

AGENDA

GALLUP CITY COUNCIL REGULAR MEETING TUESDAY, JULY 23, 2019; 6:00 P.M. CITY COUNCIL CHAMBERS



Jackie McKinney, Mayor

Linda Garcia, Councilor, Dist. 1 Allan Landavazo, Councilor, Dist. 2
Yogash Kumar, Councilor, Dist. 3 Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager
Curtis Hayes, City Attorney

A. **Pledge Of Allegiance**

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

B. **Roll Call**

C. **Approval Of Minutes**

Regular Meeting of July 9, 2019

(Draft minutes will be disseminated on Monday, July 23rd)

D. **Discussion/Action Topics**

1. **Public Hearing Regarding Transfer Of Ownership Of Liquor License 0330 Held By El Rancho Hotel, Inc.**

The Alcohol and Gaming Division has granted preliminary approval for this application to allow El Rancho Hotel, Inc. to transfer stock ownership in the corporation that owns the license. No other changes regarding the license are proposed.

NMSA §60-6B-4 provides that a local governing body may approve or disapprove the transfer of a liquor license after holding a public hearing. "The governing body may disapprove the . . . transfer of the license if (1) the proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico; (2) the . . . transfer would be in violation of a zoning or other ordinance of the governing body; or (3) the . . . transfer would be detrimental to the public health, safety, or morals of the local option district." The New Mexico

Supreme Court has held that “the discretion that the city council has to deny a transfer on moral grounds must be based on the moral effects of the operation by a specific applicant or at a particular location.” Dick v. City of Portales, 1994-NMSC-092. Similarly, to deny a transfer based on safety issues, there must be substantial evidence that the transfer to this particular location would be detrimental to safety. City of Santa Fe v. Woodard, 1996-NMSC-098.

Fiscal Impact: None.
Recommendation: None. The council's decision must be based upon evidence presented at the public hearing.
Speaker's Name Curtis Hayes

Documents:

[EL RANCHO LIQUOR LICENSE.PDF](#)

2. **City Of Gallup MOU With Gallup Inter-Tribal Indian Ceremonial For FY20**

The State of New Mexico Tourism Department has an agreement with McKinley County, the fiscal agent for state funding, to provide specific information to the state about the FY20 98th Annual Gallup Inter-tribal Indian Ceremonial event as well as the results of an independent audit in exchange for funds allocated during the legislative session.

In order to provide the waiver of fees at Red Rock Park (up to the amount of \$65,000) for Ceremonial's 98th annual event, the staff recommends that Council approve the attached MOU with Gallup Inter-tribal Indian Ceremonial that reflects the same requirements that the County and the State Tourism have included in their agreements.

Those requirements are:

The Ceremonial Association shall provide the signed engagement letter between Ceremonial and their Auditor regarding the “agreed upon procedures” audit prior to receiving the fee waiver.

The Ceremonial Association shall provide a report to the City Council no later than March of 2020 that includes the following:

1. Number of Ceremonial Tickets sold
2. Dollar value of sponsorships obtained and whether they were for FY20 or the 100th Annual Ceremonial
3. Total marketing budget
4. Ratio of local vs. regional marketing spends (regional = 100 radius)
5. Economic impact packet that is provided to the New Mexico Tourism Department
6. Sponsorship/exhibit package that is provided to the New Mexico Tourism Department
7. After-event income and expenditures report
8. Gross vendor sales, as available
9. Results of the State Required financial audit.

The Ceremonial Association shall provide the City no less than 10 high resolution digital photographs of their event for the purpose of mutual advertising of the event no later than January of 2020. The photographers will be credited but the photographs cannot have a logo or watermark.

Fiscal Impact: Waiver of fees at Red Rock Park for the 98th Annual Gallup

Inter-tribal Indian Ceremonial (up to \$65,000)
Recommendation: Approval of the MOU with the Gallup Inter-tribal Indian Ceremonial
Speaker's Name Maryann Ustick

Documents:

[MOU W GALLUP INTER TRIBAL INDIAN CEREMONIAL.PDF](#)

3. Approval Of FY20 Lodgers Tax Grants- Part 2 Of 5

The Lodgers Tax Committee met on July 9th to discuss applications for the second deadline for grants in FY20.

The Lodgers Tax Committee recommends approval of funding as follows:

- Red Rock Balloon Rally, \$37,500. (Increase of \$2,500 over FY19)
- Friends of Hubbell Spring Auction, \$4,100 (same amount as FY19)
- Arizona Inter-scholastic Cycling League, \$5,000 (new event, funding specific to pit tent in the application budget)
- 24 Hours in the Enchanted Forest, \$6,300 (decrease from FY19, funding specific to social media, N24 Promotion, T-shirts and stickers in application). Last year's amount was \$10,000.

The lodgers tax committee recommends approval in the amount of \$52,900 of the remaining 103,263.02 in un-allocated grant funds. This will leave \$50,363.02 for remaining FY20 events.

Fiscal Impact: The lodgers tax committee recommends approval in the amount of \$52,900 of the remaining 103,263.02 in un-allocated grant funds. This will leave \$50,363.02 for remaining FY20 events in the budgeted line for Grants to Subrecipients.
Recommendation: Approval of \$52,900 in grant funding for the Fiscal 20 part 2 Lodgers Tax Grants Recommendations
Speaker's Name Jennifer Lazarz

Documents:

[FY20 APPLICATIONS PART 2_20190624_121336_000056.PDF](#)
[LT MINUTES JULY 9 2019.PDF](#)
[FY 20 PART 2 OF 5 GRANT REQUEST CHART.PDF](#)
[LT ANNUAL AWARDS 2016 TO PRESENT.PDF](#)

4. Certification Of The Results Of The Initiative Petition Submitted Regarding A Proposed Measure To Provide A Dual Stream Curbside Recycling Program

In 2016, a committee of five qualified electors of the city began the circulation of a petition for direct legislation by voter initiative to enact the following measure: *"Pursuant to City Charter Article V, the undersigned support this proposed measure to establish as of 60 days after passage of the ordinance, a residential, dual stream, curbside recycling program in the City of Gallup, New Mexico. Dual stream is defined for this program by the separation from residential refuse of, (1) corrugated cardboard and, (2) other recyclable materials to be determined by the City Solid Waste Department. The costs of this program are to be borne by the Environmental Tax Fund."* The petition along with the proposed ordinance was

submitted to the City Clerk's Office on July 8, 2019.

Article V, Section 4 of the City Charter requires the petition to be signed by a number of qualified voters of the city equal in number to 20% of the total number of qualified voters of the city voting on the office of governor at the last preceding general election. Based on 20% of the 5,724 city voters who participated in the 2018 General Election for the office of governor, 1,145 signatures by qualified voters of the city are required for a sufficient petition. Following the verification of signatures on the petition, 616 signatures are valid; thereby leaving 529 signatures short of the required 1,145.

In accordance with Article V, Section 6 of the City Charter, the City Clerk shall certify the results of the examination of the petition to the City Council at its next regular meeting.

As a side note, the City Charter allows the committee to amend the petition by filing a supplementary petition upon additional papers signed and filed as provided in the case of the original petition. The committee has 10 days following the notification by the City Clerk to amend the petition.

Fiscal Impact:	None.
Recommendation:	Approve the City Clerk's certification of results of the initiative petition.
Speaker's Name	Al Abeita, City Clerk

5. Resolution No. R2019-32; Designating Polling Locations For Municipal Officer Election Day

The next City election will take place on Municipal Officer Election Day to be held on Tuesday, March 3, 2020. The Local Election Act allows the governing body of a municipality to act in relation to the duties of the Board of County Commissioners in setting polling places and consolidating precincts for the Municipal Officer Election. State law requires the governing body to designate the polling place of each precinct or consolidated precinct in June or July of each odd-numbered year. Staff is recommending the consolidation of precincts and to designate the following locations as voter convenience centers for the election:

- 1) South Side Fire Station No. 1, 1800 South Second Street.
- 2) North Side Fire Station No. 2, 911 West Lincoln Avenue.
- 3) East Side Fire Station No. 3., 3700 Church Rock Street.
- 4) West Side Fire Station No. 4, 707 Rico Street.
- 5) Larry Brian Mitchell Recreation Center, 700 Joseph M. Montoya Boulevard.
- 6) McKinley County Courthouse, 207 West Hill Avenue.

In past City elections, the City utilized five of the six recommended locations as voter convenience centers. Previously, the Harold Runnels Athletic Complex was designated as a polling location; however, staff recommends the use of the Larry Brian Mitchell Recreation Center as an alternative, due to better parking and easier access off Montoya Boulevard.

Fiscal Impact:	None at this time.
Recommendation:	Approve Resolution No. R2019-32
Speaker's Name	Al Abeita, City Clerk

Documents:

6. Resolution No. R2019-34; Opposing The Secretary Of State's Proposed Rule On Runoff Elections

The New Mexico Secretary of State has issued a proposed rule that "applies to runoff elections covered under the election code." It isn't clear if this rule is intended to apply to Gallup or not. The issue is whether the rule is intended to apply to just the "regular local election" held in November of odd numbered years or also to the "municipal election" held in March of even numbered years. One of the two statutes cited as authority for the rule, NMSA 1-22-16 says it applies to all runoff elections authorized by Article 7, Section 5 of the Constitution, but then the statute only discusses runoffs "following the regular local election." By definition, the "regular local election" is the one held in November.

I have asked the General Counsel for the Secretary of State's Office and the Elections Director as to whether the intent is for the rule to apply to those cities such as Gallup that did not opt-in to the November election and have received no reply to date. The Secretary of State's website says "[t]his rule will apply to any municipality who (sic) opts into the Local Election Act."

The proposed rule provides that a runoff election is triggered if no single candidate receives at least 50% of the vote. The Gallup City Charter says that a runoff election is triggered if no single candidate receives at least 40% plus one vote.

Article 7, Section 5 of the New Mexico Constitution provides that home rule municipalities "shall hold runoff elections pursuant to the charter." The rule seems to violate Article 7, Section 5 as to home rule municipalities if there is a conflict between the provision of the rule and the provisions of a city's charter. Further, the Local Election Act provides that a runoff is triggered "when the candidate receiving the most votes for an office did not receive the percentage of votes required by the laws of the municipality to be elected in the first round of voting." So the proposed rule also violates state law by dictating a 50% trigger to any municipality that has a lower threshold.

The deadline for providing written comments is July 26. The Secretary of State is holding hearings in Santa Fe, Albuquerque, and Las Cruces the week of July 29 where comments can also be provided.

Fiscal Impact: If this rule is applicable to Gallup, it will increase the number of runoff elections.

Recommendation: None. This item is a presentation item.

Speaker's Name Curtis Hayes and Alfred Abeita

Documents:

[2019-06-25-FINAL-DRAFT-RUNOFF-ELECTION-AND-RANKED-CHOICE-VOTING.PDF](#)

[RUNOFF ELECTION RESOLUTION.PDF](#)

7. Ordinance No. C2019-8; Amendments To The Business Registration Fee Ordinance

Currently, when a new business applies for business registration, a review is conducted to insure that the location of the business complies with zoning, and that the premises meet building and fire codes. This amendment clearly authorizes such a review, including when a business changes its physical location.

If a business fails to register, the only options to enforce the current ordinance are to file a lien and/or go to district court to obtain an injunction to close the business. A simpler enforcement procedure would be to file a misdemeanor complaint in municipal court. Therefore, the amendment provides for a criminal penalty to be enforced in municipal court is a business fails to register.

Finally, the amendment clarifies that non-profit organizations are required to register, however they are not required to pay any annual fee.

Fiscal Impact: None
Recommendation: Adoption of the amended ordinance
Speaker's Name: Curtis Hayes

Documents:

[BUSINESS REGISTRATION REDLINE.PDF](#)
[BUSINESS REGISTRATION FEE ORDINANCE.PDF](#)

8. Resolution No. R2019-33; Concerning Animal Control Fees

The Animal Control Ordinance provides that fees charged by Animal Control be approved by way of a City Council resolution. A resolution was approved in 2013 that included a fee schedule for not only Animal Control fees, but also for Human Society fees. This resolution only sets the fees charged by Animal Control which are for licenses, permits, and impound related fees. The Animal Control fees are the same as were approved in 2013, except the impound fee for livestock is now \$150 (was \$50) and there is now a \$100 after hours charge.

Fiscal Impact: None
Recommendation: Approval of the resolution.
Speaker's Name: Curtis Hayes

Documents:

[ANIMAL CONTROL FEES RESOLUTION.PDF](#)

9. Best Of The Best Rodeo 2019 Budget Adjustment

The Best of the Best preliminary numbers are in and we will be needing an adjustment to expenditures as well as a transfer of cash into fund 590. The requested expenditure increase is \$48,992 plus an additional \$10,000 for additional bills that have not yet been turned into the City. The cash shortfall is \$117,616 with the above items included. This will allow for payment of outstanding invoices and contestant winnings.

We are requesting an increase in the expenditure budget in fun 590 as well as a transfer of funds in the amount of \$117,616 from general fund to bring the project into balance.

Fiscal Impact: The rodeo expenditure budget will increase \$58,992 and general fund transfer to the rodeo fund will increase \$117,616.
Recommendation: Staff recommends approval of the budget adjustment of \$58,992 and cash transfer of \$117,616
Speaker's Name: Patty Holland

10. Resolution No. R2019-31; 4th Quarter FY 2019 Budget Adjustments And Report Of Actuals

Each quarter, the Finance department reviews any changes to the budget and submits these changes to council for approval. The following areas are reviewed: personnel, operations, capital outlay and transfers in and out of each fund. The Department of Finance and Administration (DFA) requires Council to pass a resolution for all budget increases, decreases, and transfers between funds. DFA further requires approval of the report of actuals showing cumulative activity for the fiscal year. The report to DFA regarding budget revisions is due July 31, 2019.

This revision encompasses all budget changes processed January 1, 2019 thru June 30, 2019 (Quarter 4 of FY 2019).

Fiscal Impact: None
Recommendation: Staff recommends approval of the budget adjustments, report of actuals and Resolution R2019-31
Speaker's Name Patty Holland

Documents:

[BUDGET RESOLUTION FY 19 Q4.PDF](#)
[QTR 4 BUDGET ADJUSTMENT RECAP.PDF](#)
[RECAP ROA Q4.PDF](#)

11. Approval Of Contract For Shared Cost Of Communications Conduit For Alley Project

The City of Gallup has requested all entities move their communications lines from the electrical poles from the alley between Aztec Ave. and Coal Ave. between 1st and 3rd underground. All entities agreed that it would be best if the communications lines were moved underground from 1st to 5th St.

City of Gallup, CenturyLink, Comcast, and Sacred Wind all have communications lines on these poles and agreed to pay an equal cost share of the project. Comcast is the lead and has provided a construction only cost share to install the conduit.

All materials must be provided by each entity.

Estimated construction cost share for the City of Gallup provided by Comcast is \$75,000

Material costs are estimated at \$25,000

NMGRT costs are estimated at \$6,726

Total: \$106,726

Estimated project start date: 1 Aug 19

Estimated completion date: 1 Nov 19

Fiscal Impact: \$106,726 from Account: 312-1027-496-48.45 (Project C11613) Funding already approved as part of FY20 CIP.
Recommendation: Request approval of contract to perform installation of conduit for communications.
Speaker's Name Brian Archuleta

Documents:

[COMCAST FIBER CONSTRUCTION PROJECT.PDF](#)

12. Budget Adjustment For Utility Asset Management Plan

Per the attached settlement agreement (Attachment 1), CDM Smith has refunded \$20,000 to the City Water and Sanitation Department.

Staff requests approval of a budget adjustment in order to use these funds to complete its Asset Management Plan.

A budget adjustment showing a revenue of \$20,000 into 306-6063-44.45-30, Project CI 1610 is required to do this.

Recommendation:

Staff recommends approval of budget adjustment in the amount of \$20,000 to line item 306-6063-444.45-30, Project CI 1610.

Fiscal Impact:	Net fiscal impact of \$0. Budget adjustment will show revenue of \$20,000 and an expenditure of \$20,000.
Recommendation:	Please see above.
Speaker's Name	Dennis Romero

Documents:

[ATTACHMENT 1 - CDM SETTLEMENT AGREEMENT.PDF](#)

E. Presentation And Information Items

1. Indigenous Peoples Commission Update

Update on the Indigenous Peoples Commission.

Fiscal Impact:	None
Recommendation:	Presentation Only
Speaker's Name	Emerson Toledo, Commission Chair

Documents:

[BY-LAWS INDIGNEOUS PEOPLES COMMISSION 10-18-18 \(1\).PDF](#)
[IPC BROCHURE 2019 \(1\).PDF](#)
[IPC AND 7 WOMENS TASKFORCE MEETING LIST UPDATED 7.12.19.PDF](#)
[RUBRIC INDIGENOUS PEOPLES COMMISSION PUBLIC FORUM.PDF](#)

F. Comments By Public On Non-Agenda Items

The public is invited to comment on items not appearing on the published meeting agenda.

G. Comments By Mayor And City Councilors

H. Comments By City Manager And City Attorney

I. Motion To Adjourn

Auxiliary aides for the disabled are available upon request. Please contact Alfred Abeita, City Clerk, at 505-863-1254 at least (1) week prior to the meeting or as soon as possible in advance of the meeting to make any necessary arrangements.

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.