



**NOTICE OF CITY OF ELEPHANT BUTTE
CITY COUNCIL MEETING**

103 Water Avenue, Elephant Butte, NM 87935

Wednesday, February 22, 2023 – 2:00PM

Minutes

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mortensen called the meeting to order, Councilor Harmon led the pledge of allegiance.

2. ROLL CALL

Mayor Phillip Mortensen – Present by phone
Mayor Pro Tem Kim Skinner – Present by phone
Councilor Travis Atwell – Present
Councilor Cathy Harmon – Present
Councilor Edna Trager – Present

City Clerk Cobleigh conducted a roll call and declared a quorum.

3. APPROVAL OF AGENDA – Council Declaration of Conflict of Interest

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

Councilor Harmon made a motion to approve the agenda with the amendment of removing item 6. a. from the agenda. Councilor Trager seconded the motion. 3-1.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – No
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

4. PUBLIC COMMENT

Public comment can be made in person, by phone or given to the City Clerk email (cityclerk@cityofeb.com) before the meeting.

No public comment was present.

5. CONSENT ITEMS

- a. Approval of Regular City Council Meeting Minutes, January 18, 2023
- b. Approval of Special City Council Meeting Minutes, January 26, 2023

Councilor Trager made a motion to approve a. Regular City Council Meeting Minutes January 18, 2023 and b. Special City Council Meeting Minutes January 26, 2023 as submitted. Councilor Atwell seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call.

Mayor Pro Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

6. ~~APPOINTMENTS~~

- ~~a. Approval of Mayor's Recommendation for the positions of Chair & Vice Chair of the Lodgers' Tax Advisory Board.~~

Item 6. a. removed by approval of agenda.

7. PRESENTATIONS

- a. Sierra County Sheriff's Office – Sheriff Joshua Baker

Sheriff Baker presented at the meeting that this was his first meeting before the council due to being in the legislative sessions last month. Sheriff Baker reported on the department's utilization of their body cams that create a report of the number and type of incidents they are responding to. Sheriff Baker offered to submit this report to the Council prior to each meeting in the months following. Sheriff Baker reported that during the month of January the Sierra County Sheriff's Department had 4 reports and 1 arrest. During January the Sierra County Sheriff's Department had 104 mobile patrol hours and 215 stationary hours for Elephant Butte. Sheriff Baker noted that this is the target they are aiming for each month, a minimum of 300 hours within the city limits.

- b. Bohannon & Huston – David Shields

David Shields reported that there are currently four active projects within the City of Elephant Butte. Shields reported on the upcoming San Andres/Ocotillo project that there is an easement that runs through the VFW parking lot, and they need to meet with the VFW to gain access to this easement. Shields noted that Kristin Saavedra will be setting up a meeting with the VFW regarding this easement. This easement will be used for the sewer extension. Warm Springs Phase 2 is in the design phase. Shields mentioned that within the next month the City along with BHI needs to meet with the business owners of Warm Springs Blvd to go over the Phase 2 project as an informational meeting. This meeting was suggested to take place in March and be set up by City Staff. Shields noted that the San Andres/Ocotillo Project has gone out to bid and the pre-bid meeting was held February 21, 2023. Shields stated that there are roughly 3-4 contractors bidding on this project. Bids are to close on March 2, 2023. The bids will be presented to the Council on March 15, 2023, for an award. Shields noted that the City of Elephant Butte is applying for wastewater and water Colonias Funding.

- c. Planning & Zoning Overlay Zone/Mixed Use – Chairman LaFont

Chairman LaFont presented the Council a worksheet on what they would like to see worked into an overlay zone for a mixed use area. Chairman LaFont requested that the Council complete the worksheet and submit to City Staff or to himself to then have P&Z begin the work on the Overlay Ordinance.

Councilor Trager suggested that the P&Z Commission begin the work on the Ordinance prior to a workshop so there would be something for the Council and Commission to build on.

Mayor Pro Tem Skinner agreed with Councilor Trager that the P&Z should begin the initial work on the overlay before there is a workshop to give a better direction to the Council.

Councilor Atwell mentioned that proper signage would need to be addressed in an overlay zoning to notate a residence and commercial in the same building.

Councilor Harmon mentioned that currently there are numerous locations that have both commercial and residential on the same lot.

Mayor Mortensen stated his primary concern is fire safety for a mixed use overlay zone.

City Mascaro stated that the workshop will be set for the regular City Council Meeting Day, the workshop will be at 1:00pm and the regular meeting at 2:00pm.

8. REGULAR ITEMS (DISCUSSION POSSIBLE ACTION)

- a. Discussion/Possible Action: Revising the number of hens allowed in R-1-A, R-1-B, R-1-C, and C-2 from 5 to ~~10~~12.

LUA Cobleigh presented this request before the Council. LUA Cobleigh stated that this matter was brought up at the regular planning and zoning commission meeting that was held on February 8, 2023. Currently the planning and zoning commission does have the Urban Ag/Micro livestock Ordinance as a priority for later in the year. LUA Cobleigh stated that there would need to be an amendment by an ordinance.

Councilor Atwell requested that the limit be raised to 12 rather than the 10 that was stated on the agenda. Councilor Atwell asked if there was any way that the Council could act on this today with a motion to approve.

Attorney Ben Young clarified since this will be amending one ordinance it would require a new ordinance be written as the amendment and all ordinance adoption standards to be adhered to. Young stated that with the time frame City Staff should be able to prepare this for the March meeting.

Mayor Pro Tem Skinner agreed with Councilor Atwell to amend the chicken ordinance at this time and revisit the urban ag ordinance later in the year as the planning and zoning commission works on it.

Councilor Atwell made a motion to have City Staff prepare and post the amended chicken ordinance. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – No

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- b. Discussion/Possible Action: Approve Resolution 22-23-113 Designating Official Custodian of Records, City Clerk.

City Clerk Cobleigh presented resolution 22-23-113 to the Council as a formality to go along with her newly appointed position.

Councilor Trager made a motion to approve Resolution 22-23-113 designating Lindsey Cobleigh as the custodian of record for the City of Elephant Butte. Councilor Atwell seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – No

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- c. Discussion/Possible Action: Water System Fire Flow Improvements – Amendment #1 Design

David Shields, BHI explained the amendment for this item is adding the tank into the design phase.

No action required.

- d. Discussion: General Land Use Application Fee Revisions

LUA Cobleigh presented this item before the Council. LUA Cobleigh presented an updated fee schedule with the feedback that had been submitted by Councilor Atwell. All changes were highlighted in yellow and answers to the questions are in red. LUA Cobleigh stated that as previously requested all new home build permits will be inclusive to everything on that first permit be included in the new home permit price. LUA Cobleigh stated that the items regarding replat and subdivision changes would need to be clarified as to if this is all under the City or if the County handles this. LUA Cobleigh asked if anyone else on the Council has had a chance to review the fee schedule.

Mayor Mortensen asked if the current charges for the utility connections are accurate as to what we are spending on the supplies and labor. LUA Cobleigh stated she will meet with both Brian Burlage and City Manager Mascaro to confirm the rate and present and increase if needed.

Councilor Trager questioned the difference in prices between commercial and residential. LUA Cobleigh noted that the increases were approved by Council last June. Councilor Trager also mentioned concern for sewer line extensions and who is performing the extension projects.

City Manager Mascaro noted that all fees, not just land use fees, will be under review to make sure that the city is keeping up with the increase in products and labor being utilized.

Mayor Mortensen urged the Council to submit all concerns, questions, and recommendations to LUA Cobleigh with hopes of passing this fee revision at the next meeting.

No action taken.

- e. Discussion: Sanitation – Manager

City Manager Mascaro presented this topic to the Council. Mascaro stated that the wastewater plant is currently working on the back up system and in need of maintenance and upgrades. The needed maintenance and upgrades will be approximately \$200,000.00. Mascaro stated that part of the money from the sale of the Sierra del Rio Golf Course has been moved into the account to start the

maintenance of the wastewater facility as soon as possible. Mascaro stated the second part of the sanitation item is trash pick up services within the City of Elephant Butte. Mascaro stated that the city is currently looking at a new company, Valley Sanitation, who is interested in partnering with the city. Mascaro stated that this would be something that would go out to bid, whichever sanitation company was awarded the bid would contract with the city and the city would then bill the constituents. Mascaro stated the savings would also be present with contracting with a company, roughly \$35.00 per month rather than \$165.00 quarterly. Mascaro stated that Sierra County is looking at having Valley Sanitation take over the transfer station to save money for the county and residents.

Councilor Trager stated she had no questions to just make sure the bid process was in effect to make it fair for everyone.

Councilor Atwell stated he is looking forward to it as he has heard numerous complaints against the current company.

Councilor Harmon stated that she agrees that the city needs to go out to bid on this and move forward from there.

Mayor Pro Tem Skinner brought up the suggestion of potentially allowing neighbors to share a sanitation service when they are only part-time.

No action taken.

***City Clerk Cobleigh requested that both Mayor Mortensen and Mayor Pro Tem Skinner speak up as loudly and clearly as possible with both being present by phone and the power outage currently at City Hall has the main audio system down. ***

f. Discussion: Septic Dumping – Manager

City Manager Mascaro presented this item before the Council. Mascaro stated that at this time the closest areas for septic pump out companies to dump their trucks are either Dona Ana County or Socorro County. Sierra County no longer allows for septic pump out dumping at their facility. Mascaro stated that a simple \$300.00 pump out could easily go as high as \$1,000.00 now with the lack of facilities in the county. Mascaro stated that he had been approached by several people asking if they could dump into our wastewater treatment facility. Mascaro stated that that answer is a definite no as it is not in the best interest of our wastewater plant. Mascaro stated once again that the wastewater plant is in a critical state and allowing foreign dumping into our system could cause complete failure.

David Shields Bohannon & Huston stated that Dona Ana County has stopped taking septic pumping as well as it has already ruined their wastewater plant.

Councilor Trager commented in hopes that all residents would connect to the wastewater system to prevent the need for septic tanks.

Councilor Atwell mentioned there is a company in Las Cruces that comes here regularly and is affordable with the pricing.

No action taken.

g. Discussion: Rio Grande Circle Property – Flood Control – Councilor Atwell

Councilor Atwell introduced this matter to the Council regarding the flooding along Rock Canyon Road. The city is currently looking at different flooding issues and how City Staff can aid the problem and correct the issues. The city is currently looking at acquiring an additional lot to aid in the drainage and flooding in the area.

Councilor Harmon asked where the city was at with the drainage plan with Mescal with the recently acquired property as she was under the impression City Staff would be handling this improvement project.

Councilor Atwell stated that yes, that is the case, but the infrastructure has to be in place first to aid in the relocation of the drainage water.

***City Manager Mascaro requested of the Mayor that the reports be moved ahead of the executive session. No opposition from the Mayor or Council. Minutes to reflect the changed order of the meeting. ***

9. MAYOR AND COUNCIL REPORTS

Mayor Mortensen reported on House Bill 265 which is regarding the increase of State Parks day use passes to help aid the maintenance of the infrastructure and emergency services.

Mayor Pro Tem Skinner reported that she has been working with the New Mexico Tourism Department and has completed the survey for the City of Elephant Butte. Mayor Pro Tem Skinner noted she has attended the SCRDA meeting where the draft budget was adopted. Mayor Pro Tem Skinner reported that she attended the sale closing signing on the Sierra del Rio Golf Course with City Manager Mascaro.

Councilor Harmon no report.

Councilor Trager reported numerous updates from the State Parks. Councilor Trager reported that Sal Baquera has been named regional manager for the southwest region. There will be active interviews happening for new management for both Elephant Butte Lake State Park and Caballo Lake State Park. Councilor Trager mentioned that there has been quite a turnover at the state parks affecting different areas. The dump station work is on hold until they can fill the position of park planner. Councilor Trager mentioned that the main boating ramp needs repair as it has many voids in it currently. The EBLSP is currently working on an abundance of trail revitalization projects. Councilor Trager noted that the Lakeshore Road construction project for the EBLSP is due to start in October 2023.

Councilor Atwell reported that the current power outage is predicted to last approximately four hours.

10. CITY TREASURER REPORT

Kristin Saavedra gave the Council updates on the bank reconciliation. The auditors have requested that the City Staff stop working on them currently and they will assist with getting these caught up. Quarterly reports and taxes are being worked on and caught up. All W2s and 1099s have been issued for 2022.

Mayor Pro Tem Skinner commended Treasurer Saavedra's diligent work on collecting all requested information for the city audit.

11. CITY CLERK REPORT

Lindsey Cobleigh presented her first official clerk report to the Council. City Clerk Cobleigh noted key points along her presented report to include 2nd Quarter Lien Report, American Legal Codification Report, Website and Social Media Update, Record Organization & Cleanup, and finally a comparison of the current software and the new proposed software that the city is obtaining.

Councilor Trager asked if the new system could handle a new utility being added to what the city currently offers. City Clerk Cobleigh assured her that Caselle can handle every utility that is available plus many additional features as the city grows.

Mayor Pro Tem Skinner thanked City Clerk Cobleigh on all the work she is doing to get the records cleaned up and organized. Mayor Pro Tem Skinner thanked all the staff for all the hard work they are putting in currently to get everything correct and current.

Mayor Mortensen agreed with Mayor Pro Tem Skinner on how well the office is functioning and the level of professionalism within the office. Mayor Mortensen thanked the staff for all their continued hard work.

12. LANDUSE / CODE ENFORCEMENT REPORT

LUA Cobleigh presented the most current land use report to the Council for review. LUA Cobleigh reported that she has year to date issued 26 building permits through the land use office. LUA Cobleigh updated the Council on a property located at the corner of Ontario and Beach. This property was served a stop work notice on February 13th, 2023, in the presence of Chief Mascaro and Capt. Apodaca with the Sierra County Sheriff's Department. The property owners refused to acknowledge or sign the stop work notice for the property. The property owners refused to accept the current violation for living in an RV in zoning district R-1-A. LUA Cobleigh stated that the two RVs and the stored vehicles have been removed from the property as of February 16th, 2023. LUA Cobleigh stated that she contacted CID on current permitting and inspections through them. The Chief Inspector for CID was concerned with the inconsistencies between our project and their project on file. LUA Cobleigh stated that CID was going to be doing an inspection this week.

Councilor Harmon thanked LUA Cobleigh for all her hard work on this continued code case.

13. FIRE CHIEF REPORT

Chief Mascaro reported that since the last meeting there have been 30 EMS call, 2 car fires, and 1 structure fire. Chief Mascaro reported that the structure fire happened right before the meeting, it was a restaurant on the lake. Chief Mascaro reported the Deputy Chief Atwell, and two firemen went onto the barge to extinguish the fire. Due to how quickly the fire was growing and the danger of having onboard propane tanks that they were unable to get to they had to vacate the barge. Engine 9 will be back from having maintenance done on it next week. Chief Mascaro has signed a routine maintenance contract with Siddons & Martin who will come down monthly to check all of the department's apparatus.

14. CITY MANAGER REPORT

City Manager Mascaro reported that the city is upgrading its website and going with a new host company called Revise. Mascaro stated that he was able to negotiate with Caselle and get a lower price of \$59,000.00 for the new software upgrade system. Mascaro has signed a new contract with Caselle. Mascaro stated that once the auditors are finished, they will come back as the city's accountant and aid Caselle in the setup process, so all information is correct. Mascaro mentioned that the position of Code Enforcement/Animal Control Officer will be start being advertised so that position can be filled. Mascaro told the Council that the newly updated MOU with the City of TorC is presented today for review and will go before the Council on March 3rd, 2023, for approval. Mascaro stated that the Council will be using the newly acquired laptops at the regularly scheduled Council Meeting in March, that either himself or City Clerk Cobleigh would have them ready for them on the meeting day. City Clerk Cobleigh asked the Council if they could be here 10-15 minutes early to allow time for logging in.

15. COUNCILOR COMMENTS

Mayor Pro Tem Skinner stated she was unable to hear City Clerk Cobleigh clearly when she was talking about the computers.

Councilor Harmon no comment.

Councilor Trager no comment.

Councilor Atwell no comment.

Mayor Mortensen thanked the staff for the cleanup around the office.

16. EXECUTIVE SESSION

- a. Closed pursuant to NMSA 1978, Section 10-15-1(H)(7) to discuss pending litigation – *Tillotson v. City of Elephant Butte* – D-721-CV-202300018
- b. Closed pursuant to NMSA 1978, Section 10-15-1(H)(8) for discussion of the purchase, acquisition, or disposal of real property.

Councilor Atwell made a motion to enter executive session for a. Discussion pursuant to NMSA 1978, Section 10-15-1(H)(7) to discuss pending litigation – *Tillotson v. City of Elephant Butte* – D-721-CV-202300018. b. Discussion pursuant to NMSA 1978, Section 10-15-1(H)(8) for discussion related to the purchase, acquisition, or disposal of real property. Councilor seconded. 4-0.

City Clerk Cobleigh conducted a roll call.

Mayor Pro Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

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

Councilor Atwell made a declaration that they did not act, only discussed the item listed on the agenda.

17. ACTION

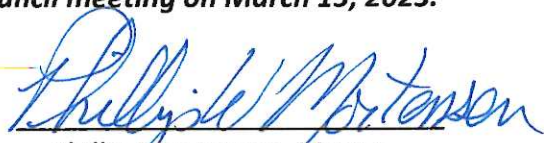
- a. Action required following discussion of pending litigation closed pursuant to NMSA 1978, Section 10-15-1(H)(7) to discuss pending litigation – *Tillotson v. City of Elephant Butte* – D-721-CV-202300018
- b. Action required following discussion closed pursuant to NMSA 1978, Section 10-15-1(H)(8) for discussion of the purchase, acquisition or disposal of real property.

No action taken.

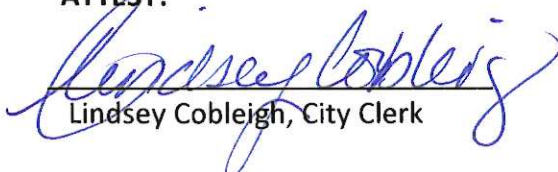
18. ADJOURNMENT

Mayor Mortensen adjourned the meeting.

Minutes approved and adopted at the City Council meeting on March 15, 2023.


Phillip Mortensen, Mayor

ATTEST:


Lindsey Cobleigh, City Clerk