lueras moved to adjourn. Trustee Patrick Garcia seconded the motion.

Ray S. Cordova, Mayor

ATTEST:

Dianna R. Brusuelas-Guilez, Village Clerk

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.

Minutes approved by The Board of Trustees at the Regular Meeting of January 18, 2012.