

**REGULAR CITY COUNCIL MEETING**

**November 16, 2015**

**6:00 P.M.**

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

**PRESENT:** Councilor Darleen Aragon  
Mayor Pro-Tem Wayne Gallegos  
Mayor Jerah Cordova  
Councilor David Carter  
Councilor Frank Ortega

**CITY MANAGER:** Jay Ruybalid

**CITY CLERK:** Leona Vigil, City Clerk

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

**OTHERS:** See attached sign-in sheet

**PLEDGE OF ALLEGIANCE**

Mayor Jerah Cordova led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Mayor Jerah Cordova asked for a motion to approve the agenda. Councilor Wayne Gallegos made a motion to approve the agenda. Mayor Jerah Cordova asked for a second. Councilor Darleen Aragon seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

**APPROVAL OF MINUTES**

Mayor Jerah Cordova asked for an approval of the minutes dated October 19, 2015. Councilor Wayne Gallegos motioned to approve the minutes. Mayor Cordova asked for a second. Councilor David Carter seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

Mayor Jerah Cordova asked for an approval of the minutes dated November 2, 2015. Councilor David Carter motioned to approve the minutes. Mayor Cordova asked for a second. Councilor Frank Ortega seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Abstained	
Councilor Darleen Aragon	Yes	Motioned Carried

## PUBLIC COMMENTS

Mayor Cordova asked if there was anyone with a public comment.

There were no public comments at this time, and Mayor Cordova closed this portion of the meeting.

## PRESENTATIONS

### **FATAL CRASH POLICY AMENDMENT: Dan Robb, Police Chief**

Mayor Jerah Cordova presented for Chief Robb. The Mayor informed the Council that this issue has gone back several years. He reported that there has been one amendment to the SOP, which added language referencing the reconstruction of fatal crashes. He conveyed there is a concerned constituent that would like the City to bolster that language in some way. This constituent has previously provided the City with recommendations. Mayor Cordova provided the Chief with recommended language for the SOP; which is as follows:

*B. The on duty supervisor has the authority to call out additional units on any crash.*

*This includes but is not limited to a crash re-constructionist. The supervisor will take into consideration evidence that may clearly determine the cause of the crash including but not limited to, if it is a one vehicle crash, if there is video or if witnesses provide consistent statements. If there are two or more vehicles involved, the crash will be reconstructed. If there is any known disputable evidence and if resources are available, Belen PD will reconstruct the crash. If Belen PD does not have a re-constructionist the NM State Police will be asked to assist. If ~~they~~ the New Mexico State Police are not available, Los Lunas Police Department will be asked to assist. If for any reason, any another agency takes over the crash investigation that agency policies and practices will apply.*

Mayor Cordova asked if the Council had any comments or issues on the language. Councilor Gallegos emphasized, "We just need to make sure that it is enforced".

Councilor Aragon asked the Mayor if he had gone to NM State and Los Lunas Police Departments to work up an agreement with them. Mayor Cordova answered, "The State Police generally will assist, because Belen does not have a reconstructionist, but he is not aware of the circumstance with Los Lunas". Councilor Aragon stressed that they would have to check with Los Lunas PD.

Mayor Cordova informed the Council that the proposed change does not have to come to the Council, but if the Council would like to see it in final form, they can. Councilor Frank Ortega believes that something of this magnitude should come before the Council. Councilor Gallegos added, just for review.

Councilor Ortega asked the question, when the other entity takes over, does that relieve the duty from our PD. Mayor Cordova answered, "Generally, our police department will maintain over site and control of the investigation. The other department would come in simply for the reconstruction". Mayor Cordova stated that any time an officer is involved the State Police is called.

Carolyn Houston: She is most appreciative that a discussion has commenced concerning the fatal crash reconstruction and is pleased to see that an effort to produce a comprehensive protocol has begun. She conveyed that the amendment sounds good, but she is opposed to it. She claims that the amendment fails to go far enough. She emphasized, "If the police department could be trusted to do a professional job with integrity and comply with all laws, all of this would be moot issue". She agreed with the Mayor in that the proposed amendment is not what she proposed. She believes that this amendment is more befitted for a preliminary investigation than a reconstructive directive.

She asked the Council why an ordinance is so objectable. They Mayor did not have a response at this time.

She would like to add the language *and potentially fatal*, to whatever gets adopted. Mayor Cordova answered that it is possible, as long as we understand what *potentially fatal* could mean.

Ms. Houston asked, what does the language, “*if witnesses provide consistent statements*” attempting to address? Mayor Cordova answered that the logic was to give examples of times when the supervisor may determine that it is not necessary to have a reconstruction. She asked, so if you have consistent statements from witnesses, that ends it. Mayor Cordova answered if the witness statements are consistent the only other recourse would be for the family to request the reconstruction. She had a contingent on that because witness statements must be backed up with evidence, due to the fallibility of their perceptions.

At this time Ms. Houston went over the alleged wrong doings of the police department during the investigation of her son’s death in 2006.

Ms. Houston wanted clarification of the language, *if there are two or more vehicles involved the crash would be reconstructed, if there is any known disputable evidence*. Mayor Cordova answered that if you have a single car crash there would be no reconstruction. If it is a two vehicle crash or more, dependent upon if there is disputable evidence, then reconstruction would be initiated.

She asked, “Then they will only do reconstruction when they think it is necessary, is that the case”? Mayor Cordova answered that it does continue to rely upon the judgment of the supervisor. She then emphasized, “And there is nothing we can do to compel them to do their jobs as they are trained to do or as law dictates”.

Councilor Carter interjected, “there is an avenue we can take if they had evidence that this was happening; we could replace the Chief”.

Ms. Houston asked the Council how they can assure her this will not happen again. Mayor Cordova stated that the process that’s in place for accountability can work when the public holds the Council accountable as well.

Councilor Ortega replied there is no assurance and they can’t speak for the past. Councilor Ortega also lost a child in a car crash, and he stated that he had to give that trust to those responsible. “If those responsible break that trust they will pay penalties”. Councilor Ortega would like to add to the SOP, “Make sure there are plenty of photos taken for proof”.

Councilor Gallegos asked Ms. Houston if other municipalities have ordinances that she is referring to. Ms. Houston answered no. She added that they don’t need one because they have a policy in place and adhere to their policy.

She agreed with Councilor Gallegos that an ordinance would not be necessary. But, she stressed, “With the propensity of this PD, not to even follow the law, an ordinance is the only other step she can refer from the Council”. At this time Ms. Houston let out her frustration towards the Belen Police Department.

Mayor Cordova reiterated, “Whether it is an ordinance or a SOP it is still going to fall on the Mayor, Council and administration to hold those officers accountable”. “There is not a lot of enforcement difference between the two”. Mayor Cordova advised Ms. Houston if she had any suggestions, for how to strengthen the language, he would be open to that. Ms. Houston answered she has no other recommendations that the ones she already submitted to him.

Councilor Ortega suggested removing *every effort* and leaving *will be made*. Councilor Ortega reassured Ms. Houston that officers will be held accountable, and if they do anything wrong there are laws for them as well.

**MAINSTREET QUARTERLY REPORT: Jay Peters, Board Member**

Jay Peters went over his presentation and their quarterly report which reflects from July through September of 2015. A copy of the presentation and report are attached hereto and made an integral part of these minutes by reference. Henry Rau passed out and went over his financial report; a copy is also attached hereto and made an integral part of these minutes by reference.

Jay Peters stated that they are very proud of being part of the New Mexico True Campaign. He reported that the billboard south of town was made possible through MainStreet. The short video presentation of events happening in Belen was also through the efforts of MainStreet.

Jay informed the Council that right now they are considered a “start up” MainStreet. They have been meeting with state reps to become a State MainStreet Community. There is a lot more work and record keeping to be done, but there will be a lot more monies available to them. He added, for that to take place, they are required to receive some funding from the City. MainStreet’s requirement is to have a partnership with the City. Councilor Ortega asked if lodger’s tax helps to promote the City in any way. Jay and Councilor Aragon answered nothing towards MainStreet. Councilor Ortega asked if we could use lodger’s tax to make a couple more signs like they have, to promote the City. Mayor Cordova answered that lodger’s tax is used to fund a part of the Harvey House and the Chamber of Commerce Visitor Center. He added that the remaining funds are split amongst organizations that have requested the money for promotions of events. Councilor Ortega suggested budgeting for some billboard signs coming from Santa Fe or Albuquerque. Mayor answered, absolutely.

**INCUBATOR UPDATE: Steve Tomita, P & Z/ED Director**

Jay Ruybalid presented for Steve Tomita who had to leave due to the weather. Jay reported that Steve is currently working on the building maintenance; fixing leaks, plumbing and heating. He reported that Wayne Abrams is ready to move into the incubator at any time. He further reported that an advertisement is going into the paper next week announcing the incubator. Councilor Gallegos mentioned that he received an email from Steve referencing a budget on the incubator. Councilor Gallegos wanted to make sure that there is a line item to bring all employees up to par according to the recent salary study. Jay confirmed, and added that the salary study implementation will be complete next week. Councilor Gallegos stated time is clicking; he would like to see the salary study implemented by mid-year. Councilor Gallegos asked if monies are set in line items, or is it still in general fund. Jay answered that Roseann is waiting for the approval from the council for allocations and line items.

**PUBLIC HEARING WITH POSSIBLE ACTION**

**APPROVAL OR DISAPPROVAL OF THE PROPOSED PANHANDLING ORDINANCE: Jerah Cordova, Mayor**

Mayor Cordova reported that this ordinance has been discussed several times. He reminded the council that the City Attorney updated the ordinance to keep it constitutional. The ordinance will address aggressive panhandling. A copy of the ordinance is attached hereto and made an integral part of these minutes by reference.

Mayor Cordova asked the public if there was anyone who would like to speak for or against the ordinance. There was no one in the public with comments or concerns. Mayor Cordova closed the public hearing portion of this issue.

Mayor Jerah Cordova asked for a motion. Councilor Frank Ortega motioned to approve the Panhandling Ordinance. Mayor Jerah Cordova asked for a second. Councilor Wayne Gallegos seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes
Councilor David Carter	Yes
Councilor Wayne Gallegos	Yes

Councilor Darleen Aragon Yes Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE PROPOSED REPEAL AND REPLACEMENT OF THE ZONING ORDINANCE: Steve Tomita, P & Z/ED Director**

Mayor Cordova reported that this ordinance has been discussed in a workshop and during a previous council meeting. A copy of the ordinance is attached hereto and made an integral part of these minutes by reference.

Mayor Cordova asked if the Council had any questions regarding the ordinance. There were no questions and the Mayor opened up the discussion for a public hearing. There was no one in the public with comments or concerns. Mayor Cordova closed the public hearing portion of this issue.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to accept. Mayor Jerah Cordova stated that he has a motion to approve the changes as presented and asked for a second. Councilor Frank Ortega seconds the motion. Roll Call Vote:

Councilor Frank Ortega Yes  
Councilor David Carter Yes  
Councilor Wayne Gallegos Yes  
Councilor Darleen Aragon Yes Motioned Carried

**DISCUSSION WITH POSSIBLE ACTION**

**APPROVAL OR DISAPPROVAL OF THE SUNRISE BLUFFS MOU: Steve Tomita, P & Z/ED Director**

Jay mentioned that he worked with Steve, Ralph and Dale on the MOU and one of the concerns they had is listed in section C. They want to make sure the lines are sufficiently videotaped to ascertain exactly what kind of shape the lines are in. They also included section F which states *this agreement shall not be in effect until items 11 A through 11 D are completed and determined by City personnel that the water and sewer lines are acceptable to the City.* Jay stated that it has been the recommendation of Dale and the Council not to take on the responsibility if they are going need thousands of dollars in repairs. Jay advised the Council that he had Steve run the MOU by Sunrise Bluffs, and they apparently did not propose changes.

Councilor Gallegos asked what the recommendation was from Public Works. Jay replied that public works thinks its fine as long as the agreement had Section F, which is videotaping 75 % of lines, and upon approval. Councilor Ortega suggested each resident should sign a document stating they agree to this.

The Council was not comfortable with approving the MOU without an attorney or public works present. Councilor Gallegos pointed out that there is no rush on the issue.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to table the MOU. Mayor Jerah Cordova asked for a second. Councilor Frank Ortega seconds the motion. Roll Call Vote:  
Before the Roll Call Vote, Mayor Cordova requested that the two prior agreements be addressed in this agreement and add the language, *this agreement will supersede all others.*

Councilor Frank Ortega Yes  
Councilor David Carter Yes  
Councilor Wayne Gallegos Yes  
Councilor Darleen Aragon Yes Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE HIGHWAY SAFETY IMPROVEMENT PLAN (HSIP) MESA RD PROJECT BID AWARD: Jay Ashbacher, Project Manager with Molzen Corbin**

Jay Ashbacher reported that there is \$120,000 to do this project. He informed the Council that Mesa Road is both City and County owned. He mentioned that the north Mesa Roads are slightly off set, and because it is a safety concern, they decided to extend the curb and taper it. As per his Jay, included in the project are drainage improvements, sidewalk, curb and gutter, and base coarse driveways, as a courtesy to those property owners.

Jay announced that six bids were received for the project and TLC was the lowest bidder, with \$106,926. He indicated that the extra money can go towards additional construction services.

Jay asked for approval or disapproval of the contract award be issued to TLC Plumbing and Utility.

Councilor Carter asked if the traffic is going to flow or close. Jay answered that they will maintain access. Councilor Ortega asked how long the project will take and when will it start. Jay answered that the precon meeting is set for December 1<sup>st</sup> and at that meeting the contractor will sign the notice to proceed. The contractor can start any time after that. Jay indicated that the project duration is set for 40 days. Councilor Gallegos suggested that if there is money left over, it should go towards drainage, maybe inlets. Jay advised the Council that in addition, they were able to put a 30” perforated pipe, 200 linear feet, which will hold a decent amount of water. They will also grade the road side with swales to get the sitting water off the road. He emphasized that they doing as much drainage as allow per requirements.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to approve. Mayor Jerah Cordova asked for a second. Councilor Frank Ortega seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE CAMINO PONDS CHANGE ORDER: Chris Perea, Wilson & Co.**

Chris Perea reported that the construction is essentially done. They are doing some final coordination with fencing and access, and they are in the process of the final paperwork. Chris met with John, Jay and Roseann to go over the budget and final change order. Chris reported that there were 41 bid items; they have final numbers on all of them except for three. The three outstanding items are the dirt work, fencing and guard rail. He added that it looks like they are going to be under the plan amount. They are projected to be, without tax, \$31,500 under the original budget. With the final earth work, they may be slightly more under budget. The original budget was 963,000 without tax and they will be slightly over 900,000, when it is all said and done. He informed the Council that the dirt was less than they anticipated, and there was no direct cost for utility relocation.

Mayor Jerah Cordova asked for a motion. Councilor Frank Ortega motioned for approval. Mayor Jerah Cordova asked for a second. Councilor Wayne Gallegos seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE BELEN CONSOLIDATED SCHOOL AGREEMENT FOR THE PORTIONS OF ESPERANZA DR. ROAD CLOSURES DURING THE SCHOOL YEAR: David Carter, Councilor**

Councilor Carter advised the Council that this agreement is similar to the one that was passed at the last meeting for Rio Grande School. Councilor Carter reported that the process listed in the MOU has been the process for

some time but now they are putting it into an agreement. A copy of the MOU is attached hereto and made an integral part of these minutes by reference. Councilor Carter reported that most of the property around the school is school owned and will not affect any businesses or housing.

Mayor Jerah Cordova asked for a motion. Councilor Frank Ortega motioned to approve the agreement. Mayor Jerah Cordova asked for a second. Councilor Wayne Gallegos seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE VARIOUS OPTIONS FOR CITY OWNED PROPERTIES, INCLUDING POSSIBLE SALE: Steve Tomita, P & Z/ED Director**

Steve had to leave due to the weather, and Jay deferred to him for the presentation.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to table. Mayor Jerah Cordova asked for a second. Councilor Frank Ortega seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Wayne Gallegos	Yes	
Councilor Darleen Aragon	Yes	Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE ECONOMIC DEVELOPMENT PROJECT LIST: STEVE TOMITA, P & Z /ED DIRECTOR**

Mayor Jerah Cordova presented for Steve Tomita on this issue. Mayor Cordova went over the top five items on the list that Steve created. A copy of that list is attached hereto and made an integral part of these minutes by reference.

The five items on the list include;

- |                             |        |
|-----------------------------|--------|
| 1. Incubator improvements   | 80,000 |
| 2. Old City Hall            | 40,000 |
| 3. Marketing                | 15,000 |
| 4. Freeway Signage          | 60,000 |
| 5. Electrical Power Upgrade | 30,000 |

Total estimated costs 225,000 of the 325,000 that was allocated.

Mayor Cordova informed the Council that there are two alternative projects; Branding/ Way Finder Signs and Harvey House re-stucco. Mayor Cordova advised the Council that they could exchange any of the top five projects for an alternate.

Councilor Carter pointed out that there was a \$5,000 discrepancy in item 2. He suggested adding that \$5,000 to the incubator project.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to approve. Mayor Jerah Cordova asked for a second. Councilor David Carter seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes
Councilor David Carter	Yes
Councilor Wayne Gallegos	Yes

Councilor Darleen Aragon Yes Motioned Carried

**APPROVAL OR DISAPPROVAL OF THE 2016 ELECTION RESOLUTION: Leona Vigil, City Clerk**

Leona went over the 2016 Election Resolution; a copy of which is attached hereto and made an integral part of these minutes by reference.

Mayor Cordova informed the Council that Los Lunas only has one precinct for its entire city. He feels that having only one precinct may discourage voters, so he opted for keeping two locations.

Mayor Jerah Cordova asked for a motion. Councilor Wayne Gallegos motioned to approve. Mayor Jerah Cordova asked for a second. Councilor David Carter seconds the motion. Roll Call Vote:

Councilor Frank Ortega Yes  
Councilor David Carter Yes  
Councilor Wayne Gallegos Yes  
Councilor Darleen Aragon Yes Motioned Carried

**INFORMATIONAL ITEMS**

**CITY MANAGER'S REPORT**

Jay reported that at the last meeting with the Air Force they came up with preliminary figures, which were 1.5 million dollars initially, to provide all they needed, and \$900,000 per year. He explained that after further research and discussion the figures would have to be 1.5 million dollars every year; the increase mostly having to do with rescue and fire, including staff. He is waiting for a response. The Airport Runway Ribbon Cutting Ceremony is November 20, 2015. He advised the Council that the redrilling of well #5 was voted to be self funded. However, he explained that there is a second funding opportunity, through NMFA funding, that can be used for this project. Councilor David Carter wanted to know if there was another project the City could apply for. The Council suggested several other projects to apply for. Councilor Carter stated, if there is another project we can apply for, then we will continue with the self-funding of the redrill. Councilor Carter suggested applying for arsenic filters. Jay further reported that Lawrence will be giving a presentation at the next council meeting, along with a representative from the new web-site hosts. Councilor Ortega asked about the status of the CDBG Grant. Jay answered that there is no time line or process until February. Councilor Ortega asked for lighting and electricity for the Jose Gallegos Park. Mayor Cordova replied that the parks have been phased out and they can start discussing that for one of the next phase. Councilor Ortega reminded the Mayor to include Carter Park in the next phases. Jay apprised the Council that he will make sure to have Ralph, Dale or Hermann at the next meeting to discuss the Sunrise Bluffs MOU.

**COMMUNICATION FROM CITY COUNCIL**

**Councilor Frank Ortega:** He asked everyone to pray for those families in need of prayer this Thanksgiving and be thankful for your families.

**Councilor David Carter:** He announced the Follow the Star Event which is on December 5, 2015.

**Councilor Wayne Gallegos:** He believes the Council needs to let the public know about the committees they represent. He added that Veterans Day was nice.

**Councilor Darleen Aragon:** She attended the Film Festival; she found it amazing to see the interest in Belen. She added to Councilor Ortega's report and said we need to thank God for all that we have. She had a local business ask where the City buys their supplies; they had a concern that the City was not shopping locally. Mayor Cordova reported that he will be doing a comprehensive plan on local spending. She reminded everyone to shop local and wished everyone a Happy Thanksgiving.

**Mayor Jerah Cordova:** He announced that on December 9<sup>th</sup>, Belen will be 275 years old. He reported that we will be celebrating throughout the year. He advised the Council that there is enough money in the budget for one more road project. On Saturday, a Clean-Up was held on Don Felipe by the Belen Marsh Committee. There will be a second Perceptions Meeting at the Library on Saturday.

**ADJOURNMENT:**

Mayor Jerah Cordova asked for a motion to adjourn tonight's Regular City Council Meeting. Councilor Frank Ortega motioned to adjourn. Councilor Darleen Aragon seconds the motion. Roll Call Vote:

Councilor Frank Ortega	Yes	
Councilor David Carter	Yes	
Councilor Darleen Aragon	Yes	
Councilor Jerah Cordova	Yes	Motion Carried

/s/ \_\_\_\_\_  
Jerah Cordova, Mayor

/s/ \_\_\_\_\_  
Leona Vigil, City Clerk, CMC