

City of Rio Communities Workshop Minutes
Tuesday November 28, 2017

- Mayor Gwinn called to order the workshop at 10:00 am.
- Present: Mayor Mark Gwinn; Councilors, Bill Brown, Peggy Gutjahr, Arturo Sais and Thomas Scroggins. Present: City Manager Bob Skerry, Municipal Clerk Lisa Adair, EDC Chairman Jim Winters and resident Reynold Conger.

Council reports & agenda items – 30 minutes

- Councilor Scroggins said Universal Paving is working on Carmel. He said they put cones up when they're working but not at night.
- Councilor Sais said he would like to see more lighting around the city.
- Mayor Gwinn said Bob is working on getting bids for that and, when he gets the information he will pass it on to council.
- Councilor Brown said P&Z wants to have a meeting with council to discuss the status of the solid waste ordinance. He said he thinks the preference is Tuesday or Thursday at 6:30 pm.
- Mayor Gwinn said P&Z will have their next meeting on December 7 and try to finalize their thoughts on solid waste. He said after talking to Robert Teague, he thinks the joint meeting should be after that and he will give them a date.
- Councilor Brown asked about the survey that was mailed out before the public forum on parks.
- Mayor Gwinn said P&Z is still working on the results.
- Councilor Brown gave a report regarding the discussion he had with a resident regarding a wall that has been built on his street that is causing damage to his property. He asked what could be done since some of the gripes are legitimate and there are ordinance violations. He also explained that he listened to the complaint and did some research which he is reporting to council and no one else.
- Councilor Gutjahr asked if council will meet on December 26, 2017.
- Mayor Gwinn said that will come up for vote at the meeting on December 12, 2017.
- Councilor Gutjahr asked what we are doing about not having a code enforcer. She said there is a real lack of understanding for council about the fact that we have the right to listen to people, so they feel they've been understood. She said she explains to people what her role is and the importance of a code enforcer. She also mentioned that she is continuing to work in a productive sense with the residents on Horizon Vista. She explained that she had an excellent conversation with Sgt. Montano and the deputy and they had a lot of good suggestions on what the city could do.
- Councilor Gutjahr said she is gathering data from other entities regarding building use policies.
- Mayor Gwinn said that he, Bob and Peggy attended a budget school in Albuquerque that the Municipal League and DFA put on regarding various aspects of the transition to a single computer. He also said they met with Taxation and Revenue and began a discussion on what the training was about. He said the 455 has been cancelled and that is a valid report on gross receipts for small cities.
- Mayor Gwinn said our cleanup on the 18th was a big success. He said we filled three dumpsters and had a chipper there, so we had a great turn out.
- Mayor Gwinn said the intersections are being repaired. He said they did a great job on Lee Trevino and Brown and are working on one on Frederico.
- Mayor Gwinn said he would like to see more "OJT" on the computers we have now. He suggested people come early to workshops and meet with Lisa and see how we're doing.

- Mayor Gwinn said he and Bob will meet with an HR company Wednesday. He said the focus will be on job descriptions and the ones for the vacancies we have now will be priority. He said they will do an assessment and report to council.
- Councilor Gutjahr asked if they were going to put a white line down Goodman.
- Manager Skerry said we're waiting until they get all the coating down which requires warmer weather. He said they may do another coating on Goodman and Frederico.

Updates Governing Body Priority list – Discussion

- Councilor Brown said #5 & #6, Abatement and Eminent Domain are his responsibility and explained that he is starting with abatement which could lead to eminent domain. He asked if there was any input regarding the handouts he gave everyone at the last meeting and explained that the current ordinance regarding demolition and removal of dangerous structures may need to be addressed.
- Mayor Gwinn said he has talked to a few attorneys regarding abatement and eminent domain. He said they told him there are state ordinances, but they would like to write our ordinance so that it would contain language they could defend.
- Councilor Brown said he is relying heavily on the uniform code for abatement of dangerous structures which leans heavily on a building official and continued the discussion.
- Manager Skerry explained that this is a very long and drawn out process and we need to see what the need is and decide if it's worth six or seven years of lawsuits and the cost to the city. He said we may want to look at our options for remedying the problem before we put an ordinance on the books that we can't enforce.
- Councilor Scroggins asked what the city's liability is on burned-out houses.
- Manager Skerry said there is no liability now and explained there is a difference in landowner's rights and city property and continued with the discussion.
- Manager Skerry explained the budget workshop that he, Mark and Peggy attended regarding the quarterly reports. He said if quarterly reports aren't done, DFA will let Taxation and Revenue know to stop the money.
- Councilor Sais asked what we do about eminent domain and abatement.
- Manager Skerry said there are things that can be done but we don't have the staff right now to do it. He said we first find out who owns the property and if it's a mortgage company, we find out who we need to contact. He said it's a private land owner question and we don't have the right to intercede unless we do it through eminent domain and abatement. He continued to explain that we can try to contact the owners and get them to agree to clean up the property and keep it safe.

a) Public questions (3) minutes to address the Council

- No public comments.

Retainer fee for an Attorney – Discussion

- Mayor Gwinn said as we move forward with annexation of the industrial park we'll need the type of attorney that understands annexation. He said Preston Craig told him that he would like to have an attorney's office that he could contact and talk to a paralegal about interpretation of some laws and how to defend himself on some of the decisions he made. He said he thinks the city needs an attorney on board.
- Councilor Gutjahr said where she previously worked, they sent out an RFP and had three or four attorneys submit their fee for a retainer. She said some of them said they contracted with or had a

specialist on staff that could handle our requirements. She said it's worth doing something given what we're doing now, and at some point, we can assess the effect of the service for what we pay for it.

- Manager Skerry explained there are several large firms, one of which the city has used before, that specialize in municipal law. He said the problem is that some firms represent fifteen or twenty cities and several counties in the state so there is a potential conflict of interest.
- Councilor Sais said, we're talking retainers, and some attorneys can nickel and dime us later. He said we have certain issues and asked if an attorney would come here and give us a class on the issue in laymen's terms, so we can deal with it.
- Manager Skerry explained the process of retaining an attorney and what their breakdown of charges might look like.
- Councilor Sais said he is familiar with the process and we might be able to retain a local attorney but eventually need a specialist and go to a bigger firm. He said they may be more expensive, but they have specialists in-house.
- Manager Skerry continued the discussion on the type of contracts and what would be required if we have an attorney on retainer.
- Councilor Gutjahr said we should designate people who can contact the attorney.
- Councilor Sais asked if an attorney comes to a meeting to speak on annexation for an hour where council and residents are there, would his retainer cover the charge. He said we would have to pay for an hour but we would get a lot of people involved and we could get a general overview of specific issues.
- Chairman Winters said discussion on annexation should only occur in executive session and, if you do something for the public, that's different.
- Councilor Brown said we need to establish the fee we want to pay for what service. He said a lot of things will require an attorney and suggested a minimum \$50,000 be in next year's budget for a retainer. He said, whatever the retainer is, it's only a start and we should put more money in the budget to cover additional costs.
- Councilor Scroggins asked if we budgeted \$50,000 would we use \$50,000 worth of retainer.
- Councilor Brown said \$50,000 would be in the budget but that doesn't say what the retainer fee would be and if we go over, we have some slack to take care of it.
- Mayor Gwinn said he would like to talk to some attorneys and find out what a normal retainer is and bring that information to the council so when we get to the budget process, we'll know what we need to do. He asked if he should talk to some attorneys and see what kind of retainer they would require.
- Councilor Sais said he would like to see \$7,000 for a retainer in the budget, and a \$3,000 buffer for bigger issues such as annexation.
- Mayor Gwinn said \$10,000 is what we've had in the budget in the past, but he would like to know what attorneys expect.

a) Public questions (3) minutes to address the Council

- Reynold Conger said he has some experience in this area. He suggested that the city makes sure everyone understands what's included in the retainer and what is not. He also said there should be some accountability for people who talk to the attorney.

Extend City Cleanups – Discussion

- Mayor Gwinn said there isn't a cleanup scheduled for December and asked if we want to schedule one or wait and see what the trash ordinance brings. He said he has talked to people, including the P&Z, who would like to see us continue the cleanup.

- Councilor Sais said we certainly should schedule a cleanup in January.
- Councilor Gutjahr said she feels the cleanups should be continued.
- Mayor Gwinn explained that in the past we've cancelled cleanups from December to March.
- Councilor Gutjahr explained her concern if we have a momentum going and people are participating, if we don't do it we may send the message that we aren't going to continue. She said if we continue to have it every month, we'll have a better participation and then suggested we keep it year-round.
- Councilor Scroggins said people probably won't participate in December because of the holiday.

a) Public questions (3) minutes to address the Council

- Mr. Conger said he was encouraged because a lot of people picked up trash in the desert and brought it to the dumpster. He said the cleanups need to be continued and we should encourage citizen involvement.

Councilor Sais joining the NALEO (national association of Latino elected and appointed officials) – Discussion

- Councilor Sais read a statement regarding concerns about issues that impact the city daily that need to be confronted. He said the Hispanic population of our community requires that we recognize ethnic concerns and issues that come up in the state. He said, although he believes his request is meaningful, he wanted to withdraw his request to join the organization until he knows more about NALEO's overall direction.

a) Public questions (3) minutes to address the Council

- No public comments.

Partnering up with Belen regarding dumpsite – Discussion

- Mayor Gwinn said the Mayor of Belen contacted him and they are deciding whether to continue their dump site south of Belen. He said the Mayor extended the courtesy to Rio Communities to work out some way that our residents would be allowed to use that dump site.
- Councilor Sais said there have been changes at that site and explained some issues that have come up about the transfer station, but he said using the dump site would benefit the community.
- Mayor Gwinn asked if we should postpone discussion until Belen has figured out what they will be doing, and they can present it to us then.
- Councilor Sais asked if there is a plan that will work for Rio Communities. He said if Belen decides to close the dump site, we're back to step one. Manager Skerry said the city isn't in the trash business.
- Councilor Brown asked if we have determined that we should table this matter until we have specifics.
- Mayor Gwinn said he feels we should discuss it further when Belen decides what they want to do.

a) Public questions (3) minutes to address the Council

- Mr. Conger said he and his wife believe firmly in recycling and one of the problems with the county and their solid waste ordinance is that we've lost access to recycling. He said the community has a lot of things that shouldn't be in anyone's landfill and urged the council look favorably at arranging with Belen to share a recycling facility.
- Mr. Conger explained how the recycling process works and said it doesn't require the time and money that a landfill does. He said it's a matter of arranging for someone to buy the recycling material or pick it up and take it away.
- Mr. Conger continued to explain the recycling process and the best way it can be done.

Resolution 2017-__ Election Resolution

- Municipal Clerk Adair said she printed an election calendar and added that January 30 is the deadline to withdraw from write in candidacy. She said the resolution will be voted on tonight and if passes it will be posted on the election calendar. She explained that she has posted the calendar on our website.
- Municipal Clerk Adair said she has asked if council wants to put a question on the ballot.
- Councilor Sais said he would like to see the question of paying the councilors on the ballot. He said we need to encourage people to run for office and he would like to know how the residents feel about paying councilors.
- Municipal Clerk Adair said the way we'd have to word the question is "the City of Rio Communities would like to pay their governing body" – yes or no and a dollar amount. She said if the question is passed, it won't go into effect until 2020-2021.
- Mayor Gwinn said if council wants the question on the ballot, then we'll vote on it tonight.
- Municipal Clerk Adair said we need to decide before we print the resolution.
- Councilor Brown said he is not in favor of putting the question on the ballot.
- Councilor Gutjahr said she is not in favor at this time.
- Councilor Sais said he is concerned about putting this off. He said we may have an election and need five people but only four running and those are already on council.
- Councilor Scroggins said he is not in favor of putting this on the ballot at this time. He said we haven't had time for discussion on what the question should be. He also said paying the council and the mayor will encourage a different kind of person to be on the council.
- Mayor Gwinn said we'll work on it and consider the question next time.
- Municipal Clerk Adair said she will remove Section C of the Resolution which refers to a question and put the Resolution in the packets for tonight's meeting.

Manager Report

- Manager Skerry said we need to talk about job duties. He said we've had four code enforcers and each of them has said pressure had been put on them from council on some issues. He said it may be an assumption that councilors are helping their residents, but it interferes with the job staff is doing. He said a bigger concern is that councilors have no right to do anything on private property.
- Manager Skerry explained that this council is not responsible for the roads and drainage we inherited, and we don't need to bring them up to standards. He said half of the city is undeveloped so everything that gets built from now on, other than lots that have infrastructure, will have to go through subdivision regulations. He said, at that point, when all requirements are met and council votes to approve, then the city becomes responsible.
- Manager Skerry read the "budgeting do's and don'ts" he received at the NMML DFA training which listed precautions that should be taken when preparing the budget. He said the city has no jurisdiction over landowner issues and explained that when someone buys land and a title policy and receives the covenants, we can't enforce those and if we try, the city is at risk.
- Manager Skerry said the senior mobile home park has sold to an investment group. He explained that they are doing the classic investment deal where they buy an older mobile home park that has static rents and cash flow and start raising the rents. He said that could happen here, but the mobile home park is private land and the city doesn't have jurisdiction.
- Mayor Gwinn asked if they have a permanent manager at the senior mobile home park.
- Manager Skerry said they do not have and part of the problem is that the manager is not permanent and is only there from 8:00 am until 11:00 am.

- Manager Skerry said the Belen School District got “popped” by the state auditor for using school board money and staff time to get involved in land development and personal land ownership issues.
 - Councilor Gutjahr said we’re talking about having an attorney on retainer and asked what the attorneys have said about the issues in Belen.
 - Chairman Winters said there is no improvement over our chances of getting sued with or without an attorney’s opinion. He said we know that attorneys have given bad advice to the county on a personnel issue.
 - Mayor Gwinn said an ex-senator from Farmington spoke at a conference and said the city council is the only pure form of government and those are the only ones who can listen to the concerns of residents. He said Bob is warning us about drawing boundaries dealing with private land disputes.
 - Manager Skerry explained the reason we no longer have a code enforcer is because the previous code enforcer went to see a lady who had complained about a neighbor. He said the lady took him through her house to the backyard and had him go over the wall to take pictures of her neighbor’s property. He said that code enforcer had been told not to get involved in neighbor disputes.
 - Councilor Sais said he talked to the chairman of the Older American Advisory Board to let him know that the city wants to keep the program going and he is the city’s representative, but no one has contacted him.
 - Manager Skerry said the HR Director at the county came to him at the last commission meeting and said she needed to talk to him about the budget for the OAA. He said the HR Director shouldn’t be talking to a city manager about budget.
 - Chairman Winters explained that he is working on the census and if anyone knows of vacant houses, please let him know so we can be as accurate as possible.
- The City Council workshop was adjourned at 1:15 pm.

Respectfully submitted,

Lisa Adair Municipal Clerk
(Transcribed by Pamela Johnson, Deputy Clerk)

Approved:

Mark Gwinn,
Mayor

Margaret (Peggy) Gutjahr,
Councilor Mayor Pro-tem

William (Bill) Brown,
Councilor

Arturo R. Sais,
Councilor

Thomas Scroggins,
Councilor

Date: _____