

Regular Meeting-September 20, 2005

The Board of Trustees of the Village of Tularosa met in a Regular Meeting on Tuesday, September 20, 2005 at 7:00 P. M. in the Court Room of the Public Safety Facility located at 609 St. Francis Drive, Tularosa, New Mexico.

Present: Mayor Demetrio Montoya Jr., Trustee Margaret Trujillo, Trustee Thomas McKean, Trustee Ray Cordova and Trustee Fred Utter. Also present was Dianna Brusuelas Village Clerk, Police Chief Frank Sackman as well as Village Attorney Jefferson Rhodes.

Mayor Montoya asked that all rise and join in the Pledge of Allegiance and proceeded to welcome everyone.

Item 1. Consideration of Agenda and Consent Agenda

Trustee Margaret Trujillo moved Consideration of the Agenda and the Consent Agenda. The motion was seconded by Trustee Fred Utter.

Roll Call Vote: Trustee McKean, aye. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion carried with an affirmative vote by all members of the Board.

Item 2. State Statute Requirement:DFA/Local Government Division Budget Approval 8/23/05 be made part of the minutes

Trustee Thomas McKean moved to make the DFA approval of the Budget part of the minutes 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 3. Johnny Joe Marrujo-Permission to have homecoming parade September 23, 2005

Mr. Marrujo not being present, Mayor Montoya explained that the parade would be Friday and asked the Chief of Police to get together with the school.

Trustee Fred Utter moved to give permission to the school to proceed with the homecoming parade and was seconded by Trustee Ray Cordova. Motion carried with all members of the Board voting aye.

Item 4. Gilbert & Margaret-Application for Claim of Exemption-Exemption #3

Ms. Gonzales explained that she wanted to Replat Lot D of Block 27 for the purpose of finalizing the division of the tracks of land. There being no questions from the board, **Trustee Fred Utter moved and 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 aye.

Item 5. Geneva Retamoza-801 Posey-Permission to tear down house and replace with a double wide mobile home

Trustee Trujillo asked if it was Simon Carrillo's old house and Trustee Cordova asked if it was the one on the north side of the street, response was yes. Trustee McKean asked how old the double-wide that was going to be put on the property, response was brand new. Trustee McKean also asked about the set backs. Ms. Retamoza responded that it would be placed at least 15' from the front fence and over 100' from the back. Trustee Utter stated that as long as they comply with the ordinance.

Trustee Fred Utter moved to give Ms. Retamoza permission to remove the house at 801 Posey and put a double-wide as long as they meet the ordinance requirements. Trustee Ray Cordova seconded the motion.

Roll Call Vote: Trustee McKean, aye, as long as they meet the ordinance requirements. Trustee Utter, aye. Trustee Trujillo, aye. Trustee Cordova, aye. Motion Carried with all members voting in the affirmative.

Item 6. Approve appointment of Kelly D. Mirabal Activities Coordinator at Senior Center with 6 months probation-Date of Hire 8/18/05-\$7.00 per hour

Trustee Margaret Trujillo moved to approve 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. Approve appointment of Edward Wilczewski-Part-time Telecommunicator (Dispatcher) at Police Department with 6 months probation-Date of Hire 9/6/05-\$7.00 per hour

Trustee McKean asked if Mr. Wilczewski has any experience as a Dispatcher. Chief Frank Sackman answered that he was in the Navy and did have telecommunication experience but that he would have to go to the academy. Trustee McKean asked how long the academy was and Chief Sackman answered 3 weeks. Trustee Cordova asked Chief Sackman if Mr. Wilczewski was already working and if he was satisfied with his performance. Chief Sackman responded yes.

Trustee Ray Cordova moved to approve and was seconded by Trustee Thomas McKean.

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

Item 8. Approve appointment of Lois Atchison-Telecommunicator (Dispatcher) at Police Department with 6 months probation-Date of Hire 8/30/05-\$7.00 per hour

Trustee Margaret Trujillo asked if one Dispatcher was Part-time and one was Full-time and asked if Ms. Atchison was certified. Chief Sackman stated that she was certified in Florida. Trustee McKean asked Chief Sackman if he didn't have a problem with a mother and a son working together. Chief Sackman stated no. Trustee Ray Cordova asked if she was doing satisfactory work. With a yes from Chief Sackman.

Trustee Ray Cordova moved to hire and 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 aye.

Item 9. Approve appointment of Rayanne Northrop at Library with 6 months probation-Date of Hire 8/18/05-\$7.00 per hour

Mayor Montoya explained that she is the one who is running the Library at the present time.

Trustee Margaret Trujillo moved to approve and Trustee Ray Cordova seconded the motion.

Trustee Thomas McKean asked if this was a Part-time, 20 hours per week. Mayor Montoya affirmed that it was.

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

Item 10. Approve appointment of Julian Martinez Jr. at the Field with 6 months probation-Date of Hire 9/6/05-\$9.00 per hour

Mayor Montoya explained that Mr. Martinez has heavy equipment operation experience.

Trustee Ray Cordova moved to approve. Trustee Thomas McKean seconded the motion.

Trustee Margaret Trujillo questioned whether the Village had a position for Maintenance Worker. Mayor Montoya explained that Mr. Ray Ramos went to school to test for his Water & Wastewater Levels, the understanding is that the Village needs to have a Level II and III soon, if Mr. Ramos does not pass things might change.

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

Item 11. Approve appointment of Kyle Metzgar Certified Police Officer with 6 months probation-Date of Hire 9/01/05-\$12.50 per hour

Mayor Montoya stated that Mr. Metzgar is a Certified Officer. Trustee Ray Cordova asked if he was presently working and asked Chief Sackman if he was satisfied with his performance. The response was yes.

Trustee Ray Cordova then moved to hire and was seconded by Trustee Fred Utter.

Roll Call Vote: Trustee Thomas McKean explained that he agreed with what the Chief said and that he had read his personnel file and that he was abstaining from voting because he couldn't vote yes or no. Trustee Fred Utter, aye. Trustee Margaret Trujillo, abstain. Trustee Ray Cordova, aye. Motion carried with two ayes and two abstentions. Trustee Fred Utter questioned if it was two ayes, and two abstentions. Mayor Montoya said, they didn't vote so the aye's have it and asked Attorney Jeff Rhodes if that was right. Mr. Rhodes brought up the Town of Taos case and that the Mayor can theoretically cast a vote. Trustee Trujillo told the Mayor he could cast his vote on that one. Mayor Montoya stated that it was not required but that he could if there was a question but that he was for it.

Item 12. Approve Temporary Employment Agreement-Cruz Voorbach-Animal Control Officer as per Chapter II, Section 20-01, paragraph E of the Village of Tularosa Employee Personnel Policy-From 9/7/05 to 10/07/05-\$7.00 per hour

Mayor Montoya stated that the position would be advertised and at that time Mr. Voorbach would have the opportunity to apply.

Trustee Margaret Trujillo moved to approve and was seconded by Trustee Thomas McKean.

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 13. Temporary Employment Agreement-Lindsay Sackman-Dispatcher as per Chapter II, Section 20-01, paragraph E of the Village of Tularosa Employee Personnel Policy-From 8/31/05 to 9/30/05

Trustee Fred Utter moved to approve and 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.

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Item 14. Al Lauber/Cynthia Prelo Riedlinger-Friends of Historic Tularosa-Tularosa Veterans Memorial Park

Ms. Cynthia Riedlinger gave a brief update on the project stating that the project went out to bid and Mesa Verde got the contract and that they are just in the process of working out the agreement. Ms. Riedlinger reminded the Board that ASA architect has been doing all their work free. The date of November 11th has been set for the dedication ceremony, a copy of the plans will be left with Rick Gutierrez so everyone can see. Ms. Riedlinger also stated that Mr. Gutierrez has been very helpful along with Sam Ojinaja, Barbara Romero of DFA and Ralph Otero from the Village. Trustee Trujillo asked when the deadline was to be able to get this money. Ms. Riedlinger stated that it was five or eight years to draw down the money. Mayor Montoya reminded Ms. Riedlinger that it is a requirement that the Village receive every piece of paper generated by the Friends for the project file.

15. Mayor Montoya-Executive Session for possible litigation concerning the Sewer Project salaries

Mayor Montoya asked Attorney Jefferson Rhodes to explain. Mr. Rhodes stated that the State Department of Labor made a wage determination on the project that State wage rates apply. The assumption had been that because it was Federal money that State wage rates did not apply and apparently the project was bid that State wage rates did not apply. That bid information was prepared by Gannet-Fleming, based upon representation from the Department of Labor. Some workers complained, Department of Labor made a wage rate determination. Mr. Rhodes filed a Notice of Appeal just to keep options open. The contractor has not filed a Notice of Appeal and he is the one responsible to pay the workers. His statement to Rick is that he is relying on what the bid was. A hearing has been scheduled with the Labor Commission on October 13, 2005. At this point there is no action necessary on the Village's part. Trustee Ray Cordova asked Mr. Jeff Rhodes if he would be at that hearing. Mr. Rhodes responded that it was in Albuquerque and that he would be there and possibly Dawn Nall from Gannet-Fleming because she received the correspondence from Department of Labor. Trustee McKean asked Attorney Rhodes what would be the worst case scenario. Mr. Rhodes said that the Department of Labor Department would make a determination that the state wages do apply and Mr. Carl Kelly will have to be paying those wage rates, he's the one responsible for paying those rates not us. Mr. Kelly will then make a claim on the Village to increase his contract to meet those state wage rates, we would then refer that to Gannet Fleming who made the representation in the bid document that state wage rate would apply.

Item 16. Trustee Trujillo-De-annexation of southern portion of Old Mescalero Road with the exception of 150'

Trustee Margaret Trujillo stated that she had brought this up before and felt she and though she and other Board members knew the property was 258 acres they did not realize how much 258 acres encompassed. The thought was that it would include 150' south of Old Mescalero Road and it turned out to include a lot more property south than anticipated. Attorney Jeff Rhodes stated that he did not have an answer but that it was on his list of items to do. Trustee Trujillo asked that it be put on the agenda for the next regular meeting.

Item 17. Trustee Trujillo-Employment status of Robert Bassler-

Administrative Duties

Trustee Trujillo wanted to inform the Board that Mr. Bassler was not performing police officer duties that he is doing administrative duties at first Trustee Trujillo thought Mr. Bassler was an Administrator but Chief Sackman clarified what Mr. Bassler would be doing until such time that he attends the academy in October. No action was taken, it was a clarification matter.

Item 18. Trustee McKean-Fire Hydrants and status of Fire Hydrants that are being replaced

Trustee Thomas McKean asked if any of the Fire Hydrants were being worked on or replaced. Mayor Montoya mentioned that one is being replaced on the corner of Bosque and 2nd. Fire Chief Robert Chavez explained that the Fire truck carries 1200' of hose and that the job could still be done; but that next year they would request an ISO rating and one of the procedures is that they will test some Fire Hydrants and if they pick one that is not working it will effect the ISO rating so the hydrants that are not working do need to be fixed. As far as immediate danger, no one is in immediate danger. Trustee Trujillo felt that repairs to Fire Hydrants should be a priority. Trustee Cordova asked what the problem was with the hydrants. Fire Chief Chavez said that there are several hydrants that the Fire truck drives to, they open the valves and no water comes out and that it could be various problems. Fire Chief Chavez mentioned that in October they would check the hydrants and get a new list of which ones are bad and which ones are good and prioritize them. Trustee Cordova also mentioned scheduling them. Trustee Utter mentioned that sometimes the valves are just off. Trustee McKean asked what the Board thinks they ought to do. Trustee Trujillo stated that she thought it should become a priority. Trustee Cordova requested, from the Fire Chief, a new list once the reappraisal is done. Trustee McKean asked about the previous list of non operable fire hydrants. Mayor Montoya stated that the yard had 4 new hydrants right now. Trustee McKean asked if a work order would be cut because the last one was from March.

Item 19. Trustee McKean-Review Summary of Ordinance Changes & Amendments and ask Attorney to proceed

Trustee McKean stated that there were only two things he saw, one was 110.04 was changed Clerk Treasurer to Village Clerk/Assistant and this was left off, this needs to be added on. Next, was 110.05 Dianna has a note on the summary stating 'if the Governing Body determines at the hearing' to replace with 'if the Village Clerk determines at the hearing' Dianna's note says she doesn't think it should be changed and I agree so we can delete 110.05 (E) (2).

Trustee Thomas McKean moved to have Attorney Jeff Rhodes draw up an ordinance 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 20. Trustee McKean -Review Dangerous Dog Act prepared by NMML make this Section 96

Trustee Thomas McKean stated that he would like to add the Dangerous Dog Act provided by the New Mexico Municipal League as part of the Ordinance the Trustee's asked Attorney Jeff Rhodes to draw up and make it section 96.

Trustee Fred Utter moved to include it 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 21. New Business:

A. Trustee Trujillo-Request Quarterly Work Sessions-First Tuesday of every Quarterly Trustee Trujillo asked the Board if they were willing to have a Work Session on the first Tuesday every two months. Trustee McKean stated that the Otero County Commissioners have a work session every time before a regular meeting.

Trustee Thomas McKean moved to have a work session every two months on the first Tuesday 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 voting aye.

Trustee Ray Cordova made an announcement that he attended a meeting in Ruidoso in front of the Oversight Committee comprised of area Legislators. We presented the 100 million gallon sedimentary holding tank, everyone thought it was a very good idea. We told them if we had the storage tank that we could save the runoff water. This could hold the community for possibly 6 months should something happen to our water supply and we would not have to call the National Guard to truck water in. The water would be ready to go straight to our processing plant. The Legislators thought our presentation was the best.

Item 22. Old Business:

Mayor Montoya updated everyone on the streets stating that hopefully the project would start in about three weeks. The playground equipment for the Utter Park and the Children's park would be going up soon. The old equipment would be moved to Apache Park.

Trustee Thomas McKean asked if Ordinance 215 had been signed. The response was yes, it had been signed. Trustee McKean also asked about Mr. Hills property on Riata Road. Village Clerk Dianna Brusuelas answered that she had delivered the survey to Mr. Rhodes today. Trustee McKean asked why lodgers tax was not collected.

Item 23. Unscheduled Correspondence & Public Comments

A question from the floor was how many police officers there were now. Mayor Montoya stated that everyone was on board.

Item 24. Adjourn

Trustee Fred Utter moved to adjourn and was seconded by Trustee Ray Cordova. Meeting adjourned at 7:47 P. M.

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.

Demetrio H. Montoya Jr., Mayor

ATTEST:

Dianna R. Brusuelas, Village Clerk