

**City of Tucumcari
City Commission Meeting Minutes
November 14, 2013**

The Tucumcari City Commission met in a regular meeting on Thursday, November 14, 2013, at 6:00 p.m. in the City Commission Chambers, Members present constituting a quorum were, Ernest Dominguez, Jr., Robert Lumpkin, Jimmy Sandoval, Amiel Curnutt, and Dora Salinas-McTigue.

City Staff members present were: Charlie Sandoval, Asst. City Manager; Angelica Gray, City Clerk; Jessica Elebario, Senior Center Director; Vicki Strand, Community Development Director; Brenda Rivali, EMS Director; and Jason Braziel, Police Chief.

Rick Haymaker Pastor at Agape West Church led the invocation and Assistant City Manager, Charlie Sandoval led the group in the Pledge of Allegiance.

Consideration of Changes for Deletions to the Agenda

Charlie Sandoval stated he would like to delete 9E from the agenda due to Mr. Vanderpool not being in attendance; move 9B & 9C to after Items from Citizens; Mr. Lumpkin asked that Item 9A would like to be deleted. He stated these items have been addressed in the work session. In addition, he would prefer these items be addressed in a letter and the information will be public and accessible.

City Attorney, Randy Knudson stated each item needed to be dealt with individually.

Ms. Salinas-McTigue made the motion to delete 9E and Mr. Dominguez seconded the motion. Roll Call:

Lumpkin	Sandoval	Dominguez	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Mr. Lumpkin made the motion to delete Item 9A and Mr. Dominguez seconded the motion. Roll Call:

Dominguez	Lumpkin	Curnutt	Sandoval	Salinas-McTigue
Yes	Yes	Yes	No	No

Mr. Lumpkin made the motion to move 9C and 9B after Items from Citizens and Mr. Dominguez second

Curnutt	Dominguez	Lumpkin	Sandoval	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Approval of Minutes

Mr. Lumpkin made the motion to approve the minutes for October 24, 2013 Work Session and Mr. Dominguez seconded the motion. Roll Call:

Sandoval	Curnutt	Dominguez	Lumpkin	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Mr. Lumpkin made the motion to approve the October 24, 2013 Commission Meeting Minutes and Mr. Dominguez seconded the motion. Roll Call:

Dominguez	Lumpkin	Sandoval	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Mr. Lumpkin made the motion to approve the November 8, 2013 Special Commission Meeting minutes and Ms. Salinas-McTigue seconded the motion. Roll Call:

Lumpkin	Sandoval	Dominguez	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Items from Citizens

Mayor Curnutt allowed each citizen 3 minutes to speak.

John McTigue – He wants to address the problems that have existed at Kodiak Produce since March 2013. He stated they had problems with the plumbing from day one. When the City did not respond, John Prairie, site manager, called a plumber and now has a \$2,800 plumbing bill that the City refuses to pay and it is the City’s responsibility to pay for such repairs. Since Kodiak moved in, they have been cleaning and painting and even replaced a cinder block wall and had a roll up door installed. Mr. Prairie has patched the roof because of leaking and the inside has flooded inventory. They have also installed a new water heater. All this has been done at their own expense. Prior to them moving in, Mr. Prairie asked Mr. Powers if the City could move the fence back 50 feet at the rear of the property and it was agreed to the City would move the fence. Although the city crew measured and marked out but did not use the original measurements, which reduced the square footage of the original plans and caused problems.

Kodiak needs room to maneuver and back up to the dock blade. After several calls to Mr. Powers to move the fence, it fell on death ears. Mr. Prairie had to buy new posts to replace the ones and replace the ones he cut. He also replaced the fence as well and all at his own expense.

Since Whitmore Street was repaved in front of the property the flooding is worse. No storm drains were installed in the street. The water has no place to go to and it creates a pond in the rear loading dock and the trucks cannot unload. For many months the City employees have been using the property west of Kodiak as a trash dumping site.

He does not believe the City of Tucumcari is a responsible landlord when they have an excellent tenant like Kodiak Produce that at their expense have made many improvements to the building and the entire property. Kodiak has brought 40 jobs to Tucumcari.

Mayor Curnutt stated he visited with Mr. Prairie last week and the only issue that was brought to his attention was the drainage issue.

Jack Hendrickson- He has been a resident for over 30 years and he is also on the Lodger’s Tax Board. He is confused on what his role in the City and why we waste our time advising the

commission on how to spend the tax monies. He has been told by Ms. McTigue that we needed to wing different organizations off the “tit”. But when the commissioners met, they doubled the amount that was advised. He has mixed feelings as to whether to stay on this board or resign due to the lack of respect received from the commission as an advisory board.

Gilbert Pacheco – He was here a couple of weeks ago regarding the recall. He does not understand why he couldn’t take his name off the petition. However, we have a commissioner that was appointed and he flipped flopped in his position. He asked the Mayor why was he taken off the recall and yet he cannot take his name off the petition. He was told it was under false pretenses. He wants to know why the recall is still going on. Now he understands Mr. Lumpkin is being recalled. He asked why Mayor Curnutt is not being recalled. Again, he wants to know why the commissioner’s name was taken off the petition.

Mayor Curnutt attempted to explain that the petition was turned in and the City was told that he cannot be recalled because his term is up in March.

Mr. Pacheco stated that Ms. Salinas-McTigue has brought permanent jobs to Tucumcari.

Daniel Garcia – He reiterated what has happened to bring us to this situation. He stated it started when 3 commissioners voted to oust the city manager and 2 commissioners voted to retain him. After that, Mayor Curnutt ran an ad in the paper. He wanted to know why Mayor Curnutt did not put his telephone number on the ad.

He picked up the petition from the city clerk and with Mr. McTigue’s help; they received three times the signatures for the recalls.

In addition, Mayor Curnutt put the names of the three Hispanic commissioners on the recall. It was discrimination and not caring about the Hispanic population. If these commissioners are recalled, the Hispanics will not have any representation on this commission and he does not believe this is right.

Jean O’Deanne – She arrived in Tucumcari in August. She is an environmental scientist. She is concerned on what the citizens are being exposed to. She believes the City and the commissioners are responsible for the protection, the well being and reducing economic hardship to the citizens. She wants to read from a book written by a medical public health official, Samuel Milham, “Dirty Electricity: Electrification and the Diseases of Civilization”. She stated that within two days of arriving in Tucumcari, she began to experience Wind Turbine Syndrome. She read from the book which states that wind farms creates two serious problems one being low frequency sound right waves caused by the turbine waves and dirty electricity caused by their invertives. She continued to read from the book.

Alice Valencia – She stated she is not happy she did not hear from Mr. Montano. She is in qualms on why one day she is in the newspaper quoting that this is business and how one morning she can wake up to a phone call from the Mayor, Mr. Lumpkin or someone asking if they can have coffee and then the next meeting the vote is changed.

She wanted to add that Mr. Sandoval and Ms. McTigue are doing a great job. At the end of this, an investigation will take place and who will find out where our money is going. As far as she

knows, the Mayor needs to live in the municipality and represent that quadrant. She is wondering if the city pays for the fuel for the Mayor to travel to Albuquerque.

Gary Montano – He is a US Veteran, business owner, a taxpayer and a Latino and proud. Since he was taken off the agenda, he wonders why, but it can be tackled in a court of law. To verify what Ms. Valencia said, in the NMML pocket guide, removal for misconduct is automatic vacancy in office. This matter has been addressed with the Mayor; he pays taxes in Tucumcari and owns two properties in Logan but he doesn't live in Albuquerque, however his wife does.

He addressed Mr. Lumpkin and stated his father is very interested in meeting with Mr. Lumpkin directly. He quoted from the October 10, 2013 meeting, “Mr. Lumpkin stated that at the last commission meeting the commission voted to fire our city manager. He felt it was the wrong decision for Tucumcari and Quay County. Our City Manager, Doug Powers has worked twenty years for the City of Tucumcari with excellent evaluations”. Mr. Montano requested under the freedom of information act, copies of Mr. Powers evaluations for the past 20 years. He stated that the City Clerk responded on City letterhead that there were no evaluations. However, pursuant to 14-2-1(3) Matters of Opinion, the evaluations would not be subject to disclosure. He stated that after all the bells and whistles; Mr. Powers salary was \$89,163.40 and has received a \$17,655.00 pay raise in two years without any evaluations.

New Business (Item 9C)

Mr. Knudson stated he thought Ms. Gray should speak first. He thinks they need to have a vote for consideration of the recall election as to District 3. He was going to explain what some of the problems are with District 3.

Mr. Knudson stated he received a phone call from Randy Van Vleck of the New Mexico Municipal League who was at the election school with Ms. Gray. We discussed several New Mexico statutes the commission needs to be aware of, which were discussed at the work session. He stated New Mexico statutes are essentially making the recall elections as to Mr. Lumpkin, Mr. Curnutt and Mr. Dominguez will have to be extended until the general election because there is not sufficient time under the Election Code for Ms. Gray to certify the election to do the required publication under the Election Code, which allows citizens that have been purged, to challenge the purge, and then we need to comply with deadlines and guidelines and it will require those 3 commission districts, if they are in fact up for recall, those recall elections will become moot due to these positions being subject to the March election. He does believe the commission needs to take action on those petitions. If they are approved, he is advising the commission that there is no way a recall election can held under the Election Code before the March 4 general election because all three positions are opened for public election it becomes what the law calls a “moot” issue. He hopes this is a clarification.

At present there is a recall, because the first petitions that were filed were certified and there is a recall for District 1 and 2 because they were filed earlier in time. The other 3 are simply not going to meet the time requirements to allow a recall to occur before the March election; therefore, those recalls become a moot issue.

Mayor Curnutt asked if the commission needs to go through the recall process. Attorney Knudson stated the citizens have filed petitions for a recall and the commission needs to vote on that issue. After the commission had made a decision on that, he was going to tell the

commission it becomes a moot issue. It doesn't make sense because there cannot be a recall before the March 4th election. Attorney Knudson read statute 3-14-16 - In any commission-manager municipality, any elective officer is subject to a recall election. Upon petition seeking the recall of an elective officer, signed by the qualified electors in a number more than twenty percent of the average number of voters who voted at the previous four regular municipal elections or more than twenty percent of the number of voters who voted at the previous regular municipal election, whichever is the greater, the commission shall call a special election unless the regular municipal election occurs within sixty days, in which case the qualified electors shall vote on the recall at the regular election. There are also publication requirements which make it impossible for Ms. Gray to comply with the Election Code. He advised the Mayor that they need to take action because citizens have filed recall petitions so it needs to be voted on but for practical matters there is no way a recall election can be held on those three positions.

Ms. Gray stated the following finding after examination on petitions for District 3.

Total Signatures	65
Purged Signatures	
Address Irregularities	6
Not Registered	21
Registered After Deadline	0
Signature Discrepancy	2
Previously Purged from Petition	0
Duplicate Signature	0
Unlegible Signatures	1
Total Purged Signatures	30
Total Qualified Signatures	35
Required Petition Signatures	23

Mr. Lumpkin made the motion to approve Ms. Gray's findings for petitions in District 3 and Ms. Salinas-McTigue seconded the motion. Roll Call:

Dominguez	Lumpkin	Curnutt	Sandoval	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Mr. Knudson stated that now for a practical matter it will be impossible to hold a recall before the general election therefore this matter becomes moot.

Mr. Knudson stated that at the next commission meeting as an action item the commission needs to vote what they want to do with this moot issue.

Mr. Sandoval asked if the only election would be for District 1 and District 2 and another election in March. The only time this position could have been a subject of a recall, if she would not have to certify the signatures at the last commission. Because the commission voted to have the signatures certified now it does not fall in the timeframe.

Mr. Sandoval stated there will be two elections. He stated if he is going to be recalled, he wants it to take place in the election on January 2nd.

Ms. Gray confirmed that she will be determining the request for the recall for district 3 will be legally mooted due to the seat being a subject of the regular election.

If the commission votes no at that point, he does not know what the commission will do because it doesn't make sense.

Ordinances and Resolutions

Election Resolution 2013-32 – Mr. Knudson stated the commission needs to consider at the next meeting whether the issue is legally moot, vote on it and he hopes they do that.

Mr. Sandoval stated he does not want absentee voting or early voting. Ms. Gray stated that at the last commission meeting the commission voted to have the absentee and early and voting on January 2.

Ms. Gray did not believe there was any way we could have an election without the absentee and early voting.

Mr. Knudson stated the legislature has set the perimeter of what an election consists of and if there is an election our hands are tied on that.

Mr. Lumpkin made the motion to table Election Resolution 2013-32 until the next meeting and Mr. Dominguez seconded the motion. Roll Call:

Curnutt	Dominguez	Lumpkin	Sandoval	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

City Manager's Report

Assistant Charlie Sandoval stated that Mr. Powers is out of town. Mr. Sandoval stated that as of November 1st, our contractor completed their work was inspected and approved by Gordon Environmental on Nov. 12th. City crews finished the required 2 foot dirt cover and On November 18th the surveyor will be here to place cut and field stakes. Gordon will work on the final certification will be submitted to the solid waste bureaus for approval when city crews meet final grade.

In regards to the cemetery, Mr. Sandoval informed the commission that city crew has been working hard to remove dead trees and bushes. We are also getting quotes to remove large elm trees.

The pool cover has been installed and there is a cover being built to protect the outside pipes and pumps.

At the wastewater plant after application and interview process, Mr. Henson has been taken the position as wastewater plant. Mr. Sandoval thinks starting pay is less than what the previous superintendent was making.

At the 5 Mile Park they are installing a new 400,000 gallon water tank. They are forming the roof and the walls.

Ms. Salinas-McTigue wants Mr. Powers to know that Mr. Stephenson at the airport had to give up vacation because of lack of staff. She thinks an additional person should be hired at the airport.

Items from Commissioners

She wanted to thank Estefanita Garcia she is the operations manager at Alco. They donated an entire tool and plumbing area to Tukumcari High School with a retail value of \$33,000.

In conjunction with K-Bobs they donated a \$100 of school supplies and K-Bobs gave a \$500 donation and Alco gave them a 35% discount on the school supplies. The ladies at the front office were so grateful they gave her a "You make a difference" plaque.

Ms. Salinas-McTigue acknowledged Caroline Birch from Kodiak Produce. Kodiak donated to VFW for the Fired Up event, Logan, San Jon Tukumcari School, Empower the Land Conference at the Convention center, \$200 for Red Ribbon Campaign, VFW for a benefit, and Bawshap at Flying J Truck Stop. She thanked them for participating and being a good neighbor in our community.

Mr. Lumpkin stated he received an email from Ungee with La Loca Magazine was interviewed on TV in Albuquerque. Tukumcari was spotlighted in the interview and mentioned that we were the center of the Rte. 66 Rock a Billy movement. He congratulated everyone who was involved in the Rock a Billy.

To answer one of Mr. McTigue's concern regarding Kodiak Produce, he visited with the manager and they talked about the water issue and cleaning the ditches. Over the years, those ditches have filled up. If this does not work, we will look at a more extensive approach.

Mr. Lumpkin stated that our last city manager also made \$70,000. Our new city manager worked at a lower rate and it was decided by all the commissioners voted to pay him \$70,000 knowing his contract would expire in April.

Mr. Sandoval asked if there was anyone here from District 2 who signed the petition.

Mayor Curnutt stated he thought this was out of order to ask citizens to come up. Mr. Sandoval said that at the last meeting he wanted to speak to the citizens from District 1 who signed the petition.

Mr. Sandoval asked Jonathan Brito where he failed in his district. Mr. Brito answered that it wasn't that Mr. Sandoval did anything wrong but he signed the petition for firing Mr. Powers. Mr. Brito stated that he did show a proven fact of what Mr. Powers did wrong. Mr. Sandoval asked Jonathan Brito what Mr. Powers had done for the City of Tukumcari.

Mayor Curnutt stated Mr. Brito answered the question and asked Mr. Sandoval to shut it down.

Mr. Dominguez thanked everyone for being here and acknowledged the advisory boards. Sue Gholson works hard for the senior citizens. She put on the Halloween Dance and now the senior citizens department is working on a Thanksgiving dinner. He stated the boards need the respect of all us commissioners. He thanked the boards.

Mayor Curnutt thanked everyone for coming tonight.

Bid and Contracts

Ms. Elebario updated the commission in stating that a year ago she submitted a request for new computer equipment through capital outlay process through the NMAAA. We were approved and her staff will receive new computers at no cost to the City.

She has six capital outlay contracts brought to the commission for approval and signature and there were stipulations that were required due to the City audit. She received the signed contracts and the roof will be repaired at the Senior Center. She will go out to bid for a hot shot vehicle and then replacing existing equipment.

Ms. Salinas-McTigue added that she received a call from Dolores Gonzales stating that due to Ms. Elebario's efforts she did a great job.

Request for Approval of the Contract with Ben E. Keith and Sysco WT Foods - Ms. Elebario stated this contract is for food and supplies for our senior program. She received bids from Ben E. Keith and Sysco WT. She had requested a multi vendor bid and would like to use both vendors.

Mr. Lumpkin made the motion to approve the contract with Ben E. Keith and Sysco WT and Ms. Salinas-McTigue seconded the motion. Roll Call:

Sandoval	Curnutt	Dominguez	Lumpkin	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Request for Approval of Contract of amendment #2 on NMAAA – Ms. Elebario stated this is an amendment to our original contract signed in April. She stated that anytime there is a change of units or prices there has to be an amendment.

Mr. Lumpkin made the motion to approve amendment #2 and Ms. Salinas-McTigue seconded the motion. Roll Call:

Dominquez	Lumpkin	Sandoval	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Request for approval to accept YCC Grant- Vicki Strand stated this grant is where we hire youth to work on projects for the City. This year's project will be to work on the baseball fields.

Mr. Lumpkin clarified this is a \$42,000 project and the City will pay \$25,000 but city staff will make up the \$25,000 by doing the labor, which is in kind

Mr. Lumpkin made the motion to approve the YCC Grant and Ms. Salinas-McTigue seconded the motion. Roll Call:

Lumpkin	Sandoval	Dominguez	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Request for Approval for ODWI/OBD/100Days/Nights Grant – Chief of Police Jason stated these are annual grants that are used to assist the department in our efforts to reduce the number of DWI's, unbelted drivers and reduce the number of traffic related injuries and fatalities on our streets. This grant provides funds for overtime, saturation patrol and any officer court related functions.

Mr. Lumpkin stated the grants are for \$7,800; \$2,800 \$1,500 and they are also 100% grants.

Mr. Lumpkin the motion to approve the ODWI/OBD/100 Days & Nights Grant and Mr. Dominguez seconded the motion. Roll Call:

Dominguez	Lumpkin	Curnutt	Sandoval	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Discussion regarding Schedule November and December Holidays – Mr. Lumpkin made the motion to approve the November 28th meeting to November 18th and December 26th meeting to December 19th and Ms. Salinas-McTigue seconded the motion. Roll Call:

Curnutt	Dominguez	Lumpkin	Sandoval	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Approval of Funding for Bluegrass – A representative invited everyone to the Bluegrass event on December 14th.

Mr. Lumpkin stated that \$2,610 was approved by the Lodger's Tax Board.

Mr. Lumpkin made the motion to approve funding in the amount of \$2,610 or the amount that was recommended by Lodger's Tax Board and Ms. Salinas-McTigue seconded the motion. Roll Call:

Sandoval	Curnutt	Dominguez	Lumpkin	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Items from Commissioners

Mr. Sandoval told Mr. Brito that he feels sorry for him.

Mr. Dominguez thanked everyone for coming.

Mr. Lumpkin followed up on the Senior Citizen. He has been out to the Center and he appreciates all the hard work.

Ms. Salinas-McTigue thanked Estefanita Garcia at Alco and John Prairie at Kodiak for being a part of our community. She thanked everyone for coming tonight.

Mayor Curnutt thanked Alco and Kodiak Produce for their donations along with Jessica Elebario and Sue Gholson at the Senior Center.

Adjournment

Mayor Curnutt asked for a motion to Adjourn. Mr. Lumpkin made a motion to adjourn and Ms. Salinas-McTigue seconded the motion. Roll Call:

Dominguez	Lumpkin	Sandoval	Curnutt	Salinas-McTigue
Yes	Yes	Yes	Yes	Yes

Meeting adjourned at 7:22 p.m.

Amiel Curnutt, Mayor

ATTEST:

Angelica M. Gray, City Clerk