



City of Bayard
CITY COUNCIL REGULAR MEETING
February 13, 2023 at 5:30 PM
Bayard City Hall

MINUTES

WORK SESSION

Councilor Diaz had a question about the accounts payable report there are two entry's for Humphreys in the amount of \$871.00. He would like to know what they are for?

Clerk-Treasure Valenzuela stated there were clean-up to pump out sewer for Mayo Street.

Councilor Diaz would like to see receipts and invoices for this, he is really looking in the budget. Another question he had was the Little League, how are thing going there and what was the \$1,500 spent on?

Clerk-Treasure Valenzuela stated everything that President Ralph has requested is done and stoves were purchased for the kitchen.

Councilor Diaz asked why is there almost \$1,800 being spent at Ace Hardware, he also asked if there are receipts and invoices for every purchase? He would like to know if some of these purchases are for Winifred Street? Councilor Diaz would also like a detail report for the fuel that is being purchased.

Maintenance Supervisor Paez stated yes there are invoices and he is the sole buyer for Ace. Anything that is purchase has to get approved by Mr. Paez. Mr. Paez stated there was some purchases for Virginia and it is stated on his monthly report.

Councilor Diaz asked on the maintenance report in the amount of \$1,350 for Virginia Street was that only for Virginia Street? and was that on private property? His next question was were in the report is the work that was done on Winifred Street?

Mr. Paez stated yes that is for Virginia Street and no this is not private property, it is on the city side of the 5 foot easement. Mr. Paez stated there is nothing to report on Winifred Street because he was told to stop all actions on that project.

Councilor Diaz asked the Fire Chief what happen with the ambulance hitting the fire rescue unit and how much damage? He also asked did the people involved go in for a DNA test?

Fire Chief Gonzalez stated the rescue unit was hit when they responded to a call and the only thing damaged was the light nothing major.

Assistant Fire Chief stated no one was in the unit, everyone was in the house tending to the medical call.

Councilor Medina stated if the unit was unoccupied they do not need to test. Only if the unit was occupied they would need to test.

Councilor Diaz would like to know who was the responder that fell on an EMS call and if they are okay?

Fire Chief Gonzalez stated it was him and yes.

Police Chief Carrillo stated the Drug Interdiction Techniques training that Caption Macias will be attending in Las Cruces is a free class. This class is to show techniques to show the office beyond the traffic stop and maybe get some drugs off the street.

Clerk-Treasure Valenzuela stated the Capital Outlay Application training is a intense training to help write the application for the city that is due at the end of March.

Maintenance Supervisor Paez asked what was going on with the approval of the maintenance schedule change?

Councilor Diaz stated he did some research on the proposal and right now overtime is not paid for the current schedule they have now. With this schedule change \$4,320 could be paid out in overtime for an employee that is paid at \$15 an hour because that will be additional 16 hours at time and a half per month. When right now there is no overtime paid out. He feels we should not change the schedule as the maintenance department is fully staffed and this is not beneficial for the citations of Bayard. Also the department head has moved his office in the city hall building and in the past no one has moved there office to city hall. He would like to continue that path so the supervisor can supervise.

Councilor Gonzales stated she has looked it over and when a supervisor is hired, they need to be given the benefit of the doubt to see if it's going to work if it's not going to work, also to if the employee's want to try it. Mr. Paez was hired as the director and reading the new policy made sense to her. As for Mr. Paez moving this office in to city hall she has seen him only in the office for maybe an hour as most doing paper work. Gonzales feels Mr. Paez can come back in 30 to 45 days or so to see if this works or does not work.

Councilor Medina stated me agrees with Councilor Gonzales. He likes seeing Mr. Paez at city hall. When he came in, he was able to meet with Mr. Paez. Medina asked if there is access to internet at the maintenance shop? Seeing how the maintenance report is being done now on a computer being at city hall he has the equipment at his fingertips.

Maintenance Supervisor Paez stated yes there is internet. Also, there is very limited space. There is not brake room and a change room for the maintenance workers. These is not where Mr. Paez can make a phone call. If it's with the state or a citizen. At the maintenance building it is very noise. He would have to make phone calls inside the maintenance truck. Having a office in side city hall he is able to make phone calls send out emails and go back in to the field.

Mayor Fierro stated he feels we can try the new schedule to see if it works or not.

Fire Chief Gonzalez stated the Firefighter Stipend is to try and get the Volunteers to participate more. They keep track of who come out on EMS calls, training and things like this. They

started with 4 guys participating and now they are up to 11. There was a question of the officers double dipping. The officers get paid to do the departments paper work this stipend is to get more participation on making EMS calls and training.

Mayor Pro-tem Villanueva stated he believes this stipend is a good thing.

Councilor Diaz stated this retention bonus this policy states that if the person does not meet the criteria of 8 or less calls the individual does not get paid. So is this really retention? If someone can only make 3 or 4 calls a day and there is a call for a broken toe nail and 8 people respond but only 5 find in rescue unit, will they individual still get compensated? If this is going to be for retention and recruitment bonus everyone needs to benefit from it. Diaz asked Councilor Medina if the volunteer fire guys get paid for their EMS calls?

Councilor Medina stated no they get fund act money. That is not based on call volume. It's based on a percentage of who makes the calls. There is a state minimum of \$7,000 for BLS. If the call volume goes up then you can receive up to \$10,000 to \$11,000. Most volunteer fire departments receive \$7,000 per year that is based on membership and what area you are in.

Councilor Diaz stated he believes it's a really good program but everyone needs to be included. There should not be a penalty if someone only makes it one or two times. He also feels like everyone should be compensated for the time they go to a call.

Councilor Medina asked if you attend a meeting you get 2 points and if you attend a fire call you get 1 point and at the end of the month the tally gets totaled and a percentage gets paid out? and he asked if each guy had to fill out a W-9? He just want to make sure the individual and the City don't get in trouble. He believes that this retention is a good thing but he also wants recruitment. He wants the fire guys to look in to looking for way to recruit younger guys.

Clerk-Treasure Valenzuela stated yes they will have to fill out a W-9 form. This will be the easiest way to do this payment.

Councilor Diaz asked Councilor Medina if the city is reasonable for all grants?

Councilor Medina stated yes.

Councilor Diaz stated are the volunteer fire guys that are getting paid going to have a physical, background check and everything a new city employee goes through?

Clerk-Treasure Valenzuela stated this is not a part of the policy now but that that could be one of changes that can be made.

Councilor Diaz stated it will be up to the municipality. They are going to be city employee's.

Assistant Fire Chief this stipend is working there was only 4 guys responding and now there is 9 guys that are responding constantly.

Fire Chief Gonzalez stated this guys are volunteering their time and they need to keep that in mind. He does not want his guys to have to for example run 10 miles to be eligible to get paid.

Councilor Diaz stated if someone is going to on payroll these policies and procurers need to be followed.

Training officer Gary Arellano stated everyone is getting a chance at this money. From making calls to attending meetings, or washing trucks on a Saturday or Sunday. He stated you can't say all this guy's work on Saturday's and Sunday's.

Councilor Diaz stated this money will be from today going forward. There will be no back pay.

Clerk-Treasure Valenzuela stated she spoke with the Fire Marshal and he said yes there back pay can be paid.

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

A quorum was present. Others in attendance were Stephen Fischmann, Bruce Ashburn, Priscilla Lucero, Larry Ojinaga, Dolores Charon, James Ervin, Selina Crespín, Jo Lutz, Jesus Perez, Joan Perez, Romeo Cruz, Jade Wilson, Michael Paez, Euphemio Gonzalez, Gary Arellano, Michael Armendariz, Hector Carrillo, Robert Terrazas, Marlena Valenzuela, and Tanya Ortiz.

APPROVAL OF THE AGENDA

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Gonzales.

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

PUBLIC INPUT

Larry Ojinaga asked about the abounded building ordinance?

Clerk-Treasure Valenzuela stated it is taking a little extra time. She is working on it.

Mayor Fierro stated the Clerk-Treasure and himself have been looking at it. It is taking some time but they are working on it.

James Ervin stated he is concerned about the road that people are using by the train tracks. He sees people driving on that dirt road and then turning on to Poplar Street without stopping. He asked if these people are going to be able to continue to driving on this road? If someone coming off that road turns and hits someone who is liable?

Mayor Fierro stated is this privet property and they are still checking on it. He did make a call to the railroad company and they say there are going to come fix it and they never do. Mayor stated the railroad company is liable for the accident.

Selina Crespin asked if the city can ask the business to not use the road? This is very dangerous and the city needs to do something about it.

Mayor Fierro stated the business M&M Auto was asked by the owner of the property Mr. Wilguess to not use that road. Mayor stated the city cannot get in to this. We will call the railroad company and try and get some results.

Selina Crespin stated she is a resident and a member of the Beautification Committee. She asked how can she get a written statement on the financial for the Beautification Committee on a regular basics? They committee don't know see that. It is only communicated verbally.

Clerk-Treasure Valenzuela stated we can give them a written statement.

Selina Crespin has another issue with M&M Auto the road they are using. It is very dangerous and something needs to be done. The business needs to follow the rules for the safety of the residents.

CONSENT AGENDA

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Gonzales.

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

1. Approval of the Regular Meeting Minutes for January 09, 2023.
2. Approval of the Accounts Payable Report for February 13, 2023
3. Approval of the Maintenance Report for January 2023
4. Approval of the Fire Report for January 2023
5. Approval of the Bayard Municipal Court Report for January 2023
6. Approval of the Wastewater Treatment Report
7. Approval for Anthony Macias to attend Drug Interdiction Techniques- Patrol in Las Cruces, NM on March 10, 2023
8. Approval for Luz Lozano and Valerie Barboa to attend Report Writing Class in Rio Rancho, NM on March 13, 2023
9. Approval for Manuel Galaz to attend First Line Supervisor in Rio Rancho, NM on March 6-10, 2023
10. Approval for Stephen Estrada to attend NMRWA school in Albuquerque, April 4-6, 2023

11. Approval for Marlena Valenzuela and Council to attend Municipal Day in Santa Fe, NM, February 16-17, 2023
12. Approval for Marlena Valenzuela and Tanya Ortiz to attend Capital Outlay Application training in T or C on Tuesday, February 21, 2023

OLD BUSINESS

13. Discussion/Approval Maintenance Schedule Change

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Gonzales.
Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

14. Discussion/Approval Volunteer Firefighter Stipend Policy

Motion made by Councilor Diaz, to approve the policy with the options to adjust and correct anything and visit this issue a couple months down the road. Councilor Medina added if they do not want to do physicals then what needs to be looked at is a liability waiver. We are not against the fire department we are looking out for the best interests of the city and citations of Bayard. Seconded by Mayor Pro-tem Villanueva.

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

NEW BUSINESS

15. Approval of the Joint Power Agreement for Grant County Water Commission

Councilor Medina stated this is the Joint Power Agreement between the municipalities and the county. This agreement needs to be signed to be able to move forward and apply for grants and other money opportunities. This not fiscally tire Bayard to anything.

Councilor Gonzales asked is this the money that is coming from interstate commission?

Priscilla Lucero from the Council of Governments stated a little bit of history on the project. This regional water project has start in about 2006. A PR was developed in 2012 to start with phase 1 to start with Hurley. There has been some obstacles with Hurley and there well capacities. Part of the problem is there is not enough gallons per minute from these wells to fully support the Regional Water system. This will support water for the Town of Hurley but not for the Regional Water System. So in 2022 she submitted a congressional direct spending witch is a request to the congressional allegation for funding to update the preliminary engineering. That money was allocated and now in order to receive this money they need to apply to environmental protection agency. This is a \$200,000 award with \$40,000 of cash match, the Town of Silver City is going to provide the cash match. What come next is they are revisiting the Regional Water System Project in order to do this they have to reevaluate this agreement that was established by the Water Commission.

A few things have changed since doing this and one of the things is a non-binding agreement with Freeport stating they would give the Town of Hurley 280-acre feet of water in addition to this another non-binding agreement with Santa Clara for another 250-acre feet of water to provide to this project. In this state as a whole there is a movement is regionalizing water for the lack of work force and the operation of these systems. This agreement has go to every city council, this has gone to legal to make sure it does not cause harm to any of the local governments. This project has been worked on every effectively and do diligently. 86 million dollars of money is available and when they receive the other money that will be increased by another 20 million dollars. So this southwest corner of the state will have approximately \$126,000,000 for water projects. So here is an opportunity to regionalize these systems. So there we will have a water supply going forward and backward but understanding that Hurley it may be there primary water source but for others it may be a secondary water source. Also, everyone is maintaining ownership of their own water system, this includes water rights. The only part that becomes a part of the regional is the distribution line that connects everyone.

Councilor Gonzales would like to know if there will be a seat at the table and when will there be meetings?

Priscilla stated Bayard does have a set at the table and Mayor Fierro is the one designated and there should be an alternated just in case Mayor Fierro cannot attend.

Councilor Diaz stated Priscilla represented our communities very well.

Councilor Medina agreed and he recognized Freeport and stated Freeport had some key players representing in Santa Fe.

Motion made by Councilor Diaz, Seconded by Mayor Pro-tem Villanueva.
Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

16. Discussion/Approval for Wastewater Schedule Change for Daylight Savings Time

Superintendent Terrazas stated he is asking to change his schedule on Daylight Saving time to 4 10 hour days. With more sunlight he can get more done during the day. He can work on the UV lights, give him more time to haul more slug to the landfill and do more maintenance on the blowers. This will start when daylight saving starts.

Motion made by Councilor Diaz, Seconded by Mayor Pro-tem Villanueva.
Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

17. Approval/Discussion for Covid Testing Paid Time Off

Councilor Diaz has been bring this issue up the last couple meeting and the best results he has come up with is going to be at HMS. They go test at HMS and get there results within a couple of hours and the continue with the policy.

Councilor Gonzales agrees with Diaz or they can make an appointment with their PCP but this is the best process.

Motion made by Councilor Diaz, Seconded by Councilor Gonzales.

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

18. Currently preparing a draft letter with Stantec to be submitted to ISC for language pertaining to the Regional Water Supply Project.

Priscilla Lucero stated they met up in Santa Fe with the Interstate Stream Commission, one of the things that has been a struggle for them is this initial award and I don't remember what the and it was over 1,000,000. There was initial award made to the city of Bayard for reclamation or reuse, so what has happened is that that has been in my plan for a long time now, and it's just been sitting there because for reasons that you can no longer use the money because the school put turf on the fields that's not really going to be a beneficial. This will not benefit the school or the city anymore. So, she believes that there was a small amount of dollars that were expended out of that money. And so then now one of the one of the suggestions that came from the Interstate State Commission would be if we could utilize that funding, because that was from way back when they actually were putting out dollars from the Interstate Stream Commission, there was no water settlement. If we could potentially use that money to go towards the Regional Water project because you know all the other money is going to be tied to an application process. Well, this money has had already been established as a fund that was given for this project. And then I believe Kristy's been looking at the actual documents to see if this is something you would consider doing about changing and transferring this money over to the Regional Water Project which could really help in the stages of the design. It would also help in the sense of once we get that public engineering report, then we could use that as design money but matching money right to be able to continue that effort around the Regional Water project and my whole goal is to ensure that we're project ready so that we can tap into the money when they're available.

Kristy Ortiz just wanted to provide some background history on this funding before the council makes a decision, when it was originally awarded, it was awarded into two different grants, 1st grant dealt with the ball fields that were on the high school site, so it would take it, to create the line from the wastewater under Hwy. 180 to the area where the softball field is it would build the storage tank and then it create lines to each of those three fields, possibly two I can't remember, so those project funds were a total of 1 million, 463,000 in which the regional wastewater fund was contributing \$292,700, and then we had the second project that was awarded which installed the service lines to the T-ball field from the meter box at the T-ball field to the Little League field as well as the bottom, the practice field for now. The girls' softball field on the bottom and the track at the elementary. On that project that was a total of 196,000, which included roughly \$20,000 in cash match. So, what is available between the two projects of grant funds alone is approximately \$1,300,000. \$1823.00 and we just have to double check on a couple of invoices to make sure that this is included in the list and that is the amount of funding of the two

allocations put together. So the reason why I wanted to be on this call was just to ensure that you that before you assign the whole amount of funds to the changeover to the Regional Water system was that you understood that you would be taking the funding away from those lines that would go to the now and Little League field site, which at this point \$172,000 I don't believe is going to be enough funds to complete the project especially since this was done four years ago. So, she feels it is a good idea to transfer the funds to the regional waste, the Regional Water supply project and doing so is that all the participants that we are in the wastewater side. Which has been providing cash match and the funding was really originally dedicated for the wastewater system through the city.

Motion made by Councilor Diaz, Seconded by Councilor Medina.

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

ORDINANCES/RESOLUTIONS

19. Discussion/ Approval to Rescind Supporting Resolution 31-2022 Affordable Clean Energy

A. Bruce Ashburn-PNM

B. Rick Lass-LCE

C. Stephen Fischmann-LCE

D. Gabe Vasquez- Congressman

Bruce Ashburn apologized to you mayor and council because if he had done my job better, we wouldn't be in the position that we're in tonight where he has to ask you to resend something that you've already voted for. He wasn't here when the original presentation was given. He does want to, talk about any kind of buying the sky stuff. He is talking to the council just about empirical data. Things that he can show and prove. So the first thing that he presented is that the Mayor and Council were given in the beginning and the first line on this says that 6.4% of the electricity is generated in New Mexico by renewable needs. He is proud to stand in front of the mayor and council and tell them that PNM is already at 40% renewables as he speaks and 55% of the energy that we produce is actually produced carbon free. Is it possible that some of the other people that do business in the state are so poor that it could pull us down to that number? I don't know, but it doesn't affect you guys anyway because they don't serve you PNM does. This sheet that I have for you right here shows exactly that we have 156 megawatts of capacity that we own. There are 903 megawatts that PNM have signed power purchase agreements with and PNM expect another 1090 on online between 23 and 20. There's a whole lot of people that want outside interests to come into the state that actually want people to come in. PNM has donated back into the state \$26 million with this program that they're talking about putting out affect that ability. He wanted to point out that that PNM's responsibility in the program is 125 megawatts. Those units are capped at 5 megawatts, which means that there could be in PNM territory a total of 25 units.

Now each one of those units has the ability to sell their electricity anywhere in the state. So the number of phone calls that you had that you don't know who they are or where they're coming from. These companies are going to be selling their electricity all over everywhere, trying to get you to subscribe to their services. Additionally, if you look at the front, one of the things that has been presented to you is that there's only going to be one bill coming to you from the new program. He pointed out in the front of the page it says separate billing for subscribers from community solar provider and qualifying utility there's two bills and it's already in place for this. The only difference between this program and what's being presented is that this one is capped at 5 megawatts and the one comes in right now. On the bottom of page 4, it says an affirmative declaration shall not be required to become a customer of a local choice energy provider, but each customer shall be informed of the customer's right to opt out. So if one of these local choice energy or I'm sorry if one of the community solar providers is already doing business and they're actually doing better than what the local choice energy provider could provide, they're automatically going to be opted out and put into this program, even though it may not be in the customer's best interest. Additionally, he would like for them to understand that as soon as one of these are put together, you are automatically if you're in their area, you're automatically opted in. They have to do the work of getting out again back with the Community solar program. If you go back and look at that we expect that the announcements for the awards are going to come somewhere in the late March, maybe early April timeframe in that area. If you look at the awards that are coming, they're not going to be from New Mexico, 8 out of 10 that I've talked to maybe 9. At 10, I have no New Mexico ties. These people are coming from New York and Boston and California. They're going to be doing business in our state, taking money that is already allocated here and it's reverse economic development. It's going out of state and the new people that are going to be coming in are going to be doing the same thing. Prior to serving customers, a local choice energy provider shall adopt the following documents and reports pursuant to the local choice energy providers, rules and procedures. So who's making the rules? This is after it says outside of PRC oversight. It says prior to serving customers, the local choice energy providers shall establish rates, so they're going to set their own rates. And why is that important to you guys without the Commission? If PNM applies for a rate increase they were spoke through a long process we actually applied for one in December. The PRC at that point has nine months to come up with some kind of a decision at the end of the nine months. If they don't feel they've had enough time, they can go back for an additional four months. So effectively, before any rate increase would take place for PNM, you're talking about it going to be a two-year period before you're going to see an increase without having PRC oversight. They don't like their rates on Friday, they could come in on Monday and they could start over again. They can do whatever they want. A customer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive service pursuant. It's not what it says, it's what it doesn't say. There's going to be penalties if you choose not to stay with these people after 60 days, you're going to get charged a fee to go back to whoever you're with. The Local Choice Energy Act, the Commission shall develop and approve, as part of the rule, making a standard operating agreement that addresses the basic rules and responsibilities of each

party and includes equitable responsibilities and remedies for all they're asking for a blank check. Support this and they don't know what the end result is going to be, and if something comes back from the rulemaking that you don't, you don't support and you're on record as supporting this legislation, how are you going to stand up and fight for your community? The Commission shall not require the customers of a local choice energy program to assume debts, liabilities or obligations of the entity that enacted the local choice energy program so at that point, if something goes wrong, you can't charge the customers you're going to come up with the money to put this back the way that it was. If by chance something goes wrong. It says they're going to have the ability to sell energy and related products and services to customers located within its jurisdiction. Obviously provide retail sales, but C is the key and it says engage in the wholesale market. They may have a production place, they may have a production site here, they may not. They may just engage in buying and selling wholesale contracts. There's no guarantee that they're going to come here and do business because of the way that this is and if nothing else that I've said makes any sense. If it doesn't tell you that you should not be supporting this legislation, the last thing B says, the Commission shall not terminate the services of a local choice energy provider and C says a public utility or cooperative shall not terminate the services of a local choice provider. So if you get somebody in here, that's a fly by night, that's just doing their, you know, just coming in and doing basically nothing, taking the customer's money, who's going to stop? What oversight is there? He wanted to share with you one thing. I know that I cannot guarantee that these people work for in your community that they live in your community. But this was after 48 hours of working after an ice storm. These guys were actually recognized by the Grant County Commission. They work for us. Those are the people that you're going to be hurting because jobs are going to be lost. The potential is there. So please keep that in mind. I just want I want to put that and since this is a Grant County that's presented as a Grant County thing, please understand that you represent all of.

Rick Lass works for public power in New Mexico, which is a coalition of nonprofit groups that are in support of this. He wanted to just make a couple of quick points he been working on renewable energy projects in New Mexico since 1995 and unfortunately, he has watched PNM not just resist, but actively fight any attempts for renewable energy. They fought against renewable portfolio standards, which now they're bragging that they're meeting. But they fought for years and years at the legislature to prevent that, they fought against net metering, which is when a homeowner or business owner or government could build their own. Solar or wind arrays and tie into the grid they fought against that and now they've been fighting against Community solar, which is a drop in the bucket to their millions of dollars of profits they make and take out of state every year, something that wasn't in my notes is. As the city are in charge of your own local choice energy providers. It's not something that you're going to subcontract out local choice energy, which is understandable. These are new concepts for a lot of people. But again, PNM has fought and fought and fought and fought. And I've been on the front lines with that fight at the legislature, at the TRC, as a candidate for public office, and just seeing this resistance. The energy crisis, the Saudi embargo, gas prices doubling and tripling. Are you ever thinking then you know here's the chance for the auto industry

to become leaders, and instead they fought and fought and fought like PNM is now fighting renewable energy and now half the cars on the roads are not built in America anymore, and it's just to me it's the same thing. He would encourage PNM to say, you know what, we've been on the wrong side of history. They are going to go for the most renewables we can get as fast as they can get. The local choice energy providers have lower rates than the investment utilities in the same area. So, job creation, lower rates for residents and businesses, and your own independence and this may sound a little odd., The city closed its doors for three days last week, so you all go up to the state legislature and say this is what we need this is what we need money for this and that. And that's how it works. He totally understands and is not judging it but if you suddenly had more of a revenue stream, you wouldn't need to go up their hand in hand. For as much money every year as they do, and instead you would be creating your own revenue again, creating your own jobs, helping establish local businesses. He knows people who work for PNM on the lines and they're very valuable people. But you would have your own group of people like that two that you could call on and not have to call PNM and say when can you do this for us and in an emergency, they've been there but maybe not for everything else. And the last thing is by signing on to this legislation, you're going to be first in line for all this federal funding. There are literally billions of dollars through various community programs through Congress, through the Biden administration, that you will have access to build your own power, to build your own network. No, it didn't come up. PNM won't lose any money on transmission. They will lose customers. In February 2023 the support would be participated So that therefore, if you go to apply for federal money, you can say we have a record going back to this time saying that we support this idea and I shouldn't say first in line.

Councilor Diaz stated when we meet with you you gave me this pamphlet he currently had on hand and it has anything having to do with solar energy having to build our solar plants. All this perfect sounded great. His question would be is why would you not provide the House bill at hand that PNM just provided tonight? It is very well detailed for him. I would have taken such action back then to look at it because I can assure you something it's going to impact Bayard residents. This is why. That's why it's back. Bayard has a lot of elderly. We have a company that comes from New York wherever they happen to be. You could put an office here in. They're not going to put it in Silver. They'll be calling customer service somewhere else. But right now, he can assure you we can call PNM. They have an office in Silver. They have offices everywhere they can. Those the things that he had.....Steve Fishman, he served on the PRC as commissioner representing this District, District 5, for the last four years. The big picture is that what gets lost in a lot of this discussion. Is what's been happening with PNM over the last four, four years and really over the last 10 years. There have been an anomaly in the way regulation occurs of utilities. That encourages utilities public utilities in particular to waste money. They earned their profit by getting the greater return from the PRC on however much money they have invested in assets. The more assets they buy the more money they make, and that is guaranteed through the PRC and the rate making process. In the last 10 years, if we look at PNM, this isn't just PNM and, in an industry, it's called gold plating but PNM is, as was stated, who you have to be. They were going to acquire nuclear assets and they were going to buy them, to

put them on their balance. For twice the market rate of what it was worth. They had to stop them at the PRC. Recently they passed the ETA through our legislature and as part of the ETA there was a guarantee for closing coal plants that they get full recovery on those plants. The legislature wasn't particularly aware. We couldn't seem to convince about was that. There was a significant over investment in unneeded and ineffective pollution controls that and not telling anybody that they weren't then wanted to take the rape case and charge consumer support. The PRC came back and said No, no, no that was recruiting and an improved investment. We don't have to give you recovery on. And it was a. Lot of money, it was over. \$200 billion. The ETA basically was put in place and I can show you memos people talking about this. Basically put in. Place so that. They could convince the legislature to make ratepayers pay for that money in the process of closing those codes so that when they could talk about the expense of running a utility. One of the things that makes it so much more expensive to go through an IOU rather than a public municipally owned utility doesn't have the same incentive for waste. And there's a reason that rates in Farmington. Which is a municipal utility. And in Los Alamos, which is a municipally owned utility, and by the way, one city is far right and the other city is pretty progressive, they both find the same thing. Their rates are 25% lower. There are other reasons the rates are lower. They don't have to pay income tax; they can get financing. At half the rate of a utility like PN, that stockholder, they don't have to pay taxes. I think you don't have to get a 10% return to shareholders, which is guaranteed to the utilities. So are all these things that give you an opportunity when you have a locally run or owned utility to do it less expensively than the I use. Now one thing I want to point out. On all sides, when you get a bill like this, all sides are exaggerating their points. Everyone knows that. So, he will not tell you anymore than. Mr. Lass did that. There's a guarantee that rates will be cheaper. But it's completely voluntary. And I will ask this, if it's a municipality you wanted to create local choice in it and probably what you do is partner with some other local municipalities and that which form your own probably band together and form one. Would you put that vocal choice utility? Into effect, would you implement it if your costs were high? I don't think so. It's an automatic protection because if you're not competitive or much cheaper. Then pin it in. You're going to say no need for us to do this. There is no risk. All you're getting is a choice. I notice some people that choice sounds very scary because they're used to having this central utility. They're used to the idea that the utility runs and owns all the generation. But to tell you more than half the country in terms of population, their power utilities. Do not hold generation. They are transmission and distribution utilities. What's being so it's already been done across a large part of the country that kind of separation and you know in a lot of instances it's worked. Now in Texas it's led to lower rates but they've done some dumb things. In terms of transmission and distribution, where they're less reliable than they should, as we've seen in a couple of recent weather events. New Mexico has not done that, and in fact this is a very conservative, prudent way to move towards that model that's proved so effective over much of the rest of the country, because no one is forced to sell, no one is forced to adopt. You know, choose a local choice entity. And it happens gradually rather than all at once. So, for all those reasons I really support now I'm going to rundown a couple of just kind of rebuttals of some points. So, the two bills issued two dealers, Mr. Lass described it properly. Basically, if you start this this

entity, PNM, continues to run transmission distribution. They continue to balance the grid. They continue to maintain the grid and that is all in their daily way. Again, this is the kind of structure that is happening in many states across the country. It's nothing new. There will be a potential for two bills for a very small group of customers to be totally accurate, and that's somebody who decides to do community solar and also opt in. For the local choice entity so that those few people would could potentially have two bills to. Let me see anything else here. I wanted to emphasize in terms of rules. The PRC does help set the initial rules, but then a lot of the responsibility for rules and rates after that initial period. Would fall to the local choice the local choice entity is the local governments that put it together. It's basically you, you guys. Support it you hire whoever runs it. It's basically the local community, so when someone says, who's controlling things, who's where are the rules made? It's the local community. I have to say in terms of rate making, where there's been a number of rate cases that I've been responsible for ruling on

that I am not particularly happy with the process where the PRC and the utility set rates for local communities. Because local communities have specific needs, and some communities might need to take care of low-income customers more, others might have more of a business development. Perspectives that they need to push for the welfare of their community and I don't like it that the state had a utility are making those kinds of policy and economic decisions for your community.

The idea that you get charged the fee for holding back to the original utility I'm not quite sure where that came from. That's pure speculation certainly there's nothing about that in the bill in setting up a local choice entity where you negotiate with the existing utility on. All the very minute specifics. Of who's doing what? All those issues can be handled. But again, it's handled at your level. No one else can come in and say I want to form a local choice of. If the bill says that now it's going to be out of there fast because it's just a drafting accident and bills like this, they change as they. Go through each. But the one important point here is. They can't afford to be wasteful anymore. And who knows, maybe what happens as a result of passing this bill. No one creates the local choice entity at all. But PNM has to respond to the potential for competition, and now they have to do a better job. he encourage everyone to spend time talking and just telling us everything. He states just try and stay focused on the prize here and thank you very much.

Councilor Gonzales stated she is to go ahead and state that we just stay with the resolution that we supported the bill and the bill has already passed the Conservation committee. It's on its way to the Judiciary Committee. Senator Cervantes, Senator Soles are helping Carrie Hamblin, who is Senator Hamblin from Dona Ana County. Is the sponsor her and Stefanics and he is working with them for rewrites to the bill. For legal words and all that, because the bills do start to change as they go up, and so as it goes up, but it goes to the judiciary. Next, and that's what I was told by the center staff last night. And so, they are working together on it to get it to the judiciary. Senator Cervantes did speak in favor. She sat through the committee hearing the other day and he wants to help and get it passed. So, there's really hope for a lot of things that they want to see happen because we're they pointed out us that us and Hurley that have done it, he used this as an example as we are low income we're underrepresented. We are also high Hispanic. We

qualified for colonius money and other things, so that will put us between 25 between 20. Maybe 30% lower. And so those are some things. They're going to be looking. At as they rewrite on the bill. And so those are some things that she thinks are really important to look at because that's who we serve as residents and that was the reason why she brought the bill to the Council. I'm sorry because of this reason I want something good to come out and if it works out, it does. Like Steve said, if it's too high. And it's a crazy idea. We are not committed to having. If it works, it doesn't, and it may not pass. It may get you logicians by and split it and it dies. It might need rewrites. Who knows what happens in the next week or so. She would really like to just see us stay with the resolution where it's at it. It has already passed. One that already passed conservation. Yes, I'm making a motion that we continue with the support with a resolution.

Mayor Pro-tem Villanueva clarified to let everybody understand all what we did last time was just write a letter and we're not actually committing to anything that is going to possibly come out of this bill.

Councilor Diaz stated when we talked about supporting everything that on there, we didn't have the full bill. We didn't have the whole thing and let me tell you, lesson learned and move forward. If anybody comes in here in the future and comes and tells you to support something they better bring you the full documentation because in this bill. We are actually in this bill. It has it prior to serving the customer the local choice energy shall establish the rates. We don't know what rate we're supporting that. So, they walk in and they give a high rate. That's exactly what we're setting. That's exactly why the bill is there. The next thing is that the they can sell the energy, the most important is that the Commission shall not. It's going to be that the Commission's right here is, is that the Commission should not require the customers of the local choice energy to assume the debts, liability or obligations of whoever. We bring in really, it's like, come on, we're just opening the door to anybody to come in and just go ahead and send the bill, put our residents. Not one bill, but two bills. And on top of that. We focus on the majority of our residents are elderly, low income. They're already used to their set rate. Yes, utilities go up. It's not just the gas bill, it's the light bill, the water bill utilities goes up, cost of living is going up. He does not see unless I see it black and white and everything already drawn with what companies coming in here that we can.

Mayor Fierro calls for a second. No second motion dies.

Councilor Gonzales stated she wants something on the record really clear. I'm really disappointed with this group because we had talked about it. We had Rick here; we had the lady that runs the whole thing. I will say that I as a citizen or resident of Bayard or whatever. Do support it. And I just going to say that I'm really disappointed and if it does pass and it does look really good and we didn't get into an. All of that, she feels we're going to regret it. I really do because I have seen some of this stuff work. She wants the residents to know that she is looking out for you.

Councilor Diaz made a motion to make a motion to rescind supporting Resolution 31-2022 because we are looking after our residents right now, this bill is an open

book. An open checkbook for anybody to come in and I'm not in it to have any company or anybody else. Come from out of state or wherever they're going to come in until they can finally hope what should have happened here is they should have passed this bill, gotten the bill. And come back and ask for support. And give us some fine details that just that's not it's.

Mayor Pro-tem Villanueva just want to put on the record too that this is not something that we're against. The bill was already introduced whatever happens with the legislature if it goes through and it's something that's beneficial, will act on it. It's not something that we're just throwing away and that one the citizens to be clear on that, we are looking out for our citizens here. It's not that we're not supporting that or anything, but the bills already introduced, it's already gone through a couple of committees.

Seconded by Councilor Medina.

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

Voting Nay: Councilor Gonzales

20. Approval of Resolution 1-2023 Open Meetings Notice

Clerk-Treasure Valenzuela stated this has to be done yearly. Nothing has changed. The meeting are still the 2nd and 4th Monday of the month at 5:30pm.

Motion made by Councilor Gonzales, Seconded by Mayor Pro-tem Villanueva.

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

ACTION FOR PERSONNEL

21. Discussion for Disciplinary Action/Termination for Maintenance Gabriel Flores

CLOSED SESSION

Motion made by Councilor Medina to enter close session pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters., Seconded by Councilor Gonzales.

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

22. Discussion/Action for Disciplinary/Termination for Maintenance Department Gabriel Flores

ACTION ITEMS RESULTING FROM CLOSED SESSION

Motion made by Councilor Medina to enter open session, Seconded by Mayor Pro-tem Villanueva.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz
Motion made by Councilor Medina to terminate Gabriel Flores from the maintenance department. Seconded by Councilor Gonzales, Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

MAYOR AND COUNCILORS REPORTS

Fire Chief Gonzalez asked what is happening with the repairs at the fire department? Also he would like an explanation of the liability waiver. Gonzalez stated his department, the fire marshal's office, and the Red Cross are partnering up and going around town on March 25 to install fire detectors. He will be putting flyers up.

Maintenance department supervisor Paez stated the contractor is supposed to start today weather permitting.

Councilor Medina would like to know if there is times they should be done and if so is there any fine they are paying for not being done?

Maintenance Supervisor Paez yes our engineers have all that documentation.

Fire Chief Gonzalez asked about the liability waiver?

Councilor Diaz stated if someone were to get hurt while on a fire/ems call they don't try and come back to the city of compensation. If they decide not to go through the physical and all the steps then they will need to sign a waiver.

Fire Chief Gonzalez stated if a waiver is signed and someone gets hurt, then they are not covered by the city's insurance.

Councilor Diaz stated this is why they need a physical and back ground check because the city will be paying them. So they will have to be treated like a city employee. This protects the fire department and they city. They city does not want to put the fire department in a predicament that if they are not fit to go on calls.

Fire Chief Gonzalez stated the department is running a lot of calls. He did not want his officers to be a part of the stipend but not enough of people were running calls and he does not want to send the money back to the state and now this is working with more guys running calls. June 30, 2023 is the last day to expend the money. The back pay for this money will be from November, 2022 till now.

Wastewater Superintendent Terrazas stated the contractors are still working on the entrance work for the effluent line concrete was poured and they continue to work on it.

Police Chief Carrillo stated the body cam contract is up this year. He is looking to upgrade the body cams. He is also looking in to a grant to get new radios. The radios the department has need to be upgraded also. The police reports along with the code enforcement/aco report will be on the next agenda. The FTO program with the new police officers is going well. He foresees one of the officers to be going in the shadowing stage with in the next two weeks. Caption Macias will be back on duty March 8th right before Drug Interdiction Techniques training. He is busy doing walk in complaints and fixing the evidence vault. The police have been very busy help the schools with schools dances and sport events. Carrillo has e-mailed the Sheriff from Dona Anna for the donation of the shields. They did let him know the donation is not a problem, it is just a process.

Councilor Diaz had question for the Police Chief in reference to the school activities. In the past there has been a school resource officer. Is there grant money through the schools to pay for an officer? Right now the city budget is getting hit for an officer to be at the events. How you made an attempt to concoct the schools superintendent?

Police Chief Carrillo stated technically there wouldn't be overtime because there will be an officer on duty every day. In two weeks our other officer will be ready and be out on duty. He has not talked to the schools superintendent about paying the officers for this. He knows the DA's office have been in contact with the school about getting them funds to pay someone for a resource officer. If that money dose become available then the DA office will come to the Police Department and he would be able to hire a resource officer. Right now Chief Carrillo is helping with all the events at the schools if this become a problem then he will sit down with the school superintendent.

MAYOR AND COUNCILORS REPORTS

Mayor Pro-tem Villanueva thanked everyone for all the hard work they do day in and day out.

Councilor Medina thanked everyone who went up to Santa Fe. He was happy to see the work that was done there.

Councilor Gonzales stated there will be a Housing Authority Meeting this Wednesday. Gonzales will be talking with the Librarian about get a library report. Also, there is a vacancy on the Library Board.

Councilor Diaz stated he asks a lot of question during the work session for the betterment of the city from the volunteer all the way up to the governing body everyone should be healed accountable. Each department is doing a great job but he gets a lot of phone calls from the citizens of Bayard ask questions. He tries to find way to not to single out one person if he has an issue, he will go to the department head with the issue. The council or the mayor should not be going to the individual questioning or comment them. They should go through the chain of command. Sometime at the council meeting a department head and the council seem to be bashing each other but he wants them to know Bayard's governing body is behind them. Bayard is doing great and moving forward. He thanked all the citizens who go to the meeting and call him.

Mayor Fierro thanked all the departments for all the hard work they do. There has been a lot of complaints about pot holes, especially the residents on Dayhill Street. He has been in contact with the superintendent from Southwest Concrete and every week they speak it is the same thing, his equipment is down or the weather. He just wants everyone to know he is keeping in touch with him every week. The other projects they have going on should be done by the 24th of this month and they will be coming to Bayard to start our project. Another project the mayor and city clerk are working on is preparing letters for the Cobre Schools for the lease of the softball field and the tennis courts. He is hoping to get that done by the next meeting. The bathrooms at the Little League Field are done and now they are working on the concession stand.

NEXT MEETING DATE:

Regular Meeting - February 27, 2023

ADJOURNMENT

Motion made by Councilor Diaz, Seconded by Mayor Pro-tem Villanueva.

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

ADJOURNMENT 8:09 p.m.

Chon Fierro
Mayor

ATTEST:

Marlena Valenzuela
Clerk Treasurer