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 - 2. Action to Convene in Open Session.
 - 3. Action Required as a Result of the Closed Session.
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THE CITY COUNCIL OF THE CITY OF PORTALES met in regular session Tuesday, July 3, 2012, at 7:00 p.m., in the Council Chambers of the Portales City Hall 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
Leo Lovett
Michael Lenard Lucero
Dianne Y. Parker
Antonio Salguero
Oscar Robinson (absent)
Keith A. Thomas

STAFF PRESENT: Tom Howell, City Manager
Joan Martinez-City Clerk
Steve Doerr, City Attorney
Susan Baysinger, Capital Proj. Adm.
Richelle Seat, DWI Comp. Ofcr.
Jeff Gill, Police Chief
Gary Nuckols, Fire Chief
Johnny DeSha, Public Wks. Dir.
Dennis Hales, I.T. Dir.
Mary Poynor, DWI Teen Ct. Coord.

OTHERS PRESENT: Christina Calloway, Press
John Guldemann, Constructors, Inc.
Pat Garcia, NMDOT
Jon Franklin, Constructors, Inc.

Mayor King asked Councilor Salguero to give the invocation, and Susan Baysinger, Capital Projects Administrator, to lead the Pledge of Allegiance and the Salute to the New Mexico flag.

(A) MINUTES OF PREVIOUS MEETING(S):**1. Regular Meeting of June 19, 2012.**

Mayor King asked for Council to consider and approve the minutes of the Regular Meeting of June 19, 2012 with a correction to Item B. Presentation of Feasibility Study for Family Entertainment Center on line 13 which gives Randy Knudson's title as City Attorney since Mr. Knudson was acting as the Chairman of the Roosevelt County Community Development Corporation. Councilor Hunton asked that Coach Ramirez' first name be corrected from James to Jamie. *Mayor Pro-Tem Jackson made the motion to approve the minutes of the regular meeting of June 19, 2012 with the correction of Randy Knudson's title on line 13 of Item B. Presentation of Feasibility Study for Family Entertainment Center—Randy Knudson, Chairman of Roosevelt County Community Development Corporation and the correction of Coach Ramirez from James to Jamie. Councilor Lucero seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.*

(B) U.S. HIGHWAY 70 UPDATE

Mayor King asked Mr. Pat Garcia, of the NM Department of Transportation, and Mr. John Guldemann of Constructors, Inc. to report on the work on U.S. Highway. Garcia told the Council that the project is moving ahead in a positive manner. He reported that concrete is being put in place. Guldemann filled them in on the activities planned for the next few weeks stating that Constructors, Inc. will start activity on the 1st Street side of U.S. 70 with the outside lane to be closed off. He stated that Constructors, Inc. will be at the point of putting down base course in the road bed and will start putting in concrete. Garcia stated that in the next sections, the contractor will not remove additional base course if it isn't needed. He reported that the contractor will be just going in 8.5 inches and putting it back in. He commented that it should go back in with no problem. Garcia commented that the contractor will use larger rock into the base to give it more structural value. Mayor King asked about the meeting held recently by Constructors, Inc. and the NMDOT with the business owners along U.S. 70. She asked if it was well attended. John Guldemann responded that there were about 10 or 12 people in attendance. He stated that the next meeting with the public is planned for July 10th.

(C) RESOLUTION #12-13-01. NOTICE OF PUBLIC MEETINGS WITH THE SCHEDULE OF MEETINGS FOR FY 2012-2013

- 1. Review of Open Meetings Act by City Attorney.**
- 2. Open Discussion/Question/Answer Session.**
- 3. Request for Council Action on Resolution #12-13-02.**

Mayor King asked City Clerk Martinez-Terry to introduce Resolution #12-13-01. Martinez-Terry told the Council that the resolution is the annual resolution establishing the City's notice of public meetings and setting the schedule of meetings for the new fiscal year. She told the Council that the first meeting in January will fall on New Year's Day and asked the Council if they wished to meet on the holiday. The Council discussed the date and suggested that the meeting that falls on January 1st be moved to January 3rd (Thursday). Mayor King asked the pleasure of the Council regarding the resolution. *Councilor Lucero made the motion to adopt Resolution #12-13-01, Notice of Public Meetings with the schedule of meetings changed to include setting the first meeting in January 2013 as*

January 3rd. Councilor Hunton seconded the motion. Roll call vote of all Councilors present resulted in unanimous approval of the motion. Motion carried. No abstentions.

Mayor King asked City Attorney Doerr to give the Council a brief review of the Open Meetings Act. Mr. Doerr told the Council that the Open Meetings Act in New Mexico is known as the "Sunshine Law." He stated that it is directed at the public to let them know that meetings of their government are public meetings. Doerr told the Council that the law gives all citizens the right to know what is occurring in their government. He told them that the notice of public meetings is published for the public knowledge. He stated that the Council can change or hold special meetings. He told the Council that a special meeting is anything other than a scheduled meeting. Special matters may be handled through a special meeting. He added that the reason for an emergency meeting must truly be for an emergency situation. Doerr stated that a quorum of the officials must be announced prior to meetings. He commented that Council action cannot be taken on an item if it is not on the agenda. Doerr stated that there are 9 specific exceptions to the open meetings act: attorney-client privilege pertaining to threatened or pending litigation, limited personnel matters, etc. He told them that there are several exceptions that do not apply to municipal government. He told the Council that the Open Meetings Act also requires minutes of the meeting to be completed within 8 days, and that the minutes must be approved at the next meeting. He stated that actions of the body are not effective until approved by the Council. City Attorney Doerr told the Council that the law is designed to protect and for the benefit of the public.

(D) AUTHORIZING THE MAYOR TO EXECUTE JUVENILE ADJUDICATION FUND GRANT AGREEMENT NO. 13-JAF-23

Mayor King asked Ms. Richelle Seat to report on the grant agreement for the Juvenile Adjudication program. Ms. Seat told the Council that the grant submitted to DFA-LGD had been approved in the amount of \$12,500.00. She told the Council that the \$8,700.00 in-kind match includes office space and the like. Mayor King asked if the grant was for continuation of the Teen Court program for the summer. Ms. Seat responded affirmatively. Mayor King asked for questions or comments. There were no further questions or comments. Mayor King asked for the pleasure of the Council. ***Councilor Lovett made the motion to authorize the Mayor to execute the Juvenile Adjudication Fund Grant Agreement No. 13-JAF-23. Councilor Parker seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.***

(E) CONTRACTING FOR SUMMER JUVENILE ADJUDICATION PROGRAM WITH DWI TEEN COURT COORDINATOR

Mayor King asked Ms. Richelle Seat to present the contract for the summer Juvenile Adjudication program. Ms. Seat told the Council that the contract is for the DWI Teen Court Coordinator Mary Poynor to manage and monitor the youth who have community service obligations through the summer. She further stated that the term of the grant is for the summer months of July and August 2012 and then the month of June 2013. Mayor King asked for the pleasure of the Council. ***Mayor Pro-Tem Jackson made the motion to approve the contract with Mary Poynor for the summer Juvenile Adjudication program as presented. Councilor Parker seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.***

(F) RENEWAL OF JOINT USE AGREEMENT WITH THE PORTALES MUNICIPAL SCHOOL DISTRICT FOR LINDSEY-STEINER ELEMENTARY SCHOOL

Mayor King asked City Manager Howell to introduce the joint use agreement with the Portales School District for use of Lindsey-Steiner Elementary School. Mr. Howell told the Council that the joint use agreement with the school district is for joint use and responsibility of the school facilities, which had been previously approved for a one-year contract, but with renewal for subsequent 3-one year contracts. Mayor King commented that this was a little late from last year. Mr. Howell agreed that it was a little later than the previous year. Councilor Lucero asked the purpose of the joint use agreement. Howell responded that it is for use of the gyms, playing fields, cafeteria, etc. Mayor King asked for the pleasure of the Council. ***Councilor Thomas made the motion to approve the one-year Joint Use Agreement with the Portales School District for use of the Lindsey-Steiner facilities as presented. Mayor Pro-Tem Jackson seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.***

(G) POLICE DEPARTMENT UPDATE

Mayor King asked Police Chief Gill to give an update on the Police Department. Chief Gill told the Council that Officer Chris Valdez has been promoted to Sergeant over the graveyard shift replacing Sgt. Gallegos who was promoted to the Detective division. He reported that the department has Officer Amador Lujan going to the Police Academy; and that Bella Thompson is the new Code Enforcement Officer with different hours to allow coverage on the weekend. He reported that there are no job openings in the department at this time. He reported that a part-time kennel worker will work on the weekend to allow the animal control officers to work two additional days to cover weekends to respond to calls and to allow the animal shelter to be open on Sunday. Chief Gill handed out the audit checklist that shows the items that the department is addressing. He commented that Sgt. Gallegos, Sgt. Wilson, Lt. Cage and he have completed the work on the department policy and have handed it out to all the personnel in the department. Mayor King asked for a copy of the department policy. Chief Gill offered an electronic copy on a disc for the Council, but the Mayor asked for a hard copy instead. Chief Gill ended his report. Councilor Lovett asked what the Department was doing with the copies of tickets, if the Judge does not want them. Chief Gill responded that the extra copies of tickets are filed at the Police Department in accordance with what the consultant wants. Councilor Thomas asked about verbal reprimands. Chief Gill responded that counseling is being given for 1st verbal notices. Councilor Thomas asked if this was being noted in the employee's file. Chief Gill responded affirmatively.

(H) RESOLUTION #12-13-02, AUTHORIZING THE MAYOR TO EXECUTE COOPERATIVE AGREEMENT, PROJECT NO. SP-2-13(970) FOR FY 2012-13 WITH THE NMDOT

Mayor King asked Public Works Director John DeSha for the report on the resolution authorizing execution of the cooperative agreement for FY 2012-13. Mr. DeSha reported that this is the annual agreement for cooperative money to do the roads. He stated that the NMDOT's 75% share is \$57,432.00 and that the City's 25% in-kind match is \$19,114.00. He stated that the work listed is for the record that has to be sent to the State and that more work than that listed will be done if the funds allow. Mayor King asked if the map needs to match the application. Mr. DeSha stated that it would match. He commented that the Street Department did considerably more work than what was listed in past agreements. Councilor Lucero asked about N. Avenue A, which has a low spot on the south side of the intersection. He stated that it is getting deeper. Mr. DeSha responded that he would take a look at it. Councilor Parker asked when the work would be done. DeSha responded that this work will be done next year. City Manager Howell told the Council that the money for the cooperative fund is gas tax money. Mayor King asked for the pleasure of the Council. ***Councilor Lovett made the motion to adopt Resolution #12-13-02, authorizing the Mayor to execute the NMDOT Cooperative Agreement***

Project No. SP-2-13(970) for FY 2012-2013. Councilor Hunton seconded the motion. Roll call vote of all Councilors present resulted in unanimous approval of the motion. Motion carried. No abstentions.

(I) OTHER BUSINESS/CITIZENS TO BE HEARD

Mayor King asked for items of other business.

Councilor Lovett reported that the RCCDC has narrowed the candidate search for the Executive Director. He commented that they intend to make it public next week.

Councilor Lovett told the Council that a citizen had brought up the issue of portable pools outside of fencing. Councilor Lovett suggested adding wording to the beautification ordinance making it a violation to have a portable pool outside of fencing and asked that the City Manager look into it. City Manager Howell responded that he had done some checking and stated that in-ground permanent pools require fencing in accordance with state law, but that a local ordinance would be needed to regulate temporary pools. City Attorney Doerr stated that the adhoc committee on the beautification ordinance should review what is on the books. He stated that the City has a Nuisance Ordinance that would handle temporary pools as a nuisance. Councilor Lovett asked that the Mayor convene a meeting of that committee. Mayor King asked that City Attorney Doerr include it in the Beautification Ordinance. Councilor Hunton commented that he understood that what the City Attorney had suggested was that there is a separate ordinance to handle the issue.

Councilor Thomas asked the City Manager who is responsible for emptying the trash receptacles around the square. City Manager Howell stated that the City handles emptying these receptacles and that this would be taken care of on Thursday due to the holiday tomorrow.

Councilor Thomas commented that this is the only community he knows that does not have the local school athletic teams on the water towers. Public Works Director DeSha asked if Councilor Thomas meant the overhead water tower here in the City, or the ones outside of the city. Councilor Thomas stated that he meant the ones outside of the City. City Manager Howell commented that this is very expensive, but asked what Councilor Thomas wanted for the water towers. Councilor Thomas stated that he wants the symbols of the schools and the words "Home of the Rams," and "Home of the Hounds" on the water towers—the ENMU Zias were added to the list. City Manager Howell said that he would initiate a design and cost estimate to be prepared for the Council.

City Attorney Doerr told the Council that Chapter 15 of the Portales City Code addresses nuisances defined as "any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting a condition or thing to be or exist, which act, omission, condition or thing either (a) injures or endangers the comfort, repose, health or safety of others, etc." Mayor King asked that the public be notified before the code is enforced. Police Chief Gill stated that he would give warnings first.

City Manager Howell reminded the Council that city offices will be closed for the 4th of July. He added that the Council missed a good time. The Employee Appreciation picnic was held on Saturday, June 30th.

Mayor King reminded everyone of the fireworks display set for tomorrow night at around 9 p.m. She commented that the Chamber of Commerce would start their activities at 4 p.m.

Mayor King asked for items of other business from the audience. There were no further items of other business.

(J) EXECUTIVE SESSION/CLOSED EXECUTIVE MEETING:**1. Action to Convene in a Closed Session/Meeting to Discuss Matters as Provided for Under New Mexico Statutes Pertaining to Open Meetings Referencing §10-15-1 H.(2), 1995, for Limited Personnel Matters; and §10-15-1 H.(7), 1995, for Attorney-Client Privilege Pertaining to Threatened or Pending Litigation.**

Mayor King asked for action to convene in closed session to discuss matters provided for under New Mexico Statutes pertaining to Open Meetings in reference to §10-15-1 H.(2), 1995 for limited personnel matters; and §10-15-1 H.(7), 1995, for attorney-client privilege pertaining to threatened or pending litigation. *Councilor Thomas made the motion to enter into closed session for limited personnel matters and attorney-client privilege for threatened or pending litigation in accordance with New Mexico Open Meetings Act. Councilor Parker seconded the motion. Roll call vote of all Councilors present resulted in unanimous approval of the motion. Motion carried. No abstentions.*

2. Action to Convene in Open Session.

Mayor King asked for action to convene in open session. *Councilor Parker made the motion to convene the open session. Councilor Lovett seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.*

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 as a result of the closed session.

ADJOURNMENT:

There being no further business or comments, Mayor King adjourned the meeting at 9:15 p.m.

Joan Martinez-Terry, City Clerk