

NOTICE OF CITY OF ELEPHANT BUTTE CITY COUNCIL MEETING

103 Water Avenue, Elephant Butte, NM 87935

Wednesday, June 21, 2023 – 2:00PM

Minutes*

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Mortensen called the meeting to order and 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 Atwell 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.

Ernie Byers, Universal Waste Services voiced his concern of another trash company soliciting within the city limits of Elephant Butte recently. Byers stated that Universal Waste had recently obtained NM Waste Management who had previously been the only trash supplier in the area. Byers stated that Universal Waste had submitted a bid for the exclusive trash service within the city of Elephant Butte. Byers noted that today he noticed that several hundred cans of their competitor are located on city property waiting for delivery. Byers stated he had heard from numerous customers their concern of this change of service and the fact that with NM Waste and now universal Waste everything is paid quarterly in advance. Byers stated that he wanted to provide the city with the current customer list and provide a smooth transition into the new company. Byers stated that there are numerous things that the City of Elephant Butte is doing that go against current procurement code such as storing the trash cans on city property with no monetary agreement.

City Clerk Cobleigh read an email public comment from Harry Burgess of 140 Huron Drive. This email comment was regarding the trash service change over. It was stated that the individual had attended the February meeting where the trash services were initially brought up before the council seeking a change. Numerous concerns and suggestions were contained within the letter to the city council.

5. CONSENT ITEMS

- a. Approval of Regular City Council Meeting Minutes, May 17, 2023
- b. Approval of Special City Council Meeting Minutes, May 24, 2023

Councilor Harmon made a motion to approve both Regular City Council Meeting Minutes May 17, 2023, and Special City Council Meeting Minutes May 24, 2023, with an amendment to May 17, 2023 on page 5, "Councilor Harmon". Mayor Pro Tem Skinner 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
Sheriff Baker reported there were 190 service hours for the month of May. Within these service hours there were 7 criminal complaints and 3 arrests made. Sheriff Baker reported that Memorial Weekend was a quiet weekend.
- b. Bohannon & Huston – David Shields
David Shields presented an updated report on the current projects that are open within the City of Elephant Butte. Wastewater Collection 4b went through a repackaging and is under review and is currently at NMED for approval. EPA has requested additional testing for the discharge permitting that is due to expire the end of this year. Those tests are due back by August 24, 2023. Warm Springs Blvd Phase 2 is under planning and nearly ready to go out to bid. Shields is hopeful that this project will start after Labor Day and will last approximately 150 days. The water system project design is 60% complete and will be turned in at the end of this month. San Andres/Ocotillo project will begin July 10, 2023.

7. REGULAR ITEMS (DISCUSSION POSSIBLE ACTION)

- a. Discussion/Possible Action: Resolution 22-23-115 Regular Local Election 2023
Mayor Pro Tem Skinner made a motion to approve resolution 22-23-115 as presented. 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.

- b. Discussion/Possible Action: Ordinance 211 – Dissolution of Planning & Zoning – Final Adoption
Mayor Pro Tem Skinner made a motion to approve the final adoption of Ordinance 211 – Dissolution of the Planning & Zoning. 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.

- c. Discussion/Possible Action: Ordinance 212 – Establishing a Zoning Commission – Approval for Publication

City Attorney Ben Young introduced this ordinance to the Council. Young stated that this ordinance had followed the procedures of code and went before the Planning & Zoning Commission earlier this month for input and discussion. With the approval for publication of this meeting it would place this ordinance onto the July 19, 2023, agenda for final adoption.

Councilor Trager asked to review any comments that had submitted from the public or the Planning & Zoning Commission.

City Clerk Cobleigh addressed the council with the statement that all suggestions were from Chairman Nathan LaFont of the Planning & Zoning Commission and these suggestions were present in the draft ordinance that was presented to the council today for approval of publication. Cobleigh stated that all previous highlighted areas were now filled in with the suggestions from Chairman LaFont as well as staff.

Councilor Atwell asked if the board was going to be a 5-member board or a 3-member board. Cobleigh stated that she had roughly drafted this as a 5-member board to allow for additional input from more people. It was the recommendation of Planning & Zoning to keep the board as a 5-member board.

Mayor Pro Tem Skinner noted that at the last meeting it had been discussed to have this board be a 3-member board with one alternate, and requested this change be in place prior to publication.

Councilor Trager made the recommendation to keep the new Zoning Commission at a 5-member board to allow for more interaction and discussion during meetings.

Mayor Pro Tem Skinner made a motion to approve Ordinance 212 Establishing a Zoning Commission for publication with the text amendment to be a 3-member board and 1 alternate. Councilor Atwell seconded the motion. 3-1.

City Clerk Cobleigh conducted a roll call vote.

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

Motion Carried.

- d. Discussion/Possible Action: Ordinance 213 – Standby Fees – Final Adoption

Mayor Pro Tem Skinner made a motion to approve the final adoption of Ordinance 213 – Standby Fees. 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.

- e. Discussion/Possible Action: Voluntary Collection Agreement with Air Bnb, Inc.

City Clerk Cobleigh introduced this voluntary collection agreement contract to the Council for their information. Cobleigh informed the Council that City Manager Mascaro and herself will be working on adding certain details to the contract, specifically the addition of Air Bnb providing a detailed invoice with the remittance monthly.

No Action Taken.

- f. Discussion/Possible Action: Addition of Check Signatory for City of Elephant Butte Accounts

City Manager Mascaro stated that he would like to discuss adding City Treasurer Saavedra to the City of Elephant Butte Accounts as a signer. Mayor Pro Tem Skinner stated per state statute and procurement code your treasurer can not be a signer on the operating accounts.

No Action Taken.

- g. Discussion/Possible Action – Proposed use of 5 Acre Parcel leased from Bureau of Land Management

A discussion between the Council and City Staff was had on the potential use of the 5-acre parcel that the City of Elephant Butte is currently leasing from the Bureau of Land Management (BLM). It was discussed that a survey for the 5-acre parcel would need to be done to know the exact boundaries of the property before settling on a use of the property.

No Action Taken.

- h. Discussion: Ordinance 214 – Solid Waste Ordinance

Councilor Trager asked the question why the city is moving to only allow for one sole provider of waste collection within the city limits of Elephant Butte.

City Manager Mascaro stated that there has always only ever been one provider which was NM Waste. Mascaro stated that the city had checked with City Attorney Young, and this did not have to go out to bid or RFP to follow procurement. Mascaro stated that he did go ahead and send request letters to both current companies willing to service the area and from there a decision was made on who to contract with.

City Attorney Young addressed the question asked by Councilor Trager on why the city was going with a sole provider. Young stated that it is not a requirement to only have one provider for the area but would be of benefit to only have one for billing and records. Having two providers would be two separate contracts and distinguishing what companies or residents were with which company and what rate they would be charged.

Councilor Trager asked why a current customer of the current waste company can not stay with them if they choose if the contract is with the city and not with the residents. Attorney Young addressed this question by stating it was more so the contractor who had requested to be the sole provider of the area so there were not errors in picking up incorrect cans, multiple trash trucks attempting to run the same routes on the same days.

City Manager Mascaro stated that if residents do not want trash pickup services, they are within the code to haul their trash to the county transfer station. This is not a mandatory requirement for residents of Elephant Butte.

City Attorney Young stated that entering these contracts follows the utility statutes and functions differently than other standard contracts. The statute specifically states that the municipality can take on the collection and disposal of refuse or by contract and this is an exemption which does not require the municipality to follow the procurement process.

No further discussion.

8. ELEPHANT BUTTE CHAMBER OF COMMERCE REPORT

Earl Greer, representative of the Elephant Butte Chamber of Commerce presented the most current report to the mayor and council. Greer stated that the Chamber has brought back the 5:01 Parties to be hosted by different businesses throughout the City of Elephant Butte. June was hosted by Zia Kayak, July will be Desert View RV Park, August will be at Pat's. Contracted and put together a billboard on highway 380, coming into Roswell to attract more tourists to the area. Greer stated that Lodgers' tax funding from Elephant Butte, TorC, and Sierra County was used to erect this billboard. Greer stated the chamber is currently working on ads for the 25th City Celebration and Balloon Regatta. Greer is working on bringing a beach volleyball tournament to the area to help promote the area as well. They are aiming for the second week of May 2024 for the first tournament.

9. MAYOR AND COUNCIL REPORTS

Mayor Mortensen stated he had been on vacation. He had had a discussion with MML regarding House Bill 265. The NMML is willing to write a letter of support for HB 265. HB 265 is to allow State Parks throughout NM to begin charging an extra \$1.00 per vehicle to then remit those funds to the responding municipality's fire and EMS programs.

Mayor Pro Tem Skinner had a meeting with the NM Hospitality Association and recapped the legislative session.

Councilor Harmon – No Report

Councilor Trager – No Report

Councilor Atwell – No Report

10. CITY STAFF REPORTS

a. City Treasurer

Kristin Saavedra provided the council with the most up to date information regarding quarterly reports. The 2nd and 3rd quarter reports have been completed and submitted and Saavedra is currently working on the 4th quarter report. The interim budget was approved. Saavedra suggested a workshop prior to the final budget.

Councilor Trager asked where the sale money from Sierra del Rio is reflected in the treasurer's reports. Saavedra stated that it is not reflected as one lump sum due to being broken down into numerous different line items as directed to do so.

b. City Clerk

City Clerk Cobleigh stated that there were 151 business registration renewals that were sent out, 15 short-term rental renewals, and 4 annual mobile vendors. Cobleigh stated that so far half of the renewals have been received back in.

c. Land Use Administrator

LUA Cobleigh stated there are now 84 issued permits for the year and 39 new home builds since May 2022. Cobleigh stated that there is a lot more interest in mobile vending permits this year to be part of the community.

d. Fire Chief

Chief Mascaro reported there were 31 EMS calls, 3 Motor Vehicle Accidents, 2 Car Fires, and 1 Swift Water Rescue for the past month. Chief Mascaro stated that they had recently acquired a new to us water tender from Eddy County.

Mayor Pro Tem Skinner asked when the building of station 1 will begin. Mascaro stated that as soon as all the plans are ready, they will get going. They are going to have the station 1 and bathroom project done at the same time.

e. City Manager

City Manager Mascaro reported on the small in-house road projects that the city had taken on. There are 5 roads throughout the city that they had done and Mascaro stated he is happy with the outcome and plans on doing more roads in the future. Mascaro stated that DFA made the recommendation to bring in an outside CPA to assist the Treasurer with training and compliance. Mascaro stated that the auditors will be present at the July meeting to go over the audit findings. Mascaro went over the remodel of the inside of city hall including paint and new carpeting.

11. 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 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.

*****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.

12. ACTION

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

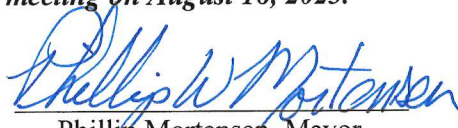
13. COUNCILOR COMMENTS

No Comments

14. ADJOURNMENT

Mayor Mortensen adjourned the meeting.

Minutes approved and adopted at the City Council meeting on August 16, 2023.


Phillip Mortensen, Mayor

ATTEST:


Lindsey Cobleigh, City Clerk

