



City of Rio Communities Council Regular Business Meeting

City Council Chambers - 360 Rio Communities Blvd

Rio Communities, NM 87002

Monday, August 23, 2021 6:00 PM

Minutes

Please silence all electronic devices.

Call to Order

- Mayor Pro tem Joshua Ramsell called to order the regular business meeting at 6:01 pm.

Pledge of Allegiance

- Councilor Gutjahr led the Pledge of Allegiance

Roll Call

- Mayor Pro Tem Joshua Ramsell, (virtual) Councilor Bill Brown, Councilor Peggy Gutjahr and Councilor Jim Winters.
- City Manager Dr. Martin Moore, Municipal Clerk Elizabeth Lisa Adair, City Attorney Chris DeFillippo, and Valencia County News-Bulletin Julie

Approval of Agenda

- Motion made by Councilor Winters to approve the agenda as presented. Seconded by Councilor Gutjahr. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote the agenda was approved as presented.

Approval of Minutes for the Special Workshop With Economic Development Commission Minutes for 7/28/2021; Special Workshop With Planning and Zoning Commission Minutes for 7/29/2021 and Workshop & City Council Business Meeting Minutes for 8/9/2021

- Motion made by Councilor Gutjahr to approve the minutes for the Special Workshop With Economic Development Commission Minutes for 7/28/2021; Special Workshop With Planning and Zoning Commission Minutes for 7/29/2021 and Workshop & City Council Business Meeting Minutes for 8/9/2021. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote the minutes for the special workshop of 7/28/2021, the special workshop of 7/29/2021 and the workshop and special business meeting of 8/9/2021 were approved as written.

Public Hearing

- **Motion and roll call vote to recess Regular Business Meeting session and to go into Public Hearing**
 - Motion made by Councilor Gutjahr with a roll call vote to recess the regular business meeting session and to go into the public hearing. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. with a 4-0 vote With a 4-0 vote Council went into a public hearing at 6:06 pm.
- **Consideration of of the proposed:**
 - **Ordinance 2021-xx Chapter 11 Article 6: Nuisance Abatement & Article 7 Dangerous Buildings**

- Heather Cary from 104 McKnight Place said she has no issue with article 7 but she felt the nuisance ordinance is very vague, not explaining the accumulation of vehicles or the animal noise issues and was concerned that because there were not specifics it was too broad. She then said she has a petition regarding the ordinance
- Tommy Westmorlane said not here for or against the ordinance but is against the 2 houses and if this ordinance makes it easier, more power to ya. We have been through 2 City Managers and three different code enforcers who couldn't get rid of them. As far as the nuisance, she is right about it being vague but that will be up to the Code Enforcer to enforce. He is not for or against the ordinance, but he wants this place cleaned up, and if making it more specific helps, he is for that. He doesn't care what height the weeds can be in the ordinance, but that one needs to be enforced. He knows that we are trying to clarify what you can do legally and to do it right, and that is good, it needs to be done right so there is no recourse against you, you have to do it right. He is not here to say yay or nay but hopes good comes out of it. He said he feels we will pass it but hopes that more good comes out of it than bad, people are leery when a city starts making so many rules, I used to write ordinances for a little town, I was a mayor. I know that you can pack a book of ordinances and we couldn't enforce 99 percent of them because we couldn't enforce because we couldn't afford to enforce them. But I want the City to make rules it can enforce, that the ordinance won't take too much money, too much time, don't have the staff to enforce it. This should make us come together. He came to live here for police, EMS, and fire and if the ordinance makes those things easier, he is all for it.
- Attorney Chris DeFillippo stated the new ordinance that has been drafted, and it is great that you folks are discussing the ordinance, it is important to discuss this sort of thing to come up with something that everyone can agree on. The first statements that were made were that the ordinance was vague that the reason the ordinance is vague that it allows for a variety of things to be enforced; obviously, not everything is going to be enforced and that is an opportunity for the Code Enforcer to utilize it in a way that we have discussed and that is in a way to clean up large portions. For example, weeds: if you have a weed ordinance that describes what specific types of weeds that can be enforced and which cannot, it limits the City in that specific sense. I will give you an example of the City of Santa Fe. They used to have a very in depth weed ordinance that used to be about 45 pages long, giving description of what type of weed could be enforced and what that did was make the list get longer and longer and longer, because folks would say hey this weed was not described in here, therefore you can't enforce it. The courts agreed, said nope, okay, and ultimately what they ended up doing was scrapping it and creating something similar to the ordinance we currently have which is defined by broad terms, which then can go before the court, and you can argue either side. The citizen can say this is a flower I purposely planted and give the opportunity to make those statements, and if the code enforcer has a disagreement about what that means, it allows both sides to make a statement. In addition, it allows the neighbors to have that opportunity. But again, it is up to the code enforcer. Regarding vehicles, accumulation of vehicles not in working condition. That

includes, it can include one vehicle and the reason that it can include one vehicle is because, for example, a resident has a non-working vehicle that is in parts in front of it's house for three and a half years and the ordinance states three vehicles and there is only one vehicle, there is no way to enforce that, simply because it is just parts of a single vehicle that's in front of the house. So, that is kind of the reasons for leaving this in a broader language rather than being specific, it allows for broader enforcement of things that can potentially be an issue, not necessarily be an issue, but can be an issue. This ordinance is broken down into two aspects: the first is nuisances, which is the first section and the second is dilapidated buildings. And reason those were drafted into two separate sections is because dilapidated/dangerous buildings are of further health concerns to a municipality. What I mean by that is when you have a building that is not structurally sound and children, for example, get into that building, it is something the City should be able to take care of, and have the right to take care of under the State statutes that are provided for city powers, and those are cited within our statute. The first aspect are more general nuisances and as you can see in there, there is plenty of opportunity for a citizen who does not agree with the code enforcer's assessment of that nuisance to bring that before the Council as something they can say was not a fair reason for this nuisance to be cited. And as an example, a citizen can say, no, I planted these flowers, I think of them as not weeds, we had a disagreement, they can bring it before the Council and the Council can have the opportunity to, and again, hear the comments from both sides, are these weeds or are these not weeds. That goes for any aspect of this ordinance, and I think this is a good description and am willing to answer any questions, should there be any, in front of the Council.

- Dago from 5 Avendia (inaudible) asked why is it okay, why it is concerning what is on the property, it is our property.
- Attorney Chris DeFillippo explained the well being of the community and the public as a whole, protecting property value. The definition of public health is a broad definition, but it is the well being of the community as a whole, and I understand your disagreement of that on personal property, but personal property within a municipality can be regulated to protect the health, safety and wellness of others. The municipality has an opportunity, a duty rather than an opportunity to protect. Again, your neighbor's ability to have health and safety, such as keeping mice from their property.
- Dago said this is a perception.
- Attorney Chris DeFillippo said he does not agree that it is a perception (inaudible).
- Dick Irvine from 607 Western Drive said 605, right next to me is abandoned. We have lived here about four months and it has been abandoned the whole time. It is trashed, trashed. There is trash in the entry way, there is trash in the back yard and trash in the easement. The building itself, the carport, instead of being separate from the rafters, the building is under the rafters, cracks in the building, (inaudible). I don't feel my property value will ever increase when you have that right next door. So that is what I wondered when he was talking about abandoned buildings, and to what extent does that apply.

- Attorney DeFillippo stated that is why the ordinance is in a broader nature, rather than a more restrictive nature; this provides the City to potentially have that property fall under these descriptions as abandoned. As we stated in the second statement that was provided, that this was provided by the Municipality to address the concerns you have. Again, I don't know that property, that would be the Code Enforcers determination on if they want to put a notice on the property, that sort of thing, then you could move forward with the process described.
 - Dick Irvine said there is a note on the door that says it is abandoned. Evidently, it might be from taxes, there is a lock box on it (inaudible) in and out. One guy comes in every once in a while, and look around and clean up a little, but I don't who I have to address to get it cleaned up.
 - Mayor Pro tem Ramsell said this would be under the code enforcer.
 - Manager Dr. Moore said we hired a new enforcer and during my report tonight, I am going to have a brief introduction of the code enforcer we have hired, and let the community know that we have one, he has passed the background check, and he is hired. So, we will take that information that that you've got and follow through with it. (inaudible).
 - Dick Irvine said it would be nice if the Council or whoever, would go out and see it, you can see it from the front without even looking in the back. Thank you.
 - Heather said about the weeds in Santa Fe, she actually liked the multiple choices. I have a friend that was asked to removed her asparagus that she grows for herself to and it grows this high because of the roots, so I think too much of it is up for interpretation, I know you want the broader version so it is easier to prosecute but I have had people sign a petition because it is too broad and you will be able to prosecute things that are truly not in this ordinance.
 - Loedi Silva from 309 Ricodo said her neighbors to the west to us are addressing the same ordinance that is has this broadness to it, weeds and parking and other things that are broad, but when I attended City Council they said they have to write up everything because that is how it states it, so we cannot say this is a tumble weed or this is an asparagus plant, it is over 12" high, we have to take it out, and so their hands are tied and they are looking at this ordinance that is in question in Belen because of that, the broadness of it, they are required to write up everything because if not it is favoritism to my neighbor around the corner who is growing asparagus and they are writing me up for a tumble weed. So this is just a comment that I feel I do understand the broadness of it but Belen is having to re-evaluate something they passed two years ago, basically since their code enforcements hands are tied, there is nothing they can do, or they have to write up everyone and address everything, even if it is a special circumstance.
 - Councilor Brown said he still believes the nuisance abatement ordinance should not be combined with the dangerous buildings, as it currently does, the co-mingling of two nuisances with dangerous structures is rather restrictive.
- **Ordinance 2021-xx Article 1 Cannabis Regulating, Production, Manufacturing, Retailing and Other Related Activities**

- Councilor Gutjahr explained Chief Gonzales said when doing a cannabis ordinance, to please not accept any candidates who are hash oil extract, they would need fire department approval because we need to use the fire codes, this process is explosions and he said we need to consider this and add it to the ordinance.
- Councilor Winters said they also need to get a business license and that is included in the license, a fire inspection of that property. The State would give the final approval.
- Councilor Brown said the Cannabis ordinance is very well written and it satisfies our mandate to regulate within the boundaries in which we are responsible.
- **ICIP (Infrastructure Capital Improvement Plan)**
 - Councilor Brown said the ICIP is balanced request for assistance for immediate and future assistance.
- **Motion and roll call vote to go back into Regular Business Meeting session**
 - Motion made by Councilor Gutjahr with a roll call vote to go back into the regular business meeting session. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Council went back into the regular business session at 6:30 pm.

Discussion, Consideration, and Decision - Ordinance 2021-xx Article 1 Cannabis Regulating, Production, Manufacturing, Retailing and Other Related Activities

- Councilor Winters explained that we were given a very short time period to pass the ordinance and have covered as many areas as we can. We have done our best to protect the residential areas, only 2 areas that cannabis can be sold or manufactured or tested are in zones C-2 and C-3, and fire inspectors would be able to come in and do inspections. We did the best we could with only 2 - 3 weeks to have one in place in time, we will most likely have to make changes in the future as we grow and learn, but if we don't have anything in place the by September 1, those are the rules they abide by.
- Motion made by Councilor Gutjahr to pass ordinance 2021 Article 1 Cannabis regulating, production, manufacturing, retailing and other related activities. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Ordinance 2021-80 Article 1 Cannabis Regulating, Production, Manufacturing, Retailing and other Related Activities was passed, approved, and signed.

Discussion, Consideration, and Decision – Ordinance 2021-xx Chapter 11 Article 6: Nuisance Abatement & Article 7 Dangerous Buildings

- Councilor Gutjahr said this has been in planning and zoning before Council for a long time, trying to make sure what we pass we can enforce, and I appreciate the comments tonight, but what has happened in the past is our Code Enforcer will talk to the person in violation and address the issue and why it is an issue, so it is not someone randomly going about doing that; I know that we have had a lot of conversation about it and we have gone back and forth how we can look at it without getting into every little piece of it.

- Councilor Brown said he still believes that nuisance ordinance to be apart of the abatement ordinance and this will be something I believe would be wise to address in the future.
- Councilor Winters said this has been the toughest, simply because with this ordinance there are two sides of the story, keep in mind if the code enforcer goes to court, keep in mind our attorney would probably be there, and if it is contested in another court our attorney would be there as well, so he tends to lean towards an ordinance our attorney can defend in court.
- Mayor Pro tem Ramsell said it has been quite a while, with several drafts, lots of work between P&Z, Council and the attorney and asked for the pleasure of the Council.
- Motion made by Councilor Gutjahr to pass Ordinance 2021 Chapter 11 article 6 nuisance abatement & article 7 dangerous buildings. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Mayor Pro tem Ramsell, Councilor Winters Voting Nay: Councilor Brown. With a 3-0 vote Ordinance 2021-81 Chapter 11 Article 6: Nuisance Abatement & Article 7 Dangerous Buildings was passed, approved, and signed.

Discussion, Consideration, and Decision – Resolution 2021-xx ICIP (Infrastructure Capital Improvement Plan)

- Councilor Gutjahr explained capital outlay: we submit to the State Legislature a list of projects the City needs to complete and it is up to the legislatures to decided what they will fund, and have asked for funds to be allocated Storm water and drainage, to it to finish off City Hall, the library is almost completely done, but we want to finish City Hall for recreation and fire suppression, parks and open spaces, there is a park plan and a committee, public safety equipment, pavement reconstruction, roadway beautification, roadways, trails paths and sidewalk, streetlights, fire department complex, public works equipment, and emergency system county wide. She then thanked the legislatures who have funded our projects so far.
- Councilor Brown said for the benefit of our residence we apply for grants, described by the Councilor and once they are approved and we receive the money, the City does do a match of a certain percentage to achieve a whole lot of improvement with a truly limited staff, we try to maximize every dollar.
- Councilor Winters explained that years ago, a group of people from Panning & Zoning began the process to get a master drainage plan, we were finally able to get one done, and now that we have that plan, we were able to ask for funding for drainage projects and have been awarded one. We also started working on a parks plan and now we were awarded \$200,000 towards parks; f you do not have a plan and ask for money you aren't going to get it.
- Motion made by Councilor Gutjahr to pass Resolution 2021 ICIP (Infrastructure Capital Improvement Plan). Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Resolution 2021-20 ICIP (infrastructure capital improvement plan) was passed, approved, and signed.

Public Comment

- Lorraine Chavez from 510 Hermosa said there are 2 house that have been burnt for 7 years and we have been trying to get them down for 7 years, what do we have to do to get them taken down. They are real danger to anyone that lives there, there are mice and snakes, and it is dangerous, and our property value, it doesn't help our property value.
- Ray Vigil from 508 Hermosa said the 2 house that have been burnt, I have called Santa Fe, I have called the County, I called here, nothing was every done, the houses were sold from one person to another, and we have other problems with the houses across the street, Saturday I was cutting weeds, the sheriff passed by, nobody passes by for months, they just set up their speed gun and don't come into the neighborhood. (inaudible) Now weed business, the new law comes into effect. There are piles of junk, (inaudible) there are cars trash, you name it, I would like to know if the people have licenses to work on the their vehicles in the street, park everywhere, and the last thing I am going to say is I don't smoke pot but the law says an adult can have 6 plants in their yard so the situation there is it causes crime.
- Manager Dr. Moore explained said it has been a frustrating process to get a compliance officer because it is a thankless job. The ordinance in relationship to the burned buildings, we have created this ordinance to help with that, we did not have a good process before; the key to taking care of these problem places is a lot of follow through. From this point forward we will be working actively and will be working with the new code enforcer.
- Marcia Torres Martinez from Loma Verde said she lives next door to the goat lady, has 15 goats on their property, I have counted up to 30 goats, baby goats, big goats, goats are very noisy, that is way too many goats, I need it controlled; if they get out they jump on me, they jump on my vehicles, I have rats, I have snakes, I have things getting into my place. Things need to be controlled, just the smells alone. I worry for my mom's health and safety. I have had the cops called because my dogs barked and goats you can't muzzles, you can't do anything about the goats. Something needs to be done about livestock.
- Tommy Westmorland said I have chicken next door. Like I said I have been a mayor before and you can enforce any community standard that is put on the books, the problem he has for the New City Manager, to me, if we don't cleanup after ourselves how can we expect someone else to clean up, we need to get the City workers, public works, whatever you want to call it, and clean it up. I hope code enforcer does not step across the yard to look for violations, that for me (inaudible), the solution, we have to find the money to clean the city up and explained how he cleans up his property, he is so disappointed and wanted to ask this too, if we have renters here most have a contract and in the lease it usually said, you keep the property clean, but there has to be a way to get that property owner involved in this process, so I will make this little comment, it doesn't make any sense to have messy city areas and you are going after the public, (inaudible) good luck, if I think you are right I will say so, and if I feel you are wrong you can be sure I will say so.

Manager Report

- Manager Dr. Moore said we have 3 different companies that we had contracted to do the brush work, but only one showed up to do some work on the expressway, we are trying to get some other options to get the city cleaned, we are looking at buying equipment or hiring a landscaping company to get the weeds under control; we are starting to get some street work done; he had a good conversation with the plan director trying to get some

volunteers, how many roll offs it is going to take to get the tires and mattresses cleaned up; he has presented to Council to have a State of the City report to update the residents, we know there is a lot to do, particularly before winter hits because of fire danger. He then said we kept a promise on #304 we got the lights fixed, promised to get the library, library is almost done, our budget is in good shape, we are following through with items we have promised our residents. He then said we are working together with the under sheriff to get you reports on what kind of enforcement is happening.

- Manager Dr. Moore then introduced our new code enforcer.
- Ricardo Yzquierdo stated if you do file a complaint, he will insure you that he will look into it and began a discussion.

Discussion, Consideration, and Decision – Approval of Accounts Payable

- Mayor Pro tem Ramsell explained Council had an extensive discussion at the workshop and asked if there were any comments from Council.
- Councilor Gutjahr said they are up on the website before the meeting and when they have been approved as well as minutes, but the only highlights were the cost of cleanup after the storm, and we are waiting to see if the insurance will cover any of the cost. She then said the other costs were standard costs and she encouraged the public to look at them and call City Hall if there are questions.
- Mayor Pro tem Ramsell explained that we have an a charge for over \$83,000 for Universal Constructors for road work and that was part of a NMDOT Grant.
- Motion made by Councilor Winters to pay bills as quoted. Seconded by Councilor Gutjahr. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote accounts payable was approved to be paid.

Discussion, Consideration, and Decision – 2021 Annual Conference Voting Delegate and Alternate

- Manager Dr. Moore explained that the NMML has requested that each community provide a voting delegate and we have been working with them and the state to get projects finished and currently, we have 14 grant programs on the books. The Municipal League is looking for a voting delegate and an alternate, the league will be meeting in person this year.
- Motion made by Councilor Winters to have Dr. Moore as the delegate and Mrs. Adair to be the alternate. Seconded by Councilor Gutjahr. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Council approved the voting delegate and alternate for the 2021 annual conference.

Council Discussion

- Councilor Brown asked for the current status on traffic calming on Hillandale.
- Manager Dr. Moore said he is looking into double striping and is looking to place signage and will be getting together with public works to make sure those go up.
- Councilor Gutjahr addressed to Ray Vigil and said with the nuisance ordinance will help to take care of the homes that have been burned. She then said for information said we are trying to get more information to the newsletter and asked if to give the City Clerk your

- email to help get information to you faster and explained the sign for the message board for the City is in a 2-stage process, the electrical first and then an electronic sign installed.
- Councilor Winters asked how many got an animal questioner from the City, a few had not received it, the public made a few comments, and he then said we are trying to figure out animal questions with the public's opinions considered and encouraged people to speak up on the ordinances review. The discussion continued.
 - Mayor Pro tem Ramsell had no report.

Executive Session - For the purpose of Executive Session for the purpose regarding the discussion of the purchase, acquisition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8), City Manager contract and on the contract for the hiring of the Fire Chief & limited personnel matters. NM Section 10-15-1 (H)(2) and possible pending litigation 10-15-1 (H)(7) as a City Matter.

- Attorney DeFilippo asked Council for a change to the executive session to include possible threatening or pending litigation 10-15-1 (H)(7) be included as well as a City Matter.

Motion and roll call vote to go into close session

- Motion made by Councilor Gutjahr with a roll call vote to go into close session for the purpose of executive session for the purpose regarding the discussion of the purchase, acquisition or disposal of real property or water rights by the public body pursuant to NMSA 10-15-1(H)(8), City Manager contract and on the contract for the hiring of the Fire Chief & limited personnel matters. NM Section 10-15-1 (H)(2) and possible pending litigation 10-15-1 (H)(7) be included as well as a City Matter. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Council went into executive session at 7:29 pm.

Motion and roll call vote to go back into the regular business meeting session

- Motion made by Councilor Gutjahr with a roll call vote to go back into the regular business meeting session. Seconded by Councilor Brown. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote Council went back into the regular business meeting session at 8:20 pm.

Welcome everyone back and statement by the Mayor Pro-tem

- Mayor Pro-tem Ramsell welcomed everyone back and then stated the Governing Body of the City of Rio Communities, New Mexico, hereby states that on August 23, 2021 a Closed Executive Session was held and the matters discussed were the purpose regarding the discussion of the purchase, acquisition or disposal of real property or water rights by the public body, City Manager contract and on the contract for the hiring of the Fire Chief & limited personnel matters and pending litigation as posted on the agenda.

Consideration & Decision – Mayor Pro-tem recommendation regarding the purchase, acquisition or disposal of real property or water rights by the public body, City Manager contract and on the contract for the hiring of the Fire Chief & limited personnel matters NM Section 10-15-1 (H)(2) and possible pending litigation 10-15-1 (H)(7).

- Mayor Pro tem Ramsell recommended extending the housing allowance for City Manger Dr. Moore for six more months per section 20, the first amendment of his employment contract.
- Councilor Gutjahr moved to approve the recommendation that was made by the Mayor Pro tem. Seconded by Councilor Winters. Voting Yea: Councilor Gutjahr, Councilor Brown, Mayor Pro tem Ramsell, Councilor Winters. With a 4-0 vote the motion to extend housing allowance for City Manager Dr. Martin by six months was approved. No other actions were taken.

Adjourn

- Councilor Winters moved to adjourn. The motion was second by Councilor Gutjahr. With a 4-0 vote the City Council regular business meeting was adjourned at 8:22 pm.

Respectfully submitted,

Elizabeth (Lisa) Adair, Municipal Clerk
(Transcribed by Amy L. Lopez, Deputy Clerk)

Date: _____

Approved:

Mark Gwinn,
Mayor

Joshua Ramsell,
Mayor Pro-tem/Councilor

Bill Brown,
Councilor

Margaret (Peggy) Gutjahr,
Councilor

Jim Winters,
Councilor