

**CITY OF TUCUMCARI**  
**MINUTES**  
**September 24, 2009**

The Tucumcari City Commission met for their regular meeting on Thursday, September 24, 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 City Manager; Christine Dougherty, City Clerk; Doug Powers, Community Development Director; Marty Garcia, Finance Director; Vicki Strand, Deputy Finance Director; Scott Simpson, Recreation Director; Charlie Sandoval, Water Superintendent; Alex Madrid, Streets and Sanitation Superintendent; and Clara Rey, Director of Human Resources.

Mr. Jim Witcher, Reverend of the First Christian Church, gave the invocation and Commissioner Lafferty led the group in the Pledge of Allegiance.

**Consideration of Changes or Deletions to Agenda**

City Clerk, Christine Dougherty asked that item H, *Water and Sewer Project Identification* under City Manager's Report be deleted. City Manager, Bobbye Rose asked that Item B, *Ordinance 1073* be removed if Mr. Pat Vanderpool, Economic Development Director does not attend the meeting.

**Items from Commissioners**

Commissioner Lumpkin thanked all those in attendance for coming to the meeting and stated that he encouraged people to address the Commission.

Mayor Pro Tem Witcher stated that a date for work sessions for the Animal Ordinance and Wastewater Re-Use need to be set.

Commissioners Sandoval and Lafferty had no comments.

**Comcast Presentation**

Mayor Apodaca called on Mr. Spenser DeBord from Comcast Communications to the podium. Mr. DeBord thanked the Commission for having him at the meeting. Mr. DeBord explained that through the Comcast Foundation Comcast Cares Day is held annually. In April, the local project for Comcast Cares was to improve the City softball fields. In addition, Mr. DeBord explained, the Elk's Lodge, Pacheco Trucking, Steel Heating, Subway, Bell Storage and Allsups donated to the effort. There were 85 volunteers present that worked to make Field Three usable again. The fence and the backstops were replaced. Additionally the dugouts, bleachers and trash receptacles were painted. As a result of the volunteerism, the Comcast Foundation presented the City with \$1900 for the Recreation Department. Mr. DeBord stated that 100% of the local Comcast staff participated in the effort.

Scott Simpson, Recreation Director stated that this was a worthwhile effort for the Recreation Department. Mr. Simpson said that Comcast asks each year for project suggestions and they are always very receptive to helping the Recreation Department. The field is now in good usable shape, thanks to Comcast and the other donors.

Mr. DeBord also added that Mesalands Community College partners with Comcast through their non-profit 501 (C) (3) foundation.

### **Approval of Minutes**

Commissioner Lumpkin moved to approve the minutes of the August 27, 2009 Regular Meeting. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

Commissioner Lumpkin moved to approve the minutes of the September 8, 2009 Public Hearing. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

Commissioner Lumpkin moved to approve the minutes of the September 10, 2009 Regular Meeting. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Abstain

Mayor Pro Tem Witcher moved to approve the minutes of the September 24, 2009 Public Hearing. Commissioner Lumpkin seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Abstain	Yes

### **Approval of Vouchers**

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

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	Yes	Yes	Yes

### **Items from Citizens**

Mayor Apodaca asked if anyone would like to address the Commission. Mr. Jack Smith approached the podium to address the Commission. Mr. Smith stated that he brought a packet in for the Commissioners and the City Manager to review. Mr. Smith stated that

the packet contained a map showing where his farm is located that he is currently using City Re-Use water on. Mr. Smith stated that his set-up for the water system is temporary and he would like to make it permanent. Mr. Smith's map shows the location of the proposed monitoring wells. Mr. Smith needs a commitment from the City before he proceeds with drilling of the wells. Mr. Smith encouraged the City to proceed as he is not aware of any expenses to the City and he is paying \$10 per acre foot of water. Mr. Smith also cautioned that others interested in using re-use water need to look closely at the proposition as the cost of his permit was \$6500.

Commissioner Lumpkin asked Mr. Smith how long his permit is in effect. Mr. Smith stated the permit is good for five years. Mr. Smith went on to say that the permit application was difficult to understand and he had to call the permitting office for clarification and that the permit only allows for a certain amount of water to be discharged.

### **Proclamations, Memorials, Or Petitions**

Mayor Apodaca called Susan Lease, ASAP Coordinator to the podium so that he could present her with the Family Day Proclamation. Ms. Lease stated that each year ASAP encourages the celebration of Family Day where families sit down and eat dinner together. The Proclamation declared September 28, 2009 as Family Day.

### **Ordinances and Resolutions**

Mayor Apodaca called upon Doug Powers for the first reading of Ordinance 1072. Mr. Powers explained that this ordinance is part of the stimulus package funding for the Wastewater Treatment Plant. The ordinance is required for the loan portion of this package. Ms. Rose explained that the loan is a 20 year loan with zero percent interest.

Commissioner Lafferty asked if the City possesses the means to pay back the loan. Ms. Rose responded that utility rates may have to be increased in order to meet the debt requirement. Ms. Rose further explained that Mr. Paul Cassidy is reviewing the rate structure. Ms. Rose also stated that approval of this is not a final commitment to this loan.

Commissioner Lumpkin made a motion to approve the first reading of Ordinance 1072, a loan agreement with the New Mexico Environment Department for Wastewater Treatment Plant construction loan funds with a principal not to exceed \$100,000. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

Ms. Rose presented Resolution 2009-35, regarding a USDA loan/grant for Wastewater Treatment Plant and Lift Station rehabilitation. Ms. Rose explained that this is a \$1,303,000 loan with the remainder coming in the form of a grant. The total project is \$4 million. Ms. Rose explained that Mr. Cassidy will come to present to the Commission how it will be possible for the City to repay the loan portion. Ms. Rose encouraged that the resolution be passed so that the money will not be lost.

Commissioner Lumpkin made a motion to approve Resolution 2009-35, a USDA loan/grant for Wastewater Treatment Plant and Lift Station rehabilitation. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

Mr. Doug Powers then presented Resolution 2009-36, approving New Mexico DOT co-op funds. Mr. Powers explained that the DOT has reduced the funding they are dispersing this year. This funding will be \$43,984.60 with \$14,661.53 City match for a total project of \$58,646.13. Mr. Powers explained that this funding will be used for the side street project between Second and Third streets. Mr. Powers stated that with the completion of this project, all the side streets between First and Third streets will be re-paved. Mr. Powers stated that the side streets will finally be addressed with this stimulus finding.

Mr. Charlie Sandoval, Water Superintendent stated that he and Mr. Powers have been working together in order to ensure that projects occur in conjunction so that water lines are replaced and new pavement is then laid on top of new lines. Mr. Sandoval further explained that he and Mr. Powers are working with the City Manager to get services changed over, and moving funds to get streets by Dunn Park re-paved. Mr. Sandoval stated that the goal is to deal with the problem streets first. Mr. Powers stated that not all the streets in the City qualify for MAP or CDBG funding for re-paving. The overall strategy has been to address the streets throughout the City that are in the most need of repair.

Mr. Powers presented the Commission with a color coded map showing which streets were recently re-paved and which are in need of re-pavement. Mr. Lafferty asked why Lake Street from the Tucumcari Inn to the Yellow Freight building is not on the map. Mr. Sandoval responded that the water lines under Lake Street are old but they are there. He stated that water lines have to be addressed first, then sewer lines and finally paving. Mr. Sandoval stated that it takes about three years to address all infrastructures in a particular area.

Commissioner Sandoval asked why Third Street was not addressed until now. Mr. Powers indicated that the paving schedule was developed from the last street assessment. Mr. Sandoval also stated that it makes no sense to re-pave a street if the infrastructure underneath it has not been addressed. Mr. Sandoval explained that water line replacement comes out of his department's operating budget so he has to budget carefully.

Commissioner Lafferty stated that his constituents in District Five are still interested in creating a Public Improvement District for their area. Mr. Lafferty stated that the people in his district want to use their taxes to pay for new streets and utilities. Most of the map in District Five is red on Mr. Power's map indicating that they are in disrepair. Mr. Lafferty explained that his district does not qualify for grant funds to repair their streets because the median income is too high. Commissioner Sandoval stated that he agrees that the streets indicated on the map as most in need of repair need to be addressed.

Mayor Pro Tem Witcher stated that this money did not just drop on the City. Mr. Witcher explained that Doug Powers and Charlie Sandoval heard about the stimulus finding being available and they worked hard and were awarded the funding. Mr. Witcher stated that these men should be thanked for their work. Ms. Rose agreed that Mr. Powers and Mr. Sandoval should be commended as they developed a well thought out plan.

Commissioner Lafferty asked if any cash match will be required. Ms. Rose responded that a 25% match is required but that in can be met almost entirely with in-kind match funding.

Mayor Apodaca asked Ms. Rose if she recommends approving this resolution. Ms. Rose responded in the positive. Mayor Pro Tem Witcher made a motion to approve Resolution 2009-36 accepting participation in the 2009-2010 cooperative agreement program with the New Mexico DOT and assuring that sufficient local matching funds are available. Commissioner Lumpkin seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

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

Ms. Rose explained that the Department of Finance Administration approved the City Budget for fiscal 2009-2010. Ms. Rose further explained that the DFA requires that acknowledgement of this needs to appear in the minutes.

Mayor Apodaca then read the letter from the DFA accepting the budget. Mr. Apodaca then stated that because the Commission is responsible for the financial affairs of the City, it is not micro management when the Commission demands numbers.

Commissioner Lafferty made a motion acknowledging the DFA approved budget for fiscal 2009-2010. Mayor Pro Tem Witcher seconded the emotion. Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	Yes	Yes	Yes

Ms. Rose then called on Marty Garcia, Finance Director to give the Financial Report for the month of August, 2009. Mr. Garcia stated that he supplied the Commission with the Gross Receipts Tax and Budget reports. Mr. Garcia apologized for not having the cash report for the Commission. Mr. Garcia went on to explain that the utility program was updated and the changes had caused some issues.

Mr. Garcia stated that the GRT is up 2.77% from the three year average. He also said there has been a recent increase in retail trade. Mr. Garcia stated that the water and wastewater projects need to be budgeted now that actual numbers have been obtained. Mr. Garcia said he is trying to watch line items and that the unemployment insurance line item is already spent in most departments. Mr. Garcia said he is keeping a close eye on the EMS budget. He stated the department billed over \$100,000 which is good if all of it

is collected. The Senior Citizen Department is doing well as is the Airport. Mr. Garcia stated that the other departments are operating within standard parameters.

Mr. Garcia explained that the utility billing system has been converted resulting in many changes and ability to customize the system. The utility bills are ready to go out a bit late. The bills will be mailed on or around the 21<sup>st</sup>.

Mr. Garcia stated that the Finance Department has experienced lots of illness and injury. Everyone has been pitching in and helping but it has been difficult to keep up with the daily activities.

Mayor Pro Tem Witcher thanked Mr. Garcia. Commissioner Lumpkin asked if there would be any chance of getting the financial reports before the meeting. Mr. Garcia stated that the budget report could be delivered before the meeting and he would try to get the other reports to the Commission before the meeting.

Ms. Rose then went over the Department Head reports. She stated that she will have one Department Head give a detailed oral report to the Commission each month so that they can stay abreast of activities in each department.

Ms. Rose stated that the Great American Cleanup is approaching and Ms. Estrada, Code Enforcement Officer will be at the next meeting to request a free dump day. Ms. Rose also reminded the Commission that there is \$10,000 in the Economic Development Corporation budget for cleanup of properties.

Ms. Rose reported that an RFP will be issued for veterinary services for animal euthanasia.

Ms. Rose also informed the Commission that free seasonal flu shots will be given at the Fire Department on October 13 from 1 p.m. to 3 p.m.

Ms. Rose also explained that a new agenda process is being implemented with a new form which should streamline the process and get agendas to the Commissioners more timely.

Ms. Rose reminded the Commission of the Wastewater Public Hearing on October 6 at 7 pm.

Ms. Rose stated that the CDM contract was reviewed and modified by the attorney and is ready to be signed.

Ms. Rose also informed the Commission that FEMA will be visiting the City.

Mayor Apodaca stated that he is unable to commit to meeting dates in October because of the health issues his mother is experiencing.

Mayor Pro Tem Witcher suggested that work session dates be set. It was decided to have work sessions on Monday October 5 and Tuesday October 6 at 5:30 to discuss the

Wastewater Re-Use issues and the Animal Ordinance. Mr. Witcher asked the Clerk to have all the notes to the Commission by the Friday before the work sessions.

Ms. Rose stated that the Commissioners received a copy of the Landfill Feasibility Report in their packets. Ms. Rose stated that Gordon Environmental recommends a landfill in lieu of a transfer station. Additionally, Ms. Rose stated that tipping fees will have to be increased. Mayor Apodaca asked for clarification on the recommendation. Ms. Rose clarified that the recommendation was to do away with a transfer station. Mr. Apodaca asked if Santa Rosa is still bringing their refuse to the City landfill. Ms. Rose stated that currently Santa Rosa is not dumping in the City landfill, however she is negotiating with them. Mr. Witcher suggested that Ms. Rose check with Clayton regarding their dumping. Ms. Rose stated that she has a list of possible landfill customers she is working with.

Ms. Rose stated that the Environment Department is looking over the specifications and plans for the Sands Dorsey building. Ms. Rose further explained that because it is a blighted area, funds will be harder to get. Ms. Rose stated that CDBG funds may be a possibility for use in abating the building. Mayor Apodaca commented that the City has a good history with the CDBG program.

Mr. Witcher stated that he received a call from a woman named Mary Clark regarding the Sands Dorsey building. When he attempted to call her back, he had the wrong number. He encouraged anyone who knows her to have her call him again.

Mayor Apodaca asked if Mainstreet funds could be used for the Sands Dorsey. Ms. Rose responded in the negative. Commissioner Lafferty asked what the options are if CDBG funds cannot be obtained. Mr. Powers stated that Brownfield funds are earmarked for cleanup of contaminated areas and might be a good option. Mr. Powers stated that he has applied for Brownfield funds in the past but the contamination levels are different in this project.

Mayor Apodaca asked if Superfunds could be used. Mr. Powers stated that would be a possibility and if it is approved by the City Manager, he would be happy to explore the possibility. Commissioner Lafferty suggested that the City issue an RFP with a stipulation that the winning bidder is responsible for finding the funds to complete the project. Mr. Lafferty asked what needs to happen for the City to do this. Mr. Powers stated that a beginning budget will be necessary. Ms. Rose stated that the possibility will be explored and a report will be given at the second October meeting. Commissioner Lafferty stated that an RFP, Superfunds, Brownfield, and CDBG opportunities should all be explored.

Mayor Pro Tem Witcher asked if the dilemma with State Agencies regarding tearing down the building still exists. Ms. Rose responded in the negative. Commissioner Lafferty asked if the City has something in writing from the Historical Society regarding the building. Ms. Rose responded in the negative stating that we only have the minutes from one meeting where the building was discussed. Mr. Lafferty stated that we do not have anything that says we can not tear down the building. Ms. Rose responded in the negative stating that she believes we are only responsible for keeping the Historical Society in the loop regarding what happens with the building. Ms. Rose reminded the

Commission that public funds cannot be used to tear down an historic building. Commissioner Lafferty stated that the City needs something in writing from the Historic Society. Mr. Lafferty expressed concern due to the fact that the ordinance passed by the City stated that the Sands Dorsey is a health and safety issue that we need to take care of. Ms. Rose stated that the Mainstreet office is looking for grant funds to be used to fix or stabilize the building.

Ms. Rose then presented the draft of the Financial Policy to the Commission for their information. Ms. Rose asked if the Commission wants her to enact the policy as the Manager or if they want to pass a resolution or ordinance approving the policy. Ms. Rose stated that there are still a few problems with the draft version of the policy. Ms. Rose said that the policy requires that the budget process begin earlier. Mr. Witcher stated that the policy is a management tool. Commissioner Lafferty stated that it needs to be a policy so that through different managers and audits the policy can be implemented. Mr. Lafferty stated that he hopes Ms. Rose will stay with the City for a long time, but the policy should stay in place regardless of who the City Manager may be. Mr. Lafferty further explained that in audit reports, the City has been cited as lacking internal control features. Mr. Lafferty stated that he feels the policy should be adopted in an official capacity. Mayor Apodaca and Commissioner Sandoval stated that they agreed.

Commissioner Lafferty made a motion that the Financial Policies should be reviewed and presented to the Commission in either Resolution or Ordinance form. Mayor Pro Tem Witcher seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

Ms. Rose then presented the Administrative/Commission Retreat. Ms. Rose asked for a suggested date for the retreat. Mutual consent for a date was not achieved so Ms. Rose stated she would poll the Commissioners to determine a date.

### **Bids and Contracts**

Mayor Apodaca called upon Ms. Rose to present the easement agreement between the City and Mr. Abel Aragon. Ms. Rose stated that to complete the Wastewater project, an easement is required to run a new sewer line across Mr. Aragon's property. Ms. Rose explained that she had conferred with the attorney on this issue. Mr. Aragon is requesting that in exchange for the easement, he requests sewer fees waived for the rest of his life as well as assurance that no fences or structures will be put on his property in conjunction with this project.

Commissioner Lafferty expressed disappointment that the attorney had been hired to deal with the issue and that his first letter stated that nothing will be granted in exchange for the easement and the second letter recommends free sewer. Ms. Rose stated that this easement needs to be secured so that work can continue on the project. Mr. Lafferty stated that he is disappointed in the attorney.

Mayor Pro Tem Witcher made a motion to approve the easement agreement between the City and Mr. Able Aragon. Commissioner Sandoval seconded the motion. Roll Call:

Apodaca	Lumpkin	Witcher	Sandoval	Lafferty
Yes	Yes	Yes	Yes	Yes

Ms. Rose then presented the JAG grant. Ms. Rose stated that this is the second JAG agreement for the City this fiscal year and that Chief Hatcher could not be at this meeting however, he recommends approval of the agreement. Mayor Pro Tem Witcher stated that this is an agreement that the Commission approves every year. Mayor Pro Tem Witcher made a motion to approve the Justice Assistance Grant Program Award. Commissioner Lumpkin seconded the motion. Roll Call:

Lumpkin	Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes	Yes

Mr. Powers then reported on the bids to re-roof the railroad depot building. Mr. Powers stated that the plans were submitted and the engineer recommends that the City reject all bids as none of them were complete. Commissioner Lafferty asked if an engineer was paid and the job was not completed. Mr. Powers stated that the City will not have to pay the second time around.

Mayor Pro Tem Witcher make a motion to reject all Rail Depot Re-roof bids. Commissioner Lafferty seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

### **Old Business**

Mayor Apodaca acknowledged reading the April 2, 2009 minutes of the Tucumcari Senior Citizens Advisory Board.

### **New Business**

Mayor Apodaca called on Mr. Garcia to present to the Commission regarding the internal audit process. Mr. Garcia explained that there are many different types of water meters. Mr. Garcia stated that his department wants to be consistent. He said that they plan to go through every account to make sure each meter is formulated correctly in the billing system.

Mr. Garcia stated that every account that is not being billed for both water and sewer will be audited to make sure they are correct as it is not the norm to use only one service. Mr. Garcia said that all billing can be sorted in the system and his department will make sure that proper exemptions exist for those not being billed for one service or the other. Mr. Garcia stated that the City has around 2800 customers and this will be quite a task.

Mayor Pro Tem Witcher stated the project sounds like quite a job. Mr. Garcia stated that it will take lots of man power to check all those customer accounts that are in question.

Commissioner Lafferty stated that he instigated this effort due to customers that are not paying for both water and sewer seemed to be in abundance and also due to the number of adjustments being made to utility bills. Mr. Lafferty stated that his intent was to make sure everyone is paying for the services they are using. Mr. Lafferty said he was looking for a quick identification of everyone that is paying for one service and not another. Mr. Lafferty wants to make sure that services being used are being paid for.

Mr. Garcia stated that it will be easy to sort the customer database. Mayor Pro Tem Witcher asked if all these checks need to occur. Mr. Garcia responded in the positive.

Ms. Rose stated that her opinion is that the internal policies should guarantee that every customer has a process for obtaining services and that those are being checked.

Mr. Garcia stated that in one instance the Water Department shut off water to a customer and there was no way for the office to know of this.

### **Items From Commissioners**

Commissioner Sandoval had no comments.

Mayor Pro Tem Witcher had no comments.

Commissioner Lumpkin thanked all those in attendance for coming. Mr. Lumpkin stated that he would like to see an emphasis put on the abatement of the Sands Dorsey building as the Commission did vote to get the building torn down as soon as possible. Mr. Lumpkin said that even with opposition, the City needs to move quickly.

Commissioner Lafferty had no comments.

Mayor Apodaca stated that he was serious when he said the City has a good history with the CDBG program. He stated that when he is in Santa Fe, he hears many positive comments about the City's involvement with CDBG programs.

### **Executive Sessions**

Mayor Pro Tem Witcher made a motion to convene in Executive Sessions pursuant to NMSA 1978 10-15-1 (H) (7) regarding threatened or pending litigation, NMSA 1978 10-15-1 (H) (8) the disposal of water rights, and NMSA 1978 10-15-1 (H) (2) regarding limited personnel matters. Commissioner Lumpkin seconded the motion. Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	Yes	Yes	Yes

The Commission then adjourned in to Executive Sessions at 7:30 pm.

AT 8:32 p.m. Mayor Pro Tem Witcher made a motion to re-convene in Open Session after Executive Sessions where the only matters discussed were pending or threatened

litigation, disposal of water rights, and limited personnel matters. Commissioner Lumpkin seconded the motion. Roll Call:

Lafferty	Apodaca	Lumpkin	Witcher	Sandoval
Yes	Yes	Yes	Yes	Yes

**Adjournment**

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 8:33 p.m.

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Antonio Apodaca, Mayor

ATTEST:

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Christine Dougherty, City Clerk