

REGULAR CITY COUNCIL MEETING

February 2, 2009

6:00 P.M.

Mayor Ronnie Torres called the Regular Meeting of the Belen City Council to order at 6:00 P.M.
Roll call taken by Sally G. Garley, City Manager.

PRESENT:

Ronnie Torres, Mayor
David Lopez, Mayor Pro-Tem
Terese Ulivarri, Councilor
Rudy Jaramillo, Councilor
Wayne Gallegos, Councilor

CITY STAFF:

Sally G. Garley, City Manager
Audrey Torres, Procurement Specialist
Mike Chavez, Chief of Police
Lawrence Kanishero, IT
Lenore Pena, Safety Director
Mildred Garley, Finance Director
Dan Robb, Police Department
Mario Sisneros, Solid Waste Supervisor

OTHERS:

Norman McDonald, City Attorney
Brent Raffner, VCNB
Gemma Roselli, Concerned Citizen for Judge Savilla
Anthony Silva, Kathy Savilla
Mitchell Ration, Concerned Citizen for Judge Savilla
Priscilla (sp), “ “ “ “
Sonny Sanchez, Citizen
Gloria Sanchez, Citizen
Dianne Mattson, Our Tomorrow
Helen Mattson, Our Tomorrow
B. Paul Ortega, Our Tomorrow
Bob Parker
David Christie

PLEDGE OF ALLEGIANCE:

Mayor Ronnie Torres asked Gemma Roselli to lead the pledge of allegiance.

APPROVAL OF AGENDA:

Mayor Ronnie Torres requested approval of tonight's agenda and advised Agenda Item Number 11 be tabled. Councilor Rudy Jaramillo so moved to approve as amended. Mayor Pro-Tem David Lopez seconds the motion, motion carried.

APPROVAL OF MINUTES:

Regular Meeting: January 5, 2009

Mayor Ronnie Torres requested approval of minutes for January 5, 2009. Councilor Terese Ulivarri moved to approve the minutes. Councilor Rudy Jaramillo seconds the motion, motion carried.

CITIZENS PETITIONS:

Mayor Torres read the next agenda item referring to citizen petitions, and asked if there were any citizen petitions.

1. **Gloria Sanchez** said, "I am really proud of you guys you work really hard at your job listening to all these issues, sometimes we agree, sometimes we don't. I just wanted to talk this evening on the issue of double dipping. Because, the reason, because double dipping affects everybody, I spoke to a couple of you so you already know what I am going to say, affects everybody the employer the employee as well as the ordinary citizen. I just felt it was important to bring this issue before you this evening and these are just my opinions. I recognize that double dipping is legal and that the legislature approved this, I understand back in 2003, it provides for state and municipal employees to retire for 90 days and return to work while collecting retirement benefits. Good deal huh you would have to be nuts not to take advantage of this. The issue that troubles me is that Belen is a small town and there's concern that this practice leads to some, sometimes some moral problems with some city employees as well as local citizens who would aspire to compete for some positions, or an employee who has been waiting for an opportunity to climb up the ladder. By keeping the same political incumbents for years and years, I feel it leads to, for the lack of a better word, stagnant groups. One group who will more than likely feel obligated or loyal to the appointer and the other who will become more powerful and will hang on to it for whatever its worth. To the ordinary citizen this appears to be the good old boy system of politics. As a citizen, I can empathize with first responders such as fire and police who have difficulties hiring new recruits and therefore have to sometimes depend on hiring retirees or other professions such as nurses and teachers where there is always a shortage. But on the other hand, and this is a paraphrase, I guess you would call it from the Albuquerque

Journal editorial recently “there are many New Mexicans who will never receive a pension check and who are already working overtime to help keep these retirement funds solid, it just doesn’t seem fair that some public employees continue double dipping which can go on for years”. Also another paraphrase from the Albuquerque Journal recently “the public employees retirement PERA suffered a 32% collapse in funds last year from 13.3 billion to 8.9 billion dollars, the education retirement board dropped from 9.4 billion to 6.6 billion. Another bad year could jeopardize the pension funds ability to pay regular benefits”. So it is an issue that has come up lately and a lot of people are concerned about it. And I understand that there is some legislation in front of this year’s legislature either to repeal this double dipping or modify it by possibly extending the amount of time a retiree has to remain out before returning, or also requiring a reduction in pay. My husband and I have spoken recently to PERA, a representative, in order to prepare for this presentation tonight. Like I said earlier this system affects everybody so understandably it has to be looked at more closely. Thank you.

2. **B. Paul Ortega** read from a prepared statement and said, “I represent Our Tomorrow for a better Belen. My understanding based on the agenda is that the City Council might make an appointment of the Municipal Judgeship tonight. I want to clarify and state Our Tomorrow’s position on this matter. In a meeting last Monday, Our Tomorrow met with Mayor Torres to discuss our concerns we presented him with 23 legal, ethical and miscellaneous questions that we believe, should be answered, prior to any appointment to the judgeship. Our analysis of the law suggests there may be several violations of the City’s own laws as well as possible violations of state law and a state ethics code. We do not believe the City Council has the authority to appoint a retired municipal judge to the bench if that judge has not finished serving his or her elected term. We believe the law is clear, the city was required to appoint a successor judge upon the vacancy of the municipal judgeship and had no authority to appoint a ninety-day replacement. Of course the Municipal league has said the City government violated the law when the retiring municipal judge appointed a temporary replacement instead of the Mayor having done so with the advice and consent of the governing body.

I want to give you a sample of the questions we asked Mayor Torres to explore. Question: Can the City of Belen appoint a temporary Municipal Judge at the time of a vacancy? That is the only question we asked the New Mexico Attorney General to answer and we have not received a response. Question: Does the unannounced and closed appointment of the temporary municipal judge violate the open meetings act or statues related to the oath. The open meetings act applies to bodies that have decision-making quorums. We believe (unable to transcribe-coughing) may have been at play when the Mayor and Governing Body did not appoint a temporary Municipal Judge, instead allowing it to be done quietly and illegally by the retiring Municipal Judge. Question: Can a municipal judge receive benefits, increase from her retirement during her elected term that’s from March 2006 to March 2010 even if she has vacated her office and been appointed back to it? The law suggests she cannot legally receive any salary or benefits increase during her elected term which, if appointed, she would receive. Regardless of the possibilities legalities involved in the City’s actions, I ask does it make sense that a retired Municipal Judge can be appointed as her own successor to judgeship

she willingly vacated. I also ask is it fiscally irresponsible for the City of Belen to allow double dipping when the local economy is in further decline, citizens are without jobs and the City has made cutbacks in its own budget. Should the retired judge be appointed, that action will be taken after violation of the City Government's own laws according to the Municipal League and others and possible infractions of the State's Judicial Ethics Code. It might also take place with no apparent effort on the part of some City Officials to explore the deep legal and ethical consequences of the appointment.

We must all remain dedicated to democratic principals to the rule of law that never is a person allowed to circumvent the law because of his or her power and influence. We ask each member of the City Council to insure you personally and intimately comprehend the vote you may make tonight and your responsibility to represent the best interest of your constituents. Each of you in the vote you make will either show your dedication to the rule of law or show you instead prefer unprincipled expediency.

Our Tomorrow has two modest recommendations-The City of Belen should immediately rescind what both the Municipal League and we believe is an illegal appointment of a temporary Municipal Judge. The City of Belen should not proceed with the appointment of the retired Municipal Judge as her own successor until it can clearly answer all legal, ethical and miscellaneous questions. We would also like to know that if the retired Municipal Judge is appointed without each of our 23 questions having been answered Our Tomorrow will meet in the morning to vote on whether or not to file a twenty one page complaint with the New Mexico Judicial Standards Commission alleging that these five infractions of the States' Judicial Ethics Code.

At this time I would like to give you a copy of a tremendous editorial that came on yesterday's paper for your consideration in deciding the best way and the best interest of the Belen Citizens, as far as I am concerned the citizens come first. Finally I ask if the Mayor or City Attorney or any City Officials have answers to any of our 23 legal, ethical or miscellaneous questions? Rudy do you have a copy of the 23 questions? Mayor Ronnie Torres said "they all have a copy".

Mayor Ronnie Torres asked if there was anyone else with a citizen petition. There were no other citizen petitions presented at this time.

RECOGNITION OF EMPLOYEE OF THE FOURTH QUARTER 2008: Councilor Terese Ulivarri

Mayor Ronnie Torres read the next agenda item in reference to recognition of employee of the fourth quarter 2008. Councilor Terese Ulivarri asked Captain Dan Robb of the Belen Police Department stand and be recognized as employee of the fourth quarter. Councilor Terese Ulivarri read a letter aloud, a copy of which is attached hereto and made an integral part of these minutes by reference.

ACTION ITEMS:

APPOINTMENT OF MUNICIPAL JUDGE: Mayor Ronnie Torres:

Mayor Ronnie Torres read the next agenda item in reference to appointment of Municipal Judge and opened the floor for submission of names of recommendation as Municipal Judge. Councilor Rudy Jaramillo recommended to appoint Kathy Savilla as Municipal Judge for the City of Belen. Mayor Ronnie Torres asked for a second to the recommendation. Councilor Terese Ulivarri seconds the motion. Mayor Ronnie Torres asked for a roll call vote:

Mayor Pro-Tem David Lopez	Yes
Councilor Terese Ulivarri	Yes
Councilor Rudy Jaramillo	Yes
Councilor Wayne Gallegos	Yes

Mayor Ronnie Torres advised motion passed. Sally G. Garley, City Manager advised swearing in would take place tomorrow morning.

ADOPTION OF RESOLUTION NO. 2009-01 BUDGET INCREASE DEPARTMENT OF JUSTICE: Mildred Garley, Finance Director

Mayor Ronnie Torres read the next agenda item in reference to adoption of Resolution No. 2009-01 Budget Increase Department of Justice. Mildred Garley, Finance Director advised the Police Department received a grant from the Department of Justice and the grant will be utilized to purchase surveillance equipment and advised Chief Mike Chavez was available to elaborate on any questions. Mayor Ronnie Torres asked if there were any questions or comments and if none he so entertained a motion. Mayor Pro-Tem David Lopez moves to approve. Councilor Rudy Jaramillo seconds the motion, motion carried.

RECOMMENDATION TO AWARD CDBG PROFESSIONAL ENGINEERING SERVICES FOR BARBOA AND GABLADON COURT: Sally G. Garley, City Manager

Mayor Ronnie Torres read the next agenda item in reference to recommendation to award CDBG professional engineering services for Barboa and Gabaldon Court as presented by Sally G. Garley, City Manager who advised proposals were solicited and two proposals were received. The recommendation is to award the proposal to Molzen-Corbin & Associates. Mayor Ronnie Torres asked if there were any questions or comments and if none he so entertained a motion. Councilor Terese Ulivarri had a question-she knew what the situation was on Barboa but what was the situation on Gabaldon? City Manager, Sally G. Garley advised they were both in reference to drainage. Councilor Terese Ulivarri moved to approve. Councilor Wayne Gallegos seconds the motion, motion carried.

RECOMMENDATION TO AWARD HVAC-EQUIPMENT AND INSTALLATION CITY HALL: Sally G. Garley, City Manager

Mayor Ronnie Torres read the next agenda item in reference to recommendation to award HVAC Equipment and installation at City Hall as presented by Sally G. Garley, City Manager who advised proposals were solicited and two proposals were received. The recommendation is to award the proposal to Daylight Electric in the amount of \$241,895.53 funding for this project is in place and it is to replace the heating and cooling system at City Hall. Councilor Wayne Gallegos had a question: “the other bid came in t \$80.00 per hour?” Sally G. Garley, City Manager advised that was correct. Councilor Wayne Gallegos asked “but did they have a total of how many hours or anything, so it was just \$80.00 per hour but it could be, nobody knows. And Daylight is a local?” Sally G. Garley advised Daylight is a local vendor, it is Justin Day. Mayor Ronnie Torres asked if there were any questions or comments and if none he so entertained a motion. Councilor Rudy Jaramillo moved to accept and approve Daylight Electric. Councilor Wayne Gallegos seconds the motion, motion carried.

INFORMATIONAL ITEMS:

CITY MANAGERS REPORT:

The City Managers report is attached hereto and made an integral part of these minutes by reference.

COMMUNICATIONS FROM CITY COUNCIL:

Councilor David Lopez: said he wanted to make a few comments as far as double dipping is concerned. “The City of Belen has been working very hard to save money to pinch our pennies as much as possible as far as the employees that do work for the City of Belen that have been reappointed they more than pay for themselves in what they do. We have one person that spends most of his time writing grants for the City of Belen and that more than compensates what his salary is. We have another person if we were to hire it would cost the City about an extra sixty thousand dollars per year including PERA and benefits. I don’t want you to think the City Council is blind on double dipping we take everything into consideration with this appointment of the Municipal Judge. The City Council and the Mayor did take a lot of heat, we did consider it, and Kathy Savilla has done a very good job during her tenure as Municipal Judge. During the last few years her incoming revenue has far exceeded anything that was done with the previous administration. So with that said I would like to lay this to rest. Mr. Ortega I hope all your questions are answered and if there is any wrong doing the City Council will address it. I personally will guarantee that.

Also we have a new Solid Waste Supervisor, Mario Sisneros. We also hired a new engineer to oversee projects, the City of Belen has taken some heat we've hired some contractors to oversee projects and as you well know it has come back to bite us in the butt and it has cost the City an enormous amount of money, so we do have an engineer on staff right now. He is an engineer with a degree it did cost a little more but the cost savings he will provide the City will far outweigh what we are paying him. With that said I would like to put that on the table.

Kathy I would also like to thank Yvette she did a very good job during your absence and I hope you pass that message along. This is a touchy situation for all of us but I feel it is in the best interest of the City at this point in time.

With that said I would just like to also thank Geneva Nixon and everyone who was associated with the Martin Luther King project. The good part about it was it was nice and toasty that night as opposed to years ago we could have hung beef out it was so cold. It was a nice evening. We had a good turnout and the candle light vigil is a highlight of the ceremony. Wayne was the MC and I appreciate that and I appreciate all the people who took time out of their busy schedule to make the attempt to celebrate and remember Martin Luther King”.

Councilor Terese Ulivarri: said “some of the things that I have done since we had our last meeting, I attended the Belen High School Senior Festival meeting, they are trying to get a big do for their graduation and with the City’s cooperation. I have not heard anything but we offered all the resources the City could give to them for a successful festival.

Dave just hit on the Martin Luther King Vigil-that was our major fest for the entire year I am on that committee. I have been doing that for about thirteen years and we have had about thirteen or fourteen fests or vigils. Every year they get better and better. There was only one hitch but you would not have noticed it, from where we were standing it looked fine, because we are used to seeing it but we were behind the stage, the flags were on the opposite sides of where they are supposed to be. We will get that corrected for next year, but basically that was it for anything that went wrong. More than anything our attempt is to give the citizens of Belen an opportunity to go out and show unity especially impressing upon our young citizens the positive things that Martin Luther King did and if you believe in something long enough it can come true. It was a nice evening.

I attended a Burlington Northern Santa Fe meeting we had with them on some of the issues we have with the Rail Runner. We had never involved them in anything to do with the whole planning within that radius of the Rail Runner. We invited them in and heard their comments on how they thought it should go and how we thought it should go and we are willing to work together for that common cause.

I did attend the LFC (Legislative Finance Committee) findings hearing, and I think the positive thing about that is Belen was the only municipality that was put on the table, the rest of them were state issues that were dealt with. Since we were the only municipality there it was a first but it was great because we had no negative findings whatsoever, where as they blasted the rest of them around us that were heard. We have done everything correctly and a commendation to Mildred and her staff and Sally working together with them, we have all our ducks in order. That was really nice to see and everybody was very positive about that. You are talking to state

senators and state representatives and if they don't like something they will let you know. We heard nothing but positive stuff on our findings so it was really great. I thank them for doing this because now we know we are on the right track and we are doing things correctly and that's cool.

I got to be a judge at the Matanza and I got to judge the Chicharones and that was just awesome. It was a great festival, that thing is growing in leaps and bounds and it is so well organized. It was better this year because they had live music. Everybody enjoyed it was another beautiful day, we had excellent weather for January we have been fortunate this year”.

Mayor Ronnie Torres: said “we had a Chamber installation a while back and of course there were a couple of City representatives that got recognized and one of them was Manny Garcia. He was recognized as the top 40 under 40 another one was Andrew DiCamillo who was representing the City of Belen on the Board of Directors and also Rudy Jaramillo for the infinity award and we all showed up to show our support for him. We were proud of all three of them and it was really nice event that they had for the Chamber of Commerce.

Also I Andrew and Claudette attended the Main Street quarterly meeting and it was held for three days in Santa Fe. What we are doing is trying to become a Main Street Certified City. We have been going to meeting probably for the past year and a half, we have made it to every single one they have had. We talked to the legislature also and asked for \$250,000 to go towards the Main Street program and that is to help the merging communities become one of the Main Street Communities. They mentioned the communities vying for this but the ones that we saw that had the criteria so far has been TorC Taos Nob Hill and City of Belen. We are hoping that we become a Main Street. We have to have a letter of intent which March 13th we have already turned that in. Just so people know if we become a Main Street it does not mean that there is actual pools of money that come into our community that is not what it is about, what it is-is pools of information-engineers, architects and people that have anything to do with business. We can call them they come down and we have them look at your community and they can help out individual businesses that are actually on designated Main Street”.

Councilor Wayne Gallegos: Said, “The first thing I had was the New Mexico Gas company is no longer PNM. They've changed over and what I wanted to bring it up now that Mike's here, is the emergency numbers have changed, and I hope we have all of those here or in the fire or dispatch, but I have that letter and I am real interested in that because it is just that one time we might need it and we don't have it. I just want to make sure everybody follows up with the new numbers”. Chief Mike Chaves advised they did get the letter and it has been taken care of.

“Okay the second thing I have is the fire-we had a heck of a fire here and I was just glad that a lot of people didn't get hurt. The loss of property including the apartments there I just like to thank all the outside help that came to help support our fire department and our community. I was there for the critique and I let them know on behalf of the Mayor and ourselves thank you for coming out on the mutual aid with Belen I think they all did a great job it could have been a lot worse on different parts of the yard.

The next thing I have is the Belen Senior Center it happened to be on USA Today a couple of , well last week, and they had a real nice article in there thanks to Jose Campos the director he

does a real good job for Valencia County, but it happened to be the Belen Senior Center. They had some seniors in the page of USA Today and it was online also and it happened to be the day when the president came on in and they were showing across the country different people celebrating or watching it on TV and the happened to pick the Belen Senior photo and I thought that was pretty neat. He is always trying to do stuff for the center.

On the other note I talked about it a little with you and there's some money at the state I guess and if it's not used they are really fighting hard to take away money and I think that the kitchen might be in jeopardy, it is the kitchen for the whole thing". Sally G. Garley, City Manager advised she thought we would be okay on that money. Councilor Wayne continued saying "we have made a lot of calls and made some trips to Santa Fe to fight for that kitchen so we will see what turns up on it. Of course that's with a mutual with the County and the County has to do certain things, but I understand we have done everything we could on our part.

On the next part I wanted to, Kathy you are still here, about the employees over at the judges office I just wanted to make sure that, they did a good job and when something like this happens its political or whatever it could be negative or positive. I think the employees take a big hit there is a lot of pressure and a lot of stress and I just want to make sure that either Sally yourself or somebody make sure that their okay and let them know exactly what's going on. We have been you know a lot of us have been put in that position before as employees and I just think they did a good job in your absence and I think we need to follow up on that pressure side and keep that office going.

On Friday we had a luncheon for one of the firefighters' that's retiring that has been here a long long time that was his last day and it happened to be broken up by a fire that day, there was another fire in the City, it was for Ben Barnes. It was a small luncheon over at the fire department, within the department, and some other people. I just wanted to mention that we are losing a lot of experience through Ben and he will be gone, Friday was his last day.

Two more things, a final draft on the audit finding and that was the drainage at Eagle Park, I think it was good there is a lot of work and I am glad it is done I am glad of all the work that has been put into it in the past. I know we did a lot with FEMA on those issues but it is nothing like this what was done through the legislature and they really picked at it and made sure everything was there and what wasn't there, and a few recommendations. I really liked that idea that they need a maintenance plan, I think that is very important not just to that one but there's a lot of them in the City on the drainages. The last thing, Rudy and Manny at the Chamber dinner congratulations and good work.

Councilor Rudy Jaramillo: Terese mentioned the Matanza great success but the good thing about it is that other years there's just so many lines that are created this time it was just so smooth. Every booth was there and just giving plenty of food to the people just organized tremendously I commend everyone that was part of those teams, they were just moving people. The chicharones were made early and most every place that I went to was outstanding and once we ate at all the rest we went to the best which was Gallegos Insurance Agency that was you know a little bit, my son in law. Captain Dan Robb congratulations well deserved I know how you have worked hard you are always there answering questions doing anything you ever need to do it's a great honor for you. For ourselves also with the installation banquet for the Chamber it

was an honor for our business and the MC was Paul Baca that owns Kicks and Baca Auto and he made a statement that I wish I would have. You know you are nervous when you get up there and he said that everything is because of your employees if it wasn't for our employees we wouldn't have nothing. We have good employees, hard workers some have been with us many years and that's an honor to our restaurant that it was given the Infinity award.

There is another restaurant that has opened up it is called Fat Sats just off by the Wal-Mart at the Roadrunner Pit station and grocery store yet right behind there is a nice restaurant. Give them a try I know they put a lot of effort into building that and I have been up there foods okay real well prepared and just as expensive as anywhere else you go but reasonably priced. You go to Chili's and you are going to pay the same price as over here at Fat Sats.

The hospital there's been a lot of going on in the hospital issue and I have had a lot of calls and people going by the restaurant to visit. Myself I am still about the hospital I think it just sat still, the whole City of Belen passed a resolution about that I think we are all still in tune with that and I would like to see that one day just move forward.

I know that we have talked Mario on some things at the landfill and I'd like to address this because this just occurred this weekend. Sometimes it is hard for our people and one of the persons, who happens to be my brother, was cleaning his yard Saturday and Sunday and they are only allowed two trips to the landfill. I know he came here to City Hall and he doesn't have time to come to City Hall the rest of the time to get a permit to go the rest of the times so he had to go all the way to the County to Conejo. He told me that he does not mind paying it is just that I don't have time to get these permits. Something needs to be looked at for our people to be able to use our landfill for cleaning their yards up. Right now is the time February, March, April they are going to start, I don't know the answer but it is hard on our people to look at the yards and start cleaning and doing stuff like that.

That library computer class I think it is going to be a neat thing, I have been wanting, asking, to get up there and there is never enough time for me during the day but in the evening time I think it would be great.

Councilor Terese Ulivarri: had a couple of other things-“Ben Barnes doesn't he have 40 some years, that is incredible but he also said he would be volunteering so we are not losing him he's retiring. Good for him he put a lot of dedication and time into the City of Belen all the best to Ben. The Fire Department and the Police Department the handling of this fire is fantastic, if you see what could have gone on here, even the lumber didn't get touched, the apartment building didn't get touched and there was about a 15 to 20 mile per hour wind that day. Kudos to everybody involved in that, the mutual aid Manny had all his ducks in order and everything came into play and everybody did a fantastic job and I just wanted to throw that out there-thanks everybody”.

Mayor Ronnie Torres-said “on the audit that we did get from the state I just wanted to thank Mildred for the way you keep your paperwork and the way you have all your stuff done. Sally thanks for the way it is running because to get scrutinized they way we did and actually pass with flying colors it is a compliment to you both. People constantly pick and say you are not doing this you are not doing that but when actually they come in and have an audit and look at every

single thing we do and for it to just be right on the dot I am very proud to have you guys as employees and I think the City should be glad that we have this type of dedicated workers here taking care of the community. Congratulations once again and Kathy good luck.

ADJOURNMENT:

Mayor Ronnie Torres asked for a motion to adjourn tonight's meeting.

Councilor Rudy Jaramillo moved to adjourn this meeting. Mayor Pro-Tem David Lopez seconds the motion, motion carried.

/ss
Ronnie Torres, Mayor

ATTEST:

/ss
Sally G. Garley, City Manager