

OTHERS PRESENT:	Christina Calloway, Press Riki Seat, DWI Program Coordinator Chris Seat, DWI Case Manager Sandy Chancey, Exec. Dir., EPCOG	Richard Baysinger Mary Poynor, DWI Teen Ct. Coord. David Essex, Xcel Energies
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Mayor King asked David Essex of Xcel Energies, to give the invocation, and Keith Wattenbarger, Emergency Management Director, to lead the Pledge of Allegiance and the Salute to the New Mexico flag.

(A) MINUTES OF PREVIOUS MEETING(S):

1. Regular Meeting of April 16, 2013.

Mayor King stated that the next order of business was the approval of the minutes of the previous meeting (Regular Meeting of April 16, 2013) and asked for comments. Councilor Lovett had a question that in trying to catch up with things since he'd been gone. He commented that he thought that we were hiring a lawyer in Alabama to represent us with the San Juan Village. He asked if this was not the case. City Attorney Knudson responded that the City has received an extension and that a settlement is being worked on. He stated that he had received an email just this evening that it is still being worked on and that are trying to work out a settlement. Councilor Lovett stated that he wanted the minutes to reflect correct wording. He directed the City Attorney to page 4 of the minutes under "Other Business" and read from the wording, "He commented that there is no need to hire Alabama Counsel. He stated that even if it is not a monetary judgment against the City, it might have an effect on the City's bonding or insurance rates." Mayor Pro Tem Jackson stated that the minutes should read that it is not necessary to hire Alabama counsel at this time. City Attorney Knudson commented that the wording suggested by the Mayor Pro-Tem would be better. Mayor King asked the pleasure of the Council. ***Mayor Pro-Tem Jackson made the motion to approve the minutes of the regular meeting of April 16, 2013 with the correction "that it is not necessary to hire Alabama counsel at this time" on page 4, Other Business, San Juan Village Bond Issue. Councilor Lovett seconded the motion. All Council members present voted in favor of the motion. No abstentions. Motion carried.***

(B) PRESENTATION OF "EMPLOYEE OF THE QUARTER" AWARD TO SUSAN BAYSINGER. CAPITAL PROJECTS ADMINISTRATOR

Mayor King reminded the Council that they had directed that an Employee Award program be put into place. She reported that this has now happened. Mayor King commented that the first Employee of the Quarter had been chosen and asked Susan Baysinger to step to the front of the room. She told the group that Susan would be getting a plaque with her picture on it, and her name has already been placed on a larger plaque as the very first recipient of the award. Mayor King stated that we don't know just where the plaque would hang, but that it will hang for people to see for years to come. She stated that she knew everyone on the Council is appreciative of Susan's hard work to keep them on the straight and narrow. Mayor King stated that they cannot tell her how much she is appreciated. The Mayor stated that every City department and organization is affected by what Susan does. She stated that she couldn't be prouder of Susan. She congratulated Susan for being chosen as Employee of the Quarter. Mayor King asked her if she wanted to say anything. Ms. Baysinger stated that she was grateful to her peers and felt honored to receive the award.

(C) PROCLAMATION DECLARING MAY 19TH—MAY 25TH, 2013 AS “EMERGENCY MEDICAL SERVICES WEEK

Mayor King asked Fire Chief Nuckols to step forward to receive the proclamation naming May 19th to 25th, 2013 as “Emergency Medical Services Week.” The Mayor read the proclamation aloud from the agenda packet because the Clerk had inadvertently left the plaque back at City Hall. Mayor King recognized the EMS staff of the Portales Fire Department for their service to the community.

(D) UPDATE ON IMPROVEMENTS TO U.S. HIGHWAY 70

Mayor King asked for the update of U.S. Highway 70 from staff in the absence of the contractor or representative of the NMDOT. City Manager Howell told the Council that the contractor is getting ready to pour another 3 block section. He stated that they were scheduled to pour this morning, but rain from yesterday interrupted the schedule. He commented that the contractor pumped the water out of the roadbed, and stated that he wasn't too certain when they would get back to pour the concrete. Howell reported that the Contractor is working on 2nd Street on sidewalks between Avenue C and Avenue E getting those ready for those to pour concrete. He commented that they have taken the curb and gutter out from Avenue C to Avenue A. He stated that they have also taken out the bump outs on 2nd Street on the north side to allow more room for traffic. They have put temporary hot mix in the holes left from removal of the bump outs. Mayor King asked how dry the road bed has to be—does it have to be completely dry. Howell responded that they expect a little bit of moisture, but the Contractor will come back in with a device that reads whether they have right compaction (and compaction changes with the amount of moisture so if you have too much moisture, it kills the compaction, and not enough moisture kills it also). Howell commented that it looked pretty tight to him. He commented that rain is predicted for Thursday and Friday, so this will slow down the work. Councilor Parker asked what they were trying to do towards the university, with graduation coming on Saturday, was to complete the work. Mr. Howell stated that from Avenue K to Elida has all been opened up. Mayor King asked for other comments. Councilor Robinson commented that the traffic cones put up by the contractor on the curve by Calton Furniture had been knocked down for the last 3 days. He suggested that the Police slow the traffic down in that area.

(E) PUBLIC HEARING ON PRELIMINARY (INTERIM) BUDGET FOR FY 2013-2014

Mayor King asked City Manager Howell and Finance Director Rapp to report on the interim budget, which has to be turned in to the state by the end of the month. City Manager Howell told the Council that the Finance/Administration Committee had asked Administration and Finance to reduce expenditures in the budget. He commented that the department heads had been excellent at reducing expenditures in their budgets. Howell stated that this is the first year since he has been with the City that revenues have been flat. He stated that gross receipts tax is 76% of the General Fund budget and that Finance is anticipating a 1.2% increase over last year's revenues. He commented that health care costs have gone up 15%--the City is part of the State of NM group. He commented that the City pays 75% of the premiums for the medical coverage for the employees. Howell reported that the budget reflects increases to the travel budget and that a Fire Marshall was added in the Fire Department to start in January for half the year. He said that this would add 5% to the personnel budget for the year. Howell reported that the State Fire Marshall will no longer do inspections locally, so the Portales Fire Department will have to do more. Fire Chief Nuckols commented that the state has given us fire inspections on ENMU and the public schools, and he stated that fire plans have not been done in several years. Mr. Howell told the Council that capital outlay requests by the departments were originally \$924,046.00, and that they were reduced to \$413,046.00. He reported that the general fund capital funded included \$20,000.00 for Municipal Court automation (grant); \$87,500.00 for C.A.P.E.R.S. system (partially funded by a grant); \$13,500.00 for

Dispatch UPS batteries; \$8,946.00 for Emergency Management equipment; \$33,100.00 for VOIP lease (recurring but leasing saved \$40,000.00 a year); and \$250,000.00 for Swimming Pool drain repairs/replacement (stated that there is a leak at the pool and that this is for putting money aside to get it fixed). Councilor Robinson asked what C.A.P.E.R.S. system does. Howell responded that it is a reporting system for emergency services. He reviewed the Capital Funds recap with the Council, which includes capital outlay, building fund and CDBG matching funds. Mayor Pro-Tem Jackson asked about the money in the P.A.T. program. Howell responded that the program funds included both the grant amount and the amount budgeted for the department expenses in the General Fund. Howell told the Council that in the Solid Waste Fund salaries are staying the same; benefits are a little higher; travel is going up; and the department put in for another garbage truck. He commented that this would give the City two square-bodied trucks. Howell reviewed the Water & Wastewater Fund stating that revenues are estimated at 3% higher with a legislative grant and roll over of another grant. He commented that transfers out by ordinance for construction or to add a well in Water; or for Wastewater improvements. He commented that expenditures have been decreased—the pipeline at the well field has been finished. He reported that \$375,000.00 has been budgeted for highway and fire hydrant projects. He reported that a utility billing printer has been included in the budgeting. He commented that \$1.5 million dollars has been budgeted to prepare for the Waste Water Treatment Plant project. Howell stated that the staff anticipates an ending balance of \$3,015,144.00 ending cash balance for the Water & Wastewater Funds. Howell reported that the Airport Fund has started picking up a little. He reported that the General Fund transfer into Airport Fund has been decreased to \$59,588.00 and that grant funds are anticipated for improvements to the Runways. He gave a brief review of the other Enterprise Funds, which included the Yam Fund, Water Conservation, Water Improvement; Trust and Agency Funds that include Unemployment Fund, GRT Fund, Criminal Justice Fund and Economic Development Fund (LEDA money). Howell told the Council that the estimated beginning cash balance is \$11,305,237.00 with estimated revenues of \$17,654,363.00 and estimated expenditures of \$19,970,837.00. Councilor Lovett asked how much was available money. Finance Director Rapp responded that \$305,237.00 is available money and that funds in General Fund revenues are dedicated funds. She commented there are \$6,000,000.00 available funds in Solid Waste and Water Funds is available money. City Manager Howell commented that it is very important we keep the money in these funds, so the City doesn't have to borrow as much for vital projects. Councilor Robinson asked where travel funds are shown for transportation to Clovis landfill and back. Howell stated that travel money for the Solid Waste department is in supplies. Ms. Rapp told the Council that the interim budget will come back to the Council at the next meeting. Mayor King thanked the City Manager and Finance Director.

(F) PUBLIC HEARING TO RECEIVE COMMENTS ON ORDINANCE NO. 703. AN ORDINANCE TO PROHIBIT PANHANDLING AND TO PROHIBIT AGGRESSIVE PANHANDLING AT ALL TIMES AND PLACES WITHIN THE CITY OF PORTALES

1. Action to enter into Public Hearing to Receive Comments on the Ordinance.

Mayor King asked for a motion to enter into Public Hearing to receive comments on the ordinance prohibiting aggressive panhandling in the City of Portales. *Councilor Parker made the motion to enter into public hearing. Councilor Lovett seconded the motion. Motion carried. No abstentions.*

Mayor King opened the floor for comments. Councilor Lovett stated that he felt that the Council has requested this ordinance for one group. He commented that he fears that this will affect other people who are going to fund raise. He asked if this issue could be handled under another ordinance or law. He stated that he doesn't want this ordinance to affect the firefighters. Police Chief Jones stated that he continues to receive complaints on just the one group. Councilor Lovett asked what change would occur if the Council adopts this ordinance. Jones responded that if it is a public nuisance, then they could be

arrested. Councilor Parker stated that she could see both sides, but that the ordinance would be to allow control over what can be done in our City. She stated that if we allow this to continue, then we would open the door for other groups to do the same. Councilor Hunton asked what would happen if there is a traffic issue due to the panhandlers stopping traffic. Sgt. David Meeks stated that if the group stops the flow of traffic, it is a traffic issue. Councilor Robinson asked why we need an ordinance to arrest--if they are criminals, then why can't they be arrested. Councilor Parker commented that now we are talking about a specific group. She stated that she felt that the Council should adopt an ordinance. Councilor Hunton commented that just walking around a parking lot would be a violation of such an ordinance. Councilor Lucero stated that the City should not violate the constitution, but that, if we don't have an ordinance, then it would picking on just one group. Councilor Hunton stated that ringing a door bell is aggressive also. Council discussion continued regarding the issue of permits for panhandling. Councilor Parker expressed the opinion that the permit requirement would discourage people from panhandling. Police Lt. Pat Gallegos talked about the need for the ordinance stating that it would give the Police Department another tool to utilize against someone who violates city law. Chief Jones told the Council that people are calling the Police Department with complaints. Councilor Salguero stated that he must not fully understand panhandling—is the ordinance meant for someone who comes into town and needs money to get out of town. He asked if it was legal. City Attorney Knudson responded that a person such as that would not be required to get a permit. Councilor Hunton said that if a panhandler held up a sign, then they would not need a permit. Mr. Knudson read the section on aggressive panhandling to the Council. Councilor Salguero asked who was holding up the traffic—is it the panhandler or the donator. He asked if the driver would be cited. Chief Jones stated that he has seen the panhandlers stop traffic. Councilor Lovett stated that he can say no, but that he knows that there are others in the community who cannot. Councilor Lucero stated that he could see both sides. The discussion continued with City Attorney Knudson commenting that it is the Council's decision. Mary Poynor commented as a citizen that she feels that, if the Council does not adopt such an ordinance, it will negatively affect the elderly in the community. Councilor Lovett stated that he would prefer tabling the ordinance.

2. Action to close the Public Hearing.

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

3. Action on Ordinance No. 703.

Mayor King asked the pleasure of the Council regarding Ordinance No. 703. *Councilor Lovett made the motion to table Ordinance 703 for further review. Motion died for lack of a second.*

Mayor King asked the Council if they wanted more discussion. She again asked the pleasure of the Council. *Mayor Pro-Tem Jackson made a motion to table Ordinance No. 703 until a corrected version is returned. Councilor Lucero seconded the motion. All Council members present voted in favor of the motion. Motion carried. No abstentions.*

(G) RESOLUTION #12-13-34, RENEWAL OF MEMBERSHIP IN EASTERN PLAINS COUNCIL OF GOVERNMENTS (EPCOG)

Mayor King asked City Manager Howell to present the resolution renewing membership in EPCOG. Mr. Howell asked Ms. Sandy Chancey, EPCOG Executive Director, to speak on the membership. Chancey told the Council that the EPCOG was available to assist communities with any needs. She talked about the services that they can provide the City of Portales—administration, planning and that they are currently working with the City on the LGMC project. She told the Council that they are not adding any new programs at this time. She stated that the dues have not changed—they are still \$2,577.00 for the year.

Chancey commented that the EPCOG Board will be working on increasing dues in the future. She reported that the staff's hours have been cut due to flat revenues. Councilor Hunton asked if she would give a report to the Council. Ms. Chancey responded that they would be giving an annual report for the members in July and that they would be glad to come to the Council with the report. Councilor Hunton asked if the reduced hours would affect their duties. Chancey responded that the work would get done even though the office is closed on Fridays. She commented the office hours would be restored as soon as they are fiscally able. She reported that part of their building is for sale and that some of the rental properties will be sold. Councilor Robinson told the Council that Ms. Chancey has done an excellent job with downsizing of the organization. Ms. Chancey reported that the Ruth Visage Apartments are currently under a management contract. She commented that this one of the properties that will be sold, but that the buyer will be required to maintain the units for the elderly and disabled. She added that the EPCOG intend to be very selective to whom it will be sold to maintain the service to the community. Mayor King thanked Ms. Chancey and asked for the pleasure of the Council. ***Councilor Parker made the motion to adopt Resolution #12-13-34 renewing membership in the EPCOG as presented. Councilor Lovett seconded the motion. Roll call vote of all Council members present resulted in unanimous support of the motion. Motion carried.***

(H) RESOLUTION #12-13-35, A RESOLUTION AMENDING RESOLUTION #12-13-01 (OPEN MEETING'S RESOLUTION) TO COMPLY WITH CURRENT (NEW STATE) LAW

Mayor King asked City Attorney Knudson about the resolution amending the open meeting's resolution. City Attorney Knudson responded that the resolution was for the purpose of complying with the change made by the state legislature to the Open Meetings Act requiring 72 hour notice for open meetings. Mayor King asked the pleasure of the Council. ***Councilor Parker made the motion to adopt Resolution #12-13-35, amending Resolution #12-13-35 putting the City in compliance with the changes made by the state Legislature requiring 72 hour notice for open meetings. Councilor Lovett seconded the motion. Roll call of all Council members present resulted in unanimous support of the motion. No abstentions. Motion carried.***

(I) ITEM(S) FROM DWI PROGRAM:

1. Renewal of Contract for Professional Services for DWI Coordinator for FY 2013-2014.
2. Renewal of Contract for Professional Services for DWI Teen Court Coordinator for FY 2013-2014.
3. Renewal of Contract for Professional Services for DWI Compliance (Case) Manager for FY 2013-2014.
4. Renewal of Contract for Professional Services for Education Sessions for Teen Court Offenders for FY 2013-2014.

Mayor King asked for Riki Seat to report on the contract renewals. Ms. Seat told the Council that it is now time to renew the contracts for professional services for DWI Coordinator (2nd year renewal); DWI Teen Court Coordinator (3rd year renewal), DWI Compliance (Case) Manager (2nd year renewal); and MHR Educational Services (contract expires June 30, 2013). Ms. Seat told the Council that all are paid through the DWI Grant. Mayor King asked the City Attorney if they could be considered collectively instead of individually. City Attorney Knudson responded that they could be considered in one motion. Ms. Seat told the Council that the contracts have to be approved by the state also, and that the match on the contracts is provided by in-kind services. Mayor King asked the pleasure of the Council. ***Councilor Parker made the motion to approve the contracts for professional services as presented for DWI Coordinator, DWI Teen Court Coordinator, DWI Compliance (Case) Manager and MHR***

for educational services collectively. Mayor Pro-Tem Jackson seconded the motion. All Council members present voted in favor of the motion. Motion carried.

(J) APPOINTMENT OF ALTERNATE CITY OF PORTALES REPRESENTATIVE TO JLUS PARTNERSHIP COMMITTEE

Mayor King asked for the Council's appointment of Jane and Scott Christianson as joint alternates to the City's appointment to the JLUS Committee. She reminded the Council that Mark Vigil had previously been appointed as the representative to the JLUS committee. Councilor Lovett asked if they were aware of their nomination. Mayor King responded affirmatively and asked the pleasure of the Council. *Councilor Hunton made the motion to appoint Jane and Scott Christianson as the alternates to the JLUS partnership. Councilor Parker seconded the motion. All Councilors present voted in favor of the motion. No abstentions. Motion carried.*

(K) OTHER BUSINESS/CITIZENS TO BE HEARD

Mayor King asked for items of other business.

Commission on Transportation: Mayor King reported to Council that the Statewide Commission on Transportation would meet here in Portales in the Memorial Building on June 20, 2013 partnering with EPCOG, and that a reception would be held on the 19th. She asked the Council to put it on their calendars. City Manager Howell told the Council that it used to be called the State Highway Commission.

Comcast Cares Day: Councilor Parker reported that there were a number of Portales High School students who had attended and worked at the Recreation Center on Saturday, April 27, 2013. She commented that she had attended.

Cinco de Mayor Tournament: Mayor Pro-Tem Jackson reported that the Cinco de Mayo Softball Tournament had been a success.

Homeland Security Briefing: Police Chief Jones told the Council that Homeland Security would be giving a briefing on Friday, May 10, 2013 at the Campus Union Building at ENMU. He told the Council that he had sent out an email regarding the informative briefing and asked that they R.S.V.P.

Statewide Fire Restrictions: Fire Chief Nuckols reported that statewide fire restrictions will go into effect tomorrow, May 8, 2013 for an indefinite period.

(K) 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; §10-15-1 H.(7), 1995, for Attorney-Client Privilege Pertaining to Threatened or Pending Litigation; §10-15-1 H.(8), 1995 for the Purchase, Acquisition, or Disposal of Real Property or Water Rights.**
- 2. Action to Convene in Open Session.**
- 3. Action Required as a Result of the Closed Session.**

No executive session was needed.

ADJOURNMENT:

There being no further business or comments, Mayor King adjourned the meeting at 8:30 p.m.

Joan Martinez-Terry, City Clerk