

**REGULAR MEETING OF THE CITY COMMISSION  
MONDAY, APRIL 14, 2014 @ 5:30 P.M.  
CITY COMMISSION CHAMBERS, 214 S. LOVE STREET**

**Call to Order:** The meeting was called to order by Mayor Gandy at 5:30 p.m.

**Present and answering roll call:** Mayor Gandy, Commissioners Campos, Butcher, Benge, and Trujillo.

**Also Present:** City Manager James Williams, Assistant City Manager Jared Cobb, City Clerk Carol Ann Hogue, Administrative Assistant Imelda Gutierrez, City Attorney Patrick McMahon and Chief of Police Danny Bryant

**Invocation:** Commissioner Campos gave the invocation

**Pledge of Allegiance:** Commissioner Campos led the pledge

**Approval of Agenda:** Mayor Gandy called for a motion to approve the agenda as submitted. Commissioner Trujillo so moved. Commissioner Benge seconded and a roll call was taken: Commissioner Benge – Yes, Commissioner Trujillo – Yes, Mayor Gandy - Yes, Commissioner Butcher – Yes, and Commissioner Campos - Yes. Motion was approved.

**Approval of Regular Minutes of March 24 & Called Minutes of April 7, 2014:** Mayor Gandy called for a motion to approve the regular minutes of March 24 & called minutes of April 7, 2014. Commissioner Trujillo so moved. Commissioner Benge seconded and a roll call was taken: Commissioner Butcher – Yes, Commissioner Campos – Yes, Commissioner Trujillo – Yes, Commissioner Benge – Yes, and Mayor Gandy - Yes. Motion was approved.

**NON-ACTION ITEMS:**

**Discussion of City Board Appointments:** City Manager Williams addressed the Commissioners stating that the terms for some of the City Board members have expired. The members have expressed desire to continue serving as board members.

<u>Lodger's Tax Board:</u>	<u>Expires:</u>
➤ Kallie Richards	3/14/14
➤ Lisa Spears	4/12/14
➤ Robbie Roberts	9/2013
<u>Planning &amp; Zoning:</u>	<u>Expires:</u>
➤ David Lynch	3/26/14
➤ Betty Price	4/2014
➤ Kallie Richards	3/2014
➤ Lynda Kreybig	3/26/14

The appointments will be on the agenda as an action item at the next regular commission meeting. No action was taken.

**Discussion of Summer Basketball Program:** Athletic Director Chief Bridgforth from Lovington High School addressed the Commissioners requesting funds for the summer basketball program. This year they want to have 5 adult teams and 3 high school teams for a month long plus a tournament. This program can help improve our high school players. Commissioner Campos stated that maybe increase the entry fee from \$150 to \$200 per team. Commissioner Bengé asked City Manager Williams if the City can afford to help fund the program and Mr. Williams replied with a yes. Commissioner Bengé is for the program and would like to add it as an action item on the next commission meeting. Commissioner Trujillo suggested adding the basketball program to the next year's budget. Mayor Gandy asked to add this item on the agenda at the next regular meeting. No action was taken.

### **ACTION ITEMS:**

**Consideration of Approval of Ordinance 525 – Personnel Policy Amendment:** Mayor Gandy called for a motion to approve Ordinance 525 – Personnel Policy Amendment. City Manager Williams addressed the Commissioners giving a brief explanation of Ordinance 525: this will amend Municipal Code Title 2, Division VI, Chapter 2.92 – Personnel Merit System – 2.92.250 – Prohibited political activities by enacting section E which reads “Any employee elected to municipal office in the City shall resign from the employ of the City”. Commissioner Trujillo so moved. Commissioner Campos seconded and a roll call was taken: Commissioner Campos – Aye, Commissioner Butcher – Aye, Commissioner Trujillo – Aye, Commissioner Bengé - Yes, and Mayor Gandy – Aye. Motion was approved.

**Consideration of Approval of Ordinance 526 – Wind Erosion Control:** Mayor Gandy called for a motion to approve Ordinance 526 – Wind Erosion Control. City Manager Williams addressed the Commissioners giving a brief explanation of Ordinance 526: this will enact a new chapter of the Municipal Code (15.24) of Title 15 which will require wind erosion control measures to be implemented during construction and development activities. The purpose and intent of this section is to protect and maintain the natural environment and to reduce the health effects and safety issues caused by the creation of fugitive dust to blowing sand and particulate matter caused by anthropogenic (man-made) activities by requiring mitigation measures for activities that create fugitive dust. This does have some exemptions. If in violation of this ordinance, the fee is \$500 per day or 90 days or a combination of both for each occurrence. Commissioner Trujillo so moved. Commissioner Bengé seconded and a roll call was taken: Commissioner Campos – Yes, Commissioner Butcher - Yes, Commissioner Trujillo – Yes, Mayor Gandy – Yes, and Commissioner Bengé – Yes. Motion was approved.

**Consideration of Approval of Ordinance 524 – Annexation of Property near 17<sup>th</sup> & Jefferson & Zoning Classification:** Mayor Gandy called for a motion to approve Ordinance 524 – Annexation of Property near 17<sup>th</sup> & Jefferson & Zoning Classification. Commissioner Trujillo so moved. Commissioner Campos seconded. City Manager Williams mentioned that the identified tracts will be zoned as specified in the ordinance:

- Annexation Tract 1: Zone B – Multifamily, Annexation Tract 2: Zone C – Commercial, Annexation Tract 3: Zone B – Multifamily, Annexation Tract 4: Zone B – Multifamily, Annexation Tract 5: Zone C – Commercial, Annexation Tract 6: Zone C – Commercial, Annexation Tract 7: Zone B – Multifamily, Annexation Tract 8: Zone C – Commercial, Annexation Tract 9: Zone C – Commercial, Annexation Tract 10: Zone C – Commercial, Annexation Tract 11: Zone C – Commercial, Annexation Tract 12: Zone C – Commercial, Annexation Tract 13: Zone C – Commercial, and Annexation Tract 14: Zone C – Commercial.

Gene Samberson addressed the Commissioners stating his concern about the windstorm on April 3, 2014. Mr. Samberson stated that the wind was a mess and he couldn't see outside his windows for no more than 50 feet. It's not tolerable! It's a nuisance and it's one that affects public health and public safety. Mr. Samberson is requesting to table the annexation until the wind erosion ordinance goes into effect. Commissioner Trujillo stated that he would like to see Ordinance 526 take place before they approve ordinance 524. Mayor Gandy asked City Attorney McMahon if they can add an amendment to ordinance 524. City Attorney McMahon explained to Mayor Gandy that it might be a problem and that the City has not done that before and the next approach would be to table the ordinance until the next meeting. City Manager Williams explained that it would be a 15 day publication notice for a zoning change to at least 25 individuals. Commissioner Trujillo and Commissioner Campos withdrew their motion. Commissioner Bengé so moved to table until the first regular commission meeting in May. Commissioner Trujillo seconded and a roll call was taken: Commissioner Trujillo – Aye, Commissioner Bengé – Yes, Commissioner Butcher – Yes, Commissioner Campos – Aye, and Mayor Gandy – Aye. Motion was approved.

**Consideration of Approval of Resolution 2014-12: Consent to Assignment of Franchise – Transfer Comcast Cable to TDS Baja Broadband:** Mayor Gandy called for a motion to approve Resolution 2014-12: Consent to Assignment of Franchise – Transfer Comcast Cable to TDS Baja Broadband. City Manager Williams stated that the City has received a request to consent to transfer Comcast franchise to TDS Baja Broadband LLC. The existing franchise agreement requires that the City provide written consent to do the transfer. Commissioner Bengé so moved. Commissioner Butcher seconded and a roll call was taken: Commissioner Butcher – Aye, Commissioner Campos – Aye, Commissioner Bengé – Aye, Commissioner Trujillo – Aye, and Mayor Gandy – Aye. Motion was approved.

**Consideration of Approval of 5<sup>th</sup> Annual Smokin' on the Plaza Event Temporary Street Closures & Beer Garden:** Mayor Gandy called for a motion to approve the 5<sup>th</sup> Annual Smokin' on the Plaza Event Temporary Street Closures & Beer Garden. Commissioner Butcher asked City Manager Williams if they were going to set up a portable restroom for this event. City Manager Williams mentioned that there will be one portable restroom setup for this event and for the Farmer's Market. Commissioner Trujillo so moved. Commissioner Campos seconded and a roll call was taken: Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

**Consideration of Approval of Lea Community Foundation for the Arts Lea Theater Project Funding using LEDA & City Participation:** Mayor Gandy called for a motion to approve the Lea Community Foundation for the Arts Lea Theater Project Funding using LEDA & City Participation. City Manager Williams explained 2 different options from the Due Diligence Committee:

Option 1. Provide \$200,000 matching funds and \$50,000 to start up to secure a \$400,000 bank loan that would require expanding \$400,000 in CD's. Once the loan is paid it would release funds back to LEDA.

Option 2. Provide a one-time funding of \$250,000 to the City of Lovington from LEDA funds for the purchase of the Lea Theater from the Joy Family with the funding terms:

1. The City will own the Lea Theater building.
2. The City would enter into an agreement with the Lea Community Foundation for the Arts that would allow them to operate a theater. The Foundation would be responsible for all improvements, insurance, repairs, maintenance, operating costs, etc.
3. Within one year of City acquisition of the building, the Foundation would be required to begin operation. Operation is deemed as holding its first regular digital movie or performing arts production, as defined by the foundations mission statement and goals. Fundraisers, of any form, held at the theater will not satisfy this requirement.
4. The City will enter into an agreement with the Lovington EDC that will transfer the right to operate the facility as a theater should the Foundation not meet the goals defined in the agreement.
5. Should the foundation request to purchase the building, the Lovington EDC will provide approval of the sale in conjunction with the City.
6. Foundations by-laws require a Lovington EDC director to be on the board. That member will be appointed by Lovington EDC by majority vote on an annual basis.

City Attorney McMahon explained ordinance 495 stating what a “qualifying entity” and “cultural facility” means. Mark Roper addressed the Commissioners stating that the Foundation does qualify as an entity under 501C3. Commissioner Trujillo stated that with all due respect to City Attorney McMahon he recommends moving forward with this project. Commissioner Bengé stated that she understands and knows how important an appraisal is for the City especially for the amount of money involved but she thinks it’s one more step to stabilizing downtown Lovington and the changes with Lovington MainStreet. Commissioner Campos so moved. Commissioner Trujillo seconded and a roll call was taken: Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

**Consideration of Approval of Variance at 303 W. Avenue J:** Mayor Gandy called for a motion to approve the variance at 303 W. Avenue J. City Manager Williams explained that Paula Alonso requested a variance to the rear yard size. The required rear yard setback should be 28 feet. Mrs. Alonso requested a 27.5 rear yard setback to accommodate the addition to her home. Commissioner Trujillo so moved. Commissioner Campos seconded and a roll call was taken: Commissioner Campos – Aye, Commissioner Butcher – Aye, Mayor Gandy – No, Commissioner Trujillo – Aye, and Commissioner Bengé – No. Motion was approved.

**Consideration of Approval of Variance at 1300 W. Avenue K:** Mayor Gandy called for a motion to approve variance at 1300 W. Avenue K. City Manager Williams stated that Danielle Ramirez is requesting a 5 foot side yard setback variance versus the required 15 foot side yard for a corner lot. Code Enforcer Brock addressed the Commissioners recommending not approving this variance as the home will fit within the required setbacks if moved. David Gallegos addressed the Commissioners stating that the city application process was done. Lonnie Ramirez addressed the Commissioners stating that the State gave them permission to begin the work and didn’t know he had to come to Planning & Zoning for approval. Mayor Gandy stated that it’s partial responsibility of the residents to be informed of the laws in the City. Commissioner Trujillo so moved. Commissioner Campos seconded and a roll call was taken: Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Butcher – No, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

**Consideration of Approval of Lodger’s Tax Funding Recommendations:** Mayor Gandy called for a motion to approve the Lodger’s Tax Funding Recommendations. City Manager Williams stated that the Lodger’s Tax Board recommended that in the future that \$3,000 be automatically provided for Visitor Center Upkeep, if funding is available. The Rabbit Show and HPJRA was not recommended for funding because listed expenses were not eligible and the application did not specify what the funding would be utilized for. The remaining funds were allocated utilizing the evaluation system approved by the City Commission as followed:

- 5D Classic Barrel Race - \$802.04
- Party at the Park - \$797.40
- Downtown Farmers Market - \$1,230.28
- Smokin’ on the Plaza - \$6,870.20
- Live on Love Concert Series - \$4,449.47
- Winter Spring Concert Series - \$1,963.92
- NM TX Challenge Marathon - \$1,006.69
- **Total** **\$20,120.00**

Commissioner Trujillo so moved. Commissioner Bengé seconded and a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

**Ad Hoc Committee Appointment:** Mayor Gandy called for a motion to approve the Ad Hoc Committee Appointment. RaeLynn Stuart stated that Ryan Burkett was appointed by Lovington Chamber of Commerce. Commissioner Bengé was appointed to the Steering Committee. Commissioner Bengé so moved. Commissioner Trujillo seconded and a roll call was taken: Commissioner Butcher – Aye, Commissioner Campos – Aye, Commissioner Trujillo – Aye, Commissioner Bengé – Aye, and Mayor Gandy – Aye. Motion was approved.

**Consideration of Approval of Accounts Payables:** Mayor Gandy called for a motion to approve the accounts payables. Commissioner Bengé so moved. Commissioner Campos seconded and a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

**PUBLIC COMMENT:** None

**CLOSED SESSION:**

At 7:11 p.m., Commissioner Trujillo moved to adjourn Regular Session and convene in Closed Session: Pursuant to Section 10-15-1 NMSA 1978, Subsection H-8 regarding the purchase, acquisition, or disposition of real property or water rights. Commissioner Campos seconded and a roll call vote was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Mayor Gandy – Yes, Commissioner Butcher – Yes, and Commissioner Campos – Yes.

At 7:32 p.m., Commissioner Campos so moved to adjourn Closed Session and reconvene in Regular Session stating that matters discussed were limited only to those specified in the motion and no action was taken. Commissioner Bengé seconded and a roll call vote was taken: Commissioner Butcher – Aye, Commissioner Campos –Aye, Mayor Gandy – Aye, Commissioner Trujillo – Aye, and Commissioner Bengé – Aye.

**OTHER COMMENT:** City Manager Williams stated that the Budget Work Session will be held at the Chamber of Commerce on Wednesday, April 16, 2014 at 5:30 p.m. Commissioner Bengé would like to set up a work session with the Commissioners, Planning & Zoning Board members, and Code Enforcement to discuss Planning & Zoning.

**ADJOURNMENT:**

There being no further business the meeting adjourned at 7:35 p.m.

**APPROVED:** \_\_\_\_\_  
**SCOTTY GANDY, MAYOR**

**ATTEST:** \_\_\_\_\_  
**CAROL ANN HOGUE, CITY CLERK**