



City of Bayard
CITY COUNCIL REGULAR MEETING

February 27, 2023 at 5:30 PM

Bayard City Hall

MINUTES

WORK SESSION

Consent Agenda

Councilor Diaz asked Police Chief Carrillo to thank Code Enforcer/ACO Frank for his well detailed report.

Old Business

Clerk-Treasure Valenzuela stated for the ordinance for vacant buildings she has a draft and it is ready for the mayor and council to go through it and highlight if changes need to be made. After this draft there needs to be a public hearing to get resident's input. Valenzuela will have a public meeting in about 2-3 weeks for the resident's input. Highway 356 project she spoke with the engineers and they are finishing design documents, they are waiting on DOT certifications, PNM has to do some utility relocates, they are 95% done with these documents and they are right on schedule to be going out for bid this summer. This money is set to expire at the end of this year. So, everything is right on track to start this summer.

Mayor Pro-tem stated he thinks this ordinance will work well for Bayard.

Councilor Medina stated there was an ordinance that states that houses that have utilities connected are not abandoned or considered abandoned.

Clerk-Treasure Valenzuela stated that is correct so that would be considered neglect not abandoned. So, this should not affect these houses. We will get with the attorney to look over this ordinance. This ordinance does not go through the municipal court. This is through the city hall.

Councilor Diaz stated yes, we do need to get with the attorney because if they do have utilities connected it is not an abandoned building they are paying for services. This ordinance looks good there is still some fine-tuning. This is going to be another ordinance, how is the city going to enforce it? Who is going to take the responsibility for this ordinance? What kind of education and training will they have? The city can't go around and site every home owner just because someone is complaining. There has to be a process in place. He would like to get with the other municipalities and see what challenges they have come across. So, we don't come across the same problems. He also thinks there should be a subcommittee for this ordinance before this ordinance comes to the city council for final approval.

Clerk-Treasure Valenzuela stated the Mayor, Code Enforcer and herself have already meet with the Clerk from Santa Clara and she is willing to attend one of our council meetings to go over this ordinance and answer any questions.

New Business

Mayor Fierro stated WNMU, the County, Bayard, Santa Clara, and Hurley have been involved and the location of the Vocational Workforce Center will be located across from the Bayard Cemetery. They will be asking for \$15 million. This was mentation in Santa Fe at the legislative sessions.

Councilor Gonzales asked if each municipality will have to give any money to this?

Mayor Fierro stated no, WNMU is going to be asking for the \$15million. This will be a big plus for the mining district and the whole county.

Clerk-Treasure Valenzuela stated right now the defensive driving class is going through zoom and she is only able to get two employees at a time. The city has a lot of new employees that need to take the class. So, the fastest most efficient way to get everyone to take the class all at once with Virginia Lozano who gives Defensive Driving Class. Virginia is certified to give these classes and is approved by the city's insurance.

Clerk-Treasure Valenzuela stated this Resolution is for the 2023 Colonias funding for the clortec system out at the wells. The maintenance guys are manually adding chlorine to the system. So, this system needs to be replaced. This is a priority for our water system. This system will be around \$250,000.

Action for Personnel

Clerk-Treasure Valenzuela stated the hiring of Robert Ruiz for Wastewater Laborer, he was the only applicant for this position.

Mayor Fierro stated under public input there will be 5 minutes for each person and the council nor him will be answering any questions they may have.

Councilor Diaz stated we are asking the public to specify what they are wanting to talk about but he has yet to find the rule where that is.

Tanya Ortiz stated there is no rule where the resident has to tell the City Clerk what exactly they are wanting to talk about. The communication just makes it easier for the Mayor and Council to have answers rather than having to come back to the next council meeting for the answers.

Councilor Diaz understands this but if the resident has a concern, they can be placed on the agenda without specify saying what they want to talk about because the Mayor and Council should have answers for them.

Clerk-Treasure Valenzuela stated she believes it cut down on all the back and forth and the disagreements.

Mayor Fierro stated he has been answering while in public input and he has been approached by the council that he should not be answering any questions. He knows you shouldn't be answering and now he is going to change it and will not be answering.

CALL TO ORDER: Mayor Chon S. Fierro

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Mayor Chon Fierro

Mayor Pro-tem Raul Villanueva

Councilor Eloy Medina

Councilor Frances Gonzales

Councilor Jose Diaz

Others in attendance were Dolores Charon, James Ervin, Larry Ojinaga, James Parks, Jesus Perez, Joan Perez, Selina Crespín, Jade Wilson, Judge Jose Sandoval, Euphemio Gonzalez, Marlina Valenzuela, and Tanya Ortiz.

APPROVAL OF THE AGENDA

Motion made by Mayor Pro-tem Villanueva with addition of Selina Crespín on New Business, Seconded by Councilor Gonzales.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

PUBLIC INPUT

James Ervin came to the meeting because he is still confused on the discrepancies on the budget for the Beautification Committee. He would like to know if there are receipts for the discrepancies? He feels the community should also know about all the money the city is managing for all committees. He also stated discrepancies are happening multiple months and the amounts are increasing. He is unclear about who can draw money from these accounts, this should go in front of the committee for approval before any money is spent. There needs to be transparency and get a process going on this, so that every month they can see what is being spent all the debts and credits and see the balance and there will be no confusion.

Clerk-Treasure Valenzuela stated she did go over the account with Jade the secretary. Valenzuela stated if he could go in the city hall tomorrow, she is willing to go over everything with him. She also stated to give city hall a call to be placed on the agenda for the next council meeting.

Police Chief Carrillo stated he need to inform the Mayor and Council of an action that took place. He stated the Animal Control/Code Enforcer and Police Department have been trying really hard to do their job. There was an incident on Winifred Street where sewer was backed up. There was two people that got cited into municipal court the property owner and the renter of the property. The Judge decided to combine the case. When they went to court the Code Enforcer did notify Chief Carrillo that only one side of the case was heard in the proper way.

The prosecution which is the city in this case. They go ahead and stated their case and the defendant state their case. In this case for some reason the Judge went straight to the defendant, the owner of the house and got her statement and story and dismissed the case. So as the City of Bayard Code Enforcement and Police Department their rights were violated. They did not get a due process. The City of Bayard missed out on \$1678 worth of repairs that they were trying to get back. He was not allowed to present their case and the Judge will say he didn't know about these amounts. The reason for this is the prosecutor did not have a chance to tell the Judge about this. This will be the third complanate in four months that Chief Carrillo will file to the Judiciary Standers Committee in Albuquerque. Chief Carrillo is holding the Judge accountable for what he is doing.

Judge Sandoval stated he did not combine both cases they were both on the docket. He listed to all witnesses and complaints. As far as he could determine from the complaints that have been filed and the testimony. Judge asked the city if the problem had been solved and the city responded yes it has. The Judge did find the renter guilty of causing the problem of the waste material spilling over. Judge Sandoval finds it hard to believe what Police Chief Carrillo stated because he did go from one case to the other. The Judge did hear the testimony from the owner of the property and asked what had been done and if the problem had been taken care of. There was no more hazardous material so with that he dismissed the case against the property owner. As far as the Judge could determine that problem was not caused by the property owner. It was caused by the renter by a lot of items being flushed down the toilet. The Judge made sure these were two separate cases. Judge Sandoval stated anyone can file a complaint and he finds it very odd that previous complaints have been filed and he believes this is beginning to be personal.

CONSENT AGENDA

Motion made by Councilor Medina, Seconded by Councilor Diaz.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

1. Approval of the Minutes of Regular Meeting on February 13, 2023.
2. Approval of the Accounts Payable Report for February 27, 2023
3. Approval of the Police Report for October, November, December, and January.
4. Approval of the Animal Control/Code Enforcement Report for October, November, December, and January.
5. Approval for Joe Sierra to attend the 45th Annual NMRWA Conference in Albuquerque, NM on April 4-6, 2023.
6. Approval for Mikey Paez to attend Introduction to Floodplain Management in Farmington, NM on April 17-20, 2023

OLD BUSINESS

7. Discussion for resident Larry Ojinaga to address where city is at with wording on ordinance for vacant buildings and NM 356 Sidewalk Project.

This was discussed in the work session.

NEW BUSINESS

Selina Crespín stated she received a certified letter from the City of Bayard and in the letter, there is a legal notice that states the Bayard City Council will conduct a public hearing at 5pm for consideration of zone change from residential to industrial for the installation of a solar farm at 504 Virginia Street, then it goes on to say the regular meeting and if you would like to be placed on the agenda to call city hall. She was concerned about this letter coming to her certified. She talked to Tanya and Tanya said she did not have to be placed on the agenda. The legal notice was not signed and she believe it should be. She is being told one thing in the letter and another when she comes down to city hall. She is very confused. Then she brings her issues to the City Council and she feels like people get upset with her maybe speaking back to the mayor in certain ways. This is her home, her residents, this is where she has to live for the rest of her life and she have a choice to move. When she receives a letter from the city stating things will change near her home this is very upsetting to her. She has every right to bring this to the city council if they city does the same. If Selina gets informed certify about a meeting, she expects to be informed certified that it has been canceled. Selina is the one that sent out letters to the residents in her neighborhood. She spent her money getting copies of this letter and This company decides to cancels at the last minute. This is not fare to her that she has so worry about this company coming in a couple of months. This is all red flags to the city council that this company should not be here.

Councilor Diaz stated let this be a learning tool to move forward. He feels this letter should have gone out to every resident in Bayard because it is going to impact everyone in Bayard. The censures of this are the railroad trach that is falling apart. He stands apposed for this company coming into Bayard. This letter should have been signed, the council should have been fully aware of this letter and he apologized for this letter.

Mayor Fierro apologizes for this and he took full responsibility for it. Mayor Fierro stated anyone can attend the city council meetings to discuss what they need to.

City Clerk-Treasure Valenzuela stated just to clarify we were following the city ordnance by sending residents with in of 100' and the legal notice we advertised for the rest of Bayard but moving forward we can make a different approach.

Deputy Clerk Ortiz stated she did her job by following the City's ordnance giving the residents 20 days' notice by certify mail. She did not hear from the company; Tanya did not want the deadline to come and go so she took it upon herself to send the letter in order for this meeting to happen. Then four days before the meeting Cindy called Tanya and let her know she could not attend the meeting and will reschedule for May.

Councilor Diaz stated we should not be doing the work. We should send them the ordnance and address of the residents and let them do the work. So, the ladies form city hall do not have to answer to the residents the company can answer any question they may have.

Mr. Trujillo Stated what everyone is saying is true. Everyone is going by the law but he suggests that the company do all the work by send out the letters. They City should let the

company know what needs to be done by law. The company should first send out a letter to the council so they know what the residents will know what they are going to read.

Councilor Medina stated if the company cannot be reached then they have to wait till the next meeting. and every resident needs to be informed. The company needs to know we have ordinances and rules. City Hall followed the rules. From here on out if any company do not comply by the time limit, then they have to wait till the next month. If any company has any interest to be here, they will be here.

8. Discussion/Approval for letter of support for funding for a vocational workforce center.

Motion made by Councilor Medina, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

9. Discussion/ Approval for Virginia Lozano to give Defensive Driving Class for all City employees who have not been certified at \$65.00 per employee.

Motion made by Councilor Diaz, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

ORDINANCES/RESOLUTIONS

10. Discussion/Approval of Intent to Adopt Ordinance concerning the registration and Maintenance of Neglected vacant residential and commercial structures.

Motion made by Councilor Medina to make a subcommittee to review the intent to adopt the ordinance, Seconded by Councilor Diaz.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

11. Adoption of Resolution 2-2023 for 2023 Colonias Infrastructure for Improvements to Bayard Water System.

Motion made by Councilor Medina, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

12. Adoption of Resolution 3-2023 for the September 30, 2022 Financial Statements and Budget Adjustments.

Motion made by Councilor Diaz, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

ACTION FOR PERSONNEL

13. Approval of the hiring of Robert Ruiz for Wastewater Laborer position at the hourly rate of \$15.75 upon successful completion of all pre-employment exams and background checks.

Motion made by Councilor Diaz, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

MAYOR AND COUNCILORS REPORTS

Clerk-Treasure Valenzuela stated the project at the Public Safety Building should have started today. The contractors semitruck broke down and now they are scheduled to come back Monday.

Mayor Fierro stated this has been going on for months and they have an excuse. The same thing with Southwest Concrete, he been talking to Joseph Wiseman every week and it seems to be the same thing. Equipment is broken and the weather. He did let them know they have to get something going. They are working at the airport in Deming. He is waiting on a call this week to see when the project will begin. Mayor Fierro will give him a call and see where they are at. He has been keeping in contact with them.

Police Chief Carrillo stated he has no personal issues with Judge Sandoval, if he rules against the City of Bayard then that mean he followed his judiciary process. His biggest concern is this is not being followed. If you have one case and two defendants and you have everyone in the room and listen to everything that is combining the case. Chief Carrillo has sent him and his secretary links Municipal Judicial procedure. This is not personal he is standing up for his department, for City of Bayard and the residents of Bayard and when things are not being done right with his department, he expects to be told it's not being done right. This is the reason why it was brought up to the attention of the council. Chief Carrillo is spending countless hours teaching the Code Enforcer/ACO how to prosecution and then something like this happens. The City of Bayard is the one that is hurting in the end.

Chief Carrillo thanked the Mayor, Council, and administrative staff for this new Trak System. The State Police, Silver City Police Department and now Bayard Police have this system. This system in is every police unit. This system allows you to print citations, criminal trespass from the unit. This program has a scanner where you can get the driver's license and this will input all the information for you. This system allows officers to work on reports from there units. This also help with time on paper work with a DUI. Another feature is any reports that are made and need to be approved, the Chief has access to all reports from his unit. Now all the police department reports are in. One un-certified police officer is being shadowed and there will be an advertising for a certified police officer.

Fire Chief Gonzalez asked when will the contractor start on the roof.

Clerk-Treasure Valenzuela stated Monday.

Police Chief Carrillo stated the past Chief avoided this issue and would send the citations to magistrate court but him officers want to go through municipal court of the City of Bayard can get the revenue.

MAYOR AND COUNCILORS REPORTS

Councilor Medina stated he has some issues with the judicial system in the City of Bayard. His biggest concern is the police officers are getting out of there units and comprising their safety.

This dose needs to be brought to the attention because this is an officers safety issue. Medina did ask Chief Carrillo to let his police officers know to continue to do what they are doing. Medina appreciates with the administrative staff is doing.

Police Chief Carrillo stated the past Chief avoided this issue and would send the citations to magistrate court but him officers want to go through municipal court of the City of Bayard can get the revenue.

Councilor Gonzales, she thinks that sending a complaint to the Judiciary Standers Committee is good. Then the committee will see this is the second chief the court has had issues with. For Judge Sandoval saying this is not a money maker is telling Gonzales he does not care for the safety of the Police, she also worries for the residents. Her being a former judge it is best from the judicial ethics and judicial law side to hear both cases separately. She would also like for the library to start writing a report every month. She asked if the department head reports can be moved up the beginning of the meeting so all the residents can hear and the council can ask questions if they need.

Councilor Diaz stated we learn every day and let's continue to improve. He wants the residents to know if a company wants to come in to Bayard, he will not object to it but he will agree with it until he has all details and full support from the residents. Other thing is with the judicial side there has always been an issue with the judicial and governmental side. The governmental side cannot tell the judicial side what to do. But we have a judge that says he is not a money maker but the city if not a bank account either. He did state that the election is in November and the people get to pick what happens. With this issue there is a property owner that owns around \$1,500 to \$1,800 to the city, he strongly feels they council sits in the position of authority not to open that water until the bill is paid. We have fees for everyone else that has high water bills. She can still rent the home but there will not be water until the bill is paid. He may be the most hated council man for being the most outspoken but he will stand of the resident's voice. This amount is not including all the man power of the maintenance department and code enforcer that worked on this issue.

Clerk-Treasure Valenzuela stated there is a problem with the judicial system. The judge keeps dismissing citations and at the end the residents think Bayard isn't doing anything. Another thing the hipaa laws are going to be changing Santa Fe is making changes and we will not be able to give address out. The reason we called the residents that got a certified letter is because if a certified letter was mail it won't have made it to the residents in time.

Mayor Fierro stated Judge Sandoval call him on the same issue and Mayor Fierro know there is more citations going out then they are paying for them. Clerk Valenzuela, Councilor Gonzales and Mayor Fierro meat with US Representative Vasquez last week they discussed the wastewater treatment plant, so he is going to meet with the Governor and Senator Heinrich to see what they can do for us. Vasquez did say he is going to get on the issue soon. The Grant County Commission had a meeting and the regional water was discussed. Freeport is wanting the effluent water this is coming from the wastewater treatment plant interchange for fresh water to Hurley, Santa Clara and Bayard. Freeport is going to donate 200-acre feet of water to Hurley and 200-acre feet of water to Santa Clara. All entities sign an agreement for this project to move forward. Mayor Fierro sat and talked with Maintenance Director Paez about the city park and it does not have enough lighting. They discussed using the light poles that were removed the highway 356, Paez did start working on that. Mayor is hoping for

lighting to be at the city park as soon as possible. Also, Copper Little League is going to be starting soon and asked Police Chief Carrillo if he could start patrolling the area. One of the new bleachers that the city bought was torn to pieces. Mayor Fierro thanked everyone for their hard work. He stated the girls at city hall are new at their position and it is going to take time for them to learn but they are doing a great job.

NEXT MEETING DATE:

Regular Meeting – March 13, 2023

ADJOURNMENT

Motion made by Councilor Diaz, Seconded by Councilor Gonzales.
Voting Yea: Councilor Medina, Councilor Gonzales, Councilor Diaz

ADJOURNMENT 7:10 P.M.

ATTEST:

Chon Fierro
Mayor

Marlena Valenzuela
Clerk Treasurer