

**CITY OF TUCUMCARI
SPECIAL MEETING MINUTES
December 1, 2009**

The Tukumcari City Commission met in a special meeting on Tuesday, December 1, 2009, at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were Antonio Apodaca, 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; and Vicki Strand, Deputy Finance Director.

Mayor Pro Tem Jim Witcher led the group in the Pledge of Allegiance.

Roll Call

Mayor Apodaca asked for Roll Call:

Witcher	Sandoval	Lafferty	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	No

Consideration of Changes or Deletions to Agenda

There were no changes or deletions suggested for the agenda.

Items from Commissioners

Mayor Pro Tem Witcher had no comments.

Commissioner Sandoval had no comments.

Commissioner Lafferty had no comments.

Items From Citizens

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

Approval of Minutes

Mayor Pro Tem Witcher made a motion to approve the minutes of the November 19, 2009 regular meeting. Commissioner Lafferty seconded the motion. Roll Call:

Witcher	Sandoval	Lafferty	Apodaca
Yes	Yes	Yes	Yes

Ordinances and Resolutions

City Manager, Bobbye Rose asked Finance Manager, Marty Garcia to address the Commission concerning Resolution 2009-41. Mr. Garcia explained that the intention of the proposed resolution is to modify the language governing the use of the one quarter of one percent Municipal Capital Outlay Gross Receipts Tax. Mr. Garcia went on to explain that the resolution would put a question on the ballot in March asking voters to authorize one eighth of one percent to be used for purposes authorized by the state.

Mayor Pro Tem Witcher asked for clarification on what Mr. Garcia meant by “authorized by the state.” Mr. Garcia explained that the state allows a wide variety of purposes for the tax. Currently, Mr. Garcia stated, the tax is earmarked for constructing infrastructure to pipe Ute Lake water to Tucumcari. Mr. Garcia stated that the City has recently taken on additional debt and has other debts that are not yet finalized that need to be serviced.

Mr. Garcia provided the Commission with a packet of materials detailing the debts incurred by the City and the payments plus interest. The current annual debt payments total \$226,499 which includes the loan payment for a proposed \$350,000 loan for wastewater re-use and the payment on a \$2,188,000 loan for phase three construction at the wastewater treatment plant.

Mr. Garcia explained that as per City Ordinance, the Joint Utility Rates Test requires that revenue generated must be sufficient to pay annual operation and maintenance expenses plus 130% annual principal and interest on all debt. Mr. Garcia went on to explain that at current operation and maintenance costs, the rates test shows the City falls short of meeting the 130% requirement by \$18,330 annually.

Mr. Garcia directed the Commissioners attention to the figures in their packets detailing the proposed Joint Utility Rates Test. Mr. Garcia explained that if the City were to close on the \$2,188,000 loan for construction at the wastewater treatment plant, the City will fall short of meeting the 130% requirement by \$163,497. If the one eighth of one percent Municipal Capital Outlay Gross Receipts Tax was approved for allocation towards this debt payment, it would provide approximately \$125,000 to offset the funds needed to satisfy the Rates Test requirement. The \$56,827 difference could be made up with a sewer rate increase.

Mr. Garcia added that according to Mr. Paul Cassidy, bond attorney for the City, the language in the bond ordinance would have to be modified in order to allow this tax to be applied towards the rates test. Mr. Garcia explained that Mr. Cassidy also said that doing this will improve the City’s credit rating as the state is the bond holder.

Mayor Apodaca asked if any of this information from Mr. Cassidy was in writing. Mr. Garcia responded in the negative; however he did have Mr. Muirheads recommended wording for the tax question for the ballot in writing.

The Mayor felt that because this was new information, it should be provided to the Commission in writing. Mr. Garcia explained that this proposal was recommended by Mr. Muirhead and Mr. Harrigan. Mayor Apodaca stated that it is uncertain if this can actually be done. Mr. Garcia explained that on the phone, Mr. Cassidy stated he was extremely confident that the bond language could be modified.

Mayor Apodaca asked if rates would have to be raised even if the tax could be used to pay debt. Mr. Garcia responded in the positive, explaining that the bond ordinance would have to be changed to reflect using the tax towards the rates test.

Commissioner Lafferty questioned why the proposal this evening included language regarding one eighth of one percent and at the last meeting one quarter of one percent was discussed. Mr. Garcia stated that was the case. The difference was so that some of the tax could be used for the Ute lake project and some towards debt payments. Mr. Lafferty went on to question the different figures in Mr. Garcia's handout. Mr. Garcia explained that the differing figures were due to one rates test being at the current debt rate and the proposed rates test included the \$2,188,000 loan for the wastewater treatment plant.

Mr. Lafferty asked for further clarification. He explained that under the proposed rates test which includes using one eighth of one percent of the tax towards debt payment and a rate increase, the deficit increases from \$18,330 to \$56,827. Mr. Lafferty stated he did not understand why the deficit would not be lower if we allocate the taxes towards this use. Mr. Garcia explained that if the additional debt is taken on and the taxes are not allocated towards this use, rates will have to be increased.

Mr. Lafferty stated that in the recent audit exit meeting, the auditor said he was pleased with the performance of the joint utility fund. Mr. Lafferty said he could only locate two places where the joint utility fund pays into the general fund. Mr. Lafferty recalled that a few years ago, the Commission made the decision to double the administrative fees coming from the joint utility fund into the general fund. He wondered if this could be reversed. Mr. Garcia responded that he did not believe that the administrative fees had been doubled and indicated that they had been reduced in last year's budget.

Mr. Lafferty asked if anything besides the tax had been considered. Mr. Garcia stated that certainly other options could be considered. Mr. Lafferty questioned if all options had been considered. Mr. Garcia stated that his concern is the impact on the general fund if other options would be utilized. Mr. Lafferty asked if the only debt that was in question was the wastewater loan. Mr. Garcia stated that he did not know where the auditor got his figures. Mr. Lafferty stated that the auditor was complimentary of our budget figures and the financial status of the City, and if the auditor was correct, has the City considered options other than the tax. Mr. Garcia stated that the budget is in good condition, and the City needs to generate additional revenue or make budget cuts.

Mayor Pro Tem Witcher asked the staff members present if they believed that this re-allocation of tax was the best option for the City. Ms. Rose stated that she believed that re-allocating the one eighth of one percent of the Municipal Capital Outlay Gross Receipts Tax is needed. Commissioner Lafferty clarified that the proposal is for one eighth of one percent of the tax to remain for infrastructure to pipe Ute Lake water to Tucumcari and one eighth of one percent of the tax to be used for other uses. Ms. Rose explained that the Commission could be as general or as specific as they choose. Mayor Apodaca stated that he felt selling this idea to his constituents would be difficult.

Commissioner Lafferty stated that the budget balanced in June and wondered how the bills were going to be paid at that time. He went on to say that he realizes new debt has been taken on, but questioned why the re-allocation of tax is only now being considered after the financial advisor

brought it up. Mr. Garcia explained that during the budget preparation for this fiscal year the Commission was told that a 15% rate increase would be required in order to service the debt, which included the loan for phase three at the wastewater treatment plant. However, because the debt had not yet been incurred, the Commission settled on an 8% rate increase which balanced the budget for the time being. Mr. Garcia went on to explain that now that the loan is approaching closure, the issue is being re-visited.

Commissioner Lafferty asked if rates were increased another 8%, could the tax be left alone for the Ute Lake project. In other words, Mr. Lafferty wondered if the debt could be adequately serviced with an 8% rate increase only. Ms. Rose explained that a 7.60% increase in sewer rates will generate an additional \$56,844 in revenue and an 8% increase in water rates will generate even more than that.

Mayor Pro Tem Witcher explained that he would like to give the voters an option with the understanding that if the tax is re-allocated, rates will not have to increase. Mr. Lafferty stated that staff would like to see a 7.63% increase in sewer rates and re-allocate the tax. Ms. Rose explained that the only other option is to refuse the loan for phase three at the wastewater treatment plant.

Commissioner Lafferty stated that he feels the wastewater re-use loan is what the City should back out of. However, he feels that \$163,000 is not worth walking away from a grant. Mr. Lafferty stated that he would propose that staff bring a rate study to the Commission, prove that all debts are being collected, and that there are no other opportunities for income available. Mr. Lafferty stated that he felt the City had not done its homework on this proposal and felt the question should not go on the ballot at this time. Mr. Cassidy cannot promise that the bond ordinance can be changed. Mr. Lafferty suggested waiting, getting a solid proposal from staff and hold a special election if necessary. Mayor Pro Tem Witcher stated he was concerned about voter turn out for a special election.

Mayor Apodaca stated that although what was provided to the Commission this evening was good, he would like to see it in a more understandable format. He went on to say that he did not feel he could generate interest in this subject at this time because the voters do not understand the issue. Mayor Apodaca stated that he could not convince the voters to support this because it is a contaminated issue as the talk among citizens is that this proposal is for a tax increase. Mr. Garcia explained that this is a re-allocation of tax, not a tax increase and if the question were to go on the ballot, the City would have to do a lot of public relations.

Commissioner Lafferty wondered if the question on the ballot were to re-allocate the tax for debt service only, would it pass. He speculated that the voters would require a purpose for the tax in order to vote for it. In the past, the tax question was vague and did not pass; it was only when the use was specified that the voters passed the question. Mr. Lafferty went on to say that the question would have to be sold to the voters with the statement that the tax would be used specifically to reduce debt. Mr. Lafferty also stated that if Ute Lake walks away from their obligation in 2012 the City will have to come up with \$165,000 a year. A plan for handling that situation if it arises needs to be decided before hand.

Commissioner Sandoval stated that he felt the question will be hard to sell to the voters. He went on to say that the question might pass if there is no tax increase. Mayor Apodaca reiterated that he felt he would have problems convincing his constituents to vote in favor of the question.

Mayor Pro Tem Witcher stated that he feels posing the question to the voters is what should happen as he feels it is best for the City. Mr. Witcher went on to say that increased expenses have been mandated by the State and in the long run, the City has to make up the difference. Mr. Witcher stated that re-allocation of the tax would not cost the citizens. Mayor Pro Tem Witcher went on to say that he felt this gives the voters options, will reduce the debt and limit the utility increases.

Mr. Garcia stated that increasing rates is an option; however it is not the only answer. Mr. Lafferty asked what the other options would be. Mr. Garcia explained that modifying the administrative fees and decreasing expenses are also options.

Mayor Pro Tem Witcher added that selling wastewater will generate revenue that could service debt. Commissioner Lafferty cautioned that other expenses are coming, for example, the engineers anticipate the electric bill at the wastewater treatment plant to increase to \$8000 per month. Mayor Pro Tem Witcher stated that we have been told the electric bill will decrease when the street light issues are resolved with Xcel energy. Mr. Witcher went on to explain that we have no crystal ball and have to make the best decision we know how to make.

Ms. Rose directed the Commission to look at Mr. Garcia's handout which details the rate increases for the average residential and commercial users. Mr. Garcia explained that if sewer rates are increased by 7.63%, the average residential user would pay \$2.97 more per one thousand gallons of use. Mr. Garcia went on to explain that if the tax is not re-allocated and the citizens have to bear the entire burden of the debt, the sewer rates will have to be increased by 22% and the average user will pay \$3.37 more per one thousand gallons of use.

Mr. Garcia noted that as an example, a commercial user with 35,000 gallons of consumption will experience an increase of \$8.06 and at the 22% rate increase; the user would see an increase of \$23.39.

Mr. Lafferty stated that there will be a mid-year budget review coming up shortly and wondered if there might be enough to cover the debt. Mr. Lafferty went on to say that this proposed increase only covers borrowing the money for the wastewater treatment plant and not any other budget increases. Mr. Garcia responded that as expenses increase, rates have to increase as well.

Mr. Lafferty stated that the Commission made the decision to leave the question off the ballot at the last meeting. Mr. Lafferty inquired what specific issues are different tonight. Mr. Garcia responded that the difference was the information that we could change the bond ordinance language.

Mayor Apodaca stated that if the vote were called on this issue now, he would vote against it. Mayor Apodaca went on to say that if the budget process for the 2010/2011 fiscal year was to begin in December, and the Commission is well informed, a special election can be held if necessary. The Mayor also stated that the voters would have to be well educated and interest would have to be generated. Mayor Apodaca stated that it would not hurt to wait and proceed with caution. Mr. Garcia responded by saying that the debt payments will start a year from now. Mayor Pro Tem Witcher stated that the City could pay down debt now if the tax was re-allocated. Mr. Garcia speculated that would not be viable as there is not enough in cash reserve.

Ms. Rose explained that if the re-allocation is passed, it will go into effect in July. Mayor Pro Tem Witcher asked if a special election was held, how much time would pass before the tax would be collected. Ms. Rose responded that it would be around six months. Commissioner Lafferty asked when the debt service will start and when the first payment will be due. Mr. Garcia speculated that the first payment would be in June of 2011 but possibly would be due in the next fiscal year. Mayor Pro Tem Witcher asked if the payments would be \$350,000 each year. Mr. Garcia responded in the positive.

Ms. Rose explained that City staff is in the process of going through each water user's account to ensure they are being billed properly. Additionally, Ms. Rose explained that all revenue streams are being audited to ensure receipt. Ms. Rose reported several liens being filed and foreclosures in process. Ms. Rose stated that the City may have a better idea in the future where revenues stand, and explained that a delay would be acceptable as we can always have a special election.

Mayor Pro Tem Witcher stated that he felt the Commission had done its due diligence. He explained that he has served on the Commission for six years and the Mayor for 12 and they have done everything possible. Mr. Witcher stated that there are so many variables impacting every decision that is made and suggested that the City needs to move forward as it is a part of business.

Commissioner Lafferty questioned if due diligence has been done regarding this issue and wondered if everything had been checked. Mr. Lafferty stated he felt there was still room for improvement. Ms. Rose agreed.

Mayor Pro Tem Witcher thanked staff for their hard work putting this information together for the Commission.

Commissioner Lafferty made a motion to leave the Election Resolution number 2009-41 as it was passed at the last meeting. He further moved that the Commission authorize the City manager to study the options for changing the bond ordinance. Commissioner Sandoval seconded the motion. Roll Call:

Apodaca	Witcher	Sandoval	Lafferty
Yes	No	Yes	Yes

City Manager's Report

Ms. Rose had nothing to report as this was a special meeting held only to discuss two items of business.

Old Business

Mayor Apodaca called upon Mr. Mark Lake of the Main Street program to present the conceptual plan for the project.

Mr. Lake stated that each Commissioner was provided with a copy of the conceptual plan and cautioned that this is not an engineering plan and more details will follow. Mr. Lake explained that the \$1.4 million is still available and work can proceed on this project. Mr. Lake stated that

the engineering firm, Wilson and Company is working on the design of the water and sewer lines.

Mayor Pro Tem Witcher stated that the drawing was beautiful and noticed that the plan appears to include the tearing down of some buildings. Mr. Witcher asked if the building owners had been contacted. Mr. Lake responded that the plan is a long term one and property ownership will definitely be a big issue. Mr. Lake explained that the priorities are the rail depot, addition of a park, and the streetscape.

Mayor Pro Tem Witcher asked if there will be a fence between the depot building and the railroad. Mr. Lake responded in the positive explaining that the fence will be metal not wood.

Commissioner Sandoval asked how long it would take before the depot could be opened for the public. Mr. Lake stated that was an unknown but realistically, he expected it to take two to three years.

Commissioner Lafferty noted that some of the property included in the plan is private property and inquired if the business owners had been contacted. He stressed that the land owners should be made aware that this plan is conceptual only and if the land owners become aware of the plan, their prices could go up. Mr. Lake explained that he has obtained the contact information for the property owners and plans to speak with them.

Mr. Lafferty speculated that condemnation was the next step and explained that he was aware one of the buildings has a new roof. Mr. Lafferty wanted citizens to be aware that the Commission is not approving property be taken away from anyone. Mayor Pro Tem Witcher explained that the Commission was only approving the idea of the plan.

Mr. Lake stated that he understood the Commissioners concerns. Commissioner Lafferty asked for clarification that the only thing the Commission was approving tonight was the picture in front of them as a concept. Mr. Lake agreed.

Mayor Pro Tem Witcher made a motion to approve the Main Street conceptual plan and Commissioner Sandoval seconded the motion. Roll Call:

Lafferty	Apodaca	Witcher	Sandoval
Yes	Yes	Yes	Yes

Mr. Lake stated to the Commission that he has been in contact with Mr. Frank Turner who has an idea for a depot museum and he will be in Tucumcari next week with the National Rail Museum Curator. The idea is to have these people help us to decide how to use the space to create the most impact. They will also seek state designation for the museum. Mr. Lake also reported working with the railroad to get them to move their yard closer to the depot for tourists to be able to see their work.

Items From Commissioners

None of the Commissioners or the Mayor had any comments.

Adjournment

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

Sandoval	Lafferty	Apodaca	Witcher
Yes	Yes	Yes	Yes

The meeting was adjourned at 6:58 p.m.

Antonio Apodaca, Mayor

ATTEST:

Christine Dougherty, City Clerk