



**CITY OF ELEPHANT BUTTE**  
**SPECIAL CITY COUNCIL MEETING - OPEN TO THE PUBLIC**  
**Wednesday, November 21, 2019**  
**Municipal Building, 103 Water St. Elephant Butte, NM 87935**

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**MINUTES**

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Pro-tem Trager called the meeting to order. Councilor Williams led the pledge.

**2. ROLL CALL**

Clerk-Treasurer Rani Bush called roll.

Mayor Edna Trager - Present

Mayor Pro Tem Kim Skinner - Present

Councilor Travis Atwell – Present

Councilor Gerald LaFont – Present via Phone

Councilor Michael Williams – Present

Clerk-Treasurer Bush declared there was a quorum present.

**3. STATEMENT OF OPEN MEETINGS RESOLUTION & 3 MINUTE LIMIT PER SPEAKER ON ALL ISSUES**

**4. PUBLIC COMMENT**

None

**5. APPROVAL OF AGENDA - Council Declaration of Conflict of Interest**

Councilor Williams made a motion to go into Executive Session. Councilor Atwell seconded. 4-0. Motion Carried.

**6. MAYOR AND COUNCIL REPORTS**

**Mayor Pro Tem Skinner** attended the Spaceport Sierra County Community Economics Council meeting yesterday. Once the minutes are done, she will distribute them to the Council. It was a very productive meeting.

**Mayor Trager** followed up on a conversation from a few meetings ago. She has scheduled a meeting with Gary Levine on Friday to have additional discussions about Sunset Ridge Road. The City Attorney has been advised.

Next she wanted to adjust the meeting schedule for the Council. Now that there is only one meeting per month, she would like to move that meeting to the third week of the month instead of the first week. It will give more time to prepare the financial information. It will also give more time in between the Council meeting and the P & Z meeting. Right now they are back to back so if P & Z wants to get something on our agenda it would be 2 weeks instead of 4 weeks. She would like to start this in January, but because of the holiday have it January 22. She also wants to have a Comprehensive Plan workshop off-site with both the Council and P & Z on January 15. It will be a strategic meeting to start the process.

**7. CITY MANAGER REPORT**

**City Manager Vicki Ballinger** gave her first report mentioning that it has been several years since she has addressed a government body but she was glad to be here. One of the first things Mayor Trager requested her to do was to evaluate the staff and its roles.

She has identified some areas where staffing adjustments should be made after spending time with department heads and employees. Chief Boone has grown the footprint of his department via several funding sources and needs additional assistance so she will post an advertisement for a part-time code enforcement officer. A full time administrative support person will also be added.

The renovation portion of the Annex that will house the Fire Department and Code Enforcement is almost complete and there will be an open house once finished. Besides the fire chief, the part-time code enforcement person and admin assistant will also be housed there.

Other staffing needs that she is finding difficult to fill include a laborer with a commercial driver license. After the holidays she is planning to have a job fair with applications available to create a pool of potential city employees.

She met with Sierra del Rio management staff and reviewing operations there, but has not executed any changes due to pending contract negotiations except ending weekday breakfast service which was not financially viable. Other projects include renewing the liquor licenses, reviewing an RFP for engineering services, continuing working with American Legal to codify our ordinances, creating a central file room in Fire Chief Boone's old office and purging records we are no longer required to keep.

Councilor Williams asked if we have the funds available in the budget for these positions. City Manager Ballinger and Mayor Trager replied yes that the funds were budgeted. The code enforcement position would come out of the money set aside for the land use position which to date hasn't been filled although advertised extensively for the past year and again after the last candidate rescinded her offer. That would leave at least ½ year's funding even if we are able to find a land use person in the new year. The position is also being re-evaluated and might become a contract position so the person could work remotely writing ordinances. This would widen the applicant pool. City Manager Ballinger is also considering other staffing options and will keep the Council updated.

## **8. CONSENT ITEMS (Roll Call Vote)**

### **a. Approval of Meeting Minutes, November 6, 2019**

Mayor Pro Tem Skinner made a motion to approve Meeting Minutes, November 6, 2019 with the following corrections: 1) Item 4, Charlie Warren – change “think” to “thank” and 2) Item 12c – change the vote to 3-0 because Councilor Atwell previously recused himself from this item. Councilor LaFont seconded.

Clerk-Treasurer Bush did a roll call vote.

Mayor Pro Tem Skinner - Yes  
Councilor Atwell – Yes  
Councilor LaFont – Yes  
Councilor Williams - Yes

Motion Carried.

## **9. REGULAR ITEMS**

### **a. Discussion/Possible Action: RFP - Sierra Del Rio Golf Course, Restaurant, & Bar Concessionaire Services**

Mayor Trager wanted to go straight into executive session, but Mayor Pro Tem Skinner first wanted clarification. She stated that at the October 2 Council meeting, the one application for the RFP was opened and the Council went into Executive Session. Then they came out of Executive session and discussed with the folks in the back of the chamber (SGM - Spirit Golf Management) questions

prepared by the City Attorney. SGM gave responses which are in the minutes. There were further questions which Mr. Holcomb sent the response to the entire Council after the meeting. She was under the impression, which she read in the minutes, that the Council had voted to go into negotiations. Therefore, she was confused the need to go into executive session about this today. She feels that the Council unanimously voted to start working with SGM.

Mayor Trager explained that the conversation was to wait to become fully staffed. At the time of the October 2 meeting, the new city manager was coming on board and the City was changing law firms and there was not a full Council. The conversation was to have the full team review everything to make sure, they were moving forward in the best interest of the City.

Mayor Pro Tem Skinner understood, but felt at this point that SGM should also be included in Executive Session since negotiations has started. Mayor Trager first wanted to have Executive Session then come out and have discussions with SGM. Mayor Pro Tem Skinner disagreed and felt everything at this point should be discussed in open session. Councilor Atwell agreed.

New City Attorney Ben Young replied how the Council went into closed session on October 2 to discuss the initial proposal, then after the closed session, there was further discussion and SGM clarified questions. The ball is now back in the Council's court to consider the information. At this point, the only way to do that with legal counsel and discuss items the Open Meeting Act protects is to go in Executive Session. Then after you come out, you can further discuss the situation in open session with SGM. There is no limit on how many times you go into closed session. The Council has received additional information so it is in the best interest of the City to discuss this first among the Council in closed session, then come back out and discuss with SGM in open session.

Mayor Pro Tem Skinner respectfully disagreed stating that this process began back in 2018 with the first RFP. During that process the proposers were invited into Executive Session to discuss back and forth. This has been done with the Council since 2008 with all types of RFP's on professional services. It should be no different this time. She felt that the Council was cutting SGM out when they have been responsive to questions that have arose including questions from Michael Steininger, forensic auditor from the Dept. of Finance and Administrative, Protean Accounting, also questions from our former city attorney, Chay Resnick. She didn't understand why SGM couldn't be in Executive Session to answer questions.

City Attorney Young replied is that there is nothing that precludes the Council from inviting SGM into closed session, however, he recommends that first to have closed session with only the Council and him so that he can discuss the legal advice he was asked to give which is protected by the Open Meetings Act. Mayor Pro Tem Skinner still objected stating how City Attorney Young was just placed on the project and is not aware of some of the issues that have gone on before. She continued stating the former attorney had given legal option including a 4 page document, preparing both RFP's along with detailed questions and at the end provided a concluding paragraph which she read on October 2 bringing the Council into negotiations. She felt the mayor privately asked him to make more recommendations vs. all the recommendations they have already received.

Mayor Trager clarified that she had numerous contact with Richard Holcomb of SGM throughout this process and has not cut them out. She felt that having Executive Session now without them is doing due diligence on a big decision. It is the City's largest enterprise fund and employs a lot of people in the area and the Council has been working on for years. It worth having one more conversation privately, then having the proposers involved. Councilor LaFont agreed. Councilor Williams inquired if City Attorney Young did have legal advice for the Council. He replied yes.

Councilor Williams made a motion to go into Executive Session with the understanding that once they are through with the legal ramifications the bidders can come into Executive Session. Mayor Pro Tem Skinner seconded.



Clerk-Treasurer Bush conducted a roll call vote.

Mayor Pro Tem Skinner - Yes  
Councilor Atwell - Yes  
Councilor LaFont - Abstained  
Councilor Williams - Yes

Motion Carried.

\*\*\*\*\*EXECUTIVE SESSION BEGAN\*\*\*\*\*

## 10. EXECUTIVE SESSION

- a. **The contents of competitive sealed proposals solicited pursuant to the Procurement Code [ 13-1-28 NMSA 1978] are discussed during the contract negotiation process pursuant to NMSA 1978, section 10-15-1 (H) (6), relating to RFP - Sierra Del Rio Golf Course, Restaurant, & Bar Concessionaire Services**

Councilor Williams made a motion to end executive session and go back into regular session. Councilor Atwell seconded. 4-0. Motion Carried.

\*\*\*\*\*EXECUTIVE SESSION CAME TO AN END\*\*\*\*\*

As required by Section 10-15-1(J), NMSA 1978, matters discussed in executive session were limited only to those specified in the motion to close the meeting.

Mayor Pro Tem Skinner certified that no action was taken and that we only talked about items listed under Items 10a.

## 11. ACTION


- a. **Discussion/Possible Action: RFP - Sierra Del Rio Golf Course, Restaurant, & Bar Concessionaire Services**

The Council is in negotiations and will be working back and forth on a contract.


## 12. ADJOURNMENT

Councilor Williams made a motion to adjourn. Councilor Atwell seconded. 4-0. Motion Carried.

*Minutes approved and adopted at the City Council Meeting on January 22, 2020*

  
Edna Trager  
Mayor

ATTEST:

  
Rani Bush  
Clerk-Treasurer

