

## Regular Meeting-January 17, 2006

The Board of Trustees of the Village of Tularosa met in a Regular Meeting on Tuesday, January 17, 2006 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 Demetrio Montoya Jr., Trustee Ray Cordova, Trustee Margaret Trujillo, Trustee Fred Utter, Trustee Thomas McKean, Police Chief Frank Sackman, Grants Coordinator Richard Gutierrez, Village Attorney Jeff Rhodes as well as Village Clerk Dianna Brusuelas.

**Absent:** Field Supervisor Reynaldo Guilez and Finance Officer Valarie Delgado.

The Pledge of Allegiance was led by Mayor Demetrio Montoya.

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

Items on the Consent Agenda included the Planning & Zoning minutes of December 20, 2005, the Regular meeting minutes of December 20, 2005, the Village Bills, the Site & Sign Permits and the announcement of the next Regular Meeting for February 21, 2006.

Trustee Margaret Trujillo moved to Consider the Agenda and the Consent Agenda. Item 1 was seconded by Trustee Ray Cordova. Trustee Thomas McKean amended the motion to hold the payment to Human Systems Research for an archeological survey of the 28 acres until the next meeting. The amendment was seconded by Trustee Margaret Trujillo.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting in the affirmative.

### **Item 2. Dianna Brusuelas-Re-approve minutes of 11/15/05 to correct; include page 7 which was left out and correct typographical error**

Trustee Thomas McKean moved to approve a supplement page to the minutes of 15 November '05 and numbering it 6A and inserting it between page 6 and 7. Village Clerk asked Trustee McKean to include the correction of the typographical error. Trustee McKean then moved to amend his motion to include the correction. Trustee Fred Utter seconded the amendment. Motion carried with all members of the Board voting aye.

Mayor Montoya then went back to the original motion and was seconded by Trustee Trujillo.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members voting aye.

**Item 3. Approval of Precinct Poll Workers and salaries**

Trustee Margaret Trujillo moved to approve the list of Poll Workers and salaries and was seconded by Trustee Ray Cordova.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 4. Start date of Fire Chief's increase approved 12/20/05**

Mayor Montoya explained that clarification was needed as to the starting date of the increase approved at last months meeting for the Fire Chief.

Trustee Thomas McKean then moved to start the increase on 12/20/05 and was seconded by Trustee Fred Utter

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 5. Mia Estates-Approval of Subdivision Application**

There being no one present Trustee Thomas McKean moved to postpone the Mia Estates until the next regular meeting. Trustee Ray Cordova seconded the motion.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 6. Ron Castle-Request variance to install septic system at 607 Central**

The Village Board discussed the sewer line and felt that they could not give Mr. Castle permission for a septic system since the Village sewer line was so close to his property. Mr. Castle was not present to discuss his request.

Mayor Montoya felt that if Mr. Castle cleaned out his line and there was a problem that it couldn't be cleaned out, then he would have to address that at a later time.

Trustee Thomas McKean moved to deny his request for a variance to install a septic system and was seconded by Trustee Ray Cordova.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 7. Larry W. Sena-Request release of impounded pet**

Mayor Montoya asked Chief Sackman to explain what Mr. Sena's wishes were and what they stemmed from. Police Chief Frank Sackman gave the details, Mr. Sena was found guilty of the charges in Municipal Court and his dog had been in the pound pending the hearing, he has to pay penalties.

Trustee Trujillo questioned that his Agenda Request states that all his fines are paid. It was explained that he is unable to pay his impoundment fees for the dog.

Trustee Cordova felt that the Village Board did not know what the Judge's Order reads.

Chief Frank Sackman stated that if he was found not guilty then the dog would be released but if he was found guilty then he would have to pay the impoundment fees.

Trustee Cordova again asked if he was given an order to pay the impoundment fees and did not like having to guess what the Judge may have told him exactly and felt he needed information from the Judges court.

Mayor Montoya requested from Animal Control Officer Cruz Voorbach a written statement or the Order from the Judge and then he would give copies to the rest of the Board Members.

Trustee Trujillo noted that he was asking for Community Service.

Officer Chris Rupp stated that he didn't think that he could do Community Service for the Court's because the impound fees are for the Village.

Trustee Cordova again stated that Mr. Sena says "court case finished" and though the court case might be over, maybe there's an order that has not been carried out. He would like to know how the Judge worded his Final Order, if he said pay the impoundment fee and we will release the dog, and that is the way the Judge worded it we, as a Board, have no authority to release him.

Mayor Montoya asked Attorney Jeff Rhodes about the Village giving Mr. Sena community service. Mr. Rhodes advised that if the village puts him or anyone to work he is considered an employee, that a court-run community service program is entirely different.

Trustee Trujillo moved to postpone and was seconded by Trustee Cordova, motion carried with all members voting aye.

**Item 8. Adopt Resolution 2005-06-18 Amendment to the \$311,112 New Mexico Finance Authority Loan to be \$165,556**

Trustee McKean moved to approve Resolution 2005-06-18 as long as the payment schedule is inserted. Motion was seconded by Trustee

Utter.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 9. Mayor Montoya-Marr Property surrounding Water Tanks**

Mayor Montoya explained that Mr. Marr was not present because he had broken a leg.

Trustee Margaret Trujillo moved to postpone and was seconded by Trustee Ray Cordova.

Trustee McKean asked if the .419 acres would be all around the water tanks.

Mr. Rick Gutierrez answered 3 sides.

Mayor Montoya explained the West side already belongs to the Village.

Trustee McKean asked if the Village would now own all the way up to the highway easement.

Mr. Rick Gutierrez said, up to the fence line.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 10. Mayor Montoya-Salary Increase for Pedro Galindo-Older American Program**

Mayor Montoya explained that Mr. Galindo has been with the Village for 9 years plus and is making \$8.50 per hour and would like to increase his salary by 75¢ making it \$9.25.

Trustee Trujillo asked if anything was received from Prestina as his supervisor.

Mayor Montoya said no but said he told her he was going to do it.

Trustee McKean asked if her budget could support this and stated that his line item was budgeted at \$8.50 so this would have to come from cash balance.

After discussing the cash balances Trustee McKean felt there was only \$12,000.00 available. Trustee Trujillo stated that in reality there wasn't that much because of the 1/12<sup>th</sup> requirement and suggested waiting until the money is at hand. Trustee Trujillo acknowledged that she spoke to Mr. John Gallegos the Village's Budget Analyst from Department of Finance and read an e-mail received stating that increases should not be approved until funds are available.

Trustee Trujillo then moved to postpone until the Small Cities Assistance is received. Trustee Trujillo then asked Village Clerk Dianna Brusuelas if the Village had the 1/12 requirement. Ms. Brusuelas response was, at the end of November the 1/12 was not met.

Trustee McKean seconded the motion.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 11. Mayor Montoya-Salary Increase for Kevin Moheit-Custodian**

Mayor Montoya explained that he completed a year January 3<sup>rd</sup> and is currently at \$7.00 and proposes to bring him up \$1.25 to \$8.25.

Trustee Trujillo moved to postpone until the Small Cities Assistance is received. Trustee Cordova amended the motion to say that if the Small Cities Assistance is received in the next couple of weeks, that a Special Meeting be held to grant the increases.

Trustee McKean seconded Trustee Trujillo's motion and also seconded the amendment. Roll call vote was taken on the amendment.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

Roll call vote was taken on the original motion as follows:

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 12. Rick Gutierrez-Approve Molzen-Corbin Architects for the Senior Center pending funding of Legislative and CDBG applications**

Trustee McKean asked who would be the engineer assigned to the project. Mr. Gutierrez responded that Molzen-Corbin does the assignment.

Trustee Trujillo asked which companies bid for the project.

Mr. Gutierrez responded that it was NPSR out of Carlsbad and Molzen-Corbin.

Trustee Cordova moved to approve Molzen-Corbin Architects for the Senior Center pending funding of Legislative and CDBG applications. Motion was seconded by Trustee Trujillo.

Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 13. Chief Frank Sackman-Approval of Ron Saavedra to Regular Full-time employee completion of 6 months probation (DOH 7/25/05)**

Trustee Trujillo moved to approve Mr. Saavedra and was seconded by Trustee Cordova.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 14. Chief Frank Sackman-Approve appointment of Paul Coble as Police Officer with 6 months probation at \$9.00 per hour. Date of Hire 1/5/06**

Mayor Montoya advised that Mr. Cobel has an out of state certification and will need to be certified by waiver in New Mexico.

Trustee Trujillo asked when he would get his New Mexico Certification.

Chief Sackman answered that he has a year to get it and gave the explanation that Officer Cobel needed to get acquainted with the New Mexico laws.

Trustee Cordova moved to approve the appointment and was seconded by Trustee Utter.

Mayor Montoya introduced Officer Cobel who was in the audience.

Trustee Trujillo asked Officer Cobel if he lived in Tularosa.

Officer Cobel replied no, I live in Alamogordo.

**Roll Call Vote:** Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with all members of the Board voting aye.

**Item 15. Trustee Margaret Trujillo-Complaints on Police Department**

Mayor Montoya expressed his feelings on complainants who do not fill out the necessary paperwork.

Trustee Trujillo although agreeing with the Mayor stated that the two complainants intended to be at the meeting and felt they would show up at the next Regular Meeting.

Mayor Montoya stated that he did not feel it was right to bring it up in an open meeting if no signed complaint was filed.

Chief Sackman advised that in the new Standard Operating Procedure book that they just finished is a form with procedures in it on how to file a complaint.

Trustee McKean asked Chief Sackman, when an individual has a complaint can they request a copy of the video and the transaction that transpired.

The answer was yes, if they pay for it.

**Item 16. Trustee Margaret Trujillo-Fees and request from Habitat for Humanities (Ask Attorney if it's against the Anti-Donation Clause).**

Trustee Trujillo voiced concern about waiving the fee's for the connection of the water and to tap into the sewer.

Attorney Jeff Rhodes stated that the Anti-Donation Clause is a provision in the New Mexico Constitution and there are exceptions in the provision itself and is assuming that the village would not have a problem.

**Item 17. Trustee Trujillo-Is Officer Michael Montoya enrolled in Academy, if so, which one**

Officer Saavedra responded that Officer Montoya was scheduled for February but due to an injury is now confirmed for July and will be going to the Academy in Santa Fe.

Trustee McKean asked if the course was three weeks long and Officer Saavedra responded yes.

**Item 18. New Business**

None

**Item 19. Old Business**

Trustee McKean stated that he had three items and wondered when the new hearing was set for Yvonne Anderson.

Mayor Montoya explained to Attorney Rhodes that Ms. Anderson submitted a letter that it be postponed.

Attorney Jeff Rhodes felt that by doing that she was withdrawing her grievance and now would reinstitute it at her leisure. She is the one that is entitled to a hearing within a certain period of time under our Personnel Policy. If she doesn't want it heard now there is no reason why it would have to occur because the consequence in effect of not having it heard within that time frame is, it doesn't get heard, which is what she's looking for. If she tries to complain about that saying, you didn't have my hearing within 10 days, all we say is look, you asked to

have it postponed.

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Trustee Trujillo advised Mr. Rhodes that the Village advertised as a hearing, Ms. Anderson showed up, the hearing never took place.

Mayor Montoya stated that there was a letter in the file asking for postponement.

Trustee Trujillo stated that she never got the opportunity to present it because according to the mayor, they did not have a quorum.

Mayor Montoya asked the Attorney if another meeting had to be rescheduled based on the letter.

Attorney Jeff Rhodes felt that no meeting had to be set because the net effect is whatever grievance she has was withdrawn, and she could re-institute it by saying 'I want a hearing.'

Trustee Trujillo asked if she could bring it up at anytime. Attorney Jeff Rhodes responded yes.

Trustee McKean then asked about the Uniform Traffic Code that was passed some months back on Ordinance 215 left out the ATV because it would not go into effect until January and wondered if it would be added now.

Attorney Jeff Rhodes said that he needed the instruction from the Board and could do another amendment.

Trustee McKean asked Chief Sackman to look it over and if he wanted to include it to put it on next months agenda.

Rick Gutierrez, Grants Coordinator, asked Mr. Rhodes about the Stogden Water Rights. Mr. Rhodes said they were on his desk.

Trustee McKean asked the status of Johnny Hernandez. Chief Sackman advised that since the Dispatch position is now available he will do an in-house posting, and Mr. Hernandez will have to submit an application and then he will be moved in there and will possible go to Dispatch School in July.

Trustee Trujillo mentioned that one of the police vehicles has K-9 Unit on it and asked if the village has a K-9.

Chief Sackman stated that they will have one by February 4, 2006.

Trustee Trujillo asked if the liability has been checked.

Chief Sackman responded that since it was a narcotic detection dog and not an attack nor an apprehension dog, that it won't be that much.

Trustee Trujillo asked if one of the officers had to go get trained.

Chief Sackman stated that he will leave on Sunday and advised that he donated his own funds for the animal and to the Village so we can have a narcotic dog in town and the new SOP manual has a section on

the K-9.

Mayor Montoya announced the ground breaking for Library on the 25<sup>th</sup> at 2:30 P.M.

**Item 20. Unscheduled Correspondence & Public Comments**

None

**Item 21. Adjourn**

Trustee Margaret Trujillo moved to adjourn at 8:15 P. M. and was seconded by Trustee Ray Cordova. Motion carried with all members voting aye.

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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Demetrio H. Montoya, Mayor

ATTEST:

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Dianna R. Brusuelas, Village Clerk

Minutes approved by the Board of Trustees at the Regular Meeting of February 21, 2006