

**MINUTES OF CITY COUNCIL MEETING  
ARTESIA, NEW MEXICO  
April 14, 2009**

The City Council of the City of Artesia, New Mexico met in the City Council Chambers at City Hall on Tuesday, April 14, 2009, at 7:00 p.m. in regular session with Mayor Phillip Burch presiding, and the following present to wit:

Manuel Barragan	Raul Rodriguez
George Holmes	Nora Sanchez
Raye Miller	J.B. Smith
Terry Hill	Antonio Torrez

The following were absent:  
none

Also present:  
Aubrey Hobson, City Clerk-Treasurer  
John Caraway, City Attorney

It was determined that a quorum was present. The invocation was given by Councilor Rodriguez, and all joined in the Pledge of Allegiance.

**Request for City Facilities**

Councilor Rodriguez moved to approve the use of Roberts Park by the Artesia Drug and Crime Coalition on Saturday, June 13, 2009 from 6:00 p.m. to 8:00 p.m. for their annual Crystal River Concert. The motion was seconded by Mayor Pro Tem Holmes and upon vote, the motion passed.

Councilor Rodriguez moved to approve the use of Guadalupe Park by the Artesia Drug and Crime Coalition on Saturday, August 15, 2009 from 6:00 p.m. to 8:00 p.m. for their annual Truth About Addiction and Recovery Program. The motion was seconded by Councilor Smith and upon vote, the motion passed.

Mayor Pro Tem Holmes moved to approve the use of Jaycee Park for the Annual Artesia Relay for Life, beginning on Friday June 5, 2009 at 12:00 noon through Saturday, June 6, 2009 at 12:00 noon. The motion was seconded by Councilor Hill and upon vote, the motion passed.

**Consent Agenda**

Mayor Pro Tem Holmes requested that item 2-A be pulled for separate consideration. Councilor Barragan requested that items 3-A & 7-D be pulled for separate consideration. Mayor Pro Tem Holmes moved to approve the Consent Agenda, minus items 2-A, 3-A and 7-D. The motion was seconded by Councilor Hill and upon vote, the motion passed.

The Consent Agenda includes:

1. Approval of Minutes: \* March 24, 2009 - Regular meeting
2. Consideration of Bids:
  - A. pulled for separate consideration.

3. Contracts, Leases and Agreements:
  - A. pulled for separate consideration.
  - B. \*Approval of contract for outside water connection with Kendall S. Livingston for Tract 2 of the replat of the S/2 of Section S, Township 17 South, Range 25 East, NMPM, Eddy County , NM
  - C. ✓Approval of Industrial Park Lease with Dean's Inc. for Lot(s) 6 and the E/2 of Lot 5 of Block 3
4. Appointments:
5. Resignations:
  - A. Resignation of William Babers, Solid Waste Department Equipment Operator, effective April 15, 2009.
6. Dates of Hearing:
  - A. Permission to set a public hearing for May 12, 2009 for consideration of a Fair Housing Ordinance.
7. \*Travel and Training:
  - A. Police – Permission for two (2) employees to attend DWI Checkpoint training in Hobbs, NM.
  - B. Police – Permission for one (1) employee to attend First Line Supervision & Management training in Roswell, NM.
  - C. Water – Permission for three (3) employees to attend the NMWWA Northern School and testing in Espanola, NM. Request actual expenses.
  - D. pulled for separate consideration.
  - E. Solid Waste – Permission for one (1) employee to attend Communicating with Tact and Skill for Supervisors in Roswell, NM.
  - F. Solid Waste – Permission for one (1) employee to attend Management Skills for First Time Supervisors in Roswell, NM.
  - G. Planning and P&Z – Permission for two (2) employees and any interested P&Z Commission members to attend the New Mexico League of Zoning Officials conference in Albuquerque, NM. Request actual expenses.
  - H. Police – Permission for three (3) employees to attend the Law Enforcement Coordinators' Symposium in Albuquerque, NM. Request actual expenses. Mileage requested for one employee.
  - I. F&A – Permission for one (1) employee to attend the NMHRAB workshop in Santa Fe, NM. Request actual expenses and mileage.
  - J. Infrastructure – Permission for one (1) employee to attend the 55<sup>th</sup> Annual Transportation Engineering conference in Las Cruces, NM. Request actual expenses.
8. Use of Facilities (*approval contingent upon receipt of all applicable fees, license(s) and dept approvals*):
  - A. Grant Taylor has requested permission to use Roberts Park (restrooms and shelter) on Saturday, July 18, 2009 from 11:00 am to 2:00 pm for a class reunion family picnic.
  - B. ✓Sergeant John Beasley, Artesia Police Department has requested the use of Baish Park on April 15, 17 and 30, 2009 and May 22, 2009 for kindergarten student tours.
  - C. ✓Veronica Martinez has requested use of the Heritage Walkway on Saturday, May 2, 2009 from 4:30 pm – 5:30 pm for a wedding ceremony.
9. Budgeted Items:
10. Non-budgeted Items:
  - A. F&A – Purchase of office furniture (*line item transfer required*)
11. \*Payment of Bills

Mayor Pro Tem Holmes moved to approve Consent Agenda Item 2-A (A. \*Approval of award of bid to provide two (2) ambulances for the Fire Department to Professional Ambulance, Comanche, TX (*will require additional funding from general fund*) with the additional \$8,000 to come from the General Fund. The motion was seconded by Councilor Miller and upon vote, the motion passed.

Councilor Hill moved to approve Consent Agenda items 3-A (\*Approval of MOA with the Artesia Chamber of Commerce to provide services for the economic development trip to Glynco, GA) and 7-D (Executive & Legislative – Permission for Mayor Burch, Mayor Pro tem Holmes and Councilor Miller to travel to Glynco GA). The motion was seconded by Councilor Smith and upon vote, the motion passed.

### **Public Hearings**

Mayor Burch declared the meeting open for public hearing to consider the following:

1. Consideration and approval of the S.B.T. Vending home occupation application located at 1110 W. Yucca, R-2 zoning.

Community Development Director Tina Torres presented the request for a home occupation license. Ms. Torres reported that the vending machines would not be at the residence, but the supplies for filling the machines would be stored there.

No public comment was received.

Mayor Pro Tem Holmes moved to approve the home occupation application for S.B.T. Vending, located at 1110 W. Yucca, R-2 zoning. The motion was seconded by Councilor Barragan, and upon vote, the motion passed.

2. Consideration and approval of an ordinance amending section 9-9-5, Fencing and Planting, of the Artesia Municipal Code.

Community Development Director Tina Torres and Danny Jones, Building Inspector, presented the revised ordinance. Ms. Torres reported that based on the discussion in February, the proposed revisions have been made. Ms. Torres stated that the purpose of this ordinance is to protect both the citizens and the city when fences are being constructed.

Danny Jones, Building Inspector, stated that one of the biggest issues was encroachment on right-of-ways, and that the permit process will help reduce this.

No public comment was received.

Councilor Barragan stated that he was not in favor of this ordinance as it restricts the materials that can be used and that it will cost homeowners more money and extra paperwork.

Councilor Miller recommended a change to page 6, Structural Requirements to read:

**Structural Requirements:** Masonry walls shall require reinforcement and a footing meeting the minimum standards established in figure 3 unless the building inspector authorizes changes based on site conditions.

Councilor Smith moved to adopt Ordinance No. 814, with the amended language for page 6, Structural Requirements. The motion was seconded by Mayor Pro Tem Holmes and upon roll call vote, with the following votes recorded:

Aye: Hill, Holmes, Miller, Sanchez, Smith, Torrez

Nay: Barragan, Rodriguez

the motion passed.

**ORDINANCE NO. 814**

3. Consideration and approval of an ordinance amending sections 4-2-3 and 4-2-4, Solicitation, of the Artesia Municipal Code.

City Clerk Aubrey Hobson reported that the recent changes to the Solicitation section do not allow any solicitation on weekends. This is a hardship for our non-profit and youth organizations. The proposed ordinance would make the change to allow weekend solicitation.

Linda Bentley, representing the Girl Scouts, stated that she supports the change because it impacts their annual budget and fundraising options.

Mayor Pro Tem Holmes moved to adopt Ordinance No. 815, amending sections 4-2-3 and 4-2-4, Solicitation of the Artesia Municipal Code. The motion was seconded by Councilor Hill and upon roll call vote, with the following votes recorded:

Aye: Barragan, Hill, Holmes, Miller, Rodriguez, Sanchez, Smith, Torrez

Nay: none

the motion passed.

**ORDINANCE NO. 815**

4. Consideration and approval of an ordinance amending sections 3-2-1 and 3-2-2, Commission on Aging, of the Artesia Municipal Code.

Mayor Burch stated that all of the boards and commissions were reviewed for membership numbers and residency requirements. For the Commission on Aging Board, the membership number has been changed to nine (9), and the residency has changed to "within ten (10) miles of the intersection of 13<sup>th</sup> and Main.

No public comment was received.

Councilor Barragan stated that he does not support any of these proposed changes because he would like to see representation from each district, on each board.

Mayor Pro Tem Holmes moved to adopt Ordinance Nol. 816, amending sections 3-2-1 and 3-2-2, Commission on Aging, of the Artesia Municipal Code. The motion was seconded by Councilor Smith and upon roll call vote, with the following votes recorded:

Aye: Hill, Holmes, Miller, Rodriguez, Sanchez, Smith, Torrez

Nay: Barragan

the motion passed.

**ORDINANCE NO. 816**

5. Consideration and approval of an ordinance amending section 3-3-1, Recreation Advisory Commission, of the Artesia Municipal Code.

Mayor Burch reported that the number of committee members remained the same, but that the residency has changed to “within ten (10) miles of the intersection of 13<sup>th</sup> and Main.

No public comment was received.

Councilor Miller moved to adopt Ordinance No. 817, amending section 3-3-1, Recreation Advisory Commission, of the Artesia Municipal Code. The motion was seconded by Councilor Rodriguez, and upon roll call vote, with the following votes recorded:

Aye: Hill, Holmes, Miller, Rodriguez, Sanchez, Smith, Torrez

Nay: Barragan

the motion passed.

**ORDINANCE NO. 817**

6. Consideration and approval of an ordinance amending section 3-4-3, Library Board of Trustees, of the Artesia Municipal Code.

Mayor Burch reported that the number of committee members remained the same, but that the residency has changed to “within ten (10) miles of the intersection of 13<sup>th</sup> and Main.

No public comment was received.

Councilor Miller moved to adopt Ordinance No. 818, amending section 3-4-3, Library Board of Trustees, of the Artesia Municipal Code. The motion was seconded by Councilor Rodriguez, and upon roll call vote, with the following votes recorded:

Aye: Hill, Holmes, Miller, Rodriguez, Sanchez, Smith, Torrez

Nay: Barragan

the motion passed.

**ORDINANCE NO. 818**

7. Consideration and approval of an ordinance amending section 3-6-2, Cemetery Board, of the Artesia Municipal Code.

Mayor Burch reported that the number of committee members remained the same, but that the residency has changed to “within ten (10) miles of the intersection of 13<sup>th</sup> and Main.

No public comment was received.

Councilor Miller moved to adopt Ordinance No. 819, amending section 3-6-2, Cemetery Board, of the Artesia Municipal Code. The motion was seconded by Councilor Hill, and upon roll call vote, with the following votes recorded:

Aye: Hill, Holmes, Miller, Rodriguez, Sanchez, Smith, Torrez

Nay: Barragan

the motion passed.

### **ORDINANCE NO. 819**

#### **Period for Hearing Visitors**

Linda Stevens, representing Artesia Clean and Beautiful, reported on the Graffiti Class held on April 3<sup>rd</sup>.

Ms. Stevens also requested the use of the lot at 5<sup>th</sup> and Texas for the second E-Waste Collection on June 20<sup>th</sup> or June 27<sup>th</sup>. Ms. Stevens also requested use of the storage shed on the property. Mayor Pro Tem Holmes moved to approve the request for the use of the lot at 5<sup>th</sup> and Texas for an E-Waste Collection. The motion was seconded by Councilor Hill and upon vote, the motion passed.

#### **Comments from Public Officials and Contracted Services**

Eddy County Commissioner Lewis Derrick requested that the City consider filing a protest regarding the proposal to move water from Fort Sumner to Santa Fe.

#### **Committee Reports**

##### **Budget and Finance**

Paws and Claws has requested an increase in the contract amount for the operation of the city pound. The Budget and Finance Committee had reviewed the request and recommended that the monthly amount be increased by \$1,000 through June 2009, when the contract expires. Mayor Pro Tem Holmes moved to approve a change in the contract with Paws and Claws for the operation of the city pound. The motion was seconded by Councilor Hill and upon vote, the motion passed.

##### **Police and Fire**

Discussion took place regarding the Eddy County Emergency Management Advisory Board Joint Powers Agreement and the amount of funding requested from the City of Artesia. The current amount is \$5,000 and the requested amount is 10%, not to exceed \$20,000. Councilor Hill moved to postpone consideration of this item until the May 12, 2009 meeting, to allow time for more details and the receipt of a final version of the MOU. The motion was seconded by Councilor Miller and upon vote, the motion passed.

Discussion took place regarding the construction of a new animal shelter. Paws and Claws has requested that the city construct a shelter near the new Public Safety Complex. They would consider selling their other property and applying the money toward the operation of the new shelter. It was recommended that this item be referred to the Budget and Finance Committee for a recommendation at the May 12<sup>th</sup> meeting.

## Infrastructure

It was recommended that a public forum on the new bridge over Eagle Draw, be held, so that the project can be eligible for federal stimulus funding. Staff members were directed to hold the public forum on Monday, April 20, 2009 at 5:30 p.m. in the City Council Chambers.

## Personnel

Human Resources Director Bill Thalman reported that the City will be conducting training for lifeguards to ensure that there is a sufficient pool for hiring. A Lifeguard Training Reimbursement Agreement would require that a lifeguard trained by the city, would work for the city or reimburse the city for the training cost. Councilor Miller moved to approve the Lifeguard Training Reimbursement Agreement. The motion was seconded by Councilor Smith and upon vote, the motion passed.

Councilor Miller moved to approve the changes as a result of the mid-year salary survey, as recommended by the Personnel Committee. The motion was seconded by Mayor Pro Tem Holmes. Councilor Barragan moved to amend the motion to pull the Civil Supervisor and Division Chief changes for consideration at the next meeting. The amendment was seconded by Councilor Rodriguez and upon vote, with Councilors Barragan, Rodriguez and Sanchez voting "aye", the amendment failed. Upon vote of the original motion, with Councilor Rodriguez abstaining and Councilor Barragan voting "nay", the motion passed.

Mr. Thalman reported that the City Career Fair was successful, with fifty-six attendees, and twenty-seven applications received to date.

Councilor Hill moved, upon recommendation of the Mayor, to hire Jacob Mendoza to the position of Recreation Maintenance Tech/Recreation Worker I, at \$1,672 per month (CA6), subject to the successful completion of required pre-employment testing. The motion was seconded by Councilor Rodriguez and upon vote, the motion passed.

Councilor Rodriguez moved, upon recommendation of the Mayor, to hire Emilio Franco to the position of Solid Waste Equipment Operator II, at \$1,988 per month (CA13), subject to the successful completion of required pre-employment testing. The motion was seconded by Councilor Miller and upon vote, the motion passed.

## Public Safety

### Police

Chief Raley distributed statistics for March 2009.

Councilor Miller moved to approve the Memorandum of Agreement (MOA) for the Community DWI Prevention Program. The motion was seconded by Councilor Rodriguez and upon vote, the motion passed.

### Fire

Chief Hummingbird distributed statistics for March 2009.

### **Community Development**

Community Development Director Tina Torres distributed statistics for March 2009.

Ms. Torrez reported on the status of the Public Safety Complex. The current schedule would have the drawings ready to bid by May 21<sup>st</sup>, with the bid opening on June 30<sup>th</sup>. Council will be asked to schedule a special meeting to award the bid in early July so construction can begin as soon as possible. Current cost estimate is \$17 million.

### **Infrastructure**

Infrastructure Director Robert Forrest reported on project activities in the Infrastructure department.

### **City Clerk**

Councilor Miller moved to approve the CDBG Anti-Displacement /Relocation Policy, Resolution No. 1336. The motion was seconded by Councilor Barragan, and upon vote, the motion passed.

#### **RESOLUTION NO. 1336.**

Mayor Pro Tem Holmes moved to approve the CDBG Citizen Participation Plan, Resolution No. 1337. The motion was seconded by Councilor Rodriguez and upon vote, the motion passed.

#### **RESOLUTION NO. 1337.**

Councilor Miller moved to approve the CDBG Section 3 Plan, naming the Community Development Director as the coordinator. The motion was seconded by Councilor Barragan and upon vote, the motion passed.

#### **RESOLUTION NO. 1338.**

Discussion took place on the Affordable Housing Ordinance. It was discussed that the State Mortgage Finance Authority (MFA) must approve any ordinance before it can be adopted. Councilor Miller moved to send the draft Affordable Housing Ordinance to the Mortgage Finance Authority and schedule a public hearing as soon as it is approved. The motion was seconded by Mayor Pro Tem Holmes and upon vote, the motion passed.

Discussion took place on the CDBG Fair Housing ordinance and it was noted that the public hearing has been set for May 12, 2009.

City Clerk Aubrey Hobson reported that while there were no rate increases for Workers Comp Insurance this year, the change in modifier would result in an increase.

**Mayor**

Mayor Burch reported that the Museum board regulations were adopted by resolution, and that the number of committee members remained the same, but that the residency has changed to "within ten (10) miles of the intersection of 13<sup>th</sup> and Main. Councilor Smith moved to approve the residence change to the Museum board bylaws, Resolution No. 1339. The motion was seconded by Councilor Hill and upon vote, the motion passed.

**RESOLUTION NO. 1339**

Mayor Burch presented a proclamation naming April Fair Housing month in Artesia.

Mayor Pro Tem Holmes moved to approve a Joint Powers Agreement with the City of Roswell, for an air service agreement for flights from Roswell to Los Angeles, with the reserve to be \$24,120 plus \$2,680 for marketing expenses. The motion was seconded by Councilor Hill and upon vote, the motion passed.

Discussion took place on potential changes to the Council meeting Schedule for July and August.

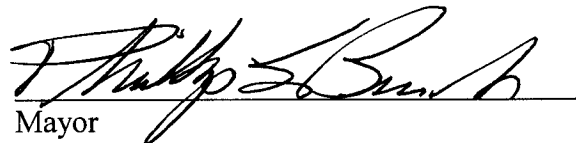
Councilor Torrez moved that in accordance with 10-15-1-H(7), the Council and Mayor go into executive session regarding pending litigation. The motion was seconded by Councilor Hill and upon vote, the motion passed.

Mayor Burch declared a short recess at 10:26 p.m.  
Council recessed to executive session at 10:30 p.m.  
Council reconvened at 11:04 p.m.

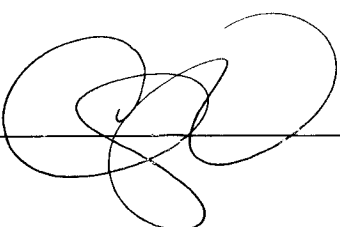
Councilor Torrez moved that the only matters discussed in executive session pertained to pending litigation and no action was taken. The motion was seconded by Councilor Sanchez and upon vote, the motion passed.

Mayor Pro Tem Holmes directed the City Attorney to file a protest regarding the Fort Sumner transfer of water rights.

There being no further business to come before the Council, the meeting adjourned at 11:12 p.m., April 14, 2009.

  
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Mayor

ATTEST:

  
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City Clerk