

**REGULAR MEETING OF THE CITY COMMISSION
MONDAY, AUGUST 24, 2015 @ 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: Commissioner Bengé, Commissioner Trujillo, Commissioner Butcher, Commissioner Campos, and Mayor Gandy

Also Present: City Manager James Williams, Assistant City Manager Jared Cobb, City Attorney Patrick McMahon, Police Chief David Rodriguez, City Clerk Carol Ann Hogue, City Planner Merideth Hildreth, Finance Director Chapman, and Administrative Assistant Anna Juarez

Invocation: Mayor Gandy gave the invocation.

Pledge of Allegiance: Mayor Gandy led the pledge.

Approval of Agenda: Mayor Gandy called for a motion. Commissioner Trujillo so moved to approve the agenda with one addition – Appointments for Voting Delegates for Municipal League Meeting in Albuquerque to be added before the Accounts Payable. Commissioner Bengé seconded and a roll call was taken: Commissioner Trujillo – Yes, Commissioner Campos – Yes, Commissioner Butcher - Yes, Commissioner Bengé – Yes, and Mayor Gandy – Yes.

Approval of the Regular Meeting Minutes of August 10, 2015: Mayor Gandy called for a motion. Commissioner Campos so moved to approve the regular meeting minutes of August 10, 2015; Commissioner Trujillo seconded. Roll call was taken: Commissioner Butcher – Yes, Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes.

COMMISSIONER AND STAFF REPORTS:

- Mayor Gandy asked City Manager Williams to look into handle of RV dump and congratulated MainStreet on their award
- City Manager Williams informed Commissioners of NMDOT meeting at the Town Hall on Wednesday, from 6:00 p.m. – 7:30 p.m. to discuss US 82 Roadway Project
- MainStreet Director Tabitha Lawson stated 2015 Live On Love Street Series Concerts were well attended; Mrs. Lawson thanked Commissioner Butcher, City Manager Williams, and Assistant City Manager Cobb for attending MainStreet awards ceremony in Artesia. Mrs. Lawson stated Lovington MainStreet has received National Accreditation for the 2nd year in a row from the National Organization; Lovington MainStreet is one of seven Communities in the State of New Mexico to receive the National award

NON-ACTION ITEMS:

Discussion of Water Account Deposits and Policy: City Manager Williams informed Commissioners of deposits for Water Department as such: owner occupied \$50, non-owner occupied without waiver \$80, non-owner occupied with waiver \$200, and commercial \$50. City Manager Williams stated that the State law allows the City to have a waiver which states owner is responsible for any overages in utilities, subsection A. It does not apply if owner provides written notice in which case they will not be held liable. Commissioners and Staff discussed if a \$200.00 deposit is adequate, if change in renters require a new signed waiver, if commercial rentals should have increase deposit, and consider a credit check on renters. Commissioner Trujillo asked if it is possible to provide data on usage rate per month and to cut off water after 60 days if renter accumulates more than normal water usage. Commissioner Trujillo asked if the City would be responsible for the excess of \$200.00 if cutoffs are not enforced. City Manager Williams stated water policy is enforced with firmer language and disconnect notice has been reworded. City Manager stated payment extensions are offered and City staff is working on clearing pass due accounts of greater than \$200.00 prior to 2013. Commissioner Benge stated she was unaware of statute in the law that allowed for a waiver to allow a property owner to opt out of anything a renter incurred; Commissioner Benge stated she has assumed responsibility because anything associated with property is the property owner's responsibility. Estella Garcia addressed Commissioners with some of her concerns to a waiver she signed in 1995, suggesting subdividing water, sewer, and trash bill, to consider starting an account for donations or charitable contributions for unpaid bills, and asked if requesting personal information on water bill and billing cycle could possibly eventually lead to lawsuits. Mayor Gandy suggested for Mrs. Garcia to request a deposit on rental properties to cover overages in billing or have bills delivered to Mrs. Garcia's address to be able to control utilities not being paid. Commissioner Trujillo suggested considering a waiver for landlords to be able to ask questions concerning renters' accounts; in reference to responsibility of utility bill, the contract is between renter and the City. City Attorney McMahan stated that based on State statutes and City ordinance, the City could place a lien against a property for unpaid utilities; and as Commission you have an obligation to make sure the City is doing everything it could to alleviate those types of losses. City Attorney McMahan stated if the \$200 is not an appropriate level and puts the City at risk, the City could increase the amount to cover bills and leave landlords out; but something needs to be established to protect the City for its services provided.

Discussion of Fund Policy: Finance Director Chapman addressed Commissioners of Governmental Accounting Standards Board (GASB) requirement for the City to take action on fund balance classifications and to implement a policy on Committing and Assigning fund balances. Finance Director Chapman asked Commissioners for direction on establishing a three or six month fund balance and direction on enterprise funds minimum balance appropriate for the City and reasons for recommendations the City needs to comply with a definition of special revenue, emergency, or maintaining cash

flow. Commissioners and Staff agreed upon an amount of 35% to 40% due to GRT fluctuations; percentage amount will be based on budgeted amount every year. Commissioners and Staff discussed what language to add to allow for decreasing reserves in a case by case or year by year basis, and what items are considered emergencies. Commissioner Campos stated case by case should be discussed as a board; Finance Director Chapman described some triggers such as City flooding to repair serious street damage or hail damage to buildings. City Manager Williams stated 40% would be adequate for the general fund. City Manager Williams asked if there are any issues with percentage listed for the Economic Development Fund, Enterprise Funds, and Special Revenue; Mayor Gandy responded leave as is.

Discussion of City Vehicle Policy: City Manager Williams addressed Commissioners about rough draft of a vehicle use policy which is an IRS requirement. Take home vehicles are classified as a fringe benefit. City Manager Williams stated vehicle use policy clarifies qualifications to drive City owned vehicles, general safety rules, as well as clarifying appropriate usage. City Manager Williams addressed occasions where a non-city employee rides in a City vehicle, the employee will need to get permission from department supervisor and City Manager; it should not be a routine practice. City Manager Williams stated police and fire vehicles are exempt; plan will not take effect until January 1, 2016. Commissioner Campos addressed the public of complaint received on police units left running at businesses and in restaurant parking lot. Commissioner Campos stated it is not best practice and understand it is being addressed.

Discussion of Parks and Recreation Board Appointments: City Manager Williams stated Parks and Recreation Board has staggered terms not identified by Commission; two members, Evelyn Holguin and Clint Laughrin, were chosen by a blind draw. Both members wish to remain as board members. Notice will be published. Appointments will be for a three year term.

ACTION ITEMS:

Consider Approval of Resolution 2015-74: Approval of 2017 – 2021 ICIP: Mayor Gandy called for a motion. Commissioner Trujillo so moved to consider resolution 2015-74: Approval of 2017 – 2021 ICIP; Commissioner Bengé seconded. Assistant City Manager Cobb addressed Commissioners of ICIP is a plan required by the state to apply for state capital outlay funds, grants and loans. Assistant City Manager Cobb stated nine projects have been added to the plan:

- Police Facility and Unit Equipment Upgrades (2017)
- Senior Center – replace tile flooring (2017)
- Senior Center – overlay parking and replace sidewalks (2017)
- Senior Center – replace minivan and ADA Equipment (2017)
- Senior Center – tilting braising pan (2019)
- Senior Center – dishwasher (2020)
- Senior Center – 40 quart standing 3-speed mixer (2020)

Assistant City Manager Cobb stated City is working on a RFP in the amount of \$475,000 for the project to purchase the water meters and another RFP for the installation.

Mayor Gandy stated the top five ICIP items:

- Reconstruct N. Commercial Bypass – Phase 2
- Lovington Sports Complex
- Replace Water Meters
- Industrial Park/Infrastructure Expansion
- Evidence Storage and Impound Lot

There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 200 North Roosevelt: Rear-yard setback for manufactured home: Mayor Gandy called for a motion. Commissioner Campos so moved to consider approving variance at 200 North Roosevelt: Rear-yard setback for manufactured home; Commissioner Bengé seconded. City Planner Hildreth addressed Commissioners of variance request to reduce the size of rear-yard setback on Roosevelt and Washington Street. City Planner Hildreth stated reason for request is to install a 30 x 64 unit on the lot which measures 60 x 110 feet deep; to accommodate the unit, the owner is requesting permission for a 20 foot rear-yard setback on this lot. Owner Luis Andujo Teran is present. Planning and Zoning Commission approved variance. Commissioner Campos so moved to amend motion to include Resolution 2015-75; Commissioner Butcher seconded. There being no further discussion, a roll call was taken for amendment: Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Bengé – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved. Voting on variance, a roll call was taken: Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 622 North Eddy Street: Front-yard setback for manufactured home: Mayor Gandy called for a motion. Commissioner Butcher so moved to consider Resolution 2015-76 approving variance at 622 North Eddy Street: Front-yard setback for manufactured home; Commissioner Campos seconded. City Planner Hildreth addressed Commissioners of variance request for 622 North Eddy Street to allow for a 22 foot front yard setback instead of the required 25 foot per Lovington Municipal Codes. Planning and Zoning recommended approval. There being no further discussion, a roll call was taken: Commissioner Campos – Yes, Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving variance at 421 West Tyler Avenue: Rear-yard setback and distance between accessory building and manufactured home: Mayor Gandy called for a motion. Commissioner Campos so moved to consider Resolution 2015-77 approving variance at 421 West Tyler Avenue: Rear-yard setback and distance between accessory building and manufactured home; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners of variance request for 421 West Tyler with a lot size of 50 feet wide by 140 feet deep includes a historic stone garage in the front yard and owners are installing a single wide unit 16 feet wide by 76 feet long. City Planner Hildreth stated a variance is required to allow for a rear yard setback of 10 feet instead of the required 28 feet per Lovington Municipal Codes and an additional variance to allow for a five foot distance between the home and the accessory building instead of the required 10 feet. Commissioner Bengé stated she did not see a problem with setback from garage and thinks it is great way to be able to continue to utilize the stone garage. Planning and Zoning Commission recommended approval; property is zoned B, multi-family zone. There being no further discussion, a roll call was taken: Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving vacation of a portion of Avenue A from Eddy Street east 140 feet: Mayor Gandy called for a motion. Commissioner Bengé so moved to follow the recommendation of Planning and Zoning to deny vacation of a portion of Avenue A from Eddy Street east 140 feet; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners of request to vacate avenue A between Eddy Street and the alley. City Planner Hildreth stated Planning and Zoning denied request due to lack of east/west street connectivity in the future. Ryan Burkett, owner of property/developer, stated he agreed with Planning and Zoning recommendation to deny request. Mr. Burkett stated looking in the future, this is a good call. There being no further discussion, a roll call was taken: Commissioner Butcher – Yes, Commissioner Campos – Yes, Commissioner Trujillo – Yes, Commissioner Bengé – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Resolution approving vacation of a 40-foot right-of-way easement in Block 28 of College Addition, west of Eddy Street between Madison Avenue and Jefferson Avenue: Mayor Gandy called for a motion. Commissioner Butcher so moved to consider Resolution 2015-78 approving vacation of a 40-foot right-of-way easement in Block 28 of College Addition, west of Eddy Street between Madison Avenue and Jefferson Avenue; Commissioner Campos seconded. City Planner Hildreth addressed Commissioners of request to vacate a 40 foot right-of-way easement. A surveyor recently discovered 40-foot easement under consideration. Since the 1950's or earlier, it is surmised that a mistake occurred in recording a survey point of legal description and has been carried over. Approving the recommendation will make the property available for development. There being no further discussion, a roll call was taken: Commissioner Bengé – No, Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, and Mayor Gandy – Yes. Motion was approved.

Commissioner Bengé stated no because this does not address the problem of the survey error.

Consider Resolution approving vacation of a 20-foot alley easement in the West portion of Block 28 of College Addition and dedicating a street right-of-way for East Street: Mayor Gandy called for a motion. Commissioner Campos so moved to consider Resolution 2015-79 approving vacation of a 20-foot alley easement in the West portion of Block 28 of College Addition and dedicating a street right-of-way for East Street; Commissioner Butcher seconded. City Planner Hildreth addressed Commissioners and presented a vacation and dedication plat for the vacation of a 20 foot alley easement and a dedication of a paved portion of East Street that has never been dedicated. Planning and Zoning recommended approval. There being no further discussion, a roll call was taken: Commissioner Trujillo – Abstained, Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Lodgers Tax Board Appointment: Mayor Gandy called for a motion. Commissioner Trujillo so moved to consider Lodger’s Tax Board Appointment; Commissioner Butcher seconded. City Manager Williams addressed Commissioners of approval of Shannon Pettigrew’s reappointment to the Lodger’s Tax Board. Commissioner Trujillo amended the motion to reappoint Shannon Pettigrew to the Lodger’s Tax Board; Commissioner Campos seconded. There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Commissioner Bengé so moved to pay the bills; Commissioner Campos seconded. Mayor Gandy asked City Attorney McMahan if motion needs to be withdrawn or continue with motion, then consider agenda item to appoint delegates for Municipal League; City Attorney McMahan recommended withdrawing the motion and consider voting, and then consider the payables. Commissioner Bengé withdrew motion to pay the bills; Commissioner Campos seconded.

Consider Voting Delegates for Municipal League: Mayor Gandy called for a motion. Commissioner Trujillo so moved to appoint Paul Campos for voting delegate and Benard Butcher for alternate delegate at the Municipal League Conference in Albuquerque; Commissioner Bengé seconded. There being no further discussion, a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Butcher – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

Consider Approval of Accounts Payable: Mayor Gandy called for a motion. Commissioner Bengé so moved to approve the accounts payable; Commissioner Trujillo second. There being no further discussion, a roll call was taken: Commissioner Bengé –

Yes, Commissioner Butcher – Yes, Commissioner Trujillo – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes. Motion was approved.

PUBLIC COMMENT: None

CLOSED SESSION:

At 6:47 p.m., Commissioner Trujillo moved to adjourn the 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 – Potential Sale of City Commercial Property. Commissioner Campos seconded, a roll call vote was taken: Commissioner Campos - Yes; Commissioner Butcher - Yes; Commissioner Trujillo – Yes; Commissioner Bengé - Yes; and Mayor Gandy - Yes.

At 7:07 p.m., Commissioner Campos so moved to adjourn the 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 Butcher seconded and a roll call vote was taken: Commissioner Campos - Yes; Commissioner Bengé - Yes; Commissioner Butcher - Yes; Commissioner Trujillo - Yes; and Mayor Gandy - Yes.

ADJOURNMENT: There being no further business, Mayor Gandy adjourned, the meeting at 7:07 p.m.

APPROVED: _____
SCOTTY GANDY, MAYOR

ATTEST: _____
CAROL ANN HOGUE, CITY CLERK