



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

103 Water Avenue, Elephant Butte, NM 87935

Wednesday, July 19, 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

City Manager Mascaro requested that item 7e be moved in front of item 7a.

Councilor Trager made a motion to approve the agenda as submitted with the one amendment to moving item 7e in front of 7a. Mayor Pro Tem Skinner 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.
None currently.

5. CONSENT ITEMS

None currently.

6. PRESENTATIONS

- a. Sierra County Sheriff's Office – Sheriff Joshua Baker
No Report.

- b. Bohannon & Huston – David Shields

David Shields presented to the Mayor and Council the current projects being worked on by BHI. The Water System Project is underway with a final design by 8/31/2023. San Andres/Ocotillo Project is underway with preliminary surveys and locates of the areas within the project. Shields reported that on San Andres where the road widens and the residents all have culverts in for drainage and erosion concerns, this will be eliminated and corrected with the new project plan. Shields stated he had spoken with most of the residents on San Andres.

Councilor Harmon stated that her parent's home is within this area, they would like to retain their culvert as salvaged when the contractor removes it.

Wastewater collection 4B was approved on July 18, 2023, by NMED. This project will now be available to go out for bidding at the end of this month with the pre-bids starting in early August. Shields stated with the current timeline the Wastewater Collection 4B project will be on the September agenda for approval. The Warm Springs Phase 2 project is on a similar timeline for bids. This project should also be on the September agenda for approval. The last project that is currently being worked on by BHI is for the wastewater collection plant. All samples needed on this project are to be submitted by August 24, 2023.

7. REGULAR ITEMS (DISCUSSION POSSIBLE ACTION)

- a. *(Previously item 7e)* Discussion/Possible Action: Resolution 23-24-104 Resolution Amending Section 6.8 of the City of Elephant Butte Personnel Handbook – Clarification of Holiday Pay
City Manager Mascaro introduced this resolution to the Mayor and Council. Mascaro followed up on a notice that had been sent to members of the council and the mayor regarding holiday pay. Mascaro stated that this resolution is amending section 6.8 of the current employee handbook to clarify the issuance of holiday pay.

City Attorney, Ben Young stated that he was aware there had been confusion over the past few months regarding holiday pay and how to properly calculate it and pay it out to employees working on holidays. Young stated that there were several of the public works department employees present for the meeting if the mayor or council would like to hear from them on this subject during this time. Young stated that the language amendment within the resolution is from NM State Administrative Code 1.7.417. The language within the code states "Employees required to work on the day of holiday are observed shall be compensated at 2 ½ times their hourly rate of pay for all hours actually worked on the holiday." Young stated that all employees would be paid the standard 8 hours of straight time for the observed holiday and then the employees required to work on a holiday would be subject to a rate of 2 ½ times their hourly rate. (i.e. 8 hours of pay at \$10.00 per hour straight pay = \$80.00 + 4 hours worked on the holiday would be = $10 \times 2.5 = \$25.00$ per hour = \$100.00)

Councilor Trager asked the question if the employee had to work a minimum of 4hrs on a holiday to qualify for holiday pay. Young answered, no, that was an example only.

Mayor Mortensen mentioned that the council and staff have been working on the employee handbook for quite sometime and this proves that it needs to be a priority to sort issues like this

out.

Bryan Smith, Public Works Department asked for the clarification on when an employee works during a normal 40hr work week with a holiday in the middle why are hours being removed to make up the 40hrs. Smith said he understood that to qualify for overtime you must physically work 40hrs+ but, Smith stated this is not an overtime situation this is holiday pay and is different. Smith went on to describe the formatting of the current time sheets and how public works employees have tasks to take care of daily whether it is a holiday or not.

Councilor Trager stated this has been a repeat question over time.

Bryan Smith stated this issue started well in the past and has been questioned and they were under the impression it was the software system at first but now they are now being asked by staff to change their time sheets to meet the 40hrs before submitting timesheets.

Mayor Mortensen stated that without seeing the referenced timesheets it was a bit confusing.

City Manager Mascaro stated that what the current City Treasurer Saavedra has been doing when it comes to overtime is making certain they have their required full 40hrs worked prior to overtime allotment.

Mayor Mortensen mentioned that he was under the assumption that if a holiday fell within a work week that 8hrs was counted towards the standard worked 40hrs.

Attorney Young stated that under the FLSA guidelines Holiday Pay is viewed as a benefit paid for by the employer not something that counts towards your standard 40hrs worked. (i.e. a five day work week with the 4th of July Holiday in there and you physically work 32hrs and you receive the observed 4th of July Holiday off you receive the 8hrs of pay but it does not count towards the worked hours of that week. If an employee did work on the observed holiday, they would get their worked 32hrs + 8hrs holiday pay + worked number of hours at 2 ½ times hourly rate.) Young asked the public works department if this was the clarity they needed, the response was no.

Bryan Smith asked if they must physically work 40hrs before they can receive overtime or holiday pay, that they want this issue nipped in the bud now before it continues. Smith stated that overtime and holiday pay are done differently, and they just need clarification.

Brian Burlage, Field Operations Supervisor stated that it all comes down to the 40hrs of working time. Burlage stated that with holidays observed during a work week the crews will never physically work 40hrs and therefore not be eligible for overtime pay even though they are working extra on certain days and on holidays. Burlage stated that by the City not counting the 8hrs of holiday pay as worked time it is excluding staff from being eligible for overtime pay.

Councilor Trager clarified that everyone was on the same page for overtime pay and the clarification was for the holiday pay inconsistency.

Councilor Harmon made the statement that holiday pay does not count towards hours worked.

Councilor Atwell stated that if you do not work the holiday, it is straight time pay that is included in your standard 40hr work week, if you work the holiday you are paid in addition to the standard holiday pay.

Mayor Pro Tem Skinner stated that it could be a software issue as she is used to using QuickBooks and it totals everything from all columns into one total.

Mayor Mortensen stated that it is important to him that all employees are paid properly and currently. Mortensen stated that the city and council will work through this together.

City Manager Mascaro stated that he feels the city needs to be certain they are following the FLSA guidelines as mentioned by City Attorney Young.

Attorney Young stated that there can always been amendments to the proposed resolution to make it more encompassing to what the City Council is wanting to see clarification on.

City Manager Mascaro stated that to help rectify the inconsistencies of timesheets he has ordered two biometric timeclocks, one for city hall and one for public work. This system operates off the biometrics of a finger or thumb print scan. This timeclock system will automatically generate timesheets for the City Treasurer for payroll. Mascaro stated that with this system it would cut down on the inaccurate timesheets being submitted to the Treasurer, at times with so much whiteout that she is unable to read them.

Mayor Mortensen stated that he was appreciative of the public works crew for bringing this concern to the mayor and council.

Councilor Harmon made a motion to table this resolution until the council and staff receive the clarification of what happens to holiday pay counting as hours worked. 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.

- b. Discussion/Possible Action: Resolution 23-24-100 BAR #1 for FY2022-2023

Mayor Pro Tem Skinner made a motion to approve Resolution 23-24-100 BAR #1 for FY2022-2023. 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: Resolution 23-24-101 4th Quarter Report FY2022-2023

Mayor Pro Tem Skinner made a motion to approve Resolution 23-24-101 4th Quarter Report FY2022-2023. 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.

- d. Discussion/Possible Action: Resolution 23-24-102 Final Budget Adoption FY2023-2024

Mayor Pro Tem Skinner made a motion to approve Resolution 23-24-102 Final Budget Adoption FY2023-2024. 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.

- e. Discussion/Possible Action: Resolution 23-24-103 ICIP Project Summary FY2025-2029
Jay Armijo of South-Central Council of Government presented the ICIP Project Summary to the Mayor and Council. Armijo stated that there would be some needed corrections to this year's submission of the ICIP as some projects have changed. Armijo stated that the deadline to submit the ICIP is August 18, 2023.
The council had a discussion on the top five projects for the ICIP should be amended to be 1. Wastewater, 2. Water, 3. Storm water, 4. Streets, and 5. Street maintenance. The council mentioned getting potential input from the public on the categorization of the ICIP projects.

Mayor Pro Tem Skinner made a motion to table Resolution 23-24-103 ICIP Project Summary FY2025-2029 until the August 16, 2023, meeting. 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.

- f. Discussion/Possible Action: Ordinance 212 – Establishing a Zoning Commission – Final Adoption

Councilor Harmon stated that Ordinance 212 had an error on page three where it stated “Planning & Zoning” instead of “Zoning” which would need amended.

Councilor Harmon made a motion to approve the final adoption of Ordinance 212 – Establishing a Zoning Commission with the amendment to page 3, correcting “Planning & Zoning” to “Zoning”. Mayor Pro Tem Skinner 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/Possible Action: Ordinance 215 – Multi-Family Residential Overlay – Approval for Publication

LUA Cobleigh presented Ordinance 215 – Multi-Family Residential Overlay to the Mayor and the Council for approval for publication. LUA Cobleigh answered questions from the Council regarding the ordinance. The main priority that LUA Cobleigh stressed to the Mayor, Council, public, and staff is this is not a zoning change it is a zoning overlay. Zoning District R-1-C will still be in full effect for all unit 10 as the minimum requirements for development. With the addition of Ordinance 215 as an overlay it will allow for the growth and development of our community where lots have remained vacant and undeveloped for years. Cobleigh stated that this overlay would be of great benefit to the City of Elephant Butte, both for developers as well as for private landowners who could benefit from the multi-family overlay with 2,3 and 4 family units.

Councilor Harmon is concerned about the mention of 25 dwellings per acre. Both James Prendamano and LUA Cobleigh clarified that this is verbiage that is currently in place in current code, that this was not something that they came up with. LUA Cobleigh suggested an amendment to (G) 1 to remove the portion that states “No more than 25 dwellings per 1 acre” and just remain the no more than 4 units per building.

Mayor Pro Tem Skinner mentioned that LUA Cobleigh’s suggested amendment would make this ordinance fit the description of the planned development.

Councilor Trager stated that she is comfortable with the recommendation made by LUA Cobleigh.

Mayor Pro Tem Skinner made a motion to approve for publication Ordinance 215 with the amendment to (G) 1 in removing “no more than 25 dwellings per 1 acre.” 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.

- h. Discussion/Possible Action: Deputy Clerk Position

City Manager Mascaro and City Clerk Cobleigh presented this request to the council. City Clerk Cobleigh said that by bringing this position back it would allow for further growth within the office.

Councilor Trager stated she would like to see the priority of what positions are needed and which are not at this time.

Mascaro stated that this is a position that he would like to see brought back to have available but not necessarily filled currently.

No Action Taken. *The council stated this position is up to the City Manager to advertise and hire for.*

8. ELEPHANT BUTTE CHAMBER OF COMMERCE REPORT
No Representative Present to Report.

9. MAYOR AND COUNCIL REPORTS

Mayor Pro Tem Skinner – No Report

Councilor Harmon – No Report

Councilor Trager – No Report

Councilor Atwell – No Report

Mayor Mortensen stated he is planning on going to NMML Annual Conference the end of August.

10. CITY STAFF REPORTS

a. City Treasurer

City Manager Mascaro stated that most of the treasurer report was the end of year resolutions that had been presented earlier.

Mayor Pro Tem Skinner asked if the council could receive copies of all the attachments for the resolutions prior to being submitted to DFA. Mascaro agreed they will all receive the attachments upon the return of City Treasurer Saavedra.

b. City Clerk

Clerk Cobleigh presented her 4th quarter report to the mayor and city council. Cobleigh stated that so far most of the business registration renewals have been submitted with only approximately 44 that have not yet been renewed. Cobleigh stated that admin assistant Johanna Munoz has been a great asset to her this past month assisting with the organizing and issuance of the business registrations for FY23-24. There have been 9 new businesses that have registered with the city since the beginning of the new fiscal year. Cobleigh stated that most of these are contract style businesses that are not primarily within Elephant Butte, but they do serve the community. Cobleigh did state that it was found within the code that all business registrations are to be signed by the City Clerk rather than the mayor as has been done in the past. Water Consumer Confidence reports have been posted for constituents and a notice will go out at the end of this month with billing. Cobleigh stated that she has had quite a few large records requests over the past few months. Cobleigh stated all meeting minutes will be present on the next months meeting.

c. Land Use Administrator

Mayor Pro Tem Skinner asked if the shot clinic had been scheduled yet or when she should register her dogs. LUA Cobleigh stated that she had not scheduled a clinic due to the extreme temperatures currently in Elephant Butte, it was advised by the local vet it would put too much stress on the animals right now. LUA Cobleigh stated that all owners can pay for their annual registration, and she will get new registration cards out as soon as possible. LUA Cobleigh mentioned that the city had received three applications for code enforcement and herself along with City Manager Mascaro will begin the interview process as soon as possible. Mayor Mortensen asked if by the current code whether the mayor was the one to appoint the code officer or if that was an internal staff decision. LUA Cobleigh stated that yes, the appointment is done by the Mayor with approval from the Council. LUA Cobleigh stated that as staff and council start working on the code amendments her recommendation is to begin with the administrative code amendments first to make sure that is in order before working on additional codes. LUA Cobleigh mentioned that the description of Clerk-Treasurer needs to be corrected and separated with a description for both individual jobs. Councilor Trager asked if this could be on next

month's agenda. LUA Cobleigh said it would be an extensive text amendment throughout the code as well as adding new descriptions for both positions.

LUA Cobleigh stated that there has been a total of 10 permits over the past month and currently has three to finalize, bringing the total up to 90 for the year. LUA Cobleigh stated the city is up to 37 new builds since last March.

d. Fire Chief

Chief Mascaro stated that within the last month there have been 46 EMS calls and 1 fire call. Mascaro stated that the one fire call was a commercial building, crew was able to contain the fire to the workshop and perform structure protection on nearby accessory structures. Elephant Butte Fire Department has received their newly acquired ambulance. Fire Station 1 and the event site bathrooms are to both start by the end of July. Bathrooms should be completed within two months and Fire Station will be completed within 4 months.

e. City Manager

City Manager Mascaro reported to the Council on the Community Center where the Bass Club rents a space. Mascaro stated that the AC unit was blown off the roof at one point and the roof has water damage from the unit. Mascaro asked for guidance on the reissuance of a contract between the city and the Bass Club on what is allowed and not allowed. Mascaro stated that he is going to cut off the access to the entire community center from the Bass Club. He has been receiving bids for a bathroom addition to the Bass Club side. Mascaro stated that the funds for the renovation of the community center are from the properties that have been sold. Mascaro is hoping soon to raise the rental rate of the community center with the newly remodeled inside along with new chairs and tables. Mascaro stated that he would have Lobbyist Stephen Archuleta present at the August 16, 2023, meeting to go over future lobbying with the Mayor and Council.

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.

No Action Taken.

- 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.

Mayor Pro Tem Skinner made a motion to give City Attorney, City Manager, and the mayor authority to obtain information and bring it to the next meeting. 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.

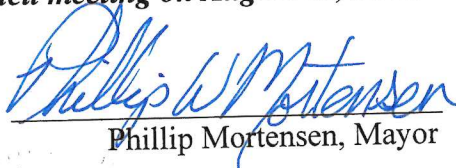
13. COUNCILOR COMMENTS

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

