

**CITY OF TUCUMCARI
MINUTES
June 25, 2009**

The Tucumcari City Commission met for their regular meeting on Tuesday, June 25, 2009 at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were Antonio Apodaca, Jim Lafferty, Robert Lumpkin, Jimmy Sandoval and Jim Witcher.

City staff members present were Bobbye Rose, City Manager; Mike Cherry, Assistant Manager/Fire Chief; Christine Dougherty, City Clerk; Vicki Strand, Deputy Finance Director; Joe Ramirez, Wastewater Superintendent; Pat Vanderpool, Economic Development Director; and Clara Rey, Human Resources Director.

Mr. Lendy Borden, Pastor of Abundant Life Church, gave the Invocation and Commissioner Lumpkin led the group in the Pledge of Allegiance.

Consideration of Changes or Deletions to Agenda

Mayor Apodaca asked if there were any changes or deletions to the agenda. Being none, the meeting proceeded according to the agenda.

Items From Commissioners

Commissioner Lumpkin spoke regarding the recent Renew 2009 Conference held in Tucumcari. Commissioner Lumpkin stated that the conference was a success and the attendees were pleased with the conference as many goals were accomplished. Mr. Lumpkin said that there were many compliments to the City and the volunteers that assisted in putting on the conference. Commissioner Lumpkin thanked all those that helped in putting on this conference.

There were no comments from the rest of the Commission.

Approval of Minutes

A motion was made by Mayor Pro Tem Witcher and seconded by Commissioner Sandoval to approve the revised minutes of the June 16, 2009 Regular Commission meeting. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Abstain	Yes	Yes	Yes	Yes

Approval of Vouchers

A motion was made by Commissioner Lumpkin and seconded by Mayor Pro Tem Witcher to approve the City vouchers. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
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Yes

Yes

Yes

Yes

Yes

Items from Citizens

Mayor Apodaca asked if there were any citizens in the audience wishing to address the Commission. Ruth Nelson approached the podium to address the Commission. Ms. Nelson introduced herself as the owner of Pajarito Interiors, a store adjacent to the Sands Dorsey Building. Ms. Nelson explained that it has been over two years since the fire at the Sands Dorsey building and for two years she has not had access to the alley behind her property. Ms. Nelson explained that someone removed the barricades to the alley and she used the opportunity to clean up trash and debris that have accumulated in the alley over that last two years. Ms. Nelson stated that it has been very helpful to be able to access the alleyway behind her store.

Ms. Nelson reported that she called Bobbye Rose to discuss the issue. Ms. Rose contacted the City Attorney who advised her to erect barriers and post no trespass signs in the alleyway. Ms. Nelson complimented Ms. Rose on her work in this matter and stated that she has achieved more progress in this matter than has been made since the fire occurred.

Ms. Rose indicated that the City Attorney stated that the City should not allow anyone access to the alley and suggested that trespassing in the alley could be considered criminal activity. Ms. Nelson suggested that she plans to continue to use the alley. Ms. Nelson expressed concern that if the building is going to fall, it could fall on Second or Main streets as well as in the alley. Ms. Nelson further reported that a semi truck with a refrigeration unit is frequently parked with the engine running in the area and the building has remained undisturbed. Ms. Nelson's final request was that she and the other business owners be included in the discussions regarding the Sands Dorsey building because they are starting to feel like they don't matter.

Ordinances and Resolutions

Mayor Apodaca called upon City Manager Rose for the second reading of Ordinance 1068, an ordinance amending certain sections of Chapter 13.04 of the Tukumcari Municipal Code pertaining to public services for water use. Ms. Rose explained that since the first reading of the ordinance, the hydrant rate had been studied and it was determined that due to the rates for hydrant water of other Eastern New Mexico communities, the City should raise the rate per 1000 gallons of water obtained from City hydrants should be \$5.00. Also, Ms. Rose explained that the cause number cited in the previous draft of the ordinance had been removed as the method for determining the rate for hydrant water.

Commissioner Lafferty asked if all rates for all customers were increased by at least 8%. Ms. Rose responded in the positive. Commissioner Lafferty asked if the bulk water users, Liberty Mutual, Hills Village, RAD and the Feed Lot were included in the rate increase. Ms. Rose explained that each of those water users are governed by contracts with formulas written in the contracts, but that the bulk users had all been informed via letter that as per their contractual agreements, their rates were going to increase.

Mayor Pro Tem Witcher made a motion to approve Ordinance 1068 with the changes that had been made. Commissioner Lumpkin seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

Mayor Apodaca then called upon Ms. Rose for the first reading of Ordinance 1069, an ordinance amending section 2.20.060 of the Tucumcari Municipal Code pertaining to the salary of the Municipal Judge. Ms. Rose reported that the judge was promised a pay raise after the last election; however action was not taken in a timely manner to provide the raise. Ms. Rose stated that Ordinance 1069 will provide a 10% raise for the judge after the next election. Mayor Pro Tem Witcher explained that taking care of this now will act as a protective measure to ensure a pay raise for the judge. Mayor Pro Tem Witcher made a motion to approve Ordinance 1069 and Commissioner Lumpkin seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

Mayor Apodaca called upon Ms. Rose to present Resolution 2009-19, a budget revision for 2008/2009 fiscal year. Ms. Rose explained that because Mr. Garcia was on vacation, she would present the resolution. Ms. Rose stated that this resolution cleans up the funds that are currently overdrawn. Ms. Rose said that this resolution does not increase revenues or expenditures. Ms. Rose explained that the resolution only moves a total of \$249,000 within the budget. Mayor Pro Tem Witcher asked if this is merely a bookkeeping measure. Ms. Rose responded in the positive. Commissioner Lafferty stated that there are still ten funds with pending negative balances and he finds this alarming. Mayor Pro Tem Witcher made a motion to approve Resolution 2009-19, a budget revision for 2008/2009 fiscal year. Commissioner Lumpkin seconded the motion. Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	Yes	Yes	Yes

City Manager's Report

Ms. Rose stated that there has been progress on the Sands Dorsey building. Ms. Rose explained that the engineering firm, Gordon Environmental has provided a bid to remove the building and the cost quoted is around \$500,000. Ms. Rose stated that the Main Street Master Plan will provide options for dealing with the building. Ms. Rose explained that she is very concerned about the safety of the alleyway. Someone removed the barriers and metal bracing behind the Sands Dorsey and Ms. Rose is not pleased by this behavior. Ms. Rose also stated that she had been in contact with Gordon Environmental and they stated that the vibration of vehicles moving close to the building would cause collapse and that regarding the Sands Dorsey building; it is not a matter of if the building will collapse, but when it will collapse. Ms. Rose also stated that the City Attorney advised that anyone who goes in the alley behind the building should be arrested and to erect barricades. Ms. Rose stated that barricades had been put up and photographs taken of the barricades and signage.

Ms. Rose reported contacting the CDBG program regarding emergency funding and was told there might be funding available to assist with the building. Ms. Rose also explained that the New Mexico Board of Finance has \$500,000 available, some of which may be available to the City. Ms. Rose stated that she recommends that the City continue to seek funds to try to rehabilitate the building as the City Attorney stated that doing something will limit liability.

Mayor Apodaca asked if it would be possible to remove the loose bricks on top from the building. Ms. Rose responded that is possible, however funds will be required to stabilize the remaining portions of the building. Mayor Apodaca suggested knocking down the top 30 feet of the building. Ms. Nelson spoke from the audience suggesting that previous minutes be consulted as the Commission has already voted to tear down the building as soon as funds become available.

Commissioner Lumpkin stated that the Commission had voted to tear down the building as soon as funding became available. He recalled that demolition had been delayed due to chemicals or other toxins that might be in the building would have to be studied and a report sent to the engineers. Mr. Lumpkin stated that although the process is slow, we are moving in the direction of getting the building abated. Ms. Nelson again spoke from the audience, stating that the resolution stated that the City only had 90 days to abate the building. Commissioner Lumpkin stated that the City is very concerned about the building and is trying to be safe. Mr. Lumpkin further stated that even if the funding was available, there would have been delays in the project.

Ms. Norma Love, co-owner of Love's Appliance located near the Sands Dorsey spoke from the audience asking if part of the building could be knocked down. Ms. Love inquired if the part of the building that is falling down could be pushed in so that the alleyway could be opened. Commissioner Lumpkin asked if the City could look into tearing some of the building down. Ms. Rose responded that Gordon Environmental said tearing down part of the building is a possibility. Ms. Rose explained that this would require two steps in demolition of the building which would increase the costs and that our staff is not qualified to abate such a situation.

Commissioner Lumpkin stated that if abatement is going to cost more than currently anticipated, it could be discussed when needed. Mayor Apodaca stated that a decision needs to be made regarding priority for the building; he said that the City either needs to demolish the building or renovate the property. Ms. Rose asked who will pay for the project.

Commissioner Lumpkin commented that the Commission did vote to tear the building down and should therefore take some action. Mayor Pro Tem Witcher said that the safety of the citizens is the priority and that if saving the building is the faster method of abatement, the City should go that way.

Ms. Rose expressed concern that the possibility exists that the building could be considered an historic object. If the building is declared an historic object, public funds cannot be used to tear it down. Ms. Rose is also concerned about tearing the building down as the City is not the rightful owner.

Commissioner Lumpkin stated that it is against the law to move the barrier in the alleyway however; it was also against the law for the owner of the building to do what he did and the city did not pursue him legally. Commissioner Lumpkin suggested that perhaps the City should pursue the owner legally to encourage action to be taken.

Commissioner Lafferty asked if a bid will be necessary. Ms. Rose responded in the negative. Commissioner Lafferty stated that the Commission passed a resolution to fix the public safety issue. He then suggested that City staff ask for an estimate to push the building in on itself and encapsulate the rubble. Commissioner Lafferty stated that it is the responsibility of the City to make the building safe and then give the building back to the owner with a bill for our services. Mr. Lafferty suggested that the more the City pursues this project, the more the expenses could rise due to what might be discovered as the project progresses. Commissioner Lafferty asked Ms. Rose to obtain an estimate on abating the building by pushing the unstable remains into the structure and encapsulating them. Ms. Rose said she would do so. Commissioner Lafferty stated that he does not want the City to take possession of the building. Commissioner Lafferty said the goal is to make it safe and to do so inexpensively.

Mayor Pro Tem Witcher suggested that the building could not be pushed in on itself because chemicals could seep into the ground if that is done. Ms. Rose stated that the engineering firm agreed to pushing the building in and encapsulating it. Mr. Witcher stated that we cannot tear down someone else's property. Commissioner Lafferty said the City does have the authority to do that because we condemned the property.

Ms. Rose asked the Commission to advise her on whether or not to close the alley. Ms. Rose reminded the Commission that Gordon Environmental said to close the alley and not allow any trucks access to the alley. Commissioner Lafferty suggested that property owners could sign a release if they want to use the alley. Ms. Rose stated that the City Attorney said to barricade the alley and arrest anyone that enters the alley. Mike Cherry stated that the City has the authority to close the alley for safety purposes. Mr. Lafferty asked for what length of time the City could close the alley. Ms. Rose stated that if the City closes the alley permanently, the land reverts to the adjacent property owners.

Norma Love asked from the audience if the City had ever torn down any buildings. Commissioner Lafferty responded in the negative and stated that the City cannot take business away from local contractors nor does the City hold a license to do so.

Mayor Apodaca stated that the City needs to decide what to do with the building and that a local business should be employed to do so. The Mayor also inquired about using public funds for abatement of the building. Commissioner Lafferty reiterated Ms. Rose's comments regarding use of public funds if the building is declared an historic object. Commissioner Lafferty also stated that as of right now, the building is not on any register and questioned the use of public funds at this time. Ms. Rose stated that if the City does not own the building, the City has no authority to tear it down. Ms. Rose said she will continue to work on acquiring emergency funding and get advice from Gordon Environmental.

Ms. Rose then reported to the Commission that she received a letter from DFA stating that state mileage reimbursement has gone up to 50.5¢ per mile. Ms. Rose further explained that the City Resolution states that the City will follow the state mileage reimbursement rate unless the Commission decides otherwise.

Ms. Rose reported receipt of a letter from the City of Santa Rosa stating that as of June 30, 2009 they will no longer transport their refuse to our landfill. The letter explained that the City of Santa Rosa plans to transport their trash to Vaughn. Ms. Rose informed the Commission that the City's landfill engineer says that Vaughn's landfill permit is not secured as of yet and suggested that the City may be in a position to negotiate with Santa Rosa.

Ms. Rose stated that another meeting had been held with Xcel energy regarding the street lights. Xcel has made an offer of \$6000 to supply the wire and use a local contractor to replace the wiring to street lights at the East end of the City. The changes will decrease the voltage and increase energy efficiency. Ms. Rose believes it is a good option as the City will save \$2.40 per month per light pole. Ms. Rose further explained that 104 lights are out on the West end of the City. She suggested decreasing the number of lights at the West end, converting the lights that will remain to lower voltage and replacing the heads with a more efficient option. Xcel has agreed to conduct an audit of all the lights the City is paying for. Ms. Rose stated that this conversion will save the City between \$8,000 and \$12,000 per year. Currently, the City pays over \$15 per month per light and this will go down to \$12 per light as well as decreasing the number of lights in total. Ms. Rose is also negotiating a new agreement where the City is not billed for lights that are out.

Mike Cherry speculated that the local contractor would cost around \$10,000 as well as the cost of utilizing some City crews for some of the work. Commissioner Lafferty asked what process would be used to determine which lights will remain. Mr. Cherry stated that he has a map of all the lights in the City. Commissioner Lafferty stated that the owners of businesses in those areas should be included in the decision making process. Mr. Cherry stated that the business owners will be included and a recommendation will be made to the Commission for their final decision. Mr. Cherry further explained that the wiring and lamps need to be replaced as they are old. Mayor Pro Tem Witcher inquired if the new wiring will be copper or aluminum. Mr. Cherry stated that copper wire will be used. Mayor Pro Tem Witcher suggested that the savings will pay for the project in a short time and that more lights will be easy to add should they be needed.

Mayor Apodaca asked if a wind turbine should be investigated as the City spends a large amount of money of energy every year. The Mayor suggested that energy savings could pay for a turbine over time. Ms. Rose stated that she submitted a grant proposal for new, energy efficient lighting at City Hall. Commissioner Lumpkin stated that he would like to sit down with Ms. Rose at a later date to discuss projects with renewable energy credits.

Ms. Rose then called upon Christine Dougherty to give an update on the Historic Museum. Ms. Dougherty explained that the City owns the museum building and the Tukumcari Historic Research Institute (THRI) owns the museum contents. Ms. Dougherty stated that there have been some recent employee changes at the museum and

as it is budget time, it seemed appropriate to evaluate the revenues and expenses at the museum as well as the employee situation. Ms. Dougherty said because the THRI and the City both have vested interests in the museum, it has been difficult for the employees to determine to whom they should answer. Ms. Dougherty said she is exploring the possibilities for more efficiently and harmoniously running the museum. The possibilities include having the City run the museum, having the THRI run the museum with a City subsidy or having a third party run the museum. Ms. Dougherty further clarified that despite recent rumors that the City intends to close the museum, a thriving museum is the desire of the city.

Commissioner Lafferty expressed his appreciation to Ms. Dougherty for her work with the museum and commended her efforts to bring all the interested parties to the table in this situation. Commissioner Lumpkin reiterated Commissioner Lafferty's comments.

Ms. Rose then gave an update on the animal euthanasia changes. Ms. Rose said a veterinarian will be coming from Las Cruces a few times in June to assist the City in disposing of animals that are unclaimed or not adopted in the City kennel. Ms. Rose said she will hold a meeting to obtain community input on the issue. Ms. Rose is working on setting up a spay and neuter program. She also stated that bids have been obtained on a portable building however; she is waiting to sign the requisition until she consults with the temporary veterinary contractor.

Old Business

Mayor Apodaca called on Mr. Jack Taylor, Executive Director of the SPIRIT 54 program. Mr. Taylor explained that the SPIRIT organization is a 501 C6 organization with intentions of expanding Highway 54 to four lanes from Wichita to El Paso. Mr. Taylor explained that seldom do four states come together for a common cause such as this and the proposal is designed to move goods through the southwest. Mr. Taylor also noted that McConnell Air Force Base, White Sands Missile Range, and Fort Bliss all are situated on Highway 54, thus increasing the traffic on the roadway.

Commissioner Lafferty asked if the group is stable at this time and if they are solvent. Mr. Taylor responded that the group is having some issues related to the economy and that is why he is making presentations to each member entity to ask for their renewal. Commissioner Lafferty asked what kind of response Mr. Taylor has been met with in the communities he has visited. Mr. Taylor said the response has been fair. Mr. Lafferty then asked if Highway 54 from Tucumcari to the Texas line has been set to stay two lanes. Mr. Taylor responded in the positive.

Commissioner Sandoval asked if there are plans to relocate Highway 54 further away from Tucumcari when it is re-paved. Mr. Taylor stated that the plans are to re-pave the highway along the existing route.

Commissioner Lafferty asked if it would be agreeable to pay half the City's dues now and half in six months. Mr. Taylor responded that he would agree to that schedule.

Pat Vanderpool, Economic Development Director was in the audience and commented that the section of Highway 54 from Tucumcari to the Texas State line has two railroad

crossings and a bridge over the Canadian river which will make re-construction of that section quite costly. Mr. Vanderpool stated that is why re-construction of this section of the highway has been pushed back in the schedule. Mr. Lafferty agreed that the section is a low priority because of the cost of re-construction.

Commissioner Lafferty made a motion to pay half of the SPIRIT 54 membership dues now and revisit the topic in six months. Commissioner Witcher seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

New Business

Mayor Apodaca called on Joe Ramirez, Wastewater Superintendent to present his department's request to expend funds from a restricted line item. Mr. Ramirez referenced a quote from JCH for a pump that distributes water to the digester. Mr. Ramirez said that the existing pump stopped working, was sent in for repairs, and after it was returned, a weld failed to hold and is not repairable. The department is now operating with one working pump that is 20 years old. Mr. Ramirez requested that the Commission approve the purchase of two pumps so that one can be used and one will be held in reserve for emergencies. Mr. Ramirez explained that the new pumps will be used in the new digester once constructed.

Commissioner Lumpkin asked if these pumps were the same as the pumps that previously had to be rented. Mr. Ramirez responded in the negative. Mayor Pro Tem Witcher asked Ms. Rose if she recommended this purchase. Ms. Rose responded in the positive. Commissioner Lumpkin made a motion to approve the Wastewater Department request to purchase two pumps and Mayor Pro Tem Witcher seconded the motion. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

Mayor Apodaca then called on Mr. Robert Fowlie, Principal from CDM to address the Commission regarding the Ute Lake Water Study. Mr. Fowlie explained that CDM was contracted some time ago to identify the options the City has for use of the 6,000 acre foot allocation of water from Ute Lake. Mr. Fowlie said there were at least a half a dozen opportunities for use of the water in the report he provided the Commission.

Commissioner Lafferty stated that he had attended the Ute Water Commission meeting earlier in the day and said there were numerous decisions that will face the City Commission in the future regarding the water. Mr. Lafferty stated that conservation, the growth of Ute Lake Ranch, and determining what level to maintain the water in the lake are all things that will have to be considered. Mr. Lafferty stated that he feel the City needs to employ its own engineers to protect our interests. Commissioner Lafferty stated that he has some hesitation because he does not know if all the city's needs are met in the document because there are lots of unknowns on this issue. Mr. Lafferty suggested that

the Commission allow Ms. Rose to accept CDM and give her the authority to adjust the contract with CDM to meet the needs of the City.

Commissioner Lumpkin asked Mr. Fowlie if waiting to move forward on this is advisable. Mr. Lumpkin stated that flexibility is needed until more is known. Mr. Fowlie suggested that there is a limited scope to develop the project but it could be amended as necessary. Mayor Pro Tem Witcher asked if Mr. Fowlie would approve a plan where CDM would bill the City as we work through coordination with Ms. Rose. Mr. Fowlie responded in the positive. Mr. Fowlie suggested that the project begin with a kick-off meeting some time after the Independence Day holiday with all the stakeholders. Commissioner Lafferty stated that he would like to take the project on one task at a time if that was agreeable with Mr. Fowlie. Mr. Fowlie stated that would be fine so that everyone has a level of comfort regarding the project. Ms. Rose noted that the proposal is broken down by task.

Commissioner Lafferty inquired how much funding is in the Ute Water tax line. Mr. Cherry responded that there is approximately \$900,000. Mr. Rose stated that the legal issues surrounding use of the water will be the first priority. Commissioner Lafferty made a motion to approve CDM as the engineering firm for the Ute Lake water planning project and to give the City Manager or her appointee the authority to adjust the scope of work as necessary. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

Items from Commissioners

Mayor Pro Tem Witcher had no comments.

Commissioner Lumpkin thanked all those who attended the meeting and stated that there is no bad input.

Commissioner Sandoval had no comments.

Commissioner Lafferty stated that he received a letter from the DFA accepting the City's interim budget with concerns. He asked Ms. Rose to clarify the concerns.

Ms. Rose said that the interim budget was approved but the concerns were that the amount budgeted for small cities assistance was too high and should be decreased by approximately \$100,000. Additionally, the Law Enforcement Protection funds should be budgeted at \$26,600 as that will match the grant amount allocated. Mr. Lafferty wondered how this will impact the general fund. Ms. Rose said it would have an impact; however the Finance Manager has not yet seen the letter nor had the opportunity to make necessary adjustments.

Mayor Apodaca thanked Ms. Rose, Ms. Dougherty and Ms. Rey for their assistance as he has gone through treatments at the VA hospital recently. He also reported that he will be in attendance at an Open Meetings Seminar in Santa Fe on July 1.

Executive Session

Commissioner Lumpkin made a motion to convene in executive session pursuant to NMSA 1978 10-15-1 (H) (2) for the purpose of conducting the City Managers performance evaluation. Mayor Pro Tem Witcher seconded the motion. Time noted 7:23 p.m. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

Mayor Pro Tem Witcher made a motion at 8:17 p.m. to re-convene in regular session after executive session pursuant to NMSA 1978 10-15-1 (H) (2) where the only matter discussed was the performance evaluation of the first 90 days of employment of City Manager, Bobbye Rose. Commissioner Lumpkin seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

Adjournment

There being no further business, a motion to adjourn was made by Mayor Pro Tem Witcher and seconded by Commissioner Lumpkin. Time noted 8:17 p.m. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

Antonio Apodaca, Mayor

ATTEST:

Christine Dougherty, City Clerk