

**REGULAR MEETING OF THE CITY COMMISSION
MONDAY, JANUARY 26, 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, Mayor Gandy, Commissioner Butcher, and Commissioner Campos

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

Invocation: Commissioner Bengé gave the invocation

Pledge of Allegiance: Commissioner Bengé led the pledge

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

Approval of the Regular Minutes of January 12, 2015: Mayor Gandy called for a motion to approve the regular minutes of January 12, 2015. Commissioner Trujillo so moved. Commissioner Butcher seconded and a roll call was taken: Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Bengé – Yes, Commissioner Campos – Yes, and Mayor Gandy – Yes.

COMMISSIONER AND STAFF REPORTS:

- Finance Director Chapman explained the financial annual report with the Commissioners; rating for the City of Lovington is a qualified opinion. Commissioners and Staff discussed future funding with oil field prices fluctuating.
- Commissioner Bengé expressed concern with beer bottles, diapers, and trash along East Polk Avenue. Commissioner Bengé asked the public to get mad, to complain, and to take action concerning the trash in Lovington. Mayor Gandy stated it starts with each of us
- Assistant City Manager Cobb stated first draft of comprehensive plan will need to be reviewed by Steering Committee on February 10, 2015 at 3:30 P.M. Also a joint work session for City Commissioners and Planning & Zoning Committee on February 17, 2015 at 5:00 P.M. both to be held at Troy Harris Center
- City Manager Williams:
 - Asked Commissioners to RSVP for the NMML in Santa Fe, February 24 – 26, 2015
 - Informed Commissioners of Chamber of Commerce Banquet to be held on February 5, 2015 at 6:00 P.M. at the Fairgrounds
 - Informed Commissioners of Parks, Cemetery, and Recreation Departments attended a turf management class instructed by Dr. Joey Young from Texas Tech University. Department Heads had only positive things to say about the class

and learned a lot. Dr. Young is finalizing City's annual maintenance plan should be finished by the end of February.

- Informed Commissioners of the Smart trash cans to arrive in 3 weeks; installing one can at the Avenue D Park and two cans at the Downtown Area

NON-ACTION ITEMS:

Discussion of Ordinance 530: Appointment of City Clerk, Police Chief, and Fire Chief by City Manager: City Manager Williams addressed the boards of Ordinance 530 conflict of City Manager responsibilities in regards to hiring the City Clerk, Police Chief and Fire Chief. City Manager Williams stated after promoting Police Chief Rodriguez, Staff was directed by Commissioners to look at the ordinance because the municipal codes has an area that conflicts with the City Manager assigned duties which states City Manager appoints, hires, employs, and discharges every position in the City. City Manager Williams stated in the individual section of the codes for police chief, fire chief and city clerk it references that the City Commission has that responsibility for appointing the Police Chief, Fire Chief, and does not specify who appoints the City Clerk. The code was written prior to 1955. As directed, City prepared ordinance where positions are appointed by City Manager, Ordinance 530 had been advertised, brought for final adoption did not pass because of a tie vote.

City Attorney McMahon reviewed statues; stated there is not much of a difference from 1953 and 1965. Statues address this particular issue, it seems clear from current statues what are the City Commissions powers: passing all ordinances, perform all acts required for the general welfare of the municipality, addition to the office of the manager, create all offices necessary for the proper carrying on of the work of the municipality. City Attorney McMahon stated Part 15 refers to Commission looking into identifying departments and putting them into place, but not the department heads. In reference to City Manager one of the duties of City Manager is to employ and discharge all persons engaged in the administrative service of the municipality. City Attorney McMahon stated in his opinion the City needs to change current City Ordinance to address what the current state law is. City Attorney McMahon stated when brought to City Commission, concern from Commissioners of control to the hiring and firing; from the City Attorney history the number of Chief of Police which have been hired or fired, one thing to consider that issues are addressed in Closed Sessions to discuss limited personnel matter. City Attorney McMahon stated his recommendation would be to go back and change Ordinance 530 to match the current state law.

Commissioner Trujillo stated the Ordinance 530 needs more clarification. Commissioner Trujillo asked what does the Ordinance adopted in 1921 state; this is what the voters approved. Commissioner Trujillo stated that the City Manager will have the power to hire or fire the municipal judge; Commissions created all positions, where does it separate it or protect judicial position. Commissioner Trujillo stated ordinance needs to have clarification; ordinance needs to address every issue, before City Commissioners approve Ordinance. Commissioner Trujillo stated in the 12 years as Commissioner, City Manager has always asked for suggestion on what to do concerning personnel matters in closed sessions.

City Attorney McMahon stated draft Ordinance 530 does not contemplate a change on how a judge is elected or appointed; an election of judge is not unlike the election of City Commission. The power of governments are split up, ordinance does not address judicial election or appointment.

Mayor Gandy stated the changing from a three commissioner base to a five commissioner base had nothing to do with a separation of powers from the Judicial System. Mayor Gandy stated other than finances going through the City, the City does not have anything to do to the Municipal Judge.

Commissioner Trujillo stated the judge's position was created by the board. Commissioner Bengé stated the Judges position was created by the state legislature. Commissioner Bengé stated the Ordinance 530 does not mention the judge's position; ordinance references the executive level in the City.

Commissioner Campos stated he contacted the NMML in this matter; spoke with Randy Van Vleck, General Counsel for the NMML. Commissioner Campos stated Mr. Van Vleck conversation in reference to ordinance: what legal matters can we partake regarding these positions in the City Manager. Mr. Van Vleck said you can do it if you like, some municipalities choose to do it; I recommend you do not do it. Why? This statute does not apply. Why? This statute deals with administrative positions; Chief of Police, Fire Chief, and City Clerk are strictly executive positions. Commissioner Campos stated Mr. Van Vleck legal direction was: don't do it; once you do it, you relinquish your authority and you never get it back.

Mayor Gandy stated he disagrees; this is not how it was explained to me. Mayor Gandy asked Commissioner Trujillo if he is willing to rewrite the entire City Manager job description and give Commissioner the authority to hire and fire the employees and deal with the day to day issues of those departments. Commissioner Campos stated negative; the day to day involve the City Manager. Commissioner Campos stated not to misconstrue the hiring and firing of positions with the day to day activity of City Manager.

Commissioners discussed the length of time the process will take if Commissioners did the hiring for executive positions.

City Attorney McMahon stated he would disagree with Randy Van Vleck because of the statement on 3-14-15 which states, each department should be under the charge of a person employed by the manager.

Commissioner Bengé agrees with Mayor Gandy; stated it takes the politics out, leaving the chain of command. Commissioner Bengé stated it comes down to what is best for the citizens of Lovington.

Commissioner Trujillo suggested having a work session to clarify the ordinance 530 concerning administrative or executive positions. City Manager Williams stated City needs a direction on the code; due to scheduling, work session will be in March 2015.

No action was taken.

Discussion of Planning and Zoning Commission Appointment: City Manager stated Planning and Zoning Member Linda Goff is resigning from the board. City will advertise the vacancy and will accept the names of interested individuals. The appointment will be an action item on the February 9, 2015 City Commission meeting.

Discussion of ETZ Board Appointment – City Manager Williams stated ETZ board members one year term has expired for Betty Price, Ramon Moreno, and Randy Pettigrew. City will advertise the vacancy and will accept the names of interested individuals. The appointment will be an action item on the February 9, 2015 City Commission meeting.

Discussion of Parks and Recreation Board Appointment – City Manager Williams state Parks and Recreation Board members made a recommendation by formal action to recommend Mike Gallagher (City Representative), Tanner Gandy (Youth Representative), and Victoria Ochoa (Youth Representative) to be deemed as expired and recommend their reappointment or appointment of other individuals for a three year term. City will advertise the vacancy and will accept the names of interested individuals. The appointment will be an action item on the February 9, 2015 City Commission meeting.

Discussion of Library Board Reappointments – City Manager Williams stated Library Board of Trustees term will expire for Sharon Williams and Donna Bengé; both members have expressed their desire to continue serving on the board and have the support of the Board of Trustees. City will advertise the vacancy and will accept the names of interested individuals. The appointment will be an action item on the February 9, 2015 City Commission meeting.

ACTION ITEMS:

Consideration Approval of Resolution 2015-09: Transfer of Area Agency on Agency Grant Funding from General Fund to Senior Center Fund: Mayor Gandy called for a motion to consider approval of Resolution 2015-09: Transfer of Area Agency on Agency Grant Funding from General Fund to Senior Center Fund. Finance Director addressed the Commissioners of properly reporting both revenues and expenditures for the City’s senior programs in compliance with Non-Metro Area Agency on Aging’s (NMAAA) reporting requirements. Commissioner Trujillo so moved. Commissioner Bengé second and a roll call was taken: Commissioner Bengé – Yes, Commissioner Campos – Yes, Commissioner Trujillo - Yes, Commissioner Butcher – Yes, and Mayor Gandy – Yes. Motion was approved.

Consideration Resolution for Variance at 211 E. Avenue J, Lovington – Repositioning of 1981 Manufactured Home on Same Lot: Mayor Gandy called for a motion to approve consideration of Resolution for Variance at 211 E. Avenue J, Lovington – Repositioning of 1981 Manufactured Home on same lot. City Planner Hildreth addressed Commissioners to consider variance request to allow owner to move the 1981 year model manufactured home, presently located on the site, to another location on the same lot. City Planner Hildreth stated current municipal code requires a minimum of meeting 1985 or newer standards to be moved; manufactured home does have a HUD plate that meets 1974-1981 manufactured housing standards. The manufactured home will be repositioned on one lot, allow for another manufactured home to be placed on the second lot. City Planner Hildreth stated the Planning and Zoning Commission recommended approval of this variance at the January 13, 2015 regular meeting. City Commissioner Campos so moved. Commissioner Butcher seconded and a roll call was taken: Commissioner Butcher – Yes, Commissioner Trujillo – Yes, Commissioner Campos – Yes, and Mayor Gandy - Yes. Motion was approved.

Consideration Approval to Advertise Ordinance 531: RV/MH Park Licenses: Mayor Gandy called for a motion to approve consideration to advertise Ordinance 531: RV/MH Park Licenses. City Manager Williams addressed Commissioners of Planning and Zoning work session clarified

recommendations for requirements for sanitary facility, minimum spacing between RV, and minimum design for surface streets. City Manager Williams discussed licenses fees, water, sanitary sewer, plumbing and sanitation regulations, electrical requirements, site regulations, inspection, applicable HUD code, internal streets requirements, storm water retention, fire hydrants and protection, management and tenant information, compliances, violations, and penalties for RV/MH Parks.

City Manager Williams explained Ordinance 531:

- RV/MH are not required to provide toilet, sink or shower facilities with the provision that the park does not allow RV's or campers not equipped with complete restroom facilities. RV/MH Parks that allow RV's or campers that are not equipped with complete restroom facilities shall provide onsite not less than one full restroom for each sex equipped with toilet, sink, and shower facilities per every twelve total spaces or fraction thereof.
- Existing RV/MH Parks prior to December 31, 2014 less than 40,000 square feet will not have to comply with parcel size, but comply with every other requirement with licensing chapter. City Manager Williams stated Planning and Zoning agreed to keep the existing 15 feet spacing between RV/MH on outer edges for fire safety.
- Internal streets existing RV/MH parks that are licensed prior to December 31, 2014 may have internal streets constructed, at minimum, of compacted caliche and must be properly maintained. In the event major reconstruction, as defined by N.M.D.O.T., is performed internal streets must be constructed utilizing the standards established in 5.52.100, A, 2. Which states: RV/MH Parks licensed on or after January 1, 2015 are required to have internal streets constructed to current City specifications, which includes at minimum caliche that is no less than 8" thick and compacted to 95% A.S.T.M.
- Single lot licenses expire on December 31, 2015. All existing RV/MH Parks licensed prior to December 31, 2014, shall be brought into compliance with the amendments adopted by Ordinance 531 no later than January 1, 2020. All existing RV/MH Parks licensed prior to December 31, 2014 that do not comply with the 40,000 minimum square feet parcel requirement shall be allowed to continue operation so long as other requirements in this chapter are met. Recreational Vehicles licensed for a single lot outside a RV/MH Park as of the date of adoption of Ordinance 531 shall be eligible for one renewal period ending December 31, 2015.
- Anyone found guilty of violating the provisions of this chapter shall be punished by a fine of up to five hundred dollars or imprisonment of up to ninety days, or by both such fine and imprisonment.

Commissioner Campos asked who is liable for violations; City Manager Williams responded the tenants and the manager; gives code enforcement latitude depending on who is responsible for the violation. Commissioner Bengé attended Planning and zoning; stated board members worked hard, had frank discussion and constructive discussion.

Paula Vancleve stated she appreciated the Planning and Zoning for working hard, and listened to RV/MH owners. Mrs. Vancleve stated she owns three mobile home parks; stated pavement requirement were not rework able whereas caliche roads have been well maintained. Mrs. Vancleve stated she has requirements as well, tenants have to obey the rules; thanked Commission for listening to RV/MH owners.

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

Consideration Appointment of Library Board of Trustees Member: Mayor Gandy called for a motion to approve consideration of appointment of Library Board of Trustees Member. City Manager Williams addressed Commissioners to consider Michelle Crawford Williams to the Library Board; Mrs. Williams has the time to make the meetings and position was advertised. Commissioner Trujillo so moved. Commissioner Bengé seconded and a roll call was taken: Commissioner Campos – Yes, Commissioner Butcher – Yes, Commissioner Bengé – Yes, and Mayor Gandy – Yes, Commissioner Trujillo – Yes. Motion was approved.

Consider Appointment of Personnel Committee Member: Mayor Gandy called for a motion to approve appointment of Personnel Committee Member. City Manager Williams addressed Commissioners of the request Jeanette Faris for the personnel committee member up for reappointment. Commissioner Campos so moved. Commissioner Bengé seconded and a roll call was taken: Commissioner Butcher – Yes, Commissioner Bengé – Yes, Commissioner Trujillo – Yes, Commissioner Campos, and Mayor Gandy - Yes. Motion was approved.

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

PUBLIC COMMENT:

Mara Salcido encouraged everyone to vote at the County Courthouse in the basement for the early voting for School Board positions.

Paula Vancleve asked Commissioners; who has the power to hire and/or fire the City Manager? Mayor Gandy responded we do. Mrs. Vancleve continued if the City Manager has the authority to hire and fire the department heads, and City Commissioners do not like the way things are going you have the option of getting rid of the City Manager, so I do not see a problem with City Manager hire and fire department heads or being in charge of department heads.

Clint Laughrin compared situation with the school board hiring people who they see fit. Mr. Laughrin stated giving that much authority to the City Manager is a mistake. Mr. Laughrin feels Commissioners should have the active hand in the hiring and firing of department heads.

ADJOURNMENT:

There being no further business the meeting adjourned at 6:42 p.m.

APPROVED: _____
SCOTTY GANDY, MAYOR

ATTEST: _____
CAROL ANN HOGUE, CITY CLERK