



NOTICE OF CITY OF ELEPHANT BUTTE CITY COUNCIL MEETING

103 Water Avenue, Elephant Butte, NM 87935

Wednesday, April 26, 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
Mayor Pro Tem Kim Skinner – Present
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

Mayor Pro Tem Skinner made a motion to approve the agenda as submitted. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

4. PUBLIC COMMENT

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

City Manager John Mascaro introduced the City of Elephant Butte's newest employee, Christina Ramos, who is filling the role of Executive Assistant for both the City Manager and City Treasurer.

No public comment was present.

5. CONSENT ITEMS

- a. Approval of Regular City Council Meeting Minutes, March 15, 2023

Mayor Pro Tem Skinner made a motion to approve the Regular City Council Meeting Minutes from March 15, 2023. Councilor Trager seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pro Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

6. PRESENTATIONS

- a. Sierra County Sheriff's Office – Sheriff Joshua Baker
- b. Bohannon & Huston – David Shields

City Clerk Cobleigh noted that both presenters were unable to make the meeting due to other obligations.

7. PUBLIC HEARING

- a. Adoption of Ordinance 208 - Amending ordinance 152 – Signs.

Mayor Mortensen called the public hearing into session. Mayor Mortensen detailed to the Council, Staff, and all present public that this public hearing is for the adoption of Ordinance 208 which is amending Ordinance 152 - signs.

Mayor Mortensen requested all members who wish to speak and give testimony please rise to be sworn in.

Chief Mascaro swore in Land Use Administrator Lindsey Cobleigh and Councilor Cathy Harmon as the only two members to present testimony at this hearing.

LUA Cobleigh, City of Elephant Butte 103 Water Avenue.

LUA Cobleigh introduced Ordinance 208 to the Council stating that this ordinance had been prepared by the City's legal staff and recommended by the Planning & Zoning Commission to come before the City Council for final adoption. LUA Cobleigh stated that all public notices have been posted at all required locations.

City Attorney Ben Young advised Councilor Harmon to state her questions as concerns as a member of the public rather than as a Councilor.

Cathy Harmon – This ordinance is a 31-page document for signs. Planning & Zoning is referenced by two different names – a board and a commission. Planning & Zoning is referenced in this 31-page document 27 different times. Council is mentioned first on page 12 and only mentioned 4 times. Land Use is called an officer instead of an Administrator and they are only mentioned 17 times. They are the ones issuing the permits. An ordinance should be a document that stands on its own with clear "this is allowed this is not". The Land Use Administrator should be able to use the document to issue permits and code enforcement should be able to use it to enforce the code. The citizens should be able to read it and understand what is permitted and what is not. There should not be an out clause in every paragraph, a "but if" 27 times in this document. Thank you.

No further discussion or questions.

Mayor Mortensen closed the public hearing to the receipt of all information and evidence. Mayor Mortensen asked if there was a Councilor prepared to make a motion at this time.

Mayor Pro Tem Skinner stated that she agrees with Councilor Harmon that there is staff that is receiving the training needed and this should go to staff and not Planning & Zoning. Mayor Pro Tem Skinner recommended that all mentions of Planning & Zoning be stripped from the document so that it is a guideline for staff to issue permits and code enforcement to enforce the code.

LUA Cobleigh stated that the staff recommendation at this time is that this not be the final adoption of this proposed amended ordinance. The original intent of this ordinance being brought before the Council was to have it adopted but staff does not feel comfortable with the status of the amendment. LUA Cobleigh formally recommended to Council that the ordinance be reviewed, changes made and the ordinance be re-posted for public hearing at the May 2023 meeting.

Mayor Pro Tem Skinner recommended that all references to Planning & Zoning be removed from the ordinance, and it be changed to Land Use Administrator.

Councilor Trager asked if the reference of this Ordinance having been before legal if that was with Ben Young. City Attorney Ben Young clarified that it is within his office, but the Planning & Zoning Commission have been working with Alan Dahl on this project, but all corrections will now be through him.

Mayor Pro Tem Skinner made a motion to table Ordinance 208 until May 17th, 2023, with the intent to make the noted changes to the Ordinance 208 as well as publishing the notices for hearing. **Councilor Harmon seconded the motion. 4-0.**

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

b. Adoption of Ordinance 209 – Amending sections 31.66, 31.67 of the Lodgers' Tax Ordinance.

City Clerk Cobleigh introduced the proposed Ordinance 209 which is amending sections 31.66, 31.67 of the current Lodgers' Tax Ordinance. This was a suggestion from Council during the retreat workshop that City Clerk Cobleigh begin looking into and working on the amendments of this ordinance. The amendments that were recommend by Council is the verbiage to allow the City to contract with third party vendors, i.e Air Bnb, VRBO to then collect the Lodgers' Tax from them. City Clerk Cobleigh stated that the second amendment is more clearly defining the Lodgers' Tax Advisory Board itself. City Clerk Cobleigh stated that she took some of the verbiage from the structure of the Planning & Zoning Board to structure the LTAB.

Mayor Pro Tem Skinner recommended that the alternate member meet one of the two requirements set forth by the state of New Mexico to be a member of Lodgers' Tax Advisory Board.

Mayor Pro Tem Skinner made a motion to adopt Ordinance 209 amending sections 31.66, 31.67 with the addition of the category for alternate member added. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pro Tem Skinner – Yes
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

8. LODGERS' TAX GRANT APPLICATIONS

- a. Discussion/Possible Action: Elephant Butte Chamber of Commerce Lodgers' Tax Application - \$5,000

City Clerk Cobleigh presented the overview recommendation for Elephant Butte Chamber of Commerce in the amount of \$5,000.00. The LTAB did recommend to Council to fund this request in full.

Mayor Pro Tem Skinner stated that this entity has already received additional Lodgers' Tax from both TorC and Sierra County for a total of \$6,250.

Mayor Pro Tem Skinner made a motion to approve the Elephant Butte Chamber of Commerce Lodgers' Tax Application in the amount of \$5,000.00. Councilor Atwell seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pro Tem Skinner – Yes
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

- b. Discussion/Possible Action: Friends of Elephant Butte Lake State Park Lodgers' Tax Application - \$3,000

City Clerk Cobleigh presented the overview recommendation for Friends of Elephant Butte Lake State Parks in the amount of \$3,000.00. The LTAB did recommend to Council to fund this request in full.

Mayor Pro Tem Skinner asked if this request should be for 2024 rather than the 2023 since they were already awarded Lodgers' Tax last fiscal year 22-23 for the fireworks in 2023. City Clerk Cobleigh showed the Council the original application with the date of July 1st, 2023. Mayor Pro Tem Skinner requested the application be amended to reflect that the request of funds is for July 2024.

Mayor Pro Tem Skinner made a motion to approve the Friends of Elephant Butte Lake State Park Lodgers' Tax Application for July 2024 in the amount of \$3,000.00. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pro Tem Skinner – Yes
Councilor Atwell – Yes
Councilor Harmon – Yes
Councilor Trager – Yes

Motion Carried.

- c. Discussion/Possible Action: City of Elephant Butte Lodgers' Tax Application - \$5,000

City Clerk Cobleigh presented the overview recommendation for The City of Elephant Butte in the amount of \$5,000.00. The LTAB did recommend to Council to fund this request in full. This funding will be used for Elephant Days which is scheduled for October 20, 21, 22 2023.

Mayor Pro Tem Skinner made a motion to approve The City of Elephant Butte Lodgers' Tax Application for Elephant Days October 2023 in the amount of \$5,000.00. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

9. REGULAR ITEMS (DISCUSSION POSSIBLE ACTION)

- a. Discussion/Possible Action: Adoption of Resolution 22-23-114 General Land Use Fee Schedule

LUA Cobleigh presented the proposed fee schedule to the Council stating that this was the fee schedule that they had worked with her on during the Council retreat workshop in March. LUA Cobleigh stated that during that time they were able to work out the kinks so that way it was ready to present before them today.

Mayor Pro Tem Skinner made a motion to adopt resolution 22-23-114 General Land Use Fee Schedule. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- b. Discussion/Possible Action: Adoption of Resolution 22-23-115 NMDOT TPF 2023/24

City Manager Mascaro introduced this Resolution 22-23-115 to the Council on behalf of Bohannon & Huston. This is a resolution to assist with a project that the City is currently working on for Butte Blvd.

Mayor Pro Tem Skinner made a motion to adopt Resolution 22-23-115 NMDOT TPF 2023/24. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- c. Discussion/Possible Action: Approval of publication of Ordinance No.210 amending Ordinance No. 106 "Providing for the appointment of a non-probationary employee to the position of City Manager."

City Manager Mascaro introduced this item to the Council requesting approval to publish ordinance 210.

Mayor Pro Tem Skinner made a motion to approve the publication of Ordinance 210 amending Ordinance 106 "Providing for the appointment of a non-probationary employee to the position of City Manager." Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- d. Discussion/Possible Action: Sanitary Sewer Waiver – Administrative Approval

City Manager Mascaro stated that he would like to have all standby charges for Wastewater be removed as it is creating billing problems for the utility clerk.

City Attorney Ben Young stated that since the standby charges are adopted currently by ordinance to properly remove them it would have to be done by ordinance as well. Young advised that the Council could potentially set a moratorium on the standby fees in the meantime.

Mayor Pro Tem Skinner made a motion to place an interim moratorium to stop wastewater standby fees until the ordinance is in place. Councilor Harmon seconded the motion.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- e. Discussion/Possible Action: Vacancy on LTAB – Hospitality Representative – Request to advertise vacancy.

City Clerk Cobleigh requested from the Council permission to post a notice of vacancy. Councilor Trager asked why it was only advertised as one position and not the alternate position as well. Cobleigh mentioned that the reasoning was due to the code not reflecting the alternate position. Councilor Harmon asked if this had to be done with advertising or if the council could vote on the letters of interest that had already been submitted. Cobleigh stated that this is a formal process that does need to be formally advertised so that all eligible parties that are interested will have sufficient notice to submit a letter of interest.

Councilor Trager made a motion to approve the advertisement of the Hospitality Representative as well as an alternate LTAB member to fit the criteria of Hospitality.

Mayor Pro Tem Skinner **amended the motion** to approve the advertisement of the Hospitality

Representative as well as an alternate LTAB member to fit the criteria of Hospitality or Tourism in accordance with the state statute. Councilor Harmon seconded the motion as amended. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- f. Discussion/Possible Action: Vacancy on Planning & Zoning – Alternate – Request to advertise vacancy.

City Manager Mascaro informed the City Council that Commissioner Saavedra of the Planning & Zoning Commission resigned immediately due to personal reasons. Mayor Mortensen also mentioned that there may be another resignation due to health concerns.

City Manager Mascaro asked the Council if they would like to further look at the Planning & Zoning Commission at this time as discussed in the Workshop Retreat to separate the planning and zoning into just a Zoning Commission and allow City Staff to handle the planning portion. Mascaro stated that he is fully confident that current city staff can take on the role of the planning board. The current staff recommendation is to eliminate the Planning & Zoning Commission and reorganize into a Zoning Commission only.

Councilor Trager asked if it would be the same board members under new direction or if it would be all new members. City Manager Mascaro stated he would like to see a whole new board with new membership.

Mayor Pro Tem Skinner pointed out to the members of the Council that item 9f and 9g were blended and the only item to act on would be whether to advertise for a vacancy at this time.

City Attorney Ben Young went over how the proposed dissolution of the Planning & Zoning Commission would work. How in the process all Planning & Zoning needs would go to the City Council until the new ordinance was structured and in place.

Mayor Pro Tem Skinner made a motion to table the Vacancy on Planning & Zoning – Alternate – Request to advertise vacancy due to reorganization. Councilor Harmon seconded the motion. 4-0.

City Clerk Cobleigh conducted a roll call vote.

Mayor Pre Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

- g. Discussion: Planning and Zoning Board Requirements

Discussion was with item 9f.

- h. Discussion/Possible Action: May is Motorcycle Awareness Month Proclamation

Mayor Mortensen introduced this Proclamation to the Council, Staff and Public present that May is Motorcycle Awareness Month.

- i. Discussion/Possible Action: April 30-May 6, 2023, is the 54th Municipal Clerks Week Proclamation

Mayor Mortensen introduced this Proclamation to the Council, Staff and Public present that April 30-May 6, 2023, as Municipal Clerks Week.

Mayor Pro Tem Skinner made a motion to approve item 9h May is Motorcycle Awareness Proclamation and item 9i 54th Annual Municipal Clerks Week. **Councilor Atwell seconded the motion. 4-0.**

City Clerk Cobleigh conducted a roll call vote.

Mayor Pro Tem Skinner – Yes

Councilor Atwell – Yes

Councilor Harmon – Yes

Councilor Trager – Yes

Motion Carried.

10. MAYOR AND COUNCIL REPORTS

Councilor Atwell – No Report.

Mayor Pro Tem Skinner – No Report.

Councilor Harmon – No Report.

Councilor Trager reported that she had attended the JPC Meeting and nothing further to report.

Mayor Mortensen mentioned that he has been in numerous meetings lately including a NMDOT meeting where he requested safety issues be addressed at our exit 83.

11. CITY STAFF REPORTS

- a. City Treasurer

Kristin Saavedra stated that the new executive assistant, Christina Ramos, is currently working on the new procurement policies and procedures. Saavedra mentioned that these policies will be brought before the Council at the June meeting. Saavedra updated the council that the new website is in the final design phase, roughly 4-5 months before it is live. Caselle is moving along as well, Saavedra has submitted the questionnaire as requested by Caselle. All past due GRT reports are current in Tyler.

- b. City Clerk

Lindsey Cobleigh went over her prepared report which is the third quarter clerk report. In this report it was noted that there are currently 17 active liens throughout the city for unpaid utility bills. These liens total \$29,976.20. City Clerk Cobleigh noted that she had just gotten back from her first Clerks Conference. It was stated that she had received her 3 credit hours towards acquiring her CMC through the IIMC. Cobleigh stated that along with the NMML training she is also taking online classes through UNM which are all free and will aid in obtaining both her CMC and CZO.

- c. Land Use Administrator

Lindsey Cobleigh noted that next week she will be heading to Albuquerque for her 4th NMLZO conference and stated that she is roughly two conferences away from obtaining her certification. Cobleigh stated that since producing this report she has now received up to 60 issued permits in the Land Use Department and for this quarter there has been a total of \$4,507.00 in permit fees. Cobleigh stated that she was awarded her full scholarship for the NMLZO training in Albuquerque.

Councilor Harmon inquired about the new home being built at 306 Beach and what the status is. Cobleigh stated that she needs to follow up with CID. Work is continuing but they are under red tag advisory by the state. Through the City they are not on a stop work notice due to meeting all the city

code and zoning. Cobleigh stated that she had received notice from CID that this building will most likely have to be removed. Cobleigh stated that this property owner is also trying to change their address through the state to obtain further permits.

d. Fire Chief

Chief Mascaro stated that there were 28 EMS, 2 MVAs, 1 Roll Over, and 1 Structure Fire. Fire Station one has been taken down in preparation for the new building. Chief Mascaro hopes to have the new station up and operational by August of 2023. Chief Mascaro stated that he has five commercial fire inspections to do, Casa Taco and Family Dollar are both on that list as we have received complaints about them.

e. City Manager

City Manager Mascaro reported on the utility portion of the city. It was brought before the Council that the current procedures are creating additional work in the utility department and he would like to see a change. He would like to see the water accounts remain in the owner's name when it is a rental home, with bills going to both the owner and the renter to ensure that the city is being paid. Mascaro stated that we are still looking for a code enforcement animal control officer. The designs for the bathroom facility at the event grounds are nearly ready to break ground. The colors of the building will match the community center and city hall.

12. EXECUTIVE SESSION

- a. Discussion of limited personnel matters – closed pursuant to NMSA 1978, Section 10-15-1(H)(2) – Manager's Office.
- b. Closed pursuant to NMSA 1978, Section 10-15-1(H)(8) for discussion of the purchase, acquisition, or disposal of real property.

Mayor Pro Tem Skinner made a motion to enter executive session for a. Discussion of limited personnel matters – closed pursuant to NMSA 1978, Section 10-15-1(H)(2) – Manager's Office.

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 Atwell 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*****

Mayor Pro Tem Skinner made a declaration that they did not act, only discussed the item listed on the agenda.

13. ACTION

- a. Action required following discussion of limited personnel matters – closed pursuant to NMSA 1978, Section 10-15-1(H)(2) –Manager’s Office.

No action currently.

- 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.

- i. Recording restrictive covenants for the Sierra del Rio Fire Station Parcel
 - ii. Recording an access easement on the Sierra del Rio Fire Station Parcel

Councilor Trager made a motion to record the restrictive covenants for the Sierra del Rio Fire Station Parcel and record the access easement on the Sierra del Rio Fire Station Parcel. Councilor Harmon 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.

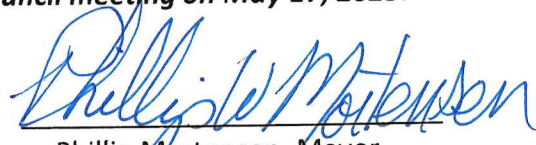
14. COUNCILOR COMMENTS

None currently.

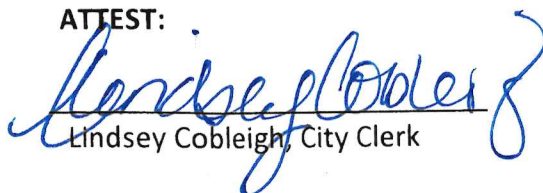
15. ADJOURNMENT

Mayor Mortensen adjourned the meeting.

Minutes approved and adopted at the City Council meeting on May 17, 2023.


Phillip Mortensen, Mayor

ATTEST:


Lindsey Cobleigh, City Clerk

