

**CITY OF AZTEC
COMMISSION MEETING MINUTES
Tuesday January 23, 2024**

CALL TO ORDER

Mayor Michael A. Padilla Sr. called the meeting to order at 6:06 pm at Aztec City Hall, 201 W. Chaco, Aztec NM 87410

INVOCATION AND PLEDGE OF ALLEGIANCE

Invocation led by Commissioner Austin Randall
United States Pledge of Allegiance led by Commissioner Colby King
New Mexico pledge of Allegiance led by Commissioner Colby King

ROLL CALL

Members Present: Mayor Michael A. Padilla, Sr.; Mayor Pro-Tem Kenneth George; Commissioner Austin Randall; and Commissioner Jim Crowley; Commissioner Colby King

Members Absent: NONE

Others Present: City Manager Jeff Blackburn; City Attorney Steve Murphy; City Clerk Karla Sayler

PRESENTATION

Four Corners Economic Development Update-Jeremiah Hayes Chairman

Jeremiah presented Commission with a presentation: Designing the Future Four Corners Economy.

Economic Fund Applicant 2 Rustic Creations-Dana Bixler

Dana came before the Commission and presented them with a slide show of the history of the old feed store and the renovations they have been doing to the building, Rustic Creations is one of two Economic Fund Applicants.

APPROVAL OF AGENDA ITEMS

MOVED by Commissioner Randall to Approve Agenda Items as presented,
SECONDED by Mayor Pro-Tem George

All Voted Aye: Motion Passed Five to Zero

CONSENT AGENDA

- A. Commission Workshop Minutes December 12, 2023
- B. Commission Meeting Minutes December 12, 2023
- C. Resolution 2024-1403 Approval of Disbursements and Deposits for December 2023
- D. Resolution 2024-1404 Authorizing Renewal of Time Certificate of Deposit for City
- E. Resolution 2024-1405 Authorizing Signatures for Municipal Court Cash Bond Checking Account
- F. Resolution 2024-1406 Expanding the Metropolitan Redevelopment Area (MRA) Boundary
- G. Resolution 2024-1407 Special Budget Adjustment
- H. Appointment of Library Board Members
- I. City Attorney Contract Award
- J. Resolution 2024-1408 Supporting the State of New Mexico Department of Transportation Reauthorized Capital Outlay Amendment C5193387

MOVED by Commissioner Randall to Approve The Consent Agenda with the EXCEPTION of Item I for discussion; SECONDED by Mayor Pro-Tem George

All Voted Aye: Motion Passed Five to Zero

ITEMS REMOVED FROM CONSENT AGENDA

- I. City Attorney Contract Award

Mayor Padilla mentioned there was one statement that had some changes pertaining to expenses, Item 2A on compensation. If there are changes made to documents he has asked staff to put it in a different color so they know what changes are made.

MOVED by Commissioner Randall to Approve the award of RFP 20224-842 Municipal Legal Services to Stelzner, Winter, Warburton, Flores & Daws P.A. and authorize the City Manager to sign the professional services agreement on behalf of the City including the CHANGES as discussed; SECONDED by Mayor Pro-Tem George

All Voted Aye: Motion Passed Five to Zero

CITIZENS INPUT

NONE

BUSINESS ITEMS

A. Intent to Adopt 2024-540 Amending Chapter 2, Article V, Division 5 Library Board

Commissioner Randall said that it is difficult to get a quorum for the meetings, so the changes need to be made.

MOVED by Commissioner Randall to Approve Intent to Adopt 2024-540 Amending Chapter 2, Article V, Division 5 Library Board; SECONDED by Mayor Pro-Tem George

A Roll Call was Taken:

These Voting Aye: Mayor Padilla
Mayor Pro-Tem George
Commissioner Randall
Commissioner Crowley
Commissioner King

These Voting Nay: NONE

All Voted Aye: Motion Passed Five to Zero

B. Intent to Adopt Ordinance 2024-542 Allocating Economic Development funds for 216 S. Main Avenue aka "Rustic Creations."

Mayor Padilla asked John Faverino Chair of the EDAB Board to address where the funds are coming from, John explained it was a line item from the general fund that was created in 2017 and has been available for businesses to apply for items that qualify under the LEDA funding. Currently there is close to \$119,000 in the fund and there are two applicants seeking funding.

MOVED by Commissioner King to Approve Intent to Adopt Ordinance 2024-542 Allocating Economic Development funds for 216 S. Main Avenue aka "Rustic Creations"; SECONDED by Commissioner Randall

A Roll Call was Taken:

These Voting Aye: Mayor Padilla
Mayor Pro-Tem George
Commissioner Randall
Commissioner Crowley
Commissioner King

These Voting Nay: NONE

All Voted Aye: Motion Passed Five to Zero

C. Intent to Adopt Ordinance 2024-543 Allocating Economic Development funds for 200 S. Main Avenue aka "The Leonor."

MOVED by Commissioner Randall to Approve Intent to Adopt Ordinance
MOVED by Commissioner King to Approve Intent to Adopt Ordinance 2024-543
Allocating Economic Development funds for 200 S. Main Avenue aka "The Leonor";
SECONDED by Commissioner Crowley

A Roll Call was Taken:

These Voting Aye: Mayor Padilla
Mayor Pro-Tem George
Commissioner Randall
Commissioner Crowley
Commissioner King

These Voting Nay: NONE

All Voted Aye: Motion Passed Five to Zero

D. Bid Award for Aztec Reservoir #1 Improvements Phase 2

Mayor Padilla expressed some concerns with the bid being awarded to a company that he is not sure has the experience to work on the reservoir and that their bid was \$1 million dollars less than the other two competitors as well as the engineers estimate. He is concerned that at the end of the project there will be too many change orders due to incorrect bids. The city has worked with Sychar before, one project mentioned was the drainage problem on Anasazi drive which is still not complete after 2 to 3 months.

Mayor Padilla asked if by law the city must award the bid to the lowest bidder. City Attorney Steve Murphy believes that by law it should be awarded to the lowest bidder but that he also has the same concerns as the Mayor. Steve stated that if the performance bond is in place and has been verified and vetted it should protect the city. He mentioned that the city does not have to agree to change orders, Sychar made a hard bid, and they should stick with the bid.

Mayor Pro-Tem questioned why this bid was not done in an RFP so it could be scored on a point system and Staff as well as Commission could see projects that the companies have worked on before. He is also concerned that Sychar may not have the experience to work on the Reservoir. He stated that he cannot vote on this item and would like to send it out for an RFP, so he can be assured the chosen company has experience building a concrete reservoir.

City Attorney Steve Murphy recommended that the Commission not send it to RFP because there was a letter that went out in December that stated Sychar got the bid if that bid is rejected there will be a lawsuit. He asked Project Manager Jeric Jaramillo if there was a letter that went out to Sychar, Jeric responded that the letter was prepared by the engineer but was not submitted to the contractor because the contractor has not received a letter of award from the city. Jeric stated that the letter is a recommendation of award based on the engineer's assessment of the bids, the letter was presented to the city funding agencies. The funding agencies reviewed the bid process, and they reviewed the letter with the engineer with the City's intent to award, but the City has not issued an award to the contractor.

Mayor Padilla informed the City Attorney that the letter he has is a notice of award that the engineer sent to the city that must be signed by Commission, then it is sent to the contractor. If it is approved by the Commission, then they can sign it and they can start work. Jeric said if they award the bid to Sychar they have the letter from the engineer stating their recommendation of award, it has been approved by the funding agencies so the next step would be getting the letter of approval of award signed and submitted to the contractor.

Mayor Padilla asked if the bid is not awarded to Sychar does the process have to start from the beginning. Jeric stated that if it is not awarded to Sychar and awarded to a different entity the process would have to start from the beginning, the engineer would have to prepare another recommendation of award, which will have to go to the granting agency get their approval and then come back to Commission for approval.

Commissioner Randall asked if Bohannan Houston or any of the engineers expressed any concern over the bid. Jeric informed him that they had a meeting after the bids came in with the engineer and he expressed concerns that the bid was substantially lower. The engineers review of the bid is for compliance, to make sure they have their certificates and their insurance, any concerns would not be assessed by the engineer, they have expressed that they do not have any concerns with moving forward with Sychar. The grant agency approved it as well, but they are approving it on technicality and completeness. Commissioner Randall stated that if the engineer looked at it, approved it, and it came to \$1 million less than was estimated is it too good to be true.

Mayor Pro-Tem would like to know if Sychar has ever built a reservoir and if they haven't what comparable projects have, they done. Commissioner Randall said that is why the city has an engineer to make sure that the project is done correctly. Mayor Pro-Tem still had concerns that it may not be built right even if the design is done correctly. Jeric stated that part of the process is having construction oversight from the city as well as from the engineer's office, they will be on site daily. He also stated he had some concerns with the bid being so low as well and they brought it to the engineer, the engineer's assessment of it was that the line-item bids for Sychar weren't undercutting the other two competitors. The biggest differences in the bids were the mobilization and demobilization and since Sychar is local theirs was much lower.

Mayor Pro-Tem again asked if they had done a project this big, and if so, what was it. Commissioner Randall answered that this is a bid so that is not a question that

can be asked. Mayor Pro-Tem stated that if it was an RFP, they could have asked the question.

Steve Murphy questioned if they are tearing out the old concrete and putting in new concrete, Jeric said they are. Steve asked who Southwest Liner is, Jeric said that for this project they are replacing the existing concrete, creating a concrete access ramp and a putting liner on top of the concrete so Sychar has a subcontractor to do the polymer lining. Steve wanted to know about the math errors that were done on the bid, Jeric said he would have to look at it to see what the errors were that the engineer mentioned.

Steve questioned Public Works Director Ruben Salcido if he knew the company and if he believes they will do the job, Ruben stated that he is familiar with them, and they have done some jobs that were very good and some that were questionable. Ruben answered Mayor Pro-Tem's concerns and said he does not have the knowledge about the concrete experience the company has. Ruben stated their finance side is what is in question, which is the concern he has at this point. Ruben also mentioned that we have an engineer to look at the numbers and make sure of the finances. If the contractor provides an error the engineer catches it and fixes it at that time. The same goes for the inspection services they have a third-party inspection service who is going to be there daily to ensure the specs, concrete compaction and testing's are met and installed where the plans are. Steve asked if the company was GeoMat, Ruben said it was Black engineer. Steve suggested being very cautious in rejecting the bid, he believes the company could sue since they were the low bidder.

Commissioner Colby King questioned if they had been vetted, he looked them up and the biggest job they had listed was \$1.2 million. Jeric stated they are a new company, and that they are several companies merging together since around 2020-2021.

MOVED by Commissioner Randall to Approve Bid Award for Aztec Reservoir #1 Improvements Phase 2; SECONDED by Commissioner Crowley

A Roll Call was Taken:

These Voting Aye: Mayor Padilla
Commissioner Randall
Commissioner Crowley
Commissioner King

These Voting Nay: Mayor Pro-Tem George

All Voted Aye: Motion Passed Four to One

COMMISSIONER, CITY MANAGER, DEPARTMENT REPORT

Mayor Pro-Tem informed the Commission that he received an email from the County Manager that they have a meeting on January 30th @ 2:00pm to discuss the adult detention center that he cannot attend, Commissioner Crowley said that he would attend.

Commissioner Randall attended the Library Board meeting last week, and he is happy that the two new board members were approved at tonight's meeting.

Commissioner King had some questions about the chip seal that has been done around the city, as he has heard citizen complaints. He is concerned about what it looks like and the state of the roads that have been chip sealed. Public Work Director Ruben Salcido addressed his concerns saying this is a pilot program, mentioning that if they went with OGFC paving it would cost 5 times more. OGFC is a brand that is an actual asphalt versus a chip seal product which is a structural addition to an existing road. Chip seal is an overlay and has some structure but is not superior to an OGFC type structure. Chip seal is bumpier and has more aggregate and OGFC is much finer aggregate. Ruben stated that for the budget that he has he can maybe get one street done with OGFC but can get nine or ten with the chip seal type product. Ruben reported that this was just a pilot project to see how the chip seal would adhere to the existing asphalt, and that they are looking to do a FOG seal on top of the chip seal next year.

Commissioner King asked if the FOG seal was originally part of the contract, Ruben said it was for two streets only as part of the pilot project. They had different options to try it on different streets as some of the streets are in much worse condition. Two of the streets were meant to be FOG sealed but the contractor made an error, and they gave much more chip seal than they were supposed to. It was an error that the contractor admitted to, and asked for forgiveness as they lost a lot of money because they went so far putting in the chip seal which was more expensive than just doing the two streets with the fog seal. Ruben said that they will remedy this next year by putting fog seal over every street that was chip sealed this year plus some added streets as well.

Commissioner King stated that he has spent a lot of time contacting experts and they were all surprised that the city chose to use chip seal, he is concerned that it could have done damage to the sidewalks, streets, and the drain systems. Ruben said that it is a matter of what expert you ask, he said they had a civil engineer recommend the process. Commissioner King asked who the engineer was, Ruben informed him it was CHC Engineer who have done chip seal in other places, it is the most affordable alternative to paving. Ruben stated they could just do paving but with the budget it would limit to maybe one street rather than nine or ten. He agreed that it is not the best version, but it is a good product that will enhance the life of the street.

City Attorney Steve Murphy questioned why they are waiting to do the fog seal later, concerned that the chip seal will already be moved by then. Ruben replied that not all of it will be moved and they will sweep what has moved back into the road or add extra rock. The learning lesson is that this area and climate requires the use of fog seal, and they will be doing that moving forward. Steve believes that the job that was done was not done right and mentioned examples around the County where they have

chipped sealed and there weren't issues. Ruben said if they do not like the contractor, they can look for another one, Steve believes that there will be lawsuits filed against the city for broken windshields. He questioned if there is a warranty it needs to be addressed immediately, Ruben will bring it to the attention of the contractor and see if their warranty will cover the broken windshields. Steve suggested getting an independent expert to look at the job to assess the project as follows: was the street cleaned first, were all the cracks filled, what type of emulsifier they put down and was it put down at temperature, did they put one base coat of chip on that and what was the size of the chips. Steve believes that the city got taken on that project and that we wasted \$200,000.00 for nothing. He reminded Ruben that there is a contract in place and the City does not do favors and that we adhere to the contract.

Mayor Pro-Tem questioned if there are any plans to sweep the gutter and get the gravel out. Ruben did not realize it was to the extent that it is, they will be going over all the streets that are done and sweep them. Mayor Pro-Tem agrees that there is gravel everywhere, Ruben assured Commission that it will be addressed. The City Manager asked for clarification on the direction that the Commission would like them to go. The Commission would like to get a third-party expert to come and assess the project and give direction on how to rectify the issues. Steve stated that the City should not have to pay for the expert to assess the issue.

Mayor Padilla congratulated the applicants who received the Economic Development funds. He thanked John with the EDAB board and Andrew for putting this forward and would like to continue helping businesses. He informed the Commission that he has been in contact with State Game and Fish about the OHV laws, he will be writing a request that has to go through State Transportation to be approved. Mayor Padilla was honored that the Mayor of Socorro came to the city to ask questions regarding the City's electric utility system.

City Manager Jeff Blackburn had updates for Commission on the following:

- Presented Commission a round table spreadsheet for their review and asked if there were any more requests for workshops. The next workshop will be to prioritize the spreadsheet list. Mayor Padilla asked for the workshop to be before the next meeting.
- The commission was given the end of year report from all departments and the tourism report that Ed Kotyk compiled.

Electric Director Denver DeWees updated Commission on the projects in his department:

- The department is working on getting the first part of the reimbursement on the \$170,000.00 for the Solar Field.
- The department met with owners and engineer on the relocation of the line on 173 and the circuit A interconnection for the solar field.

Project Manager Jeric Jaramillo gave Commission project updates:

- Bid opening for the McWilliams project was this afternoon. He reported that they had one bidder, which was Four Corners Materials, it came in under the engineers estimate. Jeff informed Commission that there are concerned citizens on North Oliver regarding the traffic that is going to go through there when the project is finished.
- They received the agreement form for the release of funds for the Arterial Project, the next steps require the Mayor and Attorney signature and attest by the City Clerk. Jeric asked for direction from the Commission on if they would like that presented at the next meeting before proceeding or can they get the signatures and proceed. The Commission would like to get the signatures and push the project forward.

ADJOURNMENT

MOVED by Mayor Padilla to adjourn the meeting at 7:48 pm





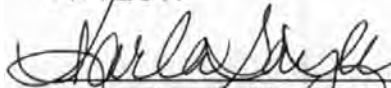
Mayor Michael A. Padilla, Sr.

MINUTES PREPARED BY:



Alisha Jaramillo, Administrative Assistant

ATTEST:



Karla Sayler, City Clerk