

**REGULAR CITY COUNCIL MEETING**

**January 6, 2014**

**6:00 P.M.**

Mayor Rudy Jaramillo called the Regular Meeting of the Belen City Council to order at 6:00 P.M. Roll call taken by Leona Vigil, Deputy Clerk.

**PRESENT:** Councilor David Carter  
Mayor Pro-Tem Jerah Cordova  
Mayor Rudy Jaramillo  
Councilor Audrey Vallejos  
Councilor Wayne Gallegos

**CITY MANAGER, CMC:** Mary Lucy Baca

**DEPUTY CLERK, CMC:** Leona Vigil

**CITY STAFF:** See Attached Sign-In Sheet

**CITY ATTORNEY:** Charles Rennick

**REPORTER:** Clara Garcia, VC News Bulletin

**OTHERS:** See Attached sign-In sheet

**PLEDGE OF ALLEGIANCE:**

Mayor Rudy Jaramillo led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Mayor Jaramillo asked to table number 7A on the Agenda, the Street Supervisor was not in attendance. With that, Mayor Jaramillo asked for approval of tonight's Agenda. Councilor Wayne Gallegos made a motion to approve tonight's Agenda with the change. Mayor Jaramillo asked for a second. Councilor Audrey Vallejos seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Torres-Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

**APPROVAL OF MINUTES**

Mayor Jaramillo asked for an approval or disapproval of the minutes taken from December 16, 2013. Councilor David Carter moved to approve the minutes. Councilor Jerah Cordova seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Torres-Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

**PUBLIC COMMENTS** Mayor Jaramillo asked if there was anyone with public comment in reference to anything that is not listed on tonight's Agenda. There were no individuals with public comment; therefore, Mayor Jaramillo closed this segment of the meeting.

**DISCUSSION WITH POTENTIAL ACTION REQUIRED**

**APPROVAL OR DISAPPROVAL OF THE IN-KIND SERVICES PROVIDED FOR THE HISPANO CHAMBER OF VALENCIA COUNTY ANNUAL MATANZA: MARY LUCY BACA, CITY MANAGER, CMC**

Mary Lucy submitted a copy of the in-kind services requested by the Hispano Chamber of Valencia County; a copy in which is attached hereto and made an integral part of these minutes by reference. The amount of the in-kind services is estimated to be \$3,713.00.

Mayor Rudy Jaramillo asked for a motion to approve or disapprove the in-kind services provided for the Hispano Chamber of Valencia County Annual Mantanza. Councilor Wayne Gallegos made a motion to approve the in-kind service request. Councilor David Carter seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Torres-Vallejos	Yes	
Councilor Jerah Cordova	Abstained	
Councilor David Carter	Yes	Motion carried

**PUBLIC HEARING**

**AMEND THE ZONE MAP FROM C-1 TO SU-1 FOR FUTURE EXPANSION AND/OR ADDITION OF AN ON-SITE CREMATORY: STEVE TOMITA & ROBERT NOBLIN**

Mayor Jaramillo advised the public that this issue has been before the Commission and before the Council once before. The issue of the zone change from a C-1 to an SU-1 has been heard again at the P & Z Commission and is now coming to the Council from the Commission with a non-recommendation.

Steve Tomita stated that the applicant has reapplied for reconsideration of the zone change. He reiterated what Mayor Jaramillo stated about the issue coming to the Council from the Commission with no recommendation.

Mayor Jaramillo introduced the City’s Attorney, Mr. Charles Rennick. Mayor Jaramillo explained that all individuals for the public hearing will be sworn in and on record.

Mr. Charles Rennick informed the Council and the public that this is a C-1 zoned property which allows certain uses already there, and the applicant is applying for a SU-1 overlay zone, which allows certain specified uses. One of those specified uses is a crematory. In order for the Council to approve the special use of this property, it needs to consider what the standards are in the code. The zone permits those uses that consider special consideration because of their unusual nature. The Council may not grant a zone change for special use unless satisfactory provisions have been made for the following: to assure that the degree of compatibility of property usage shall be maintained with respect to the special use and the surrounding uses of property in the general area. Mr. Rennick stated that the adjacent property uses are relevant to the determination; to preserve the integrity and character of the zone in which the use will be located and utility and value of property in the special use zone and the adjacent zones. The use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

Mary Lucy Baca performed a group swearing for Mr. Robert Noblin and anyone who believed they would be presenting evidence or testimony at tonight’s hearing.

Mr. Robert Noblin and Amelia Nelson came to the podium. Mr. Noblin informed the Council that they have met the issues regarding their parking, and they are within the guidelines of the capacity of the building. He also informed the Council that the emissions issues have been met, with the facts from the Air Quality Bureau as well as the facts from the crematory manufacture.

Ms. Nelson, an attorney with the Rosales Law Group, advised the Council that the ordinance that Mr. Rennick

read was correct. She continues to say that the ordinance does require the Council to look at specific and certain provisions of the Belen City Ordinance to make a determination as to whether or not a special use zone change request can be granted. Ms. Nelson further informed the Council that there are three particular paragraphs outlined that delineate for the Council and provide the elemental basis by which to take the facts and the concerns that have been provided over the several meetings and bring them together to perform their conclusion. Ms. Nelson then went over the City's Special Use Ordinance. Ms. Nelson reassured the Council that Mr. Noblin has met all the criteria of the ordinance.

Mr. Rennick reminded the Council that this application has had multiple hearings, before the P & Z Commission and the City Council; however this is a new application. Mr. Rennick asked Ms. Nelson either to request the Council to adopt the entire P & Z records or reintroduce them. Ms. Nelson requested that the Council adopt the documents, evidence and records of the P & Z meetings prior to tonight. Mr. Noblin then went over, and Ms. Nelson submitted copies of documents that he presented at prior meetings and a copy of a letter from NM Environmental Dept Air Quality Bureau dated June 20, 2013; a copy is attached hereto. The letter is referred to as a no-permit required; however inspection and oversight may exist when requested.

Councilor Cordova asked what types of odors would be emitted. Mr. Noblin answered none. Councilor Cordova then asked if anything can be seen. Mr. Noblin answered, a residual heat coming up through the stack from the unit. Councilor Cordova asked what it would look like to people passing by. Mr. Noblin answered fumes, heat. Councilor Cordova then asked if the unit that Mr. Noblin plans to place inside of the three car garage is safe. Mr. Noblin answered very safe. He then explained some of the safety features of the unit; the unit is powered by natural gas, it is supplied with safety shut offs, the unit is computer operated; the system monitors everything from the start up temperature of the cremation to include regulation of gas flow and air flow. The unit also has monitors, and anything going up the stack that is opaque, the unit will turn itself off and send out notifications. Councilor Cordova asked what the planned hours of operation were. Mr. Noblin answered planned hours will be Monday thru Friday from 9am to 5pm, but sometimes the job calls them to be available for holidays and weekends. Councilor Cordova asked Mr. Noblin if he anticipates extending beyond normal hours of operation would impact the area of the neighborhood. Mr. Noblin answered no, not at all. Councilor Cordova asked for a description of the intent for the property. Mr. Noblin answered that they will be demolishing the existing 27 x 14 ft single car garage to construct on the west end of their parking lot a 30ft x 30 ft three car garage. Two of the three car bays of the garage will hold vehicles while the third bay will occupy the crematory. As a result, the funeral home will be losing one parking space.

Councilor Vallejos wanted verification that the reason Mr. Noblin received a no permit required designation was because crematories are no longer regulated by federal guidelines, not necessarily because there is not a problem. Mr. Noblin replied exactly; crematories are regulated at the state level by the Board of Funeral Service. Councilor Carter asked several questions on the emissions of the crematory unit, and stated that his concern is to assure the use will not become detrimental to the public interest health safety convenience or the general welfare. Councilor Carter asked Mr. Noblin to tell him the long term effect of minute particles being dropped on a park that has kids playing there every day. Mr. Noblin replied that the thing to remember with this unit is that it has safeguards. He reiterated that he has given the assurance and the evidence to show that it is within and even well below the states guidelines for a crematory. Councilor Gallegos asked City Attorney Mr. Rennick if he could define what public interest means which is mentioned under the special use zone ordinance. Mr. Rennick could not define "public interest"; he believes that it is a broad definition that would have to be considered whatever the public interest is that is being addressed. Councilor Gallegos stressed that is why there were so many people at the meeting. Councilor Gallegos stated that his interest is in the people that live in the area.

Mr. Charles Rennick went over the procedures for examination and cross examination. Mayor Jaramillo asked if there was anyone within the area of 100 feet of the property in question to come up to the podium and ask there question or stress there concern. Mr. Rennick stressed this is the time to ask questions of Mr. Noblin not stress opinions.

**Ramona McKee:** She wanted to know what the gases were that Councilor Carter mentioned earlier, so she can see if they are dangerous.

**Karen & Terry Maynor:** They live at 309 N. Fifth, 50 feet from the proposed crematory. They had concerns with the amalgam used for fillings in teeth. She is concerned with the amount of mercury that comes from cremation. She then read some information she received off of Wikipedia. Mrs. Maynor has talked to some random realtors and they have said without a doubt, because of the stigma of a crematory, could lower their property value. Mr. Maynor asked what would happen if the system shut down in the middle of a cremation. Ms. Maynor stated that these aren't regulated now, but in time as with led paint, asbestos and DTD, the government started looking at these and seeing that there were issues and side effects coming before them, "it's time to start thinking about it now".

Mr. Rennick advised the Mayor, at this time Mr. Noblin and Ms. Nelson should be allowed to ask questions of the Maynors. Ms. Nelson wanted verification that the information Mrs. Maynor received was off of Wikipedia. Ms. Nelson further asked where Ms. Maynor received her statement that children absorb mercury faster. Ms. Maynor answered that came from "the agency for toxic substances and disease registry". Ms. Nelson asked Ms. Maynor if she was able to find any information or case studies about amalgam vs. mercury and burial vs. cremation. Ms. Maynor answered that she was not looking for that information.

**Aurelillo Al Padilla:** He lives at 328 N. Fifth Street. He is concerned of the location of the proposed crematory. He cannot see bodies being burned continuously. He advised the councilors that they should be very careful on how they vote on this request.

**Mr. Noblin** addressed Mrs. Maynors concern on amalgam. He informed the Council that the use of dental amalgam has been on the decrease since the 1970s. If a crematory shuts down in the middle of a process, the remains are enclosed in the primary chamber. Particulate matter does not enter the second chamber; there are no parts of human remains that go from one chamber to another.

**Mr. Rennick** asked what happens to the heat in the primary chamber on a shut down. Mr. Noblin answered that the heat in the primary chamber would remain. Mr. Noblin added that the air would be shut off as well during a shut down.

**Luis Lusero:** He lives in Las Maravillas. Mr. Lusero emphasized that there are children in bigger dangers than the minute amount of emissions of a crematory.

**Marcella Chavez:** She lives at 315 N. Fourth Street. In her opinion putting a crematory in the middle of this neighborhood is like putting a chicken ranch or dairy in the middle of town. "They both bring in business, but it's not the place for it."

**Ryan Pemble:** He is an educator at BHS. He wanted to speak on the resources that were brought up earlier. He advised that no one at the high school would accept Wikipedia as a source of information, because of the changeable nature. He believes that Mr. Noblin is trying to increase the accessibility for people in this town, and he thinks we need it.

**Councilor Carter:** He agreed that Wikipedia is not acceptable research, but pointed out that she did bring other additional information.

**Larry Kimmel:** He owns a house on the corner of Fourth and Chavez. In his perspective, this is not conducive to good residential area.

**Mrs. Maynor:** stated that amalgam fillings may have subsided; however it is an older generation that is being cremated; therefore, mercury is being emitted into the air.

**Myra Gattie (sp?):** She asked Mr. Noblin if he would feel comfortable having his girlfriend's 5 year old daughter eating in his parking lot and playing right next to the crematory. Mr. Noblin answered that he would probably sit down right along with her.

**Mayor Jaramillo:** He mentioned that he has catered inside the funeral home in question, and there have been no issues with it.

**Russell Silcoit:** He lives in Sunrise Bluffs. He stated that we have all heard all about the pollution, but no one has mentioned the amount of cars that pass park every day.

**Barbara Horton:** She wanted to remind the Council that there are 4 chemicals in the embalming process. She spoke with someone from the Air Quality Board, and there are federal regulations as Mr. Noblin mentioned, and they will do a reading and testing on the air pollutant at the crematory. The booklet she was gathering her information from also said a mortician has the responsibility of protecting the community and its neighbors from decaying organic matter in the environment.

**Mr. Noblin:** Agreed that it is their duty to take care of the deceased and their families and to dispose of a dead human body which is done in one of two ways, burial or cremation. And, he can tell us that the chemical in embalming fluid that they use on a daily basis is much larger than four.

**Councilor Vallejos:** Asked what particulate matter would escape from the crematory. Mr. Noblin did not have that information with him, but advised Councilor Vallejos that a representative from the crematory manufacturing will be at the next council meeting to answer any questions to address those types of questions.

**Robert Lucero:** He suggested a study be performed on the crematory that is already placed in Belen, since particulates seem to be the issue.

**Pete Armstrong:** He mentioned that this issue has divided this immediate neighborhood and the community. Mr. Armstrong suggested we need to take a look at the current ordinance so that this does not happen again. Councilor Cordova agreed.

**Dicky Romero:** He wanted to recognize the neighbors that were present tonight, and he asked them to stand. At this time all the neighbors to the proposed crematory stood.

Ms. Nelson, in closing, went over portions of the Special Use Ordinance. She reported that there is sufficient evidence in the form of documentation research, presentation, and testimony to provide satisfactory assurances to include those who have lived near crematoriums having that experience. She asked the Council for their approval of the zone change.

Mr. Rennick informed the public that tonight was an evidentiary hearing where the City accepted a wide range of testimony, and some documentary evidence. The Council will hear this again on the 21<sup>st</sup>. Mr. Noblin indicated that he will have a witness here at that time. The Council will have to determine whether they will receive new evidence or not. If the Council wishes to receive evidence at the next hearing, he would suggest that the people that appeared tonight will have the opportunity to question and respond to the new witness. Mayor Jaramillo will allow the new witness. Mr. Rennick advised the public and the Council that discussion on this matter within the next two weeks is inappropriate; all evidence and testimony needs to be in the Council Chambers.

Councilor Cordova asked Mr. Rennick on how to weigh the documentary evidence that was received today. Mr. Rennick replied, each Councilor can accord such weight to the document as he or she deems appropriate. Councilor Vallejos asked what the name of the manufacture was. Mr. Noblin answered American Crematory.

Mayor Jaramillo closed the Public Hearing. Mayor Jaramillo called a short recess so that anyone wanting to exit the meeting could without interruptions. Mayor Jaramillo reconvened the Meeting.

### **AMENDING THE CITY OF BELEN'S OPEN BURN ORDINANCE 2009-10: MANNY GARCIA, FIRE CHIEF**

Chief Manny Garcia advised the Council that the public notice for this Hearing did not publish in the News Bulletin; therefore it will not be heard tonight.

### **INFORMATIONAL ITEMS**

**City Manager's Report:** A copy of the City Manager's and is attached hereto. Lucy reported that the City received no waivers for the MAP or COOP applications. The City therefore would be responsible for \$72,939.00 of the MAP monies which would be used for Christopher Rd. Councilor Cordova stated that he would like for the applications to come back for consideration from the Council based on the new information. Councilor Carter would like Roseann to give the Council an update on where the monies for this would be coming from. The City will be responsible for \$60,330.00 of the COOP application which is for various city roads and sidewalks. The City Hall Historical Clock has been broken by staff. The bridge replacement on Business Loop will begin in 2015 and will last 8 to 9 months. The bridge project will be phased to keep to lanes of traffic one lane in each direction, at all times. Councilor Carter asked when the plans would be available. Mary Lucy believes they are ready. The NM Congressional Delegation Project Office will be working with City to located funding to replace the water tank. Mary Lucy handed out a street sweeper schedule which will be performed in sections. 200 yards of road millings have been approved for the City. She has been trying to locate ownership of the solar dishes. Mary Lucy announced that Lenore is retiring at the end of January, and asked for donations from the Council. A few amendments will have to be made to the Personnel Manual. Tri-Core is no longer doing the City's drug testing, she is seeking quotes. Councilor Carter suggested teaming up with the School and uses a mobile lab that charges hourly.

Councilor Cordova asked if the City was involved with the design elements of North Main Overpass; Mary Lucy answered that the State has let the City be part of it, but they are working mostly with BNSF and it is State Road; therefore they are making the calls. Councilor Cordova stated that he would like to look at the plans.

Councilor Vallejos asked if Mario from Wilson & Associates brought right-a-way maps for her. Lucy answered no. Steve Tomita replied that Mario needs to obtain those from DOT, and Steve has already requested a copy.

Councilor Gallegos advised Lucy that the North Main Bridge will have to encumber a lot of the right a way, and DOT has said that is the main issue with sidewalks coming in to town. The City will have to get involved with this in order to stress out input.

Councilor Carter asked for the status of the foreclosures on the demolitions. Steve Tomita answered they were filed today. Mr. Charles Rennick replied that they will proceed in serving the defendants. Councilor Cordova asked Mr. Rennick if filing the foreclosure will have any impact on the development of that property. Mr. Rennick answered that it should not. Mr. Rennick explained if the property sells before the foreclosure goes through the various liens will need to be paid off by the purchaser, and the City would dismiss the foreclosure action.

**Councilor David Carter:** He, along with Councilor Gallegos, attended the Rio Communities Meeting and the Fire Department Banquet. He also met with the developers of the Bio Research Facility; they discussed providing organic materials. Tom Greer advised that they are still doing data collection for feasibility.

**Councilor Jerah Cordova:** He attended the Fire Dept Banquet. He attended the MainStreet Grant Announcement which took place at Nob Hill with the Governor in attendance. Belen MainStreet Partnership

received a \$15,000 grant which is going to be used on Old City Hall roof improvements. He received notifications that the New Mexico Historic Preservation Committee awarded \$17,000 to the City through the Belen MainStreet Partnership which will be used for the design of Old City Hall. The New Mexico Economic Development Department announced that they will provide the \$50,000 for the Downtown Masterplan. The UNM Bureau of Business and Economic Research is moving on economic analysis which is expected to be complete in February. Belen MainStreet purchased the tablets that are the Harvey House that show the Belen Movie Trail Tour. He attended the Festival of Trees and the Miracle Window Display at the Harvey House. He reported that Matanza Meetings are being held weekly now.

**Mayor Rudy Jaramillo:** He expressed that the article on Trinnie Baca Day in the News Bulletin was good. He reported that the American Legion hosted a gathering before Christmas. He attended the Senior Celebration at the Senior Center. He attended and stressed that the Fire Department Awards Banquet was exceptional. He announced that the Martin Luther King Day Celebration will be on January 20, 2014 at Anna Becker Park and the Chamber Installation will be on Saturday.

**Councilor Wayne Gallegos:** On the 17<sup>th</sup>, he and Councilor Carter met with two members from the City of Rio Communities Council where they went over some draft agreements. He attended the Fire Dept Banquet on the 21<sup>st</sup> which turned out great. On the 23<sup>rd</sup>, he attended the RSVP Banquet where they also talked about new programs coming into RSVP; the age limit may drop from 60 and over to 45 and over. He reported that Channel 13 did a nice story on Trinnie Baca Day.

**Councilor Audrey Vallejos:** She attended several events, the Senior Christmas Luncheon on the 17<sup>th</sup>, the MainStreet PNM Grant Award Announcement on the 18<sup>th</sup>, the Airport Luncheon on the 19<sup>th</sup>, the Fire Dept. Banquet on the 21<sup>st</sup> and the December Birthday Luncheon at City Hall on the 24<sup>th</sup>.

**ADJOURNMENT**

Mayor Rudy Jaramillo asked for a motion to adjourn tonight's meeting. Councilor David Carter motioned to adjourn the meeting. Councilor Audrey Vallejos seconds the motion.

Councilor Wayne Gallegos	Yes	
Councilor Audrey Torres-Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion Carries

/s/ \_\_\_\_\_  
Rudy Jaramillo, Mayor

ATTEST:

/s/ \_\_\_\_\_  
Mary Lucy Baca, City Manager, CMC