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- C. Local Economic Development Act (LEDA), Falcon Group Application for Funds for Improvements to Sands Shopping Center – Resolution #13-14-18, Authorizing the Mayor’s Execution of a Project Participation Agreement.
- D. Permission to Release RFP for Mowing Maintenance of Lindsey Park w/Baseball Field, Confer Park, La Buena Vida Park & Morrison Park w/Baseball Field.
- E. Requesting Approval to Complete Abatement in Raven Wood Addition Phases I & II.
- F. Resolution #13-14-19, (Amending Resolution #06-07-63) Establishing Penalties & Procedures for Sewer Tap Repair/Replacement Permit.
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- H. Public Hearing on Ordinance No. 708, An Ordinance of the City Council of the City of Portales, New Mexico making Findings of Fact; and Adding Article III, Section 14.30, Buildings or Premises that Sell, Publicly Display for Sale, Attempting to Sell, Distribute by Gift, Barter, Delivery, Possession or the use of Illicit Synthetic Drugs and Misbranded Drugs, Including “Spice,” Synthetic Cannabinoids, Synthetic Marijuana, “Bath Salts,” Synthetic Cathinones, Synthetic Stimulants, or other Misbranded Drugs; Finding that such Buildings or Premises Constitute a Health Hazard to the Citizens and Particularly Children and Young People of the City of Portales, Roosevelt County and Surrounding Areas; and Declaring that any such Building or Premises at which there has been a Conviction for a Violation of Article 17.90 of the Portales City Code of Ordinance Three (3) Times with any Consecutive Two (2) Year Period, the Owner and/or Operator shall lose its Business License/Business Registration and Shall be Unable to Operate any Business, Sell, Dispense or Distribute any Products or Goods within the City of Portales for a Period of Time of One (1) Consecutive Year from the Date of the Third Violation.
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THE CITY COUNCIL OF THE CITY OF PORTALES met in regular session Tuesday, November 5, 2013, at 7:00 p.m., in the Council Chambers in the Memorial Building in full conformity with the rules and regulations. Mayor King called the meeting to order and asked City Clerk Martinez-Terry to call roll. Those present and constituting a quorum were:

MAYOR: Sharon L. King

MAYOR PRO-TEM: Ronald L. Jackson

COUNCIL MEMBERS: Matthew Tod Hunton Oscar Robinson
Leo Lovett Antonio O. Salguero
Lenard Michael Lucero Keith A. Thomas
Dianne Y. Parker

STAFF PRESENT: Doug Redmond, City Manager Johnny DeSha, Public Works Dir.
Joan Martinez-City Clerk Susan Baysinger, Public Wks. Proj. Adm
Steve Doerr, City Attorney Jamie L. Rose, Exec. Assistant
Gary Nuckols, Fire Chief Dennis Hales, I.T. Director
Pat Gallegos, Interim Police Chief David Meeks, Police Lieutenant
David Narvaez, Police Officer Calvin Taylor, Police Officer
Colby Morgan, Police Sgt. Mike Parkey, General Services Dir.

continuing to talk to Xcel about getting the lights turned on. Mayor King thanked Mr. Hancock for his report.

(C) LOCAL ECONOMIC DEVELOPMENT ACT (LEDA). FALCON GROUP APPLICATION FOR FUNDS FOR IMPROVEMENTS TO SANDS SHOPPING CENTER—RESOLUTION #13-14-18. AUTHORIZING THE MAYOR’S EXECUTION OF A PROJECT PARTICIPATION AGREEMENT

Mayor King asked City Manager Redmond to introduce the LEDA project for improvements to the Sands Shopping Center. Mr. Redmond told the Council that the Economic Development Finance Review Committee had met and reviewed the application for LEDA funds submitted by the Falcon Group on October 25, 2013. He reported that the Committee recommended approval of awarding \$70,000.00 to the Falcon Group for improvements to the Sands Shopping Center that included a parking lot overlay, parking pattern change, new lights, and updated canopies. Mark Vigil, owner of the property added that the improvements included new electrical services, insulation and air conditioning. Mr. Redmond told the Council that the improvements were needed for the Dollar Tree to move into the shopping center. Redmond asked that the Council adopt Resolution #13-14-18 authorizing execution of the project Participation Agreement with the Falcon Group. Mayor King asked for action from the Council.

Councilor Parker made the motion to adopt Resolution #13-14-18, authorizing the Mayor to execute the project participation agreement as presented. Councilor Hunton seconded the motion. Roll call vote by all Council members present resulted in unanimous support of the motion. No abstentions. Motion carried.

(D) PERMISSION TO RELEASE RFP FOR MOWING MAINTENANCE OF LINDSEY PARK W/BASEBALL FIELD, CONFER PARK, LA BUENA VIDA PARK & MORRISON PARK W/BASEBALL FIELD

Mayor King asked City Manager Redmond to present the request for permission to release a Request for Proposals for mowing maintenance. Mr. Redmond reminded the Council that the Council had talked about contracting out the mowing maintenance of the parks and medians in a retreat. Mayor Pro-Tem Jackson commented that he was in favor of having this done. Mayor King asked for action from the Council. *Mayor Pro-Tem Jackson made the motion to approve releasing the RFP for mowing maintenance of the parks and associated ball fields. Councilor Lucero seconded the motion. All Council members present voted in favor of the motion. No abstentions. Motion carried.*

(E) REQUESTING APPROVAL TO COMPLETE ABATEMENT IN RAVEN WOOD ADDITION, PHASES I & II

Mayor King asked City Manager Redmond to present the request for approval to abate Raven Wood Addition. Mr. Redmond told the Council about the code enforcement violations in Raven Wood, Phases I and II. He commented that the staff anticipates spending a significant amount of money to correct the violations. City Attorney Doerr commented that Raven Wood Addition is involved in bankruptcy and that the owner has disclaimed interest in the property. He stated that, at this point, the City will have to get approval from the bank and that it would be in the best interest of the City to try to get the bank to remediate the problem. City Attorney Doerr suggested that the matter be tabled. Councilor Thomas stated that he understood that he had started up a hornet’s nest, but that people seem to be satisfied with what the City has done about the weeds to this point. Mayor King asked the pleasure of the Council. *Councilor Thomas made the motion to table the abatement of Raven Wood Addition*

until further information can be obtained. Councilor Parker seconded the motion. All Council members present voted in favor of the motion. No abstentions. Motion carried.

(F) RESOLUTION #13-14-19, AMENDING RESOLUTION #06-07-63, ESTABLISHING PENALTIES AND PROCEDURES FOR SEWER TAP REPAIR/ REPLACEMENT PERMIT

Mayor King asked Public Works Director John DeSha to present Resolution #13-14-19, establishing procedures for sewer tap repair and replacement permit. Mr. DeSha stated that he was bringing an amendment to the existing resolution regarding fees for sewer taps. He stated that this request has to do with having to do a lot of repairs and replacement of sewer lines. DeSha told the Council that the resolution establishes permit fees and fines if the home owner doesn't have the work done correctly. He told the Council that the recommended fee is \$250.00, and that the homeowner becomes the responsible party. He added that the homeowner will be responsible for the alley for a year. He stated that the resolution also sets a penalty of \$1,000.00 if the homeowner does not request the permit and another fee if they do not have the work inspected. He commented that he felt that it would speed up the process. Mayor King asked if the resolution would affect rates. Mr. DeSha responded that rates would not be affected; that only the schedule for sewer taps would be affected. Mayor King asked for questions or comments. Mayor King asked the pleasure of the Council. *Councilor Lucero made the motion to adopt Resolution #13-14-19 as presented. Councilor Lovett seconded the motion. Roll call vote of all Council members present resulted in a unanimous vote in favor of the motion. No abstentions. Motion carried.*

(G) INFORMATIONAL/REPORT ITEM(S):

1. Finalization of WWTP Loan Documents.

Mayor King asked Public Works Director DeSha to report about the WWTP loan documents. Mr. DeSha reported that the loan documents were finalized in Albuquerque last week. He further reported that the FONSI (report of Finding of Non-Significant Impact) is back on the environmental study completed. He told the Council that the SAP grant will now be available to the City and that the funds are waiting on the 90-day waiting period for release. He commented that the City would go out for bids on the WWTP project after the first of the year. He stated that he felt that the bids would be good. Mayor King thanked the Council for their work on the project. She added that Portales has set a great example for the rest of the state. She told the Council to pat themselves on the back.

2. Waterline Project Update.

Mayor King asked Mr. DeSha to report on the waterline project. Mr. DeSha told the Council that the project has begun, and that the contractor has found some unknown waterlines. He stated that the contractor will complete replacement of water mains and fire hydrants ahead of schedule. He told the Council that the contractor has agreed to close the project down for the annual Thanksgiving Dinner at the Methodist Church. Mayor Pro-Tem Jackson commented that he would like to see 3rd Street paved and guttered.

(H) PUBLIC HEARING ON ORDINANCE NO. 708, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTALES, NEW MEXICO, MAKING FINDINGS OF FACT; AND ADDING ARTICLE III, SECTION 14.30, BUILDINGS OR PREMISES THAT SELL, PUBLICLY DISPLAY FOR SALE, ATTEMPTING TO SELL, DISTRIBUTE BY GIFT, BARTER, DELIVERY, POSSESSION OR THE USE OF ILLICIT SYNTHETIC DRUGS AND

MISBRANDED DRUGS, INCLUDING “SPICE”, SYNTHETIC CANNABINOIDS, SYNTHETIC MARIJUANA, “BATH SALTS”, SYNTHETIC CATHINONES, SYNTHETIC STIMULANTS, OR OTHER MISBRANDED DRUGS; FINDING THAT SUCH BUILDINGS OR PREMISES CONSTITUTE A HEALTH HAZARD TO THE CITIZENS AND PARTICULARLY CHILDREN AND YOUNG PEOPLE OF THE CITY OF PORTALES, ROOSEVELT COUNTY AND SURROUNDING AREAS; AND DECLARING THAT ANY SUCH BUILDING OR PREMISES AT WHICH THERE HAS BEEN A CONVICTION FOR A VIOLATION OF ARTICLE 17.90 OF THE PORTALES CITY CODE OF ORDINANCE THREE (3) TIMES WITH ANY CONSECUTIVE TWO (2) YEAR PERIOD, THE OWNER AND/OR OPERATOR SHALL LOSE ITS BUSINESS LICENSE/BUSINESS REGISTRATION AND SHALL BE UNABLE TO OPERATE ANY BUSINESS, SELL, DISPENSE OR DISTRIBUTE ANY PRODUCTS OR GOODS WITHIN THE CITY OF PORTALES FOR A PERIOD OF TIME OF ONE (1) CONSECUTIVE YEAR FROM THE DATE OF THE THIRD VIOLATION.

1. **Action to Enter into Public Hearing to Receive Comments on Ordinance.**

Mayor King read the title of Ordinance No. 708 aloud, “An Ordinance of the City Council of the City of Portales, New Mexico making Findings of Fact; and Adding Article III, Section 14.30, Buildings or Premises that Sell, Publicly Display for Sale, Attempting to Sell, Distribute by Gift, Barter, Delivery, Possession or the use of Illicit Synthetic Drugs and Misbranded Drugs, Including “Spice,” Synthetic Cannabinoids, Synthetic Marijuana, “Bath Salts,” Synthetic Cathinones, Synthetic Stimulants, or other Misbranded Drugs; Finding that such Buildings or Premises Constitute a Health Hazard to the Citizens and Particularly Children and Young People of the City of Portales, Roosevelt County and Surrounding Areas; and Declaring that any such Building or Premises at which there has been a Conviction for a Violation of Article 17.90 of the Portales City Code of Ordinance Three (3) Times with any Consecutive Two (2) Year Period, the Owner and/or Operator shall lose its Business License/Business Registration and Shall be Unable to Operate any Business, Sell, Dispense or Distribute any Products or Goods within the City of Portales for a Period of Time of One (1) Consecutive Year from the Date of the Third Violation.” Mayor King asked for a motion to enter into public hearing to receive comments on the ordinance. ***Mayor Pro-Tem Jackson made the motion to enter into public hearing on Ordinance No. 708. Councilor Robinson seconded the motion. All Council members present voted in favor of the motion. No abstentions. Motion carried.***

Mayor King asked for comments on the Ordinance. Councilor Thomas stated that he felt that it is wrong to allow violators three (3) opportunities to hurt our children. He felt that this opened the city up to liability. Councilor Lovett commented that he understood that the City Attorney had attempted to stop the business owner from merely opening a new business with a different name. City Attorney Doerr stated that the intent of the ordinance is to stop them from changing the name of the business and continuing to sell the synthetic drugs. Councilor Lucero stated that he was all for the ordinance. The City Attorney and Council discussed the constitutionality of the ordinance. Councilor Thomas stated that he was worried about the liability to the City of allowing someone to sell the synthetic drugs before we revoke their business registration. City Attorney Doerr stated that he does not see liability to the City. Councilor Thomas asked if the ordinance could be amended at a later date. Councilor Parker asked Interim Chief Gallegos if the ordinance would assist the Police Department. Chief Gallegos asked if the wording on the last line of the title could be changed to “conviction” instead of “violation.” He commented that this would work better for limiting the amount of time that it would take to revoke the business registration. City Attorney Doerr responded that this change would not require the ordinance process to start over. Council asked Shawn Gore, Roosevelt County Deputy Sheriff, about how the ordinance could help the Sheriff’s Office. Mr. Gore responded that if the County is called in on a violation, they would issue a criminal citation. City Attorney Doerr told the Council that they could adopt the Ordinance now and amend it later to allow the County citation to count against the business. He said

that we would want them to face a felony. Mayor King asked for comments against the ordinance. There were no further comments.

2. **Action to Close the public hearing.**

Mayor King asked for a motion to close the public hearing. *Councilor Parker made the motion to close the public hearing. Councilor Lucero seconded the motion. All Council members presented voted in favor of the motion. No abstentions. Motion carried.*

3. **Action on Ordinance No. 708.**

Mayor King asked for a motion as a result of the public hearing. *Mayor Pro-Tem Jackson made the motion to adopt Ordinance No. 708. Councilor Lucero seconded the motion. Roll call vote of all Council members present resulted in unanimous support of the motion. No abstentions. Motion carried.*

(I) OTHER BUSINESS/CITIZENS TO BE HEARD

Mayor King asked for items of other business.

ISO Survey Update: Fire Chief Nuckols updated the Council on the ISO survey conducted on October 22, 2013. He told the Council that the survey had not been done since 2006, and will be done every 5 years. He commented that it went well and that the recordkeeping was very good. He stated that the establishment of the Fire Marshall position in the Fire Department was a positive action. Chief Nuckols commented that he hoped that the rating will remain the same. He stated that he would like to see the rating improve, but that it will take more action by the City. He added that the county's fire rating will go down because the Portales Fire Department has equipment to provide water.

Thank you to Families of Police Officers: Mayor King thanked the family members of the new officers for their support of the Police Officers.

(J) EXECUTIVE SESSION/CLOSED EXECUTIVE MEETING:

1. **Action to Enter in a Closed Executive Session/Meeting to Discuss Matters as Provided for Under New Mexico Statutes Pertaining to Open Meetings Referencing §10-15-1 H.(7) Attorney-Client Privilege Pertaining to Threatened or Pending Litigation.**

Mayor King asked for a motion to enter the closed executive session. *Mayor Pro-Tem Jackson made the motion to enter into closed executive session to discuss matters as provided for under New Mexico Statutes pertaining to open meetings referencing §10-15-1, for attorney-client privilege pertaining to threatened or pending litigation. Councilor Parker seconded the motion. Roll call vote by all Council members present resulted in unanimous support of the motion. Motion carried.*

2. **Action to Convene in Open Session.**

Mayor King asked for a motion to reconvene the open session. *Councilor Robinson made the motion to reconvene the open session. Councilor Salguero seconded the motion. All Council members present voted in favor of the motion. Motion carried.*

3. Action Required as a Result of the Closed Session.

Mayor King declared that the matters discussed in the closed meeting were limited only to those specified in the motion for closure and as in the notice of the separate closed meeting and stated that no action was taken or needed as a result of the closed session.

ADJOURNMENT:

There being no further business or comments, Mayor King adjourned the meeting at 8:25 p.m.

Joan Martinez-Terry, City Clerk