

TABLE OF CONTENTS FOR COUNCIL MEETING HELD OCTOBER 16, 2012:

- A. Minutes of Previous Meeting(s):
 - 1. Regular Meeting of October 2, 2012.
- B. Update of U.S. Highway 70 Improvements.
- C. Ratification of Finance Department's Actions Regarding Bills for September 2012.
- D. Appointment to Vacant Position on Planning Commission.
- E. Discussion/Potential Action on Neighborhood Beautification Ordinance.
- F. Discussion/Action on City Manager Trainee Job Description.
- G. Item(s) from the Economic Development Finance Review Committee (EDFRC):
 - 1. Recommendation by EDFRC for a Request for Funding by Roosevelt Brewing Company & Public House, LLC for Purchase of Equipment & Building Improvements.
 - 2. Resolution #12-13-15, Authorizing the Mayor's Execution of a Project Participation Agreement between the City of Portales and Roosevelt Brewing Company & Public House, LLC for use of Economic Development Tax Revenues.
 - 3. Recommendation by EDFRC for a Request for Funding by Roosevelt County Community Development Corporation (RCCDC) for Management in Fiscal Year 2012-2013 with Goals Established for Performance Recommendations & Updating the Retail Data Purchased from Buxton Co.
 - 4. Resolution #12-13-16, Authorizing the Mayor's Execution of a Project Participation Agreement between the City of Portales and RCCDC for use of a Project Participation Agreement between the City of Portales and the RCCDC for use of Economic Development Tax Revenue.
- H. Resolution #12-13-17, A Resolution to Determine a Specific Structure as a Dangerous Building.
- I. Other Business/Citizens to be Heard.
- 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), 2008, for Limited Personnel Matters; § 20-15-1 H.(7), 1995 for Attorney-Client Privilege Pertaining to Threatened or Pending Litigation.
 - 2. Action to Convene in Open Session.
 - 3. Action Required as a Result of the Closed Session.

THE CITY COUNCIL OF THE CITY OF PORTALES met in regular session Tuesday, October 16, 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 (absent)

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

STAFF PRESENT: Tom Howell, City Manager Mark Cage, Police Lieutenant
Joan Martinez-City Clerk Marilyn Rapp, Finance Director
Gary Nuckols, Fire Chief Dennis Hales, I.T. Director
Randy Knudson, City Attorney Johnny DeSha, Public Wks. Dir.
Sammy Standefer, Planning Dir. Susan Baysinger, Capital Proj. Adm.
Carla Weems, Admin. Assistant

OTHERS PRESENT: Christina Calloway, Press Pat Garcia, NMDOT
Doug Redmond, RCCDC Exec. Dir.

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 October 2, 2012.

Mayor King asked for Council to consider and approve the minutes of the Regular Meeting of October 2, 2012 with the following corrections: Page 2, Item B, 3rd sentence, misspelled Sammy Standefer's last name as "Stander," should be spelled "Standefer;" Page 4, bottom of last sentence, ending of last sentence was omitted and should read, "who had introduced the painting of the water tanks." and top of Page 5, first sentence, insert the name of the Public Works Director as "John DeSha." *Councilor Robinson made the motion to approve the minutes of the regular meeting of October 2, 2012 with corrections as directed by Mayor King. Councilor Salguero seconded the motion. All Council members present voted in favor of the motion. Motion carried.*

(B) UPDATE OF U.S. HIGHWAY 70 IMPROVEMENTS

Mayor King asked Mr. Pat Garcia of the NM Department of Transportation to give the report on U.S. Highway 70 improvements. Garcia told the Council that John Guldemann was not able to attend this meeting. Garcia stated that 2nd Street will open on the inside lane and will start on the outside lane. He told the Council that the intent will be to try to keep the carwash, McDonalds Restaurant and the Sands Motel open. He reported that the plan is to get the Avenue K & 1st and 2nd Streets done when the university is closed for the holidays. He stated that the plan is to get that intersection done before school goes back into session. Garcia commented that things are going according to plan. Mayor King asked that Constructors, Inc. be notified that the sandbags at the corner of Avenue E and 2nd have been moved away from the corner and are blocking the parking on her block. Fire Chief Nuckols commented that the barricades and trucks parking were blocking the turnout for the water tanker truck. Garcia stated that he would talk to Constructors, Inc. Mayor King thanked Mr. Garcia for his report.

(C) RATIFICATION OF FINANCE DEPARTMENT'S ACTIONS REGARDING BILLS FOR SEPTEMBER 2012

Mayor King asked Marilyn Rapp, Finance Director, to report on the City's bills for September 2012. Ms. Rapp told the Council that the Finance/Administration Committee had not had a meeting this month but that the bills were sent to them for their review. She told the Council that the amount of the bills for the month was \$1,654,551.30. She told the Council that she would be happy to answer any questions. She commented that the amount of the bills was a little higher this month because of spending on a CDBG project and the Solid Waste Department had spent money for a truck. Mayor King asked for clarification of expenses paid for Cultural Affairs and for the Recreation program. Ms. Rapp responded that donations to Cultural Affairs are deposited in the General Fund and then expended out of General Fund. She told the Council that the Recreation program is in the General Fund also.

September 2012

Pooled Cash Fund	999	\$1,654,551.30
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Mayor King asked for action from the Council. *Councilor Lucero made the motion to ratify the payment of the bills for September 2012 as presented. Councilor Hunton seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.*

(D) APPOINTMENT TO VACANT POSITION ON PLANNING COMMISSION

Mayor King recommended that the Council appoint Antonio Sanchez to replace the vacancy left on the Planning Commission by the resignation of Alfredo Bachicha, Jr. She told the Council that Antonio Sanchez' engineering background would be an asset to the Planning Commission. The Mayor asked Sammy Standefer if he had discussed the appointment with the members of the Planning Commission. Standefer stated that he had not done so yet. Mayor King asked that the Council approve her recommendation of Antonio Sanchez to the Planning Commission. ***Councilor Hunton made the motion to accept the recommendation to appoint Antonio Sanchez to the Planning Commission replacing Alfredo Bachicha, Jr. Councilor Salguero seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.***

(E) DISCUSSION/POTENTIAL ACTION ON NEIGHBORHOOD BEAUTIFICATION ORDINANCE

Mayor King commented that the Neighborhood Beautification ordinance had been brought up previously and that she had requested it on the agenda for comments from the Council and staff. City Attorney Knudson stated that California law allows municipal governments to find nuisance violations on aesthetic issues, but that no New Mexico court has ever held that aesthetics are a nuisance. He commented that he had looked at a whole list of New Mexico cases and state statutes regarding such an ordinance. He stated that New Mexico law does support public health and safety nuisance violations. Mayor King asked City Attorney Knudson if the problem houses would qualify as health and safety violations. City Attorney Knudson responded that they would come under public safety issues. Mr. Knudson told the Council that the issue of aesthetic violations had been discussed back in the '90s and that the City had spent quite a bit of money. He commented that the Building Inspector at that time had ended up in court but could not prove that the property was a violation. He stated that the City was unable to recoup the money for the correction of the violation. Mr. Knudson told the Council that if property is a hazard, the City can abate it but not just for aesthetic reasons. Mayor King restated the Attorney's position that any attempts at cleaning up the City have to be for more than beautification issues; that aesthetic reasons won't stand up in court in the state of New Mexico. City Attorney Knudson commented that the Milpitas, California Neighborhood Beautification ordinance is designed for a community totally unlike Portales. He stated that Milpitas is a much higher economically based community. He commented that the cost of abating the nuisances is the issue. Mayor King asked Planning Director Standefer if the owners of the properties previously declared as dangerous by the Council are from the area. Sammy Standefer responded that most of the owners are not from Portales or the area. He stated that the five (5) that were declared dangerous have not responded at all. He added that these are being taken to court. Mayor King asked if the lien holders had been notified. Mr. Standefer and Mr. Knudson responded that they had been notified. City Attorney told the Council that in Tucumcari, NM the City had abated a junk yard and that two (2) years later, the property owners had filed a lawsuit against the City of Tucumcari. Mayor King asked Mr. Standefer if he knew what was on the properties declared dangerous. Standefer responded that he was not allowed to see what is inside the buildings on the property. Mayor King commented that the Council needs to go back and look at the ordinance again and reinstated the committee that had looked at it originally. Councilor Salguero asked if the proposed ordinance was beyond the authority of the Council. City Attorney Knudson stated that the ordinance is beyond the Council's powers as it is written but that it could be modified.

(F) DISCUSSION/ACTION ON CITY MANAGER TRAINEE JOB DESCRIPTION

Mayor King stated that another item that was started a couple of months ago was the job description of a City Manager trainee. She stated that Councilors Lovett and Robinson had done some work on a job description. The Mayor suggested that the Council hold a workshop to go over the job description and sketch out the duties of a trainee. She commented that this could be done after the next Council meeting. She said that she would draft something for the workshop and asked that the City Clerk work on scheduling the workshop.

(G) ITEM(S) FROM THE ECONOMIC DEVELOPMENT FINANCE REVIEW (EDFRC):

1. Recommendation by EDFRC for a Request for Funding by Roosevelt Brewing Company & Public House, LLC. for Purchase of Equipment & Building Improvements.

Mayor King asked Doug Redmond, RCCDC Executive Director, to present the EDFRC recommendation. Mr. Redmond told the Council that the Roosevelt Brewing Company & Public House, LLC had requested LEDA funding for the purpose of equipment purchases. Redmond told the Council that the recommendation by the EDFRC was for the Council to fund the project for \$32,373.00. Mayor King asked him how the amount had been determined. Redmond told the Council that for LEDA funding IMPLAN model economic benefits calculation was applied to the project for review by the EDFRC.

2. Resolution #12-13-15. Authorizing the Mayor's Execution of a Project Participation Agreement between the City of Portales and Roosevelt Brewing Company & Public House, LLC. for Use of Economic Development Tax Revenues.

Mayor King asked for action from the Council to approve the recommendation by the EDFRC and to adopt Resolution #12-13-15, authorizing the Mayor's execution of a Project Participation Agreement with the Roosevelt Brewing Company & Public House, LLC. City Attorney Knudson told the Council that normally the City Council cannot give public money to businesses, but that through the Local Economic Development Act (LEDA) money can be given for economic growth. *Councilor Robinson made the motion to accept the recommendation by the EDFRC, adopt Resolution #12-13-15, authorizing the Mayor's execution of the Project Participation with the Roosevelt Brewing Company & Public House, LLC, which authorizes funding of the project for the amount of \$32,373.00. Councilor Thomas seconded the motion. Roll call vote by all Council members present resulted in unanimous support of the motion. Motion carried.*

3. Recommendation by EDFRC for a Request for Funding by Roosevelt County Community Development Corporation (RCCDC) for Management in Fiscal Year 2012-2013 with Goals established for Performance Recommendations & Updating (of) the Retail Data Purchased from Buxton Co.

Mayor King asked Doug Redmond, RCCDC Executive Director, to present the EDFRC recommendation. Mr. Redmond told the Council that the RCCDC had requested LEDA funding for Management in Fiscal Year 2012-2013 with goals for performance recommendations and for updating the retail data purchased from Buxton Company. He stated that \$40,000.00 is the normal request with \$22,000.00 requested for completing the retail data update. He told the Council that the funding is needed to attract businesses into the community. City Attorney Knudson stated that looking at a restaurant that will be open 24 hours

a day for the students. He added that the situation in Portales is different now with the growth of Cannon Air Force Base.

4. Resolution #12-13-16. Authorizing the Mayor's Execution of a Project Participation Agreement between the City of Portales and (the) RCCDC for use of Economic Development Tax Revenue.

Mayor King asked for action from the Council to approve the recommendation by the EDFRC and to adopt Resolution #12-13-16, authorizing the Mayor's execution of a Project Participation Agreement with the RCCDC for management funding and also for funding updating of retail data purchased from the Buxton Company. *Councilor Thomas made the motion to accept the recommendation by the EDFRC, adopt Resolution #12-13-16, authorizing the Mayor's execution of the Project Participation with the RCCDC, which authorizes funding of the project for the amount of \$40,000.00 for management in 2012-2013 and \$22,000.00 to update the retail data purchased from the Buxton Company. Councilor Robinson seconded the motion. Roll call vote by all Council members present resulted in unanimous support of the motion. Motion carried.*

City Manager Howell told the Council that the LEDA ordinance requires that projects funded have to be adopted in an ordinance. He told them that the notice of intent would be on their agenda. Councilor Robinson asked for a report on the status of the Industrial Master Plan. Doug Redmond reported that the Council got a quality master plan. He stated that he had shared it with a couple of developers, but that some work needs to be done to market the industrial park. He commented that the Board had talked about it in the last two meetings. He added that he hated to see it just sit on a shelf. Redmond commented that he looks at it almost every day. Councilor Thomas asked if phase two of the plan is complete yet. City Manager Howell responded that it is still being worked on—that the plan is to grade the roads. He stated that the work will start as soon as the phase is completed.

(H) Resolution #12-13-17. A Resolution to Determine a Specific Structure as a Dangerous Building

Mayor King asked Planning Director Sammy Standefer to introduce the resolution to determine a specific structure as a dangerous building. Mr. Standefer stated that the residence located at 1610 S. Globe had a fire and was brought to his attention. He told the Council that it is an emergency situation. He told the Council that Resolution #12-13-17 declares the property as a dangerous building and gives the owner 30 days to abate the nuisance. He commented that he had one issue with the resolution and that is that it does not state what action will be taken. He asked that the Council adopt the resolution understanding that the attachment should have shown that the action to be taken will be to "demolish, leave premises in a clean, level and safe condition." Councilor Salguero asked if it would be handled with the same process as the others. Standefer responded that this one will be done as an emergency and will be a bit quicker than the others. Councilor Salguero stated that he felt that this should not bump the others out of the process. Standefer stated that this will not in any way negate the importance of the other ones. Mayor King asked for the Council's pleasure on the resolution. *Councilor Robinson made the motion to adopt Resolution #12-13-17, determining the property at 1610 S. Globe as a dangerous building and authorizing the Planning Director to continue the process of abating the nuisance. Councilor Lucero seconded the motion. Roll call vote by all Council members present resulted in unanimous support of the motion. Motion carried.*

(I) OTHER BUSINESS/CITIZENS TO BE HEARD

Mayor King asked for items of other business.

Water Tank Design: Councilor Thomas commented that this is the first time he had seen the designs and estimates of costs for painting of the water tanks. He stated that they are beautiful but expensive and talked about combining design number two and three. Public Works Director DeSha told the Council that two and three are more traditional. City Manager Howell suggested that the designs be taken to the Public Works Committee for a decision on the design. Mayor King stated that it would be better to find out if the Council wants to do it first. Councilor Lucero stated that his concern would be that the perception by the public might be negative because they could see it as using funds that could be used more constructively. Mayor King suggested that the item be put on the next meeting agenda for a decision. Councilor Thomas asked if it would even have to be brought to the Council if the public raised the money. City Manager Howell responded that it would have to be taken to the Council because the tanks belong to the City.

Ordinance No. 698: Mayor King asked for items from the staff. City Clerk Martinez-Terry told the Council that Ordinance No. 698 had been numbered in error. She told them that there had already been an ordinance with that number on it. She stated that she had researched a solution by contacting other City Clerks in the state and that they had told her to declare it to the Council in open meeting and publish it with the next number.

Chili Cook-Off: City Manager Howell invited the Council to the Employee Association's Chili Cook-off to be held on October 17th at the Memorial Building. Public Works Director DeSha told the Council that the plan is to have a pie contest as well. He stated that the fee to enter the chili cook-off is \$5.00 and the cost to eat is \$3.00. He told the Council that there will be a trophy for first place and cash will be given for 1st, 2nd and 3rd place.

Family Entertainment Center: City Attorney Knudson reported that the entertainment center is being worked on with Doug Redmond. He commented that the project is moving forward.

Fire Prevention Month: Fire Chief Nuckols told the Council that the Fire Department continues with the tours of the fire station and that the Department will be going to the Dora school tomorrow. He stated that the department is working hard on fire prevention. Councilor Robinson thanked Fire Chief Nuckols for sending the fire house to the Cannon Appreciation Day.

CAFB Appreciation Day: Mayor King asked Councilor Robinson to report on the appreciation day. Councilor Robinson told the Council that the Chamber's Military Affairs Committee had held the appreciation day with hot dogs, hamburgers and sodas for the Cannon people at 801 Housing with games and door prizes. He commented that one couple won a trip to Las Vegas (given by Valley Furniture). He stated that it was a good event and that people did appreciate it. He stated that seven of the committee members were present at the event. He added that the event had great attendance.

G.R.E.A.T Drug Program: Lieutenant Mark Cage reported that recently there were about 80 elementary grade school students who had graduated from the drug program that is sponsored by the Police Department.

(H) 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 Section 10-15-1 H.(7), 1995, for Attorney-Client Privilege Pertaining to Threatened or Pending Litigation.

No Executive Session held.

ADJOURNMENT:

There being no further business or comments, Mayor King adjourned the meeting at 7:35 p.m.

Joan Martinez-Terry, City Clerk