

**CITY OF TUCUMCARI**  
**MINUTES**  
**August 27, 2009**

The Tucumcari City Commission met for their regular meeting on Thursday, August 27, 2009, at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were Antonio Apodaca, Jimmy Sandoval, Jim Lafferty, Robert Lumpkin, and Jim Witcher.

City staff members present were Bobbye Rose, City Manager; Christine Dougherty, City Clerk; Marty Garcia, Finance Manager; Doug Powers, Community Development Director; Yvette Fazekas Planning and Zoning Administrator; Charlie Sandoval, Water Superintendent; and Joe Ramirez, Wastewater Superintendent.

Jim Witcher, Minister of the First Christian Church, gave the invocation and Mayor Apodaca led the group in the Pledge of Allegiance.

**Consideration of Changes or Deletions to Agenda**

There were no changes or deletions to the agenda.

**Items from Commissioners**

Commissioners Sandoval and Lafferty had no comments.

Commissioner Lumpkin thanked all those in attendance for coming to the meeting. Commissioner Lumpkin stated that the Commission appreciates any input.

Mayor Pro Tem Witcher thanked all those in attendance for coming and introduced Sandy, on the rescue dogs from the shelter.

Mayor Apodaca had no comments.

**Approval of Minutes**

Mayor Pro Tem Witcher stated that on page three of the minutes, the motion regarding the Public Improvement District Two request to purchase part of the City's Ute Lake water allocation should read that the agreement will only be approved upon approval of the City Manager, the City Attorney, and the Interstate Streams Commission.

A motion was made by Commissioner Lafferty and seconded by Mayor Pro Tem Witcher to approve the amended minutes of the August 13, 2009 Regular Commission meeting.  
Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	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:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

### **Items from Citizens**

Mayor Apodaca asked if any citizens wished to address the Commission. Being none, the meeting continued.

### **Ordinances and Resolutions**

Mayor Apodaca stated that Mr. Robert Ciolli brought a letter to the City regarding his concerns about Ordinance 1071 and asked that it be read at the City Commission meeting. Mayor Apodaca stated that Mr. Ciolli should be present at the meeting to state his concerns in person.

City Clerk Dougherty stated to the Commission that the ordinance had been reviewed by the Municipal Court Clerk earlier in the day and she noticed that the court fees listed in the ordinance were \$28. The recent change in the Judicial Education Fee from \$2 to \$3 is not reflected and therefore, the court fees in Ordinance 1071 should be \$29.

Dr. Jean Corey, a local veterinarian addressed the Commission regarding the ordinance. Dr. Corey's concerns are that the State of New Mexico has recently approved rabies vaccinations that are good for three years. Dr. Corey stated that she feels the ordinance should reflect in the license section that some animals will not require rabies vaccinations annually if they are given the inoculation that is good for three years.

Dr. Corey further stated that she is concerned about animal breeders that were already in the process of breeding their animals. Dr. Corey stated that gestation in both cats and dogs is two months. She thought the ordinance should not go into effect right away as it would not be fair to those that breed animals and did not know they were soon to be required to have a breeder's license.

Mayor Apodaca asked if the ordinance can be tabled until all the language is researched further. Ms. Dougherty responded in the positive.

Ms. Christina Fleming, who has been very active in revision of the ordinance, stated that other cities have a clause in their animal ordinance that states the Commission can modify or suspend any part of the animal ordinance with a majority vote. Mayor Pro Tem Witcher stated that on page two of the ordinance, item F, where the license for animals is discussed, the wording could be changed to read "for the term of the vaccination." Dr. Corey explained that upon initial rabies vaccination, the shot is only good for one year and it is the subsequent inoculations that are in effect for three years.

After some discussion regarding the wording of the ordinance and the vaccination requirements, it was decided that there was no rush to complete the ordinance enactment process and time should be taken to ensure it is done correctly.

Commissioner Lumpkin stated that he and Dr. Corey had discussed the fines for unlicensed breeders. Dr. Corey stated that a delayed implementation date of the ordinance and advertising would resolve her concerns.

Commissioner Lafferty asked for clarification on the process of drafting the new ordinance. Ms. Fleming responded that Ms. Rose organized and advertised a public meeting on the issue for which 17 people showed up. At that meeting, Ms. Fleming stated she gave out her phone number and email address so that anyone present could give input on the ordinance. Ms. Fleming said that three people responded with input.

Commissioner Lafferty further stated that he wanted to clarify that the proposed changes to the animal ordinance were not due to the changes to the euthanasia regulations made at the state level.

Mayor Apodaca stated that the language in the ordinance needs to be cleaned up so that anyone can read and understand exactly what the ordinance means. Mayor Apodaca reiterated that he was reluctant to read Mr. Ciolli's letter as it would set a precedence where all correspondence to the Commission would have to be read aloud.

Commissioner Lafferty asked if the animal facility is working to adopt out animals at this time. Ms. Fleming stated that volunteers have been taking animals at their own expense to other cities for adoption as well as arranging foster care for animals locally.

Mayor Apodaca suggested that the ordinance be tabled. Commissioner Lafferty added that the ordinance should be done correctly so that it will not have to be modified any time soon. Commissioner Lafferty suggested that a work session be scheduled so that all the details can be discussed and so that the Commission can hear about the modifications made due to the state mandated euthanasia changes.

Mayor Pro Tem Witcher made a motion to approve the second reading of Ordinance 1071 Amending Section 6.04 of the Tucumcari Municipal Code pertaining to Animal Control with a paragraph added that states the Commission has the authority to modify via majority vote any part of the ordinance and that the effective date be January 1, 2010. Commissioner Lafferty seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

It was then determined that a work session will be held on Monday, September 14, 2009 at 6 p.m. in Commission Chambers to discuss the animal ordinance.

Mayor Apodaca then called on Yvette Fazekas to present Resolution 2009-33. Ms. Fazekas explained that this resolution must be executed so that the City can apply for Re-Leaf funds through the State of New Mexico Energy Minerals and Natural Resources

Department. The funds will be used for enhancing beautification programs. The grant request will be for \$5850 with an in-kind match of \$1470 for a total of \$7320.

Commissioner Lumpkin made a motion to approve Resolution 2009-33, a Resolution Regarding Approval of New Mexico Conservation Re-Leaf Planting Program Application. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	Yes	Yes	Yes

Mayor Apodaca called again on Ms. Fazekas to present Resolution 2009-34, a Resolution Accepting Participation in the 2008-2009 Municipal Arterial Program Project Number MAP-7637(902) and Assuring that Sufficient Local Matching Funds are Available. Ms. Fazekas explained that this resolution re-appropriates funding for the Third Street project. Ms. Fazekas stated that due to stimulus funding from the Department of Transportation, the project has been expanded.

Commissioner Lafferty asked if the City has the \$72,000 required match. Ms. Rose responded in the positive and asked Mr. Garcia if the funds had been carried over from the previous fiscal year and he responded in the positive.

Mayor Apodaca inquired when paving is scheduled for the area around the Recreation Center as he feels a lot of man hours are being spent on upkeep of old roads in that area. Mr. Powers agreed that the area does need to be re-paved. However, Mr. Powers stated that he is trying to follow the street improvement plan. The Mayor stated that the street problems need to be resolved quickly and hoped that CDBG funding could be used to resolve them. Mr. Powers agreed.

Commissioner Lafferty asked if the funding included replacement of the water lines under Third Street. Mr. Powers said that the funding does not include replacement of the water lines and he is looking for other means to replace those lines. Mr. Lafferty asked if Third Street is the next street slated for re-pavement in the street improvement plan. Mr. Powers responded in the positive.

Mayor Pro Tem Witcher made a motion to approve Resolution 2009-34 Accepting Participation in the 2008-2009 Municipal Arterial Program Project Number MAP 7637(902). Commissioner Lumpkin seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

### **City Manager's Report**

Ms. Rose called upon Marty Garcia, Finance Director to give the monthly Financial Report. Mr. Garcia reported that gross receipts tax collections were down 10.39% in the month of June but up 4.98% for the year. In dollars, Mr. Garcia reported a decrease in gross receipts tax collected of \$7677. He further reported that construction tax is down, however the increase in retail tax made up the difference. Overall, Mr. Garcia stated, the Cities economy is up.

Mr. Garcia reported that the Department of Finance Administration has granted final approval of the budget with minor changes. Mr. Garcia stated that the only thing lacking for final budget approval is a request of carryover of LEPF funds.

Mr. Garcia stated that the auditors completed their compliance and test work and will return in September to complete the audit.

Mr. Garcia further explained that utility billing clerk, Florence Quintana has been out due to injuries sustained in a car accident. In her absence, he and one of the cashiers have been covering the utility billing duties. Additionally, the programmer from Triadic has been in the office upgrading the budgeting software. The upgrade is providing many new capabilities within the software including a new look to utility bills with a graph of each customers consumption. Mr. Garcia stated that the software change makes manipulation of the data easier now.

Mr. Garcia explained to the Commission that the budget and cash reports in the monthly financial report they received appear to be over, this is due to three pay periods in the month of July. Mr. Garcia further described that the system is set for transfers to occur on a monthly basis and months with three pay periods overdraw the system. Mr. Garcia stated that he may look into changing this because of the occasional month with three pay periods.

Commissioner Sandoval inquired about the certificates of deposit the City holds. Mr. Garcia replied that the City has CD's at Wells Fargo Bank, Tucumcari Federal Savings and Loan, Everyone's Federal Credit Union and First National Bank. Mr. Sandoval requested a report of all the CD's, where they are held and their value be supplied to the Commission.

Commissioner Lafferty expressed concern that there are six departments with negative cash balances in the July report. Mr. Lafferty stated that in order to monitor what is going on there should be an attempt to not run in the red.

Mayor Apodaca, Mayor Pro Tem Witcher and Commissioner Lumpkin all thanked Mr. Garcia.

Ms. Rose then called on Mr. Rex Maddaford, Golf Professional to give a report on the Golf Course. Mr. Maddaford informed the Commission that a satellite system for watering the golf course was purchased with Economic Development funds which required an upgraded computer system. The snags are being addressed. The John Deere company that installed the sprinkler system is providing great service.

Mr. Maddaford reported that a new well system was installed which requires 220 volt electricity and the course has only 110. They are burning up modules quite regularly at a cost of \$500 each. John Deere is replacing these for no cost.

Mr. Maddaford reported that the course is in the best condition it has ever been in. He further explained that 400 sprinklers were replaced by volunteers whom deserve lots of praise. Mr. Maddaford also stated that Sun Country Magazine published by the PGA

recently ran an article about the course at Ute Lake Ranch and mentioned the Tukumcari course as well. The magazine referred to the Tukumcari course as a gem in the United States.

Mr. Maddaford also explained a company called Sky Caddy provides GPS locations of golf courses and has included the Tukumcari Course. Golfers can download the GPS location of the course from anywhere.

Mr. Maddaford reported that the 37<sup>th</sup> Annual Vic Breen Tournament had 35 teams, players had to be turned away from the Elk's Scramble, a wedding was recently held at the course and revenues are up.

Mr. Maddaford also thanked the two employees at the course, Steve Benavidez and Joe Garcia for their hard work. The two work seven days a week, care for 120 acres of land and had to learn how to use the new computer system. Mr. Maddaford asked the Commission to assist in getting the word about the course out by electronic means and requested highway signs.

Mayor Pro Tem Witcher commented that he was present at the course for the wedding and said it was beautiful.

Mayor Apodaca and Commissioner Lumpkin thanked Mr. Maddaford.

Ms. Rose reported that she attended a Mainstreet Task Force Meeting along with the Mayor. The first task to accomplish is to form the task force. No one with a direct relationship or that owns property in the Mainstreet area can serve on the task force. The second task is to decide what to do with the Sands Dorsey building. However, the mainstreet funds cannot be used for demolition of the Sands Dorsey building. The third task is the Princess Theatre. Mainstreet funds can only be used for the façade of the Princess building and not to repair the roof. The fourth task is the Railroad Plaza. However, none of the funds can be used on the depot itself. The Mainstreet funds are a \$1.4 million grant with \$140,000 match.

Mr. Powers commented that the depot project is federal money funneled through the state which would be eligible for match funds. Ms. Rose stated that the budget for this project will be reviewed at the next meeting. Commissioner Lafferty asked where the match will come from. Mayor Pro Tem Witcher stated that there is \$400,000 un-budgeted cash reserve in the EDC tax.

Commissioner Lafferty stated that the rules attached to this money bother him and he is unsure if the EDC cash reserve would be best spent on this project. Commissioner Lafferty also had concerns regarding the exclusion of property owners on the task force. Mayor Apodaca suggested that the original language in the senate bill authorizing the funding be consulted.

Ms. Rose stated that in order to proceed, she needs guidance from the Commission regarding which projects are their priority. Commissioner Lafferty suggested that all the funds for the Princess Theatre and the Sands Dorsey be utilized on the Rail Park project.

Ms. Rose then reviewed her calendar with the Commission and highlighted important dates.

Ms. Rose explained that she talked with Chris Murhead regarding the USDA project and his concern that the City might lose the funding. Mr. Murhead suggested that the City return the funds for the Date Street project in order to keep the \$8 million project. Mr. Powers explained that the DOT never billed the City for the First Street project. The preliminary bill was incorrect and the project was never closed out. Ms. Rose stated that she submitted a letter describing the situation. Commissioner Lafferty suggested that a letter be sent explaining to the DOT that funding is in jeopardy due to their inaction.

Ms. Rose reported that veterinarian Dr. Carver came to the City again this week to assist with euthanasia of animals unclaimed at the pound and seven additional visits are being negotiated with the State.

Ms. Rose reported that she and Alex Madrid, Streets and Sanitation Superintendent met with Mr. Bob Martin who owns property adjacent to the landfill. Due to problems at his property caused by the landfill construction, Ms. Rose recommended that the City install one quarter mile of fence for Mr. Martin to keep people and large animals out of his property.

**Bids and Contracts**

Mr. Powers presented the CDBG Grant Agreement. Mr. Powers explained that the agreement was submitted in November and awarded in April. Stimulus funding provided this project additional funding for a survey. Mr. Powers reported that there are 129 households in this project. Mr. Powers explained that the stimulus funding requires additional reporting.

Mayor Pro Tem Witcher made a motion to approve the 2009-2010 CDBG Grant Agreement and Commissioner Lumpkin seconded the motion. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

Ms. Rose presented the Memorandum of Understanding between the City and Mesalands College. Ms. Rose explained that she and Ms. Dougherty recently met with Dr. Gallatin and Dr. Barry from the college to discuss the MOU which had expired. Ms. Rose explained that she would like to help educate the City's workforce and the City can in turn provide services for the college. Ms. Rose recommended that the Commission approve the MOU.

Commissioner Lumpkin made a motion to approve the Memorandum of Understanding between the City of Tucumcari and Mesalands Community College. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

Commissioner Sandoval stated that he is glad to see the City working to educate their employees and is in support of working with the college.

**Old Business**

Ms. Rose explained that the Commission instructed her to modify the bulk sales agreements for water with the cooperatives at the last meeting. In her research, Ms. Rose discovered that the Liberty contract expires in 2020. Additionally, Ms. Rose had Mr. Garcia calculate the actual cost to produce the water and his figure is \$2.58 per one thousand gallons. Ms. Rose apologized to the water users, the public and the Commission. She recommended that the contracts be tabled until the cooperatives and the feed lot be allowed to negotiate a new price for water.

Commissioner Lafferty asked if the rate decided at the last meeting would be in effect until a new rate is decided. Ms. Rose responded in the positive.

Commissioner Lumpkin made a motion to table the bulk water contracts and Mayor Pro Tem Witcher seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

**New Business**

Mayor Apodaca called upon Joe Ramirez, Wastewater Superintendent to make his emergency expense request. Mr. Ramirez explained that the pump at the 66 Lift Station has ceased to operate and during renovations a portable pump has been used until the new pump is installed. Mr. Ramirez explained that the pump rental has been required for longer than anticipated due to construction set backs. Mr. Ramirez said that this would be the final bill for the rented pump as it was used up to July 4, 2009.

Ms. Rose explained that the resolution requiring Commission approval for expenditures from the emergency line items was only in effect for the previous fiscal year. Ms. Rose inquired if the Commission wanted request for their approval to be in effect for the new fiscal year, for ever or not at all. Mr. Garcia stated that the new budget resolution does not contain the language requiring Commission approval for expenditures out of the emergency line items. Commissioner Lafferty stated that the wording in last years resolution regarding emergency expenditures was crafted so that the Commission could deem what qualified as an emergency. Commissioner Lafferty also stated that the invoice in question should have been paid out of last year's budget as the expenses were incurred in the previous year and therefore should not be past due. Mayor Apodaca stated that Ms. Rose should have the authority to approve emergency expenditures without their approval.

Commissioner Lumpkin made a motion to approve the Wastewater Department request to expend emergency funds and Mayor Pro Tem Witcher seconded the motion. Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
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Yes

Yes

Yes

Yes

Yes

### **New Business**

Mayor Apodaca called on Mr. Roy Dumas of DFL Properties to make his request. Mr. Dumas thanked Charlie Sandoval, Water Superintendent and the City employees that helped with his billing issue at the Pow Wow Apartments. Mr. Dumas explained that a maintenance person is living in the apartments to provide upkeep of the property. Mr. Dumas explained that although only one person is living in the apartments, consumption has increased.

Mr. Sandoval explained that he tested the meter at the apartments and asked the Commission to review the test results provided to them in their packets. The meter tested slow meaning that a faulty meter is not the cause of the increased consumption.

Mayor Apodaca read aloud a letter from Mr. Randy Knudson, City Attorney stating that adjusting the water bill without adequate proof that the City was somehow at fault for the increased consumption would violate the anti-donation clause. Mr. Apodaca stated that although the Commission sympathizes, the City is prohibited by the constitution to decrease the bill.

Mr. Sandoval stated that it has happened in the past that a leak can go undetected causing an increase in billed water.

Commissioner Lafferty stated that as per the lawyers advice, the City cannot give anything away. However, Mr. Lafferty stated that the City allowed the unpaid bill to accumulate. He further explained that we now have a new City Manager who is enforcing the water ordinance which states that customers will be disconnected for non-payment of their bill. Mr. Lafferty expressed concern that a business owner is working to sell a building. Mr. Lafferty stated that the City is a public servant and DFL Properties is a customer. He suggested that the timeline for payment of the past due amount be stretched out over a longer period of time than the initial contract.

Mayor Apodaca asked if a contract for re-payment already existed. Ms. Rose responded in the positive. Mr. Witcher asked if the contract could be tied to another business owned by the same customers so that if they sell the apartments the un-paid balance does not impact the transaction. Mr. Lafferty stated that the City has to link the bill to the property in order to be paid and suggested a lien be filed. Mayor Pro Tem Witcher stated that if the contract is breached a lien should be filed right away.

Ms. Rose stated that her concern is that there are no other businesses with this problem; only residential customers seem to have these issues.

Mayor Apodaca stated that giving additional time to pay the bill is unfair to the loyal customers that pay their bills on time. The Mayor asked how many employees the apartments have. Mr. Dumas said that there are two employees, five tenants and one works in exchange for rent.

Mayor Pro Tem Witcher suggested that a lien be filed along with a contract. Mayor Apodaca expressed concern over that idea. Commissioner Lafferty stated that at one point he heard that the City has \$400,000 in unpaid bills. He suggested that liens will have to be filed on every property with an unpaid balance if that precedence is set.

Commissioner Lafferty made a motion to execute a contract with DFL Properties over the next twelve months where they are responsible for the current bill plus one-twelfth of the un-paid balance each month and if the contract is defaulted, the water is to be shut off. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

### **Items From Commissioners**

Commissioner Sandoval had no comments.

Commissioner Lafferty stated that he would like the City Manager to acknowledge the hard work of the employees at the golf course that Mr. Maddaford spoke of in tonight's meeting. Mr. Lafferty asked that before the water re-use public hearing on September 8<sup>th</sup>, he would like the Commission to be given original documents on the issue to study. He requested the same on the Date street issue and stressed that the First Street issue needs closure regarding the DOT bill. Mr. Lafferty thanked Mr. Charlie Sandoval for his work with DFL Properties as it was a difficult situation and extra work for his department.

Mayor Pro Tem Witcher had no comments.

Commissioner Lumpkin appreciated Commissioner Lafferty recognizing the golf course employees. He also thanked Mr. Maddaford and Dr. Corey. Mr. Lumpkin also thanked Mr. Sandoval for his work on the controversial DFL Property issue. Mr. Lumpkin also thanked all those in attendance at the meeting.

Mayor Apodaca stated that he is still working to resolve his retirement issues. The problems in communication between PERA and ERB have been difficult and he thanked Ms. Rey and Ms. Dougherty for their assistance. Mayor Apodaca also thanked Representative Dennis Roch for his assistance in finding the light through the forest.

### **Adjournment**

Mayor Apodaca asked for a motion to adjourn the meeting. Mayor Pro Tem Witcher made a motion to adjourn and Commissioner Lumpkin seconded the motion. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

The meeting was adjourned at 8:12 p.m.

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Antonio Apodaca, Mayor

ATTEST:

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Christine Dougherty, City Clerk