

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, FEBRUARY 28, 2023; 6:00 P.M. CITY COUNCIL CHAMBERS



Louie Bonaguidi, Mayor

Linda Garcia, Councilor, Dist. 1

Michael Schaaf, Councilor, Dist. 2

Sarah Piano, Councilor, Dist. 3

Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager

The meeting will be accessible through the City of Gallup's Facebook Page:

[City of Gallup, New Mexico Government - Home | Facebook](#)

Members of the public may submit comment either in person or by telephone. To submit comment by telephone, please call 505-863-1254 to leave your name and a return phone number.

A. Pledge Of Allegiance

The members of the body and the public are invited to recite the Pledge of Allegiance.

B. Roll Call

C. Consent Agenda

These items are placed on the Consent Agenda so City Council can designate by unanimous consent those routine items they wish to be approved or acknowledged by one motion. If any item does not meet the approval of all Council members or if a citizen so requests, it will be heard as a separate item.

Action Needed:

Motion to approve or acknowledge Items 1-7 on the Consent Agenda by unanimous vote:

1. Approval Of Minutes

February 14, 2023 Work Session and Regular Meeting

Fiscal Impact: None.
Recommendation: Approve the minutes.
Speaker's Name: None.

Documents:

[DRAFT MINUTES FEB 14 2023 WORK SESSION.PDF](#)
[DRAFT MINUTES FEB 14 2023 REG MTG.PDF](#)

2. **Budget Adjustment For Project JU1510 SCADA Improvement**

Budget Adjustment for Project JU1510 SCADA Improvement in the amount of \$30,000 (taxes not included). There are miscellaneous tasks that still need to be completed that were identified during the initial SCADA installation.

- Ops Center T1 ICCP replacement
 1. This is for live SCADA data to PNM Power Ops
 2. Will replace ongoing monthly cost of T1 with radio system through CDEC Gallup office and Tri-State
 3. Still waiting on FCC license details so we can order the final piece of hardware
- Mendoza T1 replacement
 1. Working on alternate method to get POTS telephone line connection to SEL735 meters for MV90 data
 2. Mendoza is the driver here as PNM recently passed on the bill to Gallup and is extremely expensive for the purpose it serves
 3. I plan to test the VOIP connection currently at Allison, and am working with a cellular router vendor to see if we can make a connection that way
- SEL Meter Report software configuration for the data historian
 - a. This will allow planning to have the substation and feeder data needed for studies
 - b. Configuration file is just about ready, but need to perform a site visit for the implementation
- Email alerts from SCADA
 - a. Will notify personnel of major system anomalies as they occur
- Maxwell portion of SCADA system not functioning as designed from SEL engineering
 - a. Will troubleshoot this as we do the Maxwell battery project
- Tie into Solar Farm RTAC
 - a. Still need permission from Standard Solar here
- Tie in Solar Farm Vipers to SCADA system

Proposal to Follow.

Fiscal Impact: A budget adjustment in the amount of \$30,000 from the operation cash fund 507.
Recommendation: Approval of budget adjustment in the amount of \$30,000
Speaker's Name: Chuck Nourse

Documents:

[23.02.22 TD GALLUP SCADA MISC SUPPORT SERVICES.PDF](#)
[2.28.23 AGENDA ITEM NOTES.PDF](#)

3. Construction Management Services Award For Phase III Of The Nizhoni Boulevard Complete Street Reconstruction Project

Engineer of record is DePauli Engineering and Surveying of Gallup, NM. Their proposal for Professional Services for construction management and quality assurance is \$335,238.88 including NMGR. See attached fee proposal.

Funding for this project has already been approved by City Council through a Municipal Arterial Program (MAP) Cooperative Agreement Grant in Project No. CI2303.

Fiscal Impact: Funding for this project has already been approved and set up in Project No. CI2303.
Recommendation: Staff recommends award of contract to DePauli Engineering and Surveying, LLC.
Speaker's Name C.B. Strain

Documents:

[NIZHONI PHASE 3 CM 2018_2019_07P.PDF](#)

4. Lodger's Tax Grant Recommendation

The Lodger's Tax Committee met on 2/7/23 to review an application from Cycle City Promotions to host the Kicker Monster Truck Show on May 19 and May 20, 2023, at the Red Rock Park Arena. This is first time this applicant has requested funding for a monster truck show, but Cycle City Promotions has previously been supported by Lodger's Tax funds to promote Arenacross and mud bog events (\$20,500 was approved for that by the City Council in May 2022). The applicant is requesting \$10,000 in Lodger's Tax funds to support marketing the monster truck show. The applicant is focusing on digital and radio ads to promote this event in Arizona, Colorado, Utah and New Mexico.

The Lodger's Tax Committee unanimously approved the funding request of \$10,000.

The balance for the Lodger's Tax grants line was \$99,076.05 at the time of Lodger's Tax Committee approval. There are no other pending new applications.

Fiscal Impact: \$10,000 from Lodger's Tax Grants to Subrecipients
Recommendation: Staff recommends approval
Speaker's Name Matt Robinson - Tourism & Marketing Manager

Documents:

[KICKER MONSTER TRUCK SHOW - MAY 2023.PDF](#)

5. Resolution No. R2023-4; Approval Of Resolution To Submit An Application To The New Mexico Finance Authority To Fund Water Wells And Cast Iron Lines Replacement

The Northwest New Mexico Council of Governments has assisted the City in submitting an application to the New Mexico Finance Authority (NMFA) for financial assistance to design and construct water wells and cast iron lines replacement. This application requires that the Governing Body approve a resolution authorizing the submission of an application to the NMFA for its review and to further proceed with arrangement for financing the project (water wells and cast iron line replacement). The application is for funding in the amount of \$45 million (\$16M for wells and \$30M for cast iron line replacement). The attached resolution states that the city's ratepayers do not have the capacity to take on additional loans to finance these projects.

Recommendation:

Approve Resolution No. R2023-4, authorizing submission of an application for financial assistance and project approval to the New Mexico Finance Authority for the design and construction of water wells and cast iron line replacement.

Fiscal Impact: To be determined depending on the structure of the financial assistance.

Recommendation: See recommendation in the summary.

Speaker's Name Maryann Ustick, City Manager

Documents:

[RESOLUTION NO. R2023-4.PDF](#)

6. Award Of Contract To Armstrong Consultants, Inc For Professional Services To Complete A Preliminary Engineering Report And Conceptual Site Plan For A New Airport Terminal Facility At The Gallup Municipal Airport.

Attached for the City Council's consideration and approval is a professional service agreement from Armstrong Consultants of Albuquerque, New Mexico. Said services consist of completing a Preliminary Engineering Report and Conceptual Site Plan for a New Airport Terminal Facility at the Gallup Municipal Airport.

Armstrong Consultants are the contracted Architectural, Engineering, and Planning Services for the City of Gallup Municipal Airport. Procuring their services once again will help expedite the process of completing the project in a timely manner. See the attached estimate indicating the scope of work that staff is seeking approval on.

Fiscal Impact: \$77,700 including NMGRT, which will be funded by the \$80,919.87 Federal Match to the EDA Airport Grant, that is budgeted in Project no. AP2105.

Recommendation: Staff recommends approval awarding the contract to Armstrong Consultants, Inc. to complete a Prelimi

Speaker's Name Robert Hamblen

Documents:

[GALLUP TASK ORDER - TASK ORDER F CONCEPTUAL DESIGN PER \(1\).PDF](#)

7. Youth Conservation Corps (YCC) Grant Award & Budget Adjustment

Youth Conservation Corps (YCC) Grant Award & Budget Adjustment. The City of Gallup has been awarded \$ 174,990.89 for the State of New Mexico's FY2023 / FY2024 Youth Conservation Corps (YCC) Program year.

The County has agreed to support our matching requirement with a contribution of \$35,000.

Fiscal Impact: A budget adj of \$174,990 in revenues and expenditures for task performed or expenses directly related to the scope of work for the projects outlined in the grant and revenue adj of \$35,000 will be needed to recognize the County contribution.

Recommendation: Staff recommends Approval of the YCC grant award and budget adjustments.

Speaker's Name Vincent Alonzo

Documents:

[NM YCC 2023.PDF](#)
[COUNTY_CITY YCC MOU_SUMMER 2023.PDF](#)

D. Discussion/Action Topics

1. Resolution No. R2023-5; Accepting The FY 2022 Audit

The Audit for Fiscal Year 2022 was conducted by Hinkle + Landers. The report was filed timely and has been approved for release by the Office of the State Auditor. We are proud to inform you that an unmodified opinion was issued for both the financial statements and the federal awards. There are four findings for the City of Gallup in this report.

Finance and City Management will continue to work hard at ensuring we continue to maintain proper reporting with good controls, policies and adherence to those controls and policies.

Fiscal Impact: Having an unmodified opinion and only one finding is crucial to ensure no difficulties in state or federal funding as we have seen in prior years.

Recommendation: Staff recommends approval of Resolution No. R2023-5

Speaker's Name Patty Holland and Farley Vener

Documents:

[6076 CITY OF GALLUP PUBLIC PRESENTATION OF RESULTS FY22.PDF](#)
[AUDIT RESOLUTION FY 2022.PDF](#)

2. Approval Of Budget Adjustment Of NM Opioid Allocation Funding

In 2022 the City Gallup entered into the NM Opioid Allocation Agreement to receive Opioid Settlement Funding. As of February 8th, the City has received \$162,962.00. The Behavioral Health Department would like to use the funding to implement a pilot project called, Screening, Brief Intervention and Referral into Treatment (SBIRT). SBIRT is an evidence-based program approved for use according to "List of Opioid Remediation Uses" Exhibit E. We also plan to implement an evidence-informed program by providing education on the Good Samaritan Laws and training and education regarding naloxone.

Fiscal Impact: A budget adjustment of revenue and expenditures for the project for \$162,962.

Recommendation: Approval of Budget Adjustment in the amount of \$162,962 for revenues and expenditures

Speaker's Name Debra L. Martinez, Behavioral Health Manager

3. Approval Of Second Amendment To Gallup Detoxification Center Administration And Operations Agreement

The City of Gallup Behavioral Health Department would like to amend the Gallup Detoxification Center Administration and Operations Agreement to align with the Preventing Alcohol-Related Deaths Services Extension and the Protective Custody RFP to ensure no laps in services. Amendment to the NCI Gallup Detoxification Center Administration and Operations Agreement will expire on April 30, 2023.

Fiscal Impact: None, using existing LET Funds.

Recommendation: Approval of Second Amendment to NCI Gallup Detoxification Center Administration

Speaker's Name Debra L Martinez, Behavioral Health Manager

4. Approval Of Budget Adjustment And Second Amendment To The Agreement With NCI For Social Detox And Expanded Shelter And Services

The City of Gallup will contract with NCI will provide Screening Brief Intervention and Referral to Treatment (SBIRT) services to individuals in the Detox Center. SBIRT is an evidence-based approach to identifying patients who use alcohol and other drugs at risky levels. This funding will extend and enhance services through April 30th, 2023.

Fiscal Impact: A budget adjustment in the amount of \$225,000 in revenue and expenditures for PARD services. \$225,000 for operations. \$160,000 from the Opioid Settlement funds and \$65,000 from General Funds.

Recommendation: Approval of Amendment and budget adjustment for PARD Services.

Speaker's Name Debra L Martinez, Behavioral Health Manager

5. Approval Of Budget Adjustment Accepting Funds From McKinley County

On October 18, 2022 McKinley County Commissioners approved Resolution No. OCT-22-114 allocating \$100,000 to assist City Councilors for projects in their district.

Fiscal Impact: Budget adjustment in revenue and expenditures for \$100,000 to the general fund.

Recommendation: Approval of budget adjustment in revenue and expenditures in the amount of \$100,000.

Speaker's Name Maryann Ustick, City Manager

Documents:

[COUNTY RESOLUTION NO. OCT-22-114.PDF](#)
[COUNTY COMMISSION AGENDA 10.18.2022.PDF](#)
[COUNTY COMMISSION MINUTES_10.18.2022.PDF](#)

6. Clean And Lien Budget Adjustment

The Planning and Development Department is requesting a budget adjustment in the amount of \$75,000.00 from 202 fund balance to account No. 202-1525-474.45-90 (Contractual Services), Project No. EX2350. This line item and project number is utilized for the City's Clean and Lien Program. The current balance is \$11,459.88. This amount will not be enough to carry us through the fiscal year.

The significant increase in transient encampment cleanups compiled with regular code enforcement clean and lien cases, and the increased cost of these cleanups has decreased the Clean and Lien budget at a faster rate than originally anticipated. The Planning and Development Department estimates the need for an additional \$75,000.00 to continue these cleanups through the end of this fiscal year.

Fiscal Impact: Budget adjustment of \$75,000.00 from 202 fund balance to account No. 202-1525-474.45-90 (Contractual Services).

Recommendation: Staff recommends approval of said budget adjustment request.

Speaker's Name C.B. Strain

7. Ordinance No. S2023-2, Revising Certain Zoning Regulations Regarding Cannabis And The Downtown Overlay District By Amending Sections 10-3-C-C, 10-3-C-J, 10-3-C-K, And 10-2-B-D-I Of The "Land Development Standards" Of The Municipal Code Of The City Of Gallup, New Mexico

Mr. Rick Murphy is proposing an amendment to the City of Gallup Land Development Standards by eliminating certain protected land uses that are required to be separated a certain minimum distance from cannabis land uses in order to allow a Cannabis Cultivation and Manufacturing business to be located on his property located at 101 North Third Street. Mr. Murphy is also requesting to reconfigure the Downtown Overlay District boundaries by removing his property from said district, to allow a Cannabis Cultivation and Manufacturing business to be located on his property located at 101 North Third Street. Said property is further described as Lot 7, Gallup Station Grounds Subdivision, containing 1.8518 acres M/L and lies within the Industrial (I) Zone District.

Currently the City of Gallup Land Development Standards requires residential zone districts (RR, SFR, MFRL, MFRM, MFRH & MHP), cemeteries, community/recreation centers, correctional facilities, day care centers (>7 children), educational facilities (including training centers, post-secondary, primary/secondary), libraries, parks and open space, and religious institutions to be separated a minimum distance of three hundred feet (300') from any Cannabis

Cultivation, Cannabis Manufacturing or Cannabis Sales business. Mr. Murphy's property at 101 North Third Street is located within three hundred feet (300') of the Iglesia Hispana Pentecostal El Pueblo De Dios Church at 403 W. Historic Hwy 66, which prohibits him from operating a Cannabis Cultivation and Manufacturing business at that location.

Mr. Murphy is proposing to amend the regulations to follow the same restrictions as alcohol establishments. This will not work for Mr. Murphy because state law prohibits alcohol establishments within three hundred feet (300') of a church. Mr. Murphy is also proposing an amendment to allow Cannabis Cultivation and Manufacturing establishments to be located within three hundred feet (300') of residential zone districts and the protected land uses listed above, if the Cannabis Cultivation and Manufacturing establishment is located within an Industrial (I) Zone District. This is not feasible either because the intent of the regulation is to separate the cannabis land use from the listed districts and land uses so as not to have a negative impact on them. In other words, the intent for the separation requirement from religious institutions is because it is presumed that churches do not want a cannabis establishment within their proximity. It can be argued that the situation is the same whether the cannabis establishment is located within a commercial zone district or an industrial zone district. Which poses the question, does a church located next to an industrial zone district deserve less protections than one located in any other zone district? This would most likely be considered selective zoning and would open the city up to lawsuits.

The easiest solution to this request would be for the city to follow the same restrictions as the State of New Mexico for cannabis establishments. The only land uses that are listed in state statute that are required to be separated from cannabis establishments are schools and daycare centers. Staff proposes to follow suit and use the same restrictions. This would mean that cannabis establishments would be able to be located next to all of the previously restricted districts and uses except for schools and daycare centers. The city by law is required to adopt at least the minimum state standard, which would mean if someone wanted to eliminate the separation requirement from schools and daycare centers the city could not legally do so, unless the state amends their statute to allow it.

Mr. Murphy's property also lies within the city's Downtown Overlay District. Currently Cannabis Cultivation and Manufacturing establishments are prohibited within the Downtown Overlay District. Mr. Murphy is requesting an amendment to reconfigure the Downtown Overlay District boundaries by removing his property from said district. This would allow a Cannabis Cultivation and Manufacturing establishment to be located on his property.

Mr. Murphy would also like to eliminate the Type C Buffer screening requirement from Cannabis Cultivation and Manufacturing uses. The purpose and intent of this requirement is to protect adjacent and surrounding properties from any negative impacts that may be created by these uses, such as excessive noise or odor, or anything else that may be a nuisance or have a negative effect. Surrounding properties have the right to enjoy their properties without having to deal with the negative effects such as excessive noise or odors created, and it is the City of Gallup's duty to make sure these minimum safeguards are in place in order to maintain the health, safety and welfare of the public and to protect property and property value. Staff does not support this request for the proposed amendment concerning screening.

Upon review of the additional screening requirements for cannabis cultivation and cannabis manufacturing, it was discovered that there is language in the screening requirements that doesn't apply to cannabis cultivation or cannabis manufacturing uses. This language requires street facing property lines that do not contain a building frontage, to be screened by a solid eight (8) foot privacy wall setback a minimum of five (5) feet from the property line with landscaping in

front of the wall. This requirement was intended to be applied to cannabis cultivation and cannabis manufacturing uses where the cultivation took place outdoors and not in an enclosed building. During the cannabis workshops with City Council and the Planning and Zoning Commission it was decided that outdoor cannabis cultivation would not be permitted, and all cultivation uses would be required to take place in an enclosed structure. Because of this, this particular screening requirement cannot be applied to cannabis cultivation or manufacturing uses and therefore needs to be removed from the ordinance. Please keep in mind that screening requirements and landscape requirements are two separate issues, therefore minimum landscaping for the site will still be required per the City of Gallup Landscape Standards.

The Planning and Zoning Commission reviewed this request during their regular meeting on February 8, 2023, and sends a positive recommendation for approval with Resolution of Recommendation No. RP2023-3.

Fiscal Impact: None
Recommendation: Staff recommends that City Council makes a decision and takes action based on staff's presentation.
Speaker's Name C.B. Strain

Documents:

[CC ATTACHMENTS FOR 02.28.2023.PDF](#)
[RP2023-3 SIGNED RESOLUTION.PDF](#)
[ORDINANCE CANNABIS TEXT AMENDMENT S2023-2 CB REVISED.PDF](#)

8. Approval Of Tiny Art Proposals And Project Locations

gallupARTS and Gallup MainStreet seek approval of artist proposals for six "Tiny Art" projects at pre-identified locations in the MainStreet district, recommended by a selection committee representative of project stakeholders.

Fiscal Impact: \$1,500 from the Mayor's discretionary fund and the \$1,500 from Councilor Palochak's discretionary fund.
Recommendation: Approval of artist's proposals for 6 "Tiny Art" projects.
Speaker's Name Rose Eason, GallupARTS & Michael Bulloch, Gallup MainStreet

Documents:

[TINY ART PROJECT PROPOSAL_CITYCOUNCIL_FEB28.PDF](#)

E. Comments By Public On Non-Agenda Items

Members of the public are invited to comment on matters not appearing on the meeting agenda.

F. Comments By Mayor And City Councilors

G. Comments By City Manager And City Attorney

H. Motion To Adjourn

Pursuant to the "Open Meetings Act", NMSA 1978, Section 10-15-1 through 10-15-4 of the State of New Mexico, this Agenda was posted at a place freely accessible to the public 72 hours in advance of the scheduled meeting.