

REGULAR CITY COUNCIL MEETING

January 21, 2014

6:00 P.M.

Mayor Rudy Jaramillo called the Regular Meeting of the Belen City Council to order at 6:00 P.M. Roll call taken by Leona Vigil, Deputy Clerk.

PRESENT: Councilor David Carter
Mayor Pro-Tem Jerah Cordova
Mayor Rudy Jaramillo
Councilor Audrey Vallejos
Councilor Wayne Gallegos

CITY MANAGER, CMC: Mary Lucy Baca

DEPUTY CLERK, CMC: Leona Vigil

CITY STAFF: See Attached Sign-In Sheet

CITY ATTORNEY: Charles Rennick

REPORTER: Clara Garcia, VC News Bulletin

OTHERS: See Attached sign-In sheet

PLEDGE OF ALLEGIANCE:

Mayor Rudy Jaramillo led the Pledge of Allegiance.

APPROVAL OF AGENDA

Mayor Jaramillo asked to delete item 5 and 7A from the Agenda. Councilor David Carter made a motion to approve the Agenda for January 21, 2014 with the deletion of 5 and 7A. Councilor Vallejos seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

PUBLIC COMMENTS

Mayor Jaramillo asked if there was anyone with public comment.

John Bedenheimer: His residence is located on south Third Street, and he has been fighting with the Water Department for several months. He exclaimed that his water bill is quite high. He is being told that he had a major water leak, but he claims there was none. Mayor Jaramillo advised Mr. Bedenheimer that he would look into the situation and get back with him.

Mike Wood: He pointed out that there is a list of approximately 147 businesses which have not paid their taxes. Mr. Wood stated that Mr. Noblin is not on the list.

Steve Tomita: Handed out a flyer for the Annual St. Patrick's Day Hot Air Balloon Rally which now has been expanded to include the Film Festival.

DISCUSSION WITH POTENTIAL ACTION REQUIRED

APPROVAL OR DISAPPROVAL OF THE AMENDMENT TO THE ZONE MAP FROM C-1 TO SU-1 FOR FUTURE EXPANSION AND/OR ADDITION OF AN ON-SITE CREMATORY: Steve Tomita & Robert Noblin

Steve Tomita reminded the Council, as per last Council Meeting; Mr. Noblin was allowed to have a representative from American Crematory present at tonight's meeting. Steve stated that this will open the floor back up for questions and input.

Michael Burwell, owner of American Crematory Equipment Company introduced himself and was sworn in by Mary Lucy Baca.

Michael informed the Council that the emissions regarding particulate for his equipment are 0.03 parts per million. The particulates are a complex mixture of extremely small particles and liquid droplets. The information that he has from a national study from EPA indicates that the emissions/particulates do not cause respiratory, cardio vascular or respiratory symptoms. Michael informed the Council that American Crematory does source testing on all their equipment, and he had the data if anyone was interested in reviewing it. They manufacture under the south coast air quality management district, which is the most stringent air quality district in the nation. He stated that they have to have a very clean burning piece of equipment and fall well below the federal mandated nox emissions. They have 6 units in New Mexico; 2 in Albuquerque, 2 in Deming, 1 in Las Cruces and 1 in Silver City. Michael showed a short video of an actual crematory running and what the stack and emissions looks like.

Charles Rennick asked Michael if there have been any complaints with the units installed in New Mexico. Michael answered no, not at all, no complaints.

Councilor Vallejos pointed out to Michael that their company has only been required to test for mercury once, and the results were indistinguishable and ruled incomplete. Michael explained that Bay Area Air Quality Management District by Berkley California have a lot of environmentalist in that area. American Crematory paid for a source test for that particular component and the source test lists that it was undetectable. She then asked who wrote the opinion on the H.1 Overview; Michael answered that it was him.

Mike Wood asked how long Michael has been in the business; Michael answered 22 years. Mike Wood then asked Michael if he has ever had to go back and close a crematory. Michael answered never, not once.

Terry Maynor believes that Michael is giving information based on perfect conditions; he asked Michael what about the conditions of an older unit or someone who is extremely obese. Michael stated that obese in his opinion is 500 pounds or over, and there are different models to handle different weight capacities. Charles Rennick asked if the oxygen control was automated; Michael answered that there is an option for that which can be purchased.

Penny Griego is a resident of Valencia County and sits on several boards. She stated that there has been a lot of speculation as far as the operation, and she suggested that Michael leave documentation that would educate the public.

Mary Lucy Baca swore in those that were not sworn in at the last meeting that planned on giving testimony.

Phil Rodriguez is a resident of Albuquerque, but he plans to be a resident of Belen in the immediate future and asked Michael if he was going to respond to the non-perfect situation. Michael answered that the combustion process is volatile; they deal with fuel, gas, oxygen and controlling within the chamber. It is controlled by the oxygen input and their onboard diagnostics.

Frank Storey, a resident of Belen, mentioned that all the issues have been focused on emissions and particulates, but the other issue is the location. Mr. Storey stated that the other issue is stigma.

Councilor Vallejos advised Michael that the information he provided to her was for the 300 model and not the 200 model which is the one Mr. Noblin is looking at. She was also concerned because the test was performed in San Diego, which is at sea level, and asked if any tests were done in New Mexico. Michael answered that New Mexico does not require source testing, but stated that is another option.

Councilor Cordova asked if elevation has an impact. Michael answered that he increases the blower size to push more CFH, and he doesn't see any difference in emissions at sea level as they do in Denver. Councilor Cordova asked if temperatures had any effect. Michael answered that he hasn't noticed any visual changes; he advised that if it is a little cold outside there may be a little gray tint. Councilor Cordova asked if there were any

of his units installed in Belen; Michael answered no.

Barbara Horton is a Belen resident. She reported information she gathered from the New Mexico Environment Department on air pollutants, particulate matter, radio- active waste, chemo-waste, pathological waste and record keeping requirements. Michael replied that all his equipment comes with opacity monitoring standards.

Councilor Cordova asked Michael if there were any other conditions in the human body that would affect the crematory process. Michael answered that a body having extensive chemotherapy will take longer because the muscles are hardened.

Robert Lucero asked Michael if his standard meet or exceed the State, as well as Federal standard, for EPA requirements. Michael answered that theirs exceed.

Aurelillo Al Padilla lives on Fifth Street, and stressed his concern with the location of the crematory.

Charles Rennick asked how the heat is contained in the crematory. Michael answered that it is contained within the main chamber. This unit will be a multi-chamber machine; there is a cremation chamber, the after burner chamber. It is controlled by temperature, thermal couples, and by the program set into the machines and by modulated motors that control the gas and air input and the opacity system as well. Charles Rennick asked if the unit is hot to the touch. Michael answered, on the exterior, absolutely not; it is less than 100 degrees. The shell/frame work of the machine is steel, brick, mortar and castable high temperature concrete. Charles then asked if there was a type of building required for a crematory. Michael answered not to the type of building, but there are clearance requirements. Charles asked, in an event of a shut down what happens to the heat at that point. Michael answered that the after burner never shuts off; the blower stays running. The only thing that shuts down is the cremation burner and the oxygen input into the cremation chamber the venturi air and modulates the fuel pressure down.

Terry Maynor asked how the stack comes off the top; Michael answered 10 ft. Terry asked how many noise decibels are produced; Michael answered 60 decibels or less.

Mike Wood stressed that Michael did a thorough study and asked the Council to stick to the facts.

Susan Vasquez lives at Sunrise Bluffs. She asked Michael if he was ISO 9000 Certified; Michael answered no. She then asked what his training criteria were to individuals who buy the unit. Michael answered they are trained with national standard training program, ICCFA.

Charles Rennick asked if there is a governing body that would regulate trainings and certifications. Michael answered that New Mexico does not have State Inspectors. Charles emphasized that it would be correct to say he recommends that people he trains be the operator, but there is no requirement. Michael stated that was correct.

Karen Maynor asked if there is going to be medical waste or animals burned in this crematory. Mr. Noblin answered that records are maintained and kept and inspections are performed by the State Board of Funeral Service, which will come in unannounced at any time. He went on to address the questions Mrs. Maynor asked; no there will not be any animals cremated, and the medical waste is and will continue to be handled through a medical waste company. He went on to explain that pace makers are required to be removed prior to cremation.

Councilor Carter stressed and emphasized that the last sentence under the intent of the Special Use Permit reads that the City Council may not grant a zone change for special use unless satisfactory provisions have been made. Councilor Carter stated that the burden of proof is on Mr. Noblin on whether the Council approves this special use zone. He is concerned about the future and the historical value. He stated that ick factor affects property value. Councilor Carter stated that Mr. Noblin is a little short on addressing the property value. Councilor Carter advised Mr. Noblin that he has spent a lot of time whose testimony should he weigh: Mr. Noblin's, people within a 100 ft, a little less degree within the surrounding neighborhoods, and then the individuals in Belen and into the economic impact.

Mr. Noblin believes he has attended to all of those issues; he emphasized that he provided documentation showing property values and resales within the immediate area.

Phil Rodriguez mentioned that this place has been a mortuary for years. He also informed the Council that there are sales records readily available. Councilor Carter responded that there is no way of knowing what the market value is after the crematory is established.

Mary Wood expressed that if they were trying to put in a mortuary where she lived she would be more

offended than a crematorium.

Mike Wood stated that when he looks to move he will focus on the county commissioners.

There were no more public comments or questions.

Mayor Rudy Jaramillo asked for a motion to approve or disapprove the amendment to the zone map from C-1 to SU-1 for future expansion and/or addition of an on-site crematory.

Councilor Jerah Cordova explained that he has taken into consideration all the facts, and it seems that the primary concern is emissions. The affect on children in the park is related to emissions and nothing else, and the stigma is subjective. He mentioned that he just bought a home next to the proposed crematory, so it is obviously, for some people, not an ick factor. He continued to explain that property values and market values are going to be inconclusive. He stated that he needs to base his decision on the relevant facts and the law. He also stated that he has searched to find a reason to deny this special use permit, and he cannot find one. Councilor Cordova made a motion to approve the amendment to the zone map from C-1 to SU-1 for the expansion or addition of the on-site crematory. Mayor Jaramillo asked if there was a second. There was no second on the floor and the motion died.

Mayor Jaramillo asked if there was an motion to disapproval the amendment of the zone map form C-1 to SU-1. Councilor David Carter reiterated that the burden of proof is on the petitioner, and he made a motion to disapprove the zoning change. Mayor Jaramillo asked for a second. Councilor Wayne Gallegos stated that because of the relevance of the residents that don't want it, he has to give it a second. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	No	
Councilor David Carter	Yes	Motion carried

Mayor Jaramillo called a 5 minute break for anyone wanting to exit the room.

Mayor Jaramillo called the meeting back to order.

APPROVAL OR DISAPPROVAL OF THE FIRE DEPARTMENT'S AMBULANCE FOR AUCTION:

Manny Garcia, Fire Chief

Chief Manny Garcia informed the Council that he is seeking approval to auction the old rescue which has been inoperable for the past couple of years. Leona informed the Council that as soon as approval is granted she would place the item on Public Surplus. Councilor Gallegos asked Chief Garcia to check if a release is needed since the ambulance was bought with EMS Grant Funding. Chief Garcia advised he would look into that. Councilor Carter asked where the proceeds would go. Chief Garcia answered back into the EMS fund. Chief advised the Council that he would like to start the bid at \$10,000.

Mayor Rudy Jaramillo asked for a motion. Councilor Wayne Gallegos made a motion to approve the ambulance for auction. Mayor Jaramillo asked for a second. Councilor Audrey Vallejos seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

APPROVAL OR DISAPPROVAL OF THE PRECINCT BOARDS & TRANSLATORS FOR THE 2014 ELECTION: Leona Vigil, Deputy Clerk

Leona advised the Council that as per State Code she needs to receive approval of the assigned precinct boards for the 2014 Election. A copy of the precinct boards and locations are attached hereto. Councilor carter asked

if the public would be notified of the precinct locations. Leona answered that she will place signs at the prior locations and notices in the water bill. Councilor Cordova asked if any of the members listed were related to any of the candidates. Leona answer negative. He then asked if City employees can serve as precinct members. Leona answered yes. Mayor Jaramillo asked if the members listed were experienced. Leona answered the only new comers were Bertha Flores and Delma Baca, but she placed them with experienced members.

Mayor Jaramillo asked for a motion to approve or disapprove the precinct boards and translators for the 2014 Election. Councilor Cordova moved approval with the list as presented. Mayor Jaramillo asked for a second. Councilor Audrey Vallejos seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

PUBLIC HEARING

AMENDING THE CITY OF BELEN'S OPEN BURN ORDINANCE 2009-10: Manny Garcia, Fire Chief

A copy of the amendments to the ordinance are attached hereto and made an integral part of these minutes by reference. Chief Garcia explained that the County received funding through the Wild Life Fund in New Mexico to advertise "what ifs", how to burn weeds and when a good day to burn etc. Each jurisdiction will have a section of the publication that will be released. The ordinance revision matches the information from the NM Administrative Code. He added more material that cannot be burned. He is also redefining portions of the ordinance. He proposes to amend the burn permit time limitation from 5 days to 30 days and the burning times to one hour after sunrise, up to one hour before sunset. He also added red flag warning to be used during wild fire season and fire weather watch. He explained if there is a red flag warning individuals cannot burn. Chief Garcia informed the Council that burn barrels are restricted because it generates a lot of smoke, the contents are not visible, and the fire will linger in a burn barrel. Councilor Cordova pointed out a couple of typos. Mayor Jaramillo wanted to verify that there was no charge for burn permits. Chief Garcia answered that was correct. Steve Ethridge asked if there was anything preventing a fire in a fire pit or at a matanza. Mayor Jaramillo answered that nothing changed to that affect. Mayor Jaramillo asked for any other public comments. There was no more public input, and this hearing was closed.

PRESENTATION

COMMUNICATION WITH COUNCIL: Carolyn Houston

Ms. Houston informed the Council that when she makes a mistake, it is her obligation to correct it. During a Council Meeting of March 2011 she informed the Council that she researched, through the department of transportation, reports for the years 2004-2009. She found there were 15 fatal accidents attributed to Belen in that time frame; that led her to presumption there were and would be an average of three fatal accidents in Belen per year. She emphasized that that statement was wrong with an incorrect conclusion. She recently looked at the reports again and found 15 fatal crashes including 2 that were not reported. These crashes were attributed to Belen from the years 2004-2009; this time she researched the locations of those crashes. Only 5 of those crashes were within City boundaries. Two of those 5 fatal crashes were investigated by the County Sherriff and 2 were not reported at all. She was wrong in her insinuation that there was an average of 3 fatal crashes per year in the Belen district boundaries. She stated that the average is less than 1 fatal crash per year in the Belen jurisdictional boundaries. She stated that this does not alter the need to have immediate accident reconstruction at a crash site.

Councilor Carter asked how many of those crashes were in front of Wal-Mart. Ms. Houston answered that there were 5 in that general corridor. Councilor Carter asked a few questions on crash reconstruction. Ms. Houston then summarized the accident reconstruction presentation she gave in back in March of 2011.

INFORMATIONAL ITEMS

City Manager's Report: A copy of the City Manager's and is attached hereto. Mary Lucy informed the Council that there is a 51 page water consumption report, which includes 3,002 accounts, and out of those 51 pages 40 of them used less than 3,000 gallons; citizens are conserving. The Mayor and Steve met with BNSF and gave them the City's needs and the costs. The Martin Luther King Celebration was a huge success. The Food Pantry is seeking money to purchase a water heater. The Annual Matanza is this coming weekend. She attended the Chamber Gala where there were a lot of people in attendance. Absentee Voting begins January 28th. She attended the IT Committee and reported that the court migration has already been in process for 6 months and anticipates another 6 months. Lawrence has looked into a document management system, scanner and indexing. Lawrence is working with Plateau on negotiations regarding public use. The Harvey House migration is complete and the social media is doing well. She explained that the TIF account is allowing for a lot of this to happen. The City's Former Fire Employee Ben Barnes is in hospice, and shed asked for prayers. Councilor Cordova asked for the Affordable Housing Ordinance; Steve responded that he needs to give the Council a copy of Carlsbad's Ordinance and call the consultant to set up a workshop. Councilor Carter asked if we have recovered any monies from the foreclosure. Charles Rennick answered that they have been filed on all three properties. Council Carter asked for a time table; Charles Rennick replied that he can put one together. Mary Lucy added that another house has been demolished voluntarily on 13th Street.

Councilor David Carter: Softball has requested slots for tournaments to be held on the fields March 22nd and May 3rd. He attended the Hearing in Rio Rancho regarding the hospital on the 9th where the Judge recused himself. Charles Rennick reminded the Council that Judge McDonald gave the parties a chance to agree on a Judge. He attended the Candidate drawing by lot. He attended the Chamber's Banquet which was great. The School Superintendent's Contract will be extended for another year, and Sam Chavez resigned from the School Board. Mr. Lusero, from the Food Pantry has asked for temporary arrangements while in transition; they are going to allow them to use the parking lot across the street or the old bus compound.

Councilor Jerah Cordova: He mentioned that he attended the Hispano Chamber and there were no concerns with the Matanza. MainStreet will meet next week to work on paperwork for grants. He attended the Chamber Banquet, Jim Wood's Retirement Party and the MLK Event. He went to the Neighborhood Watch Meeting, for the north east quadrant, at the Police Department. They have expressed an interest in Neighborhood Watch signs for that area; they would also like to see the City continue the demolition program. He attended a Community Meeting on Saturday and they had traffic concerns for the Matanza.

Mayor Rudy Jaramillo: He attended the Recreation Meeting and sports events are gearing up. He attended the Hearing in Sandoval. He attended the Chamber Banquet. On Saturday he attended the UNM-VC MLK Celebration, and on Monday he attended the City's MLK Celebration. He announced that the Matanza is this coming weekend and the Legislative Session has started today. He attended the luncheon with Intel and the Economic Development Meeting of Albuquerque.

Councilor Wayne Gallegos: On the 9th he met with the Seniors in the Valencia County area to discuss their needs. On the 16th he met with the non-metro AAA on Aging in Santa Fe regarding grants for the Senior Citizens throughout the State. The City's Final Audit was complete and there were zero new findings. The Martin Luther King was nice; this was the first year it was moved from the Park to the Gazebo.

Councilor Audrey Vallejos: On February 1st there will be a benefit fundraiser for Adelante at the Moose Lodge, tickets are \$15.00. She attended the MLK and Chamber Banquet in which she was pleased with the turn outs. She delivered pastries for the homeless.

Mayor Rudy Jaramillo asked for a motion to go into Executive Session for pending or threatened litigation, limited personnel matters, and land acquisition.

Councilor Jerah Cordova made a motion to go into Executive Session for those stated. Councilor Audrey Vallejos second the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

Mayor Jaramillo asked for a motion to leave the executive session and return to the open meeting. Councilor made a motion to return to the open meeting. Councilor seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

Mayor Rudy Jaramillo asked for a motion that discussion was limited to those mentioned and no action was taken. Councilor made a motion. Councilor seconds the motion. Roll Call Vote:

Councilor Wayne Gallegos	Yes	
Councilor Audrey Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion carried

ADJOURNMENT

Mayor Rudy Jaramillo asked for a motion to adjourn tonight's meeting. Councilor David Carter motioned to adjourn the meeting. Councilor Audrey Vallejos seconds the motion.

Councilor Wayne Gallegos	Yes	
Councilor Audrey Torres-Vallejos	Yes	
Councilor Jerah Cordova	Yes	
Councilor David Carter	Yes	Motion Carries

/s/ _____
Rudy Jaramillo, Mayor

ATTEST:

/s/ _____
Mary Lucy Baca, City Manager, CMC