



## **CITY OF ELEPHANT BUTTE REGULAR CITY COUNCIL MEETING**

**Wednesday, October 21, 2020**

**Municipal Building, 103 Water St. Elephant Butte, NM 87935**

**Due to the current health risks associated with COVID-19 and orders from the New Mexico Governor's Office and the New Mexico Public Health Department, public attendance at this and future meetings of the City Council are temporarily suspended. Until the orders are lifted and in accordance with the guidance from the New Mexico Attorney General, the City will make its meetings open to the public through dialing into WebEx number: (408) 418-9388, Access Code: 126 124 0239, Password: 09162020 or [www.cityofelephantbutte.com](http://www.cityofelephantbutte.com) for information about accessing the meeting through your computer.**

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### **MINUTES**

#### **WORKSHOP - 1:00pm**

##### **1. INTRODUCTION TO MAGISTRATE COURT – Judge Alan Brown**

Judge Brown explained that he reviewed the City ordinances and noticed some discrepancies with State statutes. He cited Chapter 131, Offenses Against Public Order and Safety as an example. The City has the penalty for 131.15, Possession of Burglary Tools as a fine of not more than \$500 or imprisonment for not more than 90 days, or both (Chapter 10.99), a petty misdemeanor. State statute has it as a felony subject to 18 months and a \$500 fine. He checked with the sheriff to confirm that violations will be cited according to State statute and recommended that the Council review the City Code to correct such discrepancies.

He also asked about past files that needed to be transferred. Deputy/Court Clerk Jessica Newberry was unable to attend the meeting. Clerk-Treasurer Rani Bush will follow up with her and Judge Brown's clerk. All filing will take place at Magistrate Court. City Manager Vicki Ballinger asked about some unpaid utilities and possible liens. Judge Brown explained that anything that hasn't already been filed would go directly to Magistrate Court. City Attorney Ben Young asked about City Code concerning unpaid utility bills. Both he and the Judge agreed that they should be pursued civilly, seeking judgment before placing a lien. Criminal citations would be pursued for theft of services, etc.

#### **COUNCIL MEETING - 2:00pm**

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

Mayor Edna Trager called the meeting to order and led the pledge.

##### **2. ROLL CALL**

Clerk-Treasurer Rani Bush called roll.

Mayor Edna Trager - Present via WebEx  
Mayor Pro Tem Kim Skinner – Present via WebEx  
Councilor Travis Atwell – Present via WebEx  
Councilor Gerald LaFont – Present via WebEx  
Councilor Michael Williams – Present via WebEx

Clerk-Treasurer Bush declared a quorum.

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

Councilor Atwell recused himself from Regular Item E. Councilor LaFont motioned to approve the agenda. Councilor Williams seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

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

**5. PUBLIC COMMENT**

Clerk-Treasurer Bush received the following email from Jon Bokich, 211 Lakeshore Drive:

*At night, when turning off of Rock Canyon Rd. onto Springland Rd. then existing overhead lights at the intersection are so bright, and Springland Rd. has no reflective paint, reflectors, etc., that the driver is nearly "driving blind" for several seconds. Very unnerving and dangerous. Lighting and/or paint striping needs to make safe.*

Eric Downs, President of the Elephant Butte Chambers of Commerce, was asked by City Manager Vicki Ballinger to update the Council about the planned fall events. There will be a video contest from October 24 to November 24 showing patronage of businesses in Elephant Butte. There will be a tree lighting ceremony on November 28 and maybe a drive-in concert. The video contest winner will be announced then. After that, there will be a festive lights home decorating contest. Judging will be on December 19. Instead of a Christmas parade, a desert lights cruise contest was proposed where people drive around the community in their decorated UTVs, trucks, and vehicles. They are planning these events to comply with current COVID restrictions.

**6. BOARD AND COMMITTEE REPORTS & APPOINTMENTS**

**a. Planning & Zoning Update – Nathan LaFont**

Chair Nathan LaFont updated the Council about their October 6 meeting and October 20 workshop on home-based businesses. The Commission is continuing to refine home-based business categories and what is allowed for each one. October 6 was Commissioner Chuck



Looney's last meeting. He has been a very loyal and dedicated member of the Commission for more than ten years.

Mayor Trager asked about when the Council would receive recommendations about home-based businesses from the Commission. Chair LaFont hopes recommendations will be finalized at their November 10 meeting.

## **7. PRESENTATIONS**

### **a. Camino Cinco Update – David Shields, Bohannon Huston**

City Engineer David Shield updated the Council that the project was pretty much completed but isn't closed out yet. Besides Camino Cinco, they were also able to pave parts of Calle Del Prado and Calle Del Monte. There is the possibility of paving Camino Seis with the leftover funds so that the whole neighborhood would be paved.

There is an issue with the NM Finance Authority (NMFA) loan explained in Ron Cruz's email, which will be discussed later in the agenda. There are two options available with the required refinancing of that loan and the other funding acquired for this project. One is to stop the NMFA loan and use the other funding to pay for the project's completion with an additional \$18,000 out-of-pocket expenses. The other is to refinance the NMFA loan and pave Camino Seis with the original budget savings. The refinancing would reduce the original loan by \$50,000, and the project financing would continue as originally planned.

If the Council did decide to go forward with the refinancing, the application would need to be submitted by October 23 for the NMFA meeting on November 19. An unsigned application could be submitted as a placeholder. He then explained the two handouts he provided to the Council. He clarified for Mayor Pro Tem Skinner that the loan payment amount would be reduced with either option. The refinancing of the NMFA loan would not be tax-exempt.

## **8. MAYOR AND COUNCIL REPORTS**

**Councilor Williams** attended a Sierra County Regional Dispatch Authority (SCRDA) Board meeting today. The Department of Finance and Administration is approving a \$600,000 loan for the new dispatch center. When they move to the new building, there will be an emergency propane-operated generator available. The City must request it as soon as possible although it won't be available for about six months.

**Councilor Atwell** attended the South Central Council of Governments meeting last month. Last year's budget was updated and finalized, along with finalizing the current year's budget. He is continuing to work with staff on the red lot ordinance.

**Councilor LaFont** reported that the South Central Transit Authority is still working on providing trips from Las Cruces to Hatch and eventually to Elephant Butte and Truth or Consequences (TorC). He feels TorC needs to be reached out to because no one from there has attended any of the meetings so far.

**Mayor Pro Tem Skinner** attended meetings with the Sierra Vista Hospital Governing Board regarding hiring the new CEO and the Sierra Vista's Joint Powers Commission regarding the special hospital districting. She also attended the NM Tourism Department's day-long summit

regarding tourism trends in a COVID world and the 2020 Recreation Department Outdoor Economic Fall Forum.

Every Monday, she attends the New Mexico Hospitality Association's Government Affairs Board meeting, where they are actively lobbying the Governor and her staff regarding COVID restrictions. She attends NM Workforce Development Board meetings looking at how to grow the workforce. She is lobbying with the NM Restaurant Association to open more indoor capacity as we move into the winter months. Lastly, she is working with the Middle Rio Grande Development Association as they develop an economic recovery project with Socorro.

**Mayor Trager** heard from Patsy Barnett, who represents Elephant Butte on Sierra Vista Hospital Governing Board, that the new CEO is starting today. Mrs. Barnett also said that the hospital had made a lot of progress from where they were a few years ago, even though things are changing day by day. The ATV Committee met and is in the process of determining members. There will be a follow-up meeting next month.

The Community Center will be used as a voting location on Election Day. She attends weekly Mayors' Caucus calls. A grant application submitted to the NM Economic Development Department for outdoor recreation was declined. The City will continue to apply as more grants come up. She attended a TorC Trails meeting. One of the components is water trails, which could help with the promotion of the lake.

## **9. CITY MANAGER REPORT**

**City Manager Ballinger** was notified on October 15 that the FY 2022-2026 Infrastructure Capital Improvement plan was reviewed by the Department of Finance and Administration and is complete. On September 23, the State Supreme Court approved Ordinance 193 designating the Seventh Judicial District's Magistrate Court to serve as the Court with jurisdiction over Elephant Butte's ordinances. She sent copies of the Supreme Court letter to the Sierra County Sheriff's Office, the Local State Police District Office in Socorro, and Judge Brown. Judge Terry Dalrymple turned in his letter of resignation.

She will follow-up about the generator that Councilor Williams brought up during his comments. She attended numerous meetings, including the South Central Council of Governments Board, the Lodger's Tax Advisory Board, the Event Planning Committee, and a Planning & Zoning meeting and workshop. She also met with Councilors Atwell and Williams regarding revisions to red lots ordinances. A Water Operator II job announcement was posted yesterday. She met with a contractor and a state inspector to review the condition of the golf course patio. It was deemed to be safe, though extensive repairs are needed.

## **10. CLERK-TREASURER REPORT**

**Clerk-Treasurer Bush** is currently working on the first-quarter report to the State due at the end of October. She is also sending in requested items to the auditors to prepare for the fieldwork that will happen the first week in November. She worked on finding a more detailed report about expenses than the check report. She will be able to start providing it next month. She will present the first budget adjustment during Regular Items. Gross receipts tax for October was \$46,361.89, which is up from last October (\$34,545.20).

## **11. FIRE CHIEF REPORT**

Fire Chief Toby Boone was unable to attend the meeting.



## **12. LAND USE REPORT**

The land use report was included in the Councilor's packets.

## **13. CODE ENFORCEMENT REPORT**

The code enforcement report was included in the Councilor's packets. Councilor Williams asked for more details about the unauthorized signs at 103 Springland and 104 Mimbres. Code Enforcement Officer Devon Jones was unable to attend the meeting. Mayor Trager will follow-up.

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

### **a. Approval of Minutes: Regular Meeting, September 16, 2020**

Councilor Williams motioned to approve the minutes. Councilor Atwell seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

## **15. REGULAR ITEMS**

### **a. Discussion/ Possible Action: Resolution 20-21-106 FY21 Budget Adjustment #1**

Clerk-Treasurer Bush explained the budget adjustment line by line and answered questions about some of the categories.

Councilor Williams motioned to approve Resolution 20-21-106. Councilor La Font seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

### **b. Discussion/ Possible Action: Resolution 20-21-107 LGRF Project HW2 L100485 Warms Springs Blvd.**

City Engineer Shield explained that this is a Department of Transportation's Municipal Arterial Program (MAP) that would be used to widen Warm Springs Blvd. from Turtleback to Elephant Butte Blvd as well as widening the turning lane. The design is complete. There is also funding already in place for construction administration and bidding on this project. This resolution is to fund the next phase.

Councilor LaFont motioned to approve Resolution 20-21-107 with the caveat that the first section to be completed is the Warm Springs intersection. Councilor Williams seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

**c. Discussion/ Possible Action: Resolution 20-21-108 NMFA Assistance Application, Loan PPRF-3317**

Mayor Pro Tem Skinner motioned to approve Resolution 20-21-108 and turn in an unexecuted application as a placeholder for refinancing Loan PPRF-3317. Councilor LaFont seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

**d. Discussion/ Possible Action: Impounded Animal Agreement with Truth or Consequences**

City Manager Ballinger presented the impounded animal agreement to Council. Questions came up about Item 5a regarding who to contact about an animal.

Councilor Williams motioned to postpone approving the agreement until the next meeting so that revisions can be made regarding Item 5A. Councilor Atwell seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

**e. Discussion/ Possible Action: Floodplain Management Agreement with Sierra County**

City Manager Ballinger has turned over the draft agreement to the county attorney for review about a week ago. She doesn't anticipate any changes. She included it in the packet so that the Council was aware of the situation.

Councilor Williams motioned to approve the agreement as is. If the County requests any changes, the agreement will come back before Council. Councilor LaFont seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

**f. Discussion/ Possible Action: Ordinance 194 Drainage and Erosion**

City Manager Ballinger met with Councilors Williams and Atwell and went through the Code regarding red lots in great detail. The main issue is with the language used, which needs to be replaced. City Attorney Ben Young explained the process moving forward and that the committee wanted to give an update at today's meeting.

Councilor Atwell added that they are about 99 % done with changing the verbiage of the ordinance. The issue now is reviewing the list of red lots to see which followed City Code procedures. This involves a soil survey and flow conducted for each lot. If a lot doesn't have the backup documentation, it will need to be removed because Code wasn't followed. The issue with Ordinance 157 is that it intermingled a red lot into what's called a map floodplain that is controlled by the Federal Emergency Management Agency (FEMA). This needs to be cleaned up in the Code.

Mayor Trager asked if a lot is removed from the list because protocol wasn't followed if there was a review process to determine if it should go back on the list. Council Atwell explained that it would happen once the new ordinance is adopted because it identifies the steps. The committee will meet with the city engineer about this.

**g. Discussion/ Possible Action: Storage Lots**

P& Z Chair LaFont covered this item earlier during his presentation. Councilor Williams added that the only discussion now involves whether the Council wants to impose another moratorium. Mayor Trager added that this issue came up around the Comprehensive Plan and how the City should look and future growth.

Councilor Williams motioned to place as a discussion/possible action item extending the storage lot moratorium on the November 18 meeting agenda. Councilor LaFont seconded.

Clerk-Treasurer Bush conducted a roll call vote.

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

Motion Passed.

**h. Discussion: Utility Collections**



City Attorney Young explained his legal advice letter in the packet to the Council and gave possible options. The Council directed him to move forward based on his recommendations and present again at the next Council meeting.

**i. Discussion/ Possible Action: Comprehensive Plan Survey**

City Manager Ballinger explained that she designed the survey from two previous Comprehensive Plan surveys. She was open to Councilors' comments. Councilor Williams asked about a way to make sure it was only Elephant Butte residents who filled it out. City Manager Ballinger pointed out that the very first question asks where the person resides. So there is a way to separate the surveys and get perspectives from different types of residents. Mayor Pro Tem Skinner brought up that she received a survey from Ruidoso where she has a second home, and it had a similar question. She feels the priority for mailing the survey should be to property owners.

Councilor Atwell motioned to move ahead with the survey and send it to Elephant Butte residents. Councilor Williams seconded.

Clerk-Treasurer Bush conducted a roll call vote.

Mayor Pro Tem Skinner – Yes

Councilor Atwell – Yes

Councilor LaFont – Yes

Councilor Williams – Yes

Motion Passed.

**j. Discussion: Spirit Golf Management Quarterly Review**

Todd Barringer from Spirit Golf Management started the review with their September report. There were 1,308 rounds of golf played, and 5,270 plates of food served. This exceeded the expectations for September. Golf course conditions are improving dramatically, and new merchandise has been added to the Pro Shop. Starting Friday, they will limit occupancy to 25% for indoor dining and 75% for outdoor dining due to revised COVID guidelines. Other changes involve keeping a log of all customers' names, phone numbers and emails for 14 days. Hours of Operations will be changed to Sunday – Thursday, 11:00 am - 8:00 pm and Friday – Saturday, 11:00 am – 9:00 pm for the restaurant with the option to extend those hours. The cleanup crew did a great job with trees and debris. They kept the smoke to a minimum when doing burns.

The quarter's total was 3,906 rounds, which put them on target to exceed the yearly target of 12,000 rounds. They fell \$1,496 short for the first quarter, but given that it was the start-up quarter and current conditions, they exceeded expectations. During this period, 26 tournaments were canceled due to COVID. Currently, 16 events are scheduled going into the next quarter.

He provided a nursery diagram that Spirit Golf wants to develop on the property. It would use an acre and ½ of land for a ryegrass/bluegrass nurse and an 11,000 square feet area for bentgrass for the greens.

Mayor Trager wanted to let the Council know that the City has paid for signage for the golf course through the NM Logos program for the last few years, which is up for renewal. She discussed it with Mr. Barringer and will notify the program that it is now in the hands of Spirit



Golf. Mayor Pro Tem Skinner complimented them for the increase in gross receipts tax that the City is getting. Councilor Williams asked when they will start on the nursery project. Mr. Barringer responded that they want to start right away. Since there is no cost to the City, City Manager Ballinger had the discretion to approve it. She wanted Mr. Barringer to present to the Council to be aware of what's going on. She gave her approval.

#### 16. COUNCILOR COMMENTS

Councilor Atwell commented that the Council needs to receive the full packet by the Friday before. Anything not received by then should not be put on the agenda.

Councilor Williams agrees with Councilor Atwell and added the deadline should be noon on Friday.

#### 17. ADJOURNMENT

Councilor Williams motioned to adjourn. Councilor Atwell seconded.

Clerk-Treasurer Bush conducted a roll call vote.

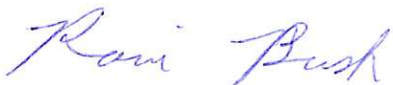
Mayor Pro Tem Skinner – Yes  
Councilor Atwell – Yes  
Councilor LaFont – Yes  
Councilor Williams – Yes

Motion Passed.

*Minutes approved and adopted at the City Council Meeting on November 18, 2020.*

  
Edna Trager  
Mayor

ATTEST:

  
Rani Bush  
Clerk-Treasurer



