

**CITY OF TUCUMCARI
CITY COMMISSION MEETING MINUTES
September 8, 2011**

The Tucumcari City Commission met in a regular meeting on Thursday, September 8, 2011, at 6:00 p.m. in the City Commission Chambers. Members present constituting a quorum were; Antonio Apodaca, Amiel Curnutt, Robert Lumpkin, Jimmy Sandoval, and Jim Witcher.

City staff members present were Bobbye Rose, City Manager; Mike Cherry, Assistant City Manager/Fire Chief; Christine Dougherty, City Clerk/Purchasing Agent; Clara Rey, Human Resources Director; Jason Braziel, Chief of Police; and Yvette Fazekas, Planning and Zoning Administrator.

Mr. Pat Vanderpool gave the invocation and Mr. Jim Morgan led the group in the Pledge of Allegiance.

Consideration of Changes or Deletions to the Agenda

Mayor Witcher explained that item listed under number ten on the agenda were addressed at the last meeting and therefore did not need to be on this agenda. Additionally, Mr. Witcher explained that there was a typographical error and ordinance number 1096 on the agenda should be ordinance number 1089.

Commissioner Curnutt made a motion to approve the agenda with the changes suggested by Mr. Witcher and Commissioner Lumpkin seconded the motion. Roll Call:

Curnutt	Witcher	Apodaca	Lumpkin	Sandoval
Yes	Yes	Yes	Yes	Yes

Items from Commissioners

Mayor Pro Tem Apodaca stated that he attended the New Mexico Municipal League Annual Conference but had to leave early for an appointment. He stated that he appointed Ms. Dougherty as the voting delegate and thanked her for taking care of that duty. Mr. Apodaca also thanked Ms. Rose for taking care of an animal control issue.

Commissioner Curnutt thanked those in attendance for coming to the meeting.

Commissioner Lumpkin also thanked those in attendance for coming to the meeting.

Commissioner Sandoval had no comments.

Mayor Witcher thanked those in attendance for coming to the meeting and asked everyone to keep Doug Powers in their prayers as he recently lost his sister to her battle with cancer.

Approval of Minutes

A motion was made by Commissioner Lumpkin to approve the minutes of the August 25, 2011 Commission meeting and the motion was seconded by Commissioner Curnutt. Roll Call:

Witcher	Apodaca	Lumpkin	Sandoval	Curnutt
Yes	Yes	Yes	Yes	Yes

Approval of Vouchers

A motion was made by Commissioner Lumpkin and seconded by Commissioner Curnutt to approve the City vouchers for payment. Roll Call:

Apodaca	Lumpkin	Sandoval	Curnutt	Witcher
Yes	Yes	Yes	Yes	Yes

Items from Citizens

Mayor Witcher asked if there were any citizens wishing to address the Commission. Being none, the meeting continued.

Proclamations, Memorials, or Petitions

Mayor Witcher proclaimed September 17-23, 2011 Daughters of the American Revolution Constitution Week in the City of Tukumcari.

Ms. Gigi Parker thanked the Commission for their support. Ms. Parker explained that the Constitution affects our lives daily and encouraged everyone to study the document. She also encouraged citizens to fly their flags in honor of the tenth anniversary of the September 11 attacks.

Ordinances and Resolutions

Ms. Yvette Fazekas presented Ordinance 1095 explaining that the Planning and Zoning Commission met and recommend granting Mr. Ortega’s request to re-zone 701-711 South Seventh Street from C1 general commercial to R3 multi-family dwellings. Mayor Witcher explained that this is the property behind Rubee’s Diner.

Commissioner Lumpkin made a motion to approve the first reading of Ordinance 1095 Amending the Official Zoning Map of the City of Tukumcari and Commissioner Curnutt seconded the motion. Roll Call:

Lumpkin	Sandoval	Curnutt	Witcher	Apodaca
Yes	Yes	Yes	Yes	Yes

Mr. Vanderpool then presented Ordinance 1089 Approving the Greater Tukumcari Economic Development Corporation (GTEDC) Project with Gamesa Energy USA, LLC. Mr. Vanderpool explained that this ordinance is per the local economic development act and the project will place a GX10 prototype wind turbine on 72 acres of land owned by the City of Tukumcari. The project involves a five year lease of the property with two extension opportunities each for five years. Mr. Vanderpool explained that this project has been in the works since January. Mr. Vanderpool stated that the project participation agreement is part of the ordinance package. He also explained that in June, Gamesa asked for a hold on the project while they conducted a financial review and then in early August told him they were ready to proceed.

Mr. Witcher stated that the land involved in the agreement is due east of the Cemetery. Mr. Witcher also explained that the turbine will be the tallest in North America and the company would like to break ground before the end of the calendar year.

Mr. Vanderpool advised the Commission that there are three places in the paperwork where the City is provided security for their investment in the project through a special warranty deed. Mr. Vanderpool explained that if the project fails, the property reverts back to the City. Mr. Vanderpool went on to explain that a royalty lease has been negotiated with Gamesa for 5% of their profits from the sale of the electricity produced by the turbine. Mr. Vanderpool stated that the profits will be split between the City, the EDC and the college. Mr. Vanderpool said he gives Mr. Morgan credit for building a strong relationship with Gamesa.

Commissioner Curnutt made a motion to approve Ordinance 1089 Approving the Greater Tukumcari Economic Development Corporation (GTEDC) Project with Gamesa Energy USA, LLC and Commissioner Sandoval seconded the motion.

Mayor Pro Tem Apodaca stated that the attorney who produced the documents is not the City Attorney. Mr. Apodaca asked if the City Attorney has blessed this agreement. Ms. Rose explained that the City Attorney has some concerns with the use of LEDA funds.

Mr. Apodaca then read from an email sent by City Attorney, Randy Knudson on September 4, 2011 to EDC Attorney, Tom Mills.

"I take no position, and give no opinions regarding the sufficiency of the same, since I have not seen any of those application documents, nor have I seen any documents supporting Gamesa's agreement to meet or exceed the metric used in calculating the cost-benefit analysis. I also have concerns about the City's "claw-back" provision, but once again, I have no authority in regard to this matter, nor any desire to impede the progress of this project. I just don't want to attest, and opine, to matters that I have had no opportunity to evaluate properly. City Manager Bobbye Rose has been made aware of some of my concerns in this regard, but desires to move forward, per the wishes of the City Commission, and once again, I don't want to slow this matter down. Therefore, please simply take my attestation off of the PPA, because it's not required anyway."

Mayor Pro Tem Apodaca said that he supports the project but is a lay person and has to rely on the opinions of professionals that have reviewed the document. Mr. Apodaca went on to say that because the documents have been revised since he was provided copies, he does not feel he can approve them at this time. Mayor Pro Tem Apodaca said that he would like the City Attorney to review the documents and make a recommendation.

Mayor Pro Tem Apodaca then asked if the City leased property to the Ethanol Plant when that project was supported by the GTEDC. Mr. Vanderpool stated that a man in Portland, Oregon owns the Ethanol Plant. Mr. Apodaca said the City leased the land and never received payment on the lease. Mr. Vanderpool stated that the owner intends to make the plant operational again. Mr. Vanderpool explained that the New Mexico financing entity that backed the project initially had a challenge with the contractor that they are working to resolve. Mayor Pro Tem Apodaca asked who received the proceeds from the sale of the land. Mr. Vanderpool stated that happened prior to his arrival and he could not speak authoritatively regarding those funds. Mr. Apodaca stated that he understands the use of low cost land leases to entice a business to locate here, but when land is sold, there should be a profit. Mr. Apodaca said the money is going through the GTEDC which was established due to the government anti-donation clause. Mr. Apodaca further stated that he does not understand the relationship between the City, the GTEDC and the college in this project.

Mr. Vanderpool noted the date and time of the email Mr. Apodaca read from, explaining that it was written before discussions between Mr. Knudson and the LEDA attorney had conversations. Mr. Vanderpool read from an email written by Randy Knudson to Tom Mills at 8:28 a.m. on September 7, 2011:

“The only “loose-end” that I see in this matter, (which may or may not be of concern, as it may be addressed,) is whether the new qualifying entity, Six Shooter, has submitted an application with the financial/background, information required by Ordinance. If it’s a non-issue, in your opinion, or otherwise addressed, then please disregard this email.”

Ms. Rose stated that Mr. Knudson said the GTEDC has a qualified attorney that gave his opinion. Mr. Knudson offered no opinion on the matter. Mr. Apodaca stated again that he supports the project but because the City Attorney did not give his blessing, he will have to vote no on this issue. Mr. Apodaca said he felt he has to rely on the opinion of the attorney because it is the only information he has. Mr. Vanderpool stated that he feels due diligence has been made regarding legal opinions.

Mayor Witcher called for the vote. Roll Call:

Sandoval	Curnutt	Witcher	Apodaca	Lumpkin
Yes	Yes	Yes	No	Yes

Ms. Rose then presented Resolution 2011-51, Amending the Infrastructure Capital Improvement Plan (ICIP). Ms. Rose said that at the next meeting the new ICIP plan will be presented for approval. At this time, Ms. Rose said the current ICIP needs to be amended to include the Main Street Projects.

Mayor Pro Tem Apodaca made a motion to approve Resolution 2011-51, Amending the Infrastructure Capital Improvement Plan (ICIP) and Commissioner Lumpkin seconded the motion. Roll Call:

Curnutt	Witcher	Apodaca	Lumpkin	Sandoval
Yes	Yes	Yes	Yes	Yes

City Manager's Report

Ms. Rose began her report by directing everyone's attention to the reports from each department. She highlighted the Convention Center report where July alcohol sales and room rentals have increased. She also pointed out the high number of animals that had to be destroyed and encouraged citizens to take better care of their animals.

Ms. Rose stated that the lights are again out at North Side Park. She explained that a bucket truck will be available next week to rectify the situation. Mr. Apodaca stated that not all the lights need to be restored, one will be enough.

Ms. Rose also stated that street lights from the Convention Center to Camino del Coronado will be fixed by next week.

Ms. Rose reported that the Raton District Judge ruled that the Racing Commission should cease accepting applications for the sixth and final race track license in the state. Ms. Rose said the Coronado Park group will appeal this decision.

Ms. Rose stated that the audit entrance meeting will be held next week. She complimented Crystal Shiplet of the Finance Department who has been working very hard to clean up the fixed assets listing.

Ms. Rose informed the Commission that seven employees attended the NM Municipal League Conference had learned a lot.

The Airport Planning Committee will meet on October 28.

The construction and demolition cell at the new landfill is approved by the state and open. Ms. Rose said she will work to get asbestos certification.

Ms. Rose reported meeting with Mr. Claude Peterson from Trigg Hospital regarding the drafting of a Memorandum of Understanding should a health epidemic situation arise.

Ms. Rose also informed the Commission that the Federal regulations regarding retro-reflective signs have been relaxed by President Obama and they will only need to be replaced as needed.

Ms. Rose reported that there will be a Canadian Soil and Water Conservation meeting on September 15 at the Convention Center at 10 a.m.

Xcel Energy will hold an energy forum September 28 in Roswell. Xcel will also hold a public meeting regarding the Del Norte Center on September 20 in Tucumcari.

Ms. Rose also encouraged everyone to attend the Artist in the Annex reception at the Historic Museum from 12:30 to 2:30 September 9.

Old Business

Ms. Yvette Fazekas presented the NM Department of Transportation Cooperative Agreement Amendment. She explained that the amendment extends the time of the project due to the delay of environmental clearance from the DOT.

Mayor Pro Tem Apodaca made a motion to approve the NM DOT Cooperative Agreement Amendment and Commissioner Lumpkin seconded the motion. Roll Call:

Witcher	Apodaca	Lumpkin	Sandoval	Curnutt
Yes	Yes	Yes	Yes	Yes

Ms. Fazekas then presented the NM Department of Transportation Municipal Arterial Program Amendment. Ms. Fazekas explained that this amendment involves the same project and is required due to the delay of environmental clearance from the DOT.

Commissioner Lumpkin made a motion to approve the NM Department of Transportation Municipal Arterial Program Amendment and Commissioner Curnutt seconded the motion. Roll Call:

Apodaca	Lumpkin	Sandoval	Curnutt	Witcher
Yes	Yes	Yes	Yes	Yes

Ms. Rose then presented the Liquor License Application for S&S Hotels. Ms. Rose stated that the public hearing on the subject was held at the last regular meeting where no one spoke either in favor or opposition of the application.

Commissioner Lumpkin made a motion to approve the Liquor License application for S&S Hotels and Commissioner Curnutt seconded the motion. Roll Call:

Lumpkin	Sandoval	Curnutt	Witcher	Apodaca
Yes	Yes	Yes	Yes	Yes

Items from Commissioners

Commissioner Sandoval had no comments.

Commissioner Curnutt had no comments.

Mayor Pro Tem Apodaca asked that Ms. Rose check the lights at North Side Park.

Commissioner Lumpkin thanked all those in attendance for coming to the meeting and said he appreciates all the input.

Mayor Witcher thanked those in attendance and thanked the DAR for what they do each year stating that they are a civic minded group.

Mayor Pro Tem Apodaca added that he supports the wind turbine project. However, he is a lay person and would like to see in writing from the City Attorney that he supports the paperwork as written.

Executive Session

Mayor Pro Tem Apodaca made a motion to convene in Executive Session to discuss matters as provided for under New Mexico Statutes Pertaining to Open Meetings Referencing Section 10-15-1 H(7) 1978, related to threatened or pending litigation and Commissioner Lumpkin seconded the motion. Roll Call:

Sandoval	Curnutt	Witcher	Apodaca	Lumpkin
Yes	Yes	Yes	Yes	Yes

Time noted was 6:33 p.m.

Mayor Pro Tem Apodaca made a motion to re-convene in Regular Session after Executive Session where the only matters discussed were as provided for under New Mexico Statutes Pertaining to Open Meetings Referencing Section 10-15-1 H(7) 1978, threatened or pending litigation and Commissioner Lumpkin seconded the motion. Roll Call:

Curnutt	Witcher	Apodaca	Lumpkin	Sandoval
Yes	Yes	Yes	Yes	Yes

Time noted was 6:47 p.m.

Adjournment

There being no further business, a motion to adjourn was made by Commissioner Curnutt and seconded by Commissioner Sandoval. Time noted 6:48 p.m. Roll Call:

Witcher
Yes

Apodaca
Yes

Lumpkin
Yes

Sandoval
Yes

Curnutt
Yes

James L. Witcher, Sr., Mayor

ATTEST:

Christine Dougherty, City Clerk