

**CITY OF TUCUMCARI  
MINUTES  
October 22, 2009**

The Tucumcari City Commission met for their regular meeting on Thursday, October 22, 2009, at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were Jim Lafferty, Jimmy Sandoval, and Jim Witcher.

City staff members present were Bobbye Rose, City Manager; Mike Cherry, Assistant City Manager; Christine Dougherty, City Clerk; Marty Garcia, Finance Manager; Doug Powers, Community Development Director; Clara Rey, Human Resources Director; Roger Hatcher, Chief of Police; and Vicki Strand, Deputy Finance Director.

Lendy Borden, Pastor of the Abundant Life Church, gave the invocation and Commissioner Sandoval led the group in the Pledge of Allegiance.

**Roll Call**

Mayor Pro Tem Witcher asked for Roll Call:

Sandoval	Lafferty	Apodaca	Lumpkin	Witcher
Yes	Yes	No	No	Yes

**Consideration of Changes or Deletions to Agenda**

Ms. Rose asked that the reading of Ordinance 1073 be postponed until all Commissioners are present.

**Items from Commissioners**

Commissioner Sandoval had no comments.

Commissioner Lafferty had no comments.

Mayor Pro Tem Witcher had no comments.

**Approval of Minutes**

Commissioner Lafferty made a motion to approve the minutes of the October 5, 2009 Work Session. Commissioner Sandoval seconded the motion. Roll Call:

Lafferty	Witcher	Sandoval
Yes	Yes	Yes

Commissioner Lafferty made a motion to approve the minutes of the October 8, 2009 Regular Meeting. Commissioner Sandoval seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty
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Yes Yes Yes

**Approval of Vouchers**

Commissioner Lafferty made a motion to approve the vouchers for payment and Commissioner Sandoval seconded the motion. Roll Call:

Witcher Sandoval Lafferty  
Yes Yes Yes

**Items from Citizens**

There were no citizens present wishing to address the Commission.

**Proclamations, Memorials or Petitions**

Mayor Pro Tem Witcher read a Proclamation declaring October 23-31 as Red Ribbon Week.

**Ordinances and Resolutions**

Mayor Pro Tem Witcher called upon City Clerk, Christine Dougherty to present the first reading of Ordinance 1074. Ms. Dougherty explained that this Ordinance is required as state law surrounding the New Mexico Uniform Traffic code has changed and the City must modify its code in order to be in accordance with state statute. The Ordinance will change the penalty for failing to stop at a railroad-highway grade crossing to \$150 if passed.

Commissioner Lafferty made a motion to approve the first reading of Ordinance 1074, relating to the New Mexico Uniform Traffic Ordinance establishing a penalty assessment program and Commissioner Sandoval seconded the motion. Roll Call:

Sandoval Lafferty Witcher  
Yes Yes Yes

Mayor Pro Tem Witcher called upon Doug Powers to present Resolution 2009-38, a Loan Resolution between the City of Tucumcari and USDA for the Purpose of Providing a Portion of the Cost of Acquiring, Construction, Enlarging, Improving, and/or Extending its Wastewater Treatment Plant and Lift Station Rehabilitation. Mr. Powers asked Chris Muirhead from Modrall Sperling to assist him in presenting this resolution.

Mr. Muirhead explained that he felt an overview of the utility system financing was appropriate background information to begin this discussion and called upon Eric Harrigan, the City’s financial advisor from RBC Capital Markets to give the overview. Mr. Harrigan explained that Resolution 2009-38 repeals and replaces Resolution 2009-35 that was passed September 24, 2009. The resolutions are almost identical save for the updated figures in the new resolution. Mr. Harrigan stated that both the grant and loan figures have increased. The new loan amount, according to Mr. Harrigan is \$2,188,000 and the new grant amount is \$4,780,193. Mr. Harrigan explained that passing this

resolution does not obligate the City to enter into the loan/grant agreement; it is simply a required step before closing of the financial agreement can occur. Mr. Harrigan also explained that passing the resolution does not tie the City's hands and the loan is scheduled to close in 2010.

Mayor Pro Tem Witcher asked if the City so chooses, can we revert to the initial loan and grant figures stated in resolution 2009-35. Mr. Muirhead responded in the positive stating that the grant amount will decrease as the loan amount decreases. Mr. Muirhead further explained that the USDA states this is financing at the current construction costs.

Mayor Pro Tem Witcher also asked what the interest rate is on the loan. Mr. Muirhead responded that the loan rate is 4.5% and that there is a possibility of qualifying for a disadvantaged rate. Mr. Muirhead explained that if the City chooses to move forward with this loan/grant, he will return to the Commission with a much more substantial document that will detail the interest rate at a forty year term that details the annual payments. Commissioner Lafferty asked for clarification that passage of this resolution does not obligate the City to proceed with the loan. Mr. Muirhead responded that there is no obligation to proceed with the loan if this resolution is passed.

Commissioner Lafferty made a motion to repeal Resolution 2009-35 and approve Resolution 2009-38, a loan resolution between the City of Tucumcari and the USDA for Waste Water Treatment Plant and Lift Station Rehabilitation. Commissioner Sandoval seconded the motion. Roll Call:

Lafferty	Witcher	Sandoval
Yes	Yes	Yes

Mr. Muirhead stated that he would like to provide the Commission an overview of the financing for this project from his legal perspective. Currently, the City has several debts being serviced with City revenue and bonds. Mr. Muirhead stated that the City has closed a 2005 bond issue, two 2007 bond issues, and one 2008 issue which the City is obligated to repay. In August 2008 the City sought a \$533,000 loan with a \$476,760 grant which has been on hold while the City decides how to proceed with financing the Wastewater Treatment Plant and Lift Station improvements. Mr. Muirhead stated that he feels City staff wants to close this loan/grant grant in order to pay for the construction work.

Mr. Powers then gave an update on the construction progress of the project. First, Mr. Powers informed the Commission that the easement hurdle has been crossed. Mr. Powers also explained to the Commission that the sewer lines were very old and in some sections, non-existent. Mr. Powers stressed the importance of this project as much of the City's water feeds through this line and lift station. As there is significant economic growth in the areas served by this line and lift station, Mr. Powers explained that this project is very important to the City.

Mr. Muirhead stated that the loan is ready to close. Mr. Muirhead stated that the recent rate increase provides the City sufficient revenues to repay the loan along with outstanding debt.

Eric Harrigan, the City's Financial Advisor from RBC Capital Markets, stated that he reviewed the net revenues to make sure there is enough to close the loan. Mr. Harrigan stated that the City meets the minimum outlined in the Ordinance of 1.3% coverage. Mr. Harrigan stated that the 2009 A Bond debt service is approximately \$29,000 per year. All the debt is 1.34% which meets all requirements for closure of the loan and the City Ordinance.

Mr. Harrigan provided the Commission a handout which detailed the debts. Mr. Harrigan referenced page two which details the RUS loans. Mr. Harrigan explained that the City does not have enough revenue on these to close the loans and meet the Ordinance. Mr. Harrigan outlined three options for resolving this issue. The first option would be to utilize the Municipal Capital Outlay Gross Receipts Tax which is currently dedicated to Ute Lake. An election would be required to change this and re-dedicate the use of these funds. The second option Mr. Harrigan described would be to increase City rates. Mayor Pro Tem Witcher asked how much increase would be required. Mr. Harrigan estimated five to six percent increase. The third option Mr. Harrigan outlined was to utilize the Cities Municipal Gross Receipts Tax that can be imposed with an Ordinance. Currently .25% is un-imposed and could be used to increase City revenue and close the loan.

Mr. Harrigan went on to say that the City needs \$145,000 in additional annual revenue and imposition of the Municipal Gross Receipts Tax will generate approximately \$245,000 per year.

Commissioner Lafferty stated that the City is contemplating a \$35,000 loan for Wastewater and wondered if that figure is included here. Mr. Harrigan stated that the loan Mr. Lafferty is referencing is a loan through the Water Trust Board which has closed and is included in the figures. Ms. Rose inquired if that money could be reverted. Mr. Muirhead stated that if no money has been drawn down, it could be reverted. Ms. Rose asked if there is an exception not to pay if the City cannot pay. Mr. Muirhead responded in the positive provided there are no revenue streams and rates have been increased to the maximum.

Commissioner Lafferty asked if the 8% water rate increase was included in these figures. Mr. Harrigan responded in the positive.

Mr. Muirhead stated that the Commission has taken all necessary action for the financing on the Date and Elder Street projects.

## **City Manager's Report**

Ms. Rose called upon City Finance Director, Mr. Marty Garcia to give the monthly finance report.

Mr. Garcia stated that he provided the Commissioners with a written report which included the cash balances, the DFA quarterly report with reconciliation, an investment report, the lodgers' tax information, the gross receipts tax information, and retail tax information. Mr. Garcia stated that the gross receipts tax is down .57% from the three year average and retail tax is up 17% from the three year average.

Mr. Garcia stated that every fund and every line item is detailed in the budget report. Mr. Garcia stated that he feels a close eye needs to be kept on the EMS fund because the revenues have fallen behind after the first quarter. According to Mr. Garcia, part of the problem was that the Assistant Manager/Fire Chief was being paid out the EMS fund and should be paid out of the Executive fund.

Mr. Garcia informed the Commission that after listening to Mr. Harrigans three options for increasing revenues this evening, the most desirable to him is the reauthorization of the Ute Lake tax. Mr. Garcia also stated that he cautioned against using the gross receipts tax because the major cuts at the state level will trickle down to the municipalities and he feels it is a good idea to keep the options open.

Mr. Garcia also reported that the auditors will be back to complete the audit on Monday and he needs to meet with Mr. Powers to get accurate accounting of the project budgets.

Mayor Pro Tem Witcher asked if the City should put the reauthorization of tax question on the ballot for the March election. Mr. Muirhead advised that if the Commission wants to utilize that option, the question should go on the ballot in March.

Commissioner Lafferty asked how much the Ute Lake tax generates. Mr. Garcia responded that it generates approximately \$250,000 per year. Mr. Lafferty asked if engineers were recently hired for planning purposes in the Ute Lake project. Mr. Powers responded in the positive stating that CDM was hired for approximately \$170,000. Mayor Pro Tem Witcher asked if the tax is reallocated, would the previously accumulated tax funds be available for use in the new allocation. Mr. Muirhead stated that it would be conservative not to use those funds. Mr. Muirhead went on to say that the election question could be worded to ask voters to approve use of the accumulated funds and the new funds.

Mayor Pro Tem Witcher asked if the accumulated funds would be needed or only the future funds. Mr. Harrigan and Mr. Muirhead agreed that only future funds would be required. However, Mr. Harrigan explained that the bonds will have to be pledged to the new debt service.

Mayor Pro Tem Witcher asked that Ms. Rose make a recommendation in the future as to her preference in the options Mr. Harrigan outlined.

Ms. Rose went on to report that on October 9 she, Mr. Lafferty, Mr. Witcher and Mr. Cherry met with representatives from Ute Lake Public Improvement District Two. Ms. Rose explained that she feels it is in the best interest of the City to move forward with the intake structure. She stated that a meeting needs to be set with the Ute Lake Commission. She also reminded the Commission of the \$170,000 contract with CDM. CDM has requested a meeting at next weeks Infrastructure Finance Conference to discuss future plans.

On October 12, Ms. Rose reported that Mr. Lafferty and Mr. Witcher met with the Housing Authority auditors.

Ms. Rose also reported that on October 14 Mr. Powers, Mr. Ramirez and Mr. Witcher met with HDR on the Wastewater Treatment Plant project and that a disagreement with the construction company was discussed. Ms. Rose cautioned that a mediator may be required to resolve the issues.

Mr. Rose also reported meeting with Mr. Ray Bates who farms pecans. Mr. Bates has expressed to Ms. Rose that he would be interested in purchasing the entire allocation of re-use water from the City.

Ms. Rose went on to report a meeting with the water cooperatives in which no agreement was reached. Ms. Rose stated that another meeting will be held next week. The cooperatives do not want to pay for all the City water lines. Ms. Rose's recommendation is that the court order establishing water rates by Honorable Judge Stanley Frost be utilized for rate calculation in the future.

Ms. Rose also reported that on October 19, Dr. Phillip Barry, Dr. David Gallatin and Mr. Bob Dominguez met with herself and other staff to discuss the repaving of Sunburst and Tiffany roads. Ms. Rose explained that those roads are in bad shape. She explained that the street crews had applied some sealant however; there was not enough to complete the job. Ms. Rose explained that in the future she would like to have a plan where these projects are anticipated and funds can be allocated ahead of time so that projects will be completed.

Also on October 19, Ms. Rose reported attended meetings with the EDC and Mainstreet staffs.

On October 20, Ms. Rose met with Mr. Breen, Mr. Smith, Mr. Kirksey and Mr. Gable regarding re-use water.

Ms. Rose reported great strides being made in the joint meetings being held each week with representatives from the City, County, EDC, Mainstreet, Chamber of Commerce, Artspace, and College in attendance.

Ms. Rose has also met with RC&D regarding the Barnes street drainage project and the Evetts land behind the new motels.

The New Mexico Municipal League's Infrastructure Finance Conference will be held next week with several City representatives attending.

Ms. Rose also reported that the City Capital Outlay Landfill project is on the hit list for funding to be reclaimed as part of the recent special legislative session to balance the state budget.

Ms. Rose reported speaking to the City Manager from Santa Rosa who feels they can continue to transport their refuse to Vaughn until June. However, in June Santa Rosa plans to resume utilization of the Tucumcari Landfill.

Ms. Rose reported that cleanup of the Relax Inn will begin with testing for lead and asbestos. The pool will be filled in so that it is not hazardous and the hotel will be leveled or sealed depending on which is more cost effective.

Ms. Rose reported two recent motel fires. One was caused by a person breaking into the motel and the other was caused by a vehicle on fire outside the building.

Ms. Rose stated that the bill from the DOT for the First street project has finally been received and Mr. Powers and Mr. Sandoval are checking it over for accuracy.

Further, Ms. Rose reported work on the following projects and issues: street lights with Excel Energy, purchasing a new phone system for City Hall, eRate grant funding, Trek for Trash project, arranging a state trapper for foxes seen near town, assigning delinquent bills to the City Attorney, and developing a newsletter to be printed on the backs of water bills. Ms. Rose also reported that she and Chief Hatcher will attend training on the use of tasers on November 3 in Albuquerque.

Commissioner Sandoval stated that he would like to see that all employees be evaluated before Christmas. Ms. Rose explained that the evaluation system and personnel policy are very close to being finalized.

Mayor Pro Tem Witcher asked when Ms. Rose planned to take a day off. Ms. Rose stated soon!

### **Bids and Contracts**

Mr. Cherry presented the E-911 Grant Amendment Number Two to the Commission. Mr. Cherry explained that this grant will fund routers and firewalls at Central Dispatch. This funding is all grant and the bills will not come to City Hall, Mr. Cherry explained that the bills will be routed directly to DFA. Mr. Cherry went on to explain that these funds will be used for telephones, infrastructure and equipment.

Commissioner Lafferty made a motion to approve Grant Amendment Number Two for E-911 Project 07-E-14. Commissioner Sandoval seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty
Yes	Yes	Yes

Mr. Cherry then presented the EMS Fund Act. Mr. Cherry explained that this is a Vehicle Purchase Application for the Fire Department. The application is for a new ambulance unit. The request is for \$100,000 with a \$25,000 City match required. Mr. Cherry explained that this can be paid back through the General Fund. Mr. Cherry went on to explain that the retired vehicle will be routed to another department.

Commissioner Lafferty made a motion to approve the EMS Fund Act for Vehicle Purchase Application for the Tukumcari Fire Department. Commissioner Sandoval seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty
Yes	Yes	Yes

Ms. Rose presented the contract with Gordon Environmental. Ms. Rose stated that this contract is needed in order to proceed with construction at the new landfill. Ms. Rose stated that the project will be \$130,000 short if the Governor does not take any funding away. Ms. Rose recommended increasing rates at the Landfill to \$35 per ton and that the City hire local labor to do the digging. Ms. Rose also expressed that new customers for the Landfill must be sought. Ms. Rose recommended that the City proceed with expenditures on this project in order to hold on to the funding from the State. Mr. Witcher asked if there will be a way out of this contract if the State pulls the funding. Ms. Rose recommended that the motion to approve this contract be made contingent upon receipt of funds from the State.

Commissioner Lafferty made a motion to approve the Contract with Gordon Environmental for Professional Services for Landfill Cell Construction contingent upon Capital Outlay funding from the State. Commissioner Sandoval seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty
Yes	Yes	Yes

Ms. Rose explained that everyone interested in purchasing re-use water has a different take on what they will use the water for. Ms. Rose stated that her understanding was to arrange contracts for the sale of re-use water to NMSU, Mr. Smith, and Mr. Breen. Ms. Rose felt she needed more direction from the Commission on this issue.

Robert George from the Environment Department stated to Ms. Rose that they would be in support of a Water Re-Use Permit for the NMSU Agriculture Science Center and would speed the process along if a permit is sought by NMSU.

Ms. Rose also reported speaking with Mr. Zimmerman regarding the ability of the Wastewater Treatment Plant to produce enough re-use water for the demand. Mr. Zimmerman would like to meet with the Commission to discuss this issue.

Ms. Rose also stated that each of the entities that she provided re-use water contracts to has returned with proposed amendments. Ms. Rose's recommendation is that the Commission not sign any of these contracts tonight and that the Commission go into Executive Session to discuss these contracts. Ms. Rose also stated that she did not advise any decisions be made until a full board is present.

Mayor Pro Tem Witcher asked if anyone wanted to address the Commission. Being none, Mr. Witcher stated that in initial talks, Liberty Farms and the Tucumcari Feed Yard had expressed interest in purchasing re-use water. Mr. Witcher stated that these two entities had inadvertently been left out of the recent negotiations due to staff turnover. Mr. Witcher apologized for this omission and explained that this is why these two entities are involved now. Mr. Witcher further explained that it will cost the City no more to provide re-use water to these entities as their properties lie adjacent to the existing line.

Commissioner Lafferty made a motion to convene in Executive Session to discuss the Sale of Water pursuant to NMSA 1978 10-15-1 (H) (8). Commissioner Sandoval seconded the motion. Time noted was 7:00 p.m. Roll Call:

Witcher	Sandoval	Lafferty
Yes	Yes	Yes

At 7:25 p.m. the Commission returned to the Chambers. Commissioner Lafferty made a motion to re-convene in Regular Session after meeting in Executive Session where the only item discussed was the Sale of Water pursuant to NMSA 1978 10-15-1 (H) (8). Commissioner Sandoval seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty
Yes	Yes	Yes

**New Business**

Mayor Pro Tem Witcher noted that Ms. Bugg who was scheduled to make the Heartland Institute Youth Development Group Presentation was not present at the meeting; the item will not be heard at this time.

**Items From Commissioners**

Commissioners Lafferty and Sandoval had no comments.

Mayor Pro Tem Witcher stated that he felt the Commission made the right decision when hiring Ms. Rose and he encouraged her to take some well deserved time off.

**Adjournment**

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

Lafferty	Witcher	Sandoval
Yes	Yes	Yes

The meeting was adjourned at 7:27 p.m.

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James L. Witcher, Sr., Mayor Pro Tem

ATTEST:

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Christine Dougherty, City Clerk