

MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – May 18, 2016 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD

• **CALL TO ORDER.**

Mayor Bassett called the meeting to order at 6:30 p.m.

Councilors Present: Chuck Ring, Sherry Abraham, Rita Loy Simmons, and John Abrams

Also Present: Clerk/Treasurer Juan Torres, Deputy Clerk Linda Holle, and Planning & Zoning Bonnie Pettee.

• **PLEDGE OF ALLEGIANCE.**

1. APPROVAL OF AGENDA.

MOTION: Councilor Abrams made a motion to approve the Agenda.
Councilor Abraham seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

2. APPROVAL OF CONSENT AGENDA.

A. Approval of the Draft Regular Council Meeting Minutes of May 4, 2016.

B. Acknowledge Receipt of the Draft Planning & Zoning Commission Meeting Minutes of May 10, 2016.

C. Acknowledge Receipt of the Draft Library Board Meeting Minutes and Library Report for the month of April 2016.

D. Acknowledge Receipt of the Draft Animal Control Advisory Board Meeting Minutes for the month of April 2016.

Councilor Simmons requested discussion of the Planning and Zoning minutes. She inquired whether enabling legislation for the committee dictated the composition of the committee. Mayor Bassett stated a minimum of three Commissioners are from inside the Town limits and up to two could be outside the Town limits. Councilor Simmons stated those were the Town's rules. She would like information on the State's requirements. Councilor Simmons noted Mayor Bassett mentioned a number of times in the P&Z minutes and asked if he was there in an advisory capacity the one time. The Mayor replied it was a one-time thing and he sat in the audience as a citizen not as mayor. He stated he sat outside during the two hearings. Councilor Abraham questioned Item #12 in the P&Z minutes, where the Mayor suggested the Commission schedule a site visit to the area, perhaps prior to the meeting and then return to the meeting for discussion.

Councilor Abraham inquired how that could occur without it being a problem with the Open Meetings Act. Mayor Bassett stated the meeting could be called to order and then recessed to make the site visit. Upon return from the site visit, the meeting would resume. The Mayor stated the idea is not to discuss the topic when out looking at the site but to wait until back in front of the microphone. It was done this way in the past. Per the Mayor, the meeting will be the meeting that is advertised. The recess and site visit would happen under the auspices of that meeting agenda. Councilor Abraham asked if the public

would be invited to the site visit. Mayor Bassett replied affirmatively. The Mayor gave another example, stating in the past site visits were scheduled on a Saturday and noticed for a Special meeting, just for site visit purposes. The Commission approved the agenda, conducted the site visit, then came back and adjourned. Councilor Simmons mentioned being criticized of ex-parte communication when she was unable to visit a site with the group. She stated it is a tricky situation. Mayor Bassett agreed it can be tricky and that is the reason he is working with the Commission to try to get it right.

MOTION: Councilor Simmons made a motion to approve the Consent Agenda.
Councilor Abrams seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

3. MATTERS FROM THE MAYOR.

A. Update on the Police Chief Candidate Review Committee

Mayor Bassett announced candidates for the Police Chief position would be interviewed on Friday, May 20, 2016. He stated Chief Radosevich's last working day is Friday, May 20. The Chief will be on leave through May 31, when he officially retires. The Mayor stated someone needs to be nominally in charge of the Police Department as of May 20. He asked Jerod Kuchan to assume the role of Acting Chief. Officer Kuchan affirmed he would take on this role. Councilor Abraham stated her belief that this action required Council approval. The Mayor replied his understanding is this is a temporary appointment and does not require Council's approval. Councilor Ring stated the appointment should be approved for safety reasons. The Mayor responded he does have the authority to put someone in place between meetings. Councilor Abrams stated a Special meeting could be called if there was something in the ordinances, but believed it was okay to proceed without Council approval. The Mayor apologized for not getting this item on the agenda sooner.

4. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

Councilor Simmons thanked Mayor Bassett for his attendance at the Estancia Basin Water Planning Ad Hoc Committee for the State update.

5. ESTANCIA BASIN RESOURCE ASSOCIATION (EBRA) – Mr. Art Swenka

A. Annual Report

Mr. Swenka noted EBRA monitors any law introduced in the legislature that affects the Estancia Basin. Hardly anything came up this year and what did, did not go far. The Forest Service is developing a new Management Plan, as the last one was written in 1985. The Manzano Mountains area is designated 30% wilderness. There is no management in a wilderness area - no mechanized equipment, ATVs, chain saws, etc. Trees in a wilderness area get so thick it destroys the watershed. The Manzano Mountains are our watershed. Mr. Swenka stated Water Asset Management (WAM) is inquiring about the Basin and checking on water rules and laws in New Mexico. He believes the Estancia Basin is not sustainable enough for WAM to have any interest in it. WAM's

approach is to buy land along with the water rights and farm the land until the water is needed. Mr. Swenka distributed the January 2016 Well Monitoring Report, as well as graphs of the annual rainfall starting in 1997 and a summary of EBRA's Total Assets. He concluded by requesting the Town of Edgewood's continued financial support.

B. Approval to Authorize Membership Dues

Mayor Bassett stated the EBRA membership dues are \$500 and asked Council for a Motion.

MOTION: Councilor Ring made a motion to approve the Estancia Basin Resource Association Membership Dues of \$500.
Councilor Simmons seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

6. ESTANCIA BASIN WATER PLANNING AD HOC COMMITTEE (EBWPC) –

Mr. John Jones

A. Annual Report

Mr. Jones, Chairman of the Estancia Basin Water Planning Committee and the Ad Hoc Committee (a subset of the Planning Committee), introduced himself and Dan McGregor, Secretary-Treasurer of the Committee and Ad Hoc Committee, Geologist, and Natural Resources Service Manager for Bernalillo County. Mr. Jones provided the following overview of the Committees. In 1995, the Committees became part of the Interstate Stream Commission's (ISC) Regional Water Planning Program and was the first of sixteen statewide regional planning entities to publish a plan accepted by the ISC in 1999. The plan was updated in 2010, making Estancia the first Regional Planning Committee to update its original plan. The Committee is a governmental planning body not a private citizen action group like EBRA. Over its 23-year history, the Committee has documented where the water comes from, where it goes, how it is used, making recommendations to increase supply and cut diversions. The Committee has assisted eligible municipalities in developing their 40 year plans, established and maintained a Basin-wide well monitoring program to track the water table, coordinated with USGS and private monitoring associations, and the Plan has made it possible for the Soil and Water Conservation District to obtain millions of dollars for watershed management funding. While Torrance County constitutes about 80% of the land area of the Basin and 75% of the water is used for agricultural purposes in Torrance County, everyone in the Basin benefits in some way from the work of this Committee. Mr. Jones requested the Town's assistance in this effort.

B. Approval to Authorize Membership Dues

MOTION: Councilor Simmons moved to fund the Estancia Basin Water Planning Committee Membership Dues of \$2,000.
Councilor Ring seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

7. **TOWN OF EDGEWOOD POLICE REPORT – Chief Radosevich.**
A. Police Report and Animal Control Report for the month of April 2016.

Chief Radosevich summarized the Edgewood Police Department (EPD) report. Councilor Ring requested a map identifying the beat locations. The Chief stated he would include a map with his computer-generated report in the future. In the Animal Division he stated 15 animals were taken in, 9 reclaimed and 6 were adopted. On average, 15 animals are taken in per month and most are gone by the end of the month. There were 38.5 volunteer hours recorded at the animal shelter in April. Councilor Ring congratulated the Chief on EPD's successful completion of the Municipal League's Recognition Program. In preparation for the evaluation, EPD's Policies and Procedures needed to be matched with the actual Standards and then proof provided of those Standards. The Chief commended Officer Jerod Kuchan and Administrative Assistant Traci Huston for their assistance in preparing for the assessment. The official award will be presented at the NM Municipal League's Conference in Hobbs in August. A presentation will also be made at the NM Law Enforcement Conference in Albuquerque in December. The Chief stated it is quite an accomplishment but only good for three years.

The Chief distributed framed photographs of the new police department and animal control buildings. He thanked the Mayor, Council, and citizens for the two beautiful buildings, as well as Ms. Susan Simons and the community for their support of the animal shelter. Chief Radosevich reported his attendance at the Police Officer Memorial in Washington DC last week. He announced this would be his last Council Meeting and is honored to have served as Police Chief for the last three years. Councilor Simmons asked if completion of the Recognition Program would benefit the Town with better insurance rates. Chief Radosevich stated if the Department had pursued the Accreditation, the Town would receive a 5-10% credit; however, the Accreditation program is cumbersome and would require a fulltime person assigned to it. The Municipal League developed the Recognition Program for smaller agencies. Mayor Bassett recognized Chief Fred Radosevich for his three years of service to the EPD.

MOTION: Councilor Abrams made a motion to approve the Police and Animal Control Reports for the month of April 2016.
Councilor Simmons seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

8. **PUBLIC COMMENTS OF GENERAL MATTERS. Limit to 2 minutes per person.**

Ms. Janelle Turner cautioned problems with site visits could occur if reporters attempt to interview Commissioners and Councilors when they are conducting a site visit. This might be a subject to address when adopting policy. It has come to Ms. Turner's attention that a member of the Governing Body accused Ms. Turner's letter to Council of causing undue delays to the Hillcrest Amendment of the Master Plan. Ms. Turner noted she had requested a delay of just two weeks. The long delay occurred when it was discovered, after the fact, that the Commission had neglected to approve Findings of Fact. She stated the Town's authority to oversee Development Review is an extension of its police powers and it is important when the Town exercises those powers that procedures are followed to

protect the due process and interest of all affected parties. When findings are not approved or proper notice given, it leads to a decision where there is not clear title. Per Ms. Turner, lawyers call it leaving a decision open to collateral attack. A collateral attack can come years after the decision, thus Ms. Turner stressed the importance of Council backing the Planning staff and Commission and insisting things are done properly, legally and in a professional manner.

Ms. Turner also discussed the height limitation in the Mixed Use (MU) Zone category. She asked Council to consider their action when the height limitation was dropped from the MU zone category when the Zoning Ordinance was revised a couple years ago. She stated Edgewood's residents moved here for a reason, and writing a blank check on building height is working against what people want. Buildings can and should be higher in certain circumstances but the Zoning Ordinance has an excellent variance procedure for five categories of performance-based variances that can be granted when cause is presented that they are needed. Ms. Turner requested Council consider putting the height limitation back into the MU zone category.

9. PUBLIC HEARING.

Quasi-Judicial Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Bonnie Pettee certified that Public Notice of this Meeting was posted as required.

This case is being heard under provisions required by the New Mexico Court of Appeals intended to protect the rights of all parties and their witnesses and the to cross-examine persons giving testimony.

Confirmation of no conflict of interest or ex-parte communication.

Councilor Abrams stated he had no ex-parte communication or conflict of interest. Councilor Abraham stated she had no conflict of interest or ex-parte communication. Councilor Simmons stated she had no conflict of interest or ex-parte communication. Councilor Ring stated he had no ex-parte communication or conflict of interest. Mayor Bassett stated he had no conflict of interest or ex-parte communication.

- A. Adoption of proposed Ordinance No. 2016-01 Amendments to the Uniform Traffic Ordinance by reference.

Mayor Bassett stated the Town of Edgewood proposed adopting Ordinance No. 2016-01, amendments to the Uniform Traffic Ordinance by reference. He called for questions or comments.

Councilor Simmons stated, in our rural community, there are still tractors and backhoes. She inquired whether these items were covered under Uniform Traffic Ordinance 12-7-9.2 "Off-Highway Motor Vehicles" or whether the ordinance strictly addressed recreational ATVs. Chief Radosevich stated this ordinance is strictly for ATVs, as farm equipment is already exempt by ordinance and statutes.

The Mayor called for testimony from the public. There was none.

MOTION: Councilor Ring made a motion to adopt Ordinance No. 2016-01, an addendum to the NM Uniform Traffic Ordinance, Section 12-7-9.2 “Operation of Off-Highway Motor Vehicles on Streets or Highways – Prohibited Areas”
Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Abraham voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. The motion carried.

10. PUBLIC HEARING.

Quasi-Judicial Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Bonnie Pettee certified that Public Notice of this Meeting was posted as required.

This case is being heard under provisions required by the New Mexico Court of Appeals intended to protect the rights of all parties and their witnesses and the to cross-examine persons giving testimony.

Confirmation of no conflict of interest or ex-parte communication.

Councilor Ring stated he had ex-parte communication with Mr. Clay Williams, but no conflict of interest. The communication with Mr. Williams occurred because Councilor Ring was curious about what was happening in the former dog food building. The Mayor asked if it was enough of a conflict that he needed to recuse himself. Councilor Ring responded, no, it was not.

Councilor Simmons stated she had no conflict of interest or ex-parte communication. Councilor Abraham stated she had no conflict of interest or ex-parte communication. Councilor Abrams stated he had no ex-parte communication or conflict of interest. Mayor Bassett asked if anyone present objected to Mayor Bassett’s position as Chairperson or to any of the Councilors’ participation in these proceedings. None so noted.

Mayor requested anyone wishing to give testimony in this hearing, rise and be sworn in.

- A. Request for a zone change from R-1 Residential to MU Mixed Use zoning for the property located at: 92A Church Street – Tract A - .95 acres, 92C Church Street – Tract D .86 acres and 88 Church Street – Tract B - .95 acres of the Lands of Gervais & Patricia Williams, Section 27 T10N R7E NMPM, Santa Fe County, Edgewood, NM.

Ms. Bonnie Pettee presented an overview of the subject of the public hearing as well as a brief history of the matter. She stated Mr. Williams originally requested a zone change on the three lots from R1 to C2. The Commission did not think C2 was appropriate zoning for that area, so they tabled the request and gave Mr. Williams time to research his options. He returned with a request for Mixed Use (MU) Zoning.

Mayor Bassett asked for the status of the application. Ms. Pettee stated the Commission had recommended approval of the request and it was ready to forward to the Council for

consideration. She stated the Findings of Fact had been signed. The Mayor asked if the applicant was present. He was not. The Mayor requested presentation of the final staff report. Ms. Pettee reported the staff had performed a review of the application and submitted materials and applicable ordinances. MU Zoning would allow small neighborhood business-type establishments. This is appropriate transitional zoning considering the uses on adjacent property with MU to the north, residential and institutional to the east, and residential and services to the south. MU on subject property would complement the other parcels. It is consistent with the Land Use Plan.

MOTION: Councilor Simmons made a motion to approve a zone change from R-1 Residential to MU Mixed Use zoning for the property located at: 92A Church Street – Tract A - .95 acres, 92C Church Street – Tract D .86 acres and 88 Church Street – Tract B - .95 acres of the Lands of Gervais & Patricia Williams, Section 27 T10N R7E NMPM, Santa Fe County, Edgewood, NM.
Councilor Abraham seconded the motion

VOTE: Councilor Abrams voted aye. Councilor Abraham voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. The motion carried.

11. FINDINGS OF FACT, CONCLUSIONS OF LAW

- A. Approval of the Zone designation of Mixed Use-MU for Unit 2 Periwinkle Ridge of Hillcrest Master Plan, Being a portion of Tract A of Highland Stock Farm LLC, Section 10 T10N, R7E, NMPM, Town of Edgewood, Santa Fe County, New Mexico.

Mayor Bassett stated he did sit in on this and asked Councilor Abrams to serve as Mayor Pro-Tem on this matter.

MOTION: Councilor Ring moved to approve the Finding of Fact and Conclusions of Law in the recommended order.
Councilor Simmons seconded the motion with changes to Item # 11A in the Councilors' packet.

[Councilor Simmons requested the NMPM acronym be inserted after R7E in the description on the Findings of Fact, Conclusions of Law document # 11A in the Councilors' packet for the May 18, 2016 Council meeting.]

VOTE: Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. Mayor Pro-Tem Abrams voted aye. The motion carried.

12. MATTERS FROM THE CLERK/TREASURER.

- A. Update on Office Phone System

Mr. Juan Torres reported on his request for proposals for a new Town Office phone system. He is considering an IP-based, operating cost system; meaning, instead of a large capital outlay upfront, there would be a small monthly expense, which would be offset by the reduction in phone lines. With an IP-based system, only one phone line for fax transmission would be required. The maintenance cost is built into the pricing, negating the requirement for a separate maintenance agreement. Mr. Torres estimates the breakeven point for the phone system to be about five years out, which should not be a burden on the budget. Councilor Ring asked if after the breakeven point of five years, whether the new phone system would still be operational. Mr. Torres responded yes, as an IP system, it should still be operational at that time. The current phone system is an old Toshiba system from the 90's which is no longer being supported. Mr. Torres stated a benefit to using an IP phone system, would be the ability to transfer calls from Town Hall to other Town Department phone numbers, such as Animal Control or the Police Department. This is not an option with the current system. Councilor Ring asked if Town Hall ever moved to a new location would it pose a problem with the phone system. Mr. Torres responded it would not, since the new phone system would be internet-based. Councilor Abrams recommended looking into the provider's service level agreement, as voice-over IP can be challenging. Mr. Torres reported that he had negotiated an increase in internet bandwidth for all Town facilities to 20mgs down/20mgs up, at no additional cost, by moving to a new pricing plan.

13. APPROVAL OF THE FINANCIAL REPORT FOR THE MONTH OF APRIL, 2016.

Mr. Torres reviewed the Financial Report for the month of April 2016. The Accounts Payable Vouchers for April were \$234,936.20 and Gross Receipts totaled \$394,333.26. The Gross Receipts for April included the hold harmless payback, explaining the larger than usual distribution. Staff checked with the NM Taxation and Revenue Department and verified no additional funds were owed the Town. The distribution for May is \$290,717. Councilor Ring commented it was a decrease from last May. Mr. Torres will provide a comparison for the Council in next month's report. Councilor Ring inquired about Line Item 600, Impact Fee/Escrow Fund, asking if the funds could be spent since they were not generating interest. It is Councilor Ring's understanding that revenue collected for impact fees has to be expended in the same areas in which they are collected. Mr. Torres stated he was not familiar with the specific ordinance addressing impact fees; however, he will look into the matter and have an answer for Council at the next meeting.

MOTION: Councilor Simmons made a motion to approve the Financial Report for the month of April 2016.
Councilor Ring seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

14. APPROVAL OF THE FY2017 INTERIM BUDGET.

Mr. Torres presented the FY2017 Interim Budget, which will be submitted to the NM Department of Finance and Administration (DFA) upon Council's approval. Mr. Torres' concern is the operating fund. Expenditures within the operating fund are fine but it is the transfers out to cover municipal street and wastewater expenses that may lead to deficit spending as the interim budget currently stands. As far as DFA is concerned, the Town might receive another letter stating the Town's expenditures are exceeding revenue. Mr. Torres called for another budget hearing to discuss the final FY2017 budget. He will have up-to-date end of year data to work with instead of the estimates used to develop the interim budget. Mr. Torres proposed scheduling the budget hearing in mid-July to allow time to complete the bank reconciliation.

MOTION: Councilor Simmons moved to approve the Interim Budget for FY2017. Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Abraham voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. The motion carried.

15. ANNOUNCEMENTS and/or CALENDAR REVIEW.

- A. Regular Council Meeting – June 1, 2016 @ 6:30 P.M.
- B. Regular Council Meeting – June 15, 2016 @ 6:30 P.M.

NOTE: The Town Hall Offices will be closed Monday, May 30, 2016 in observance of Memorial Day.

16. FUTURE AGENDA ITEMS.

Mayor Bassett noted a future agenda item of the possible budget meeting on July 16, 2016.
Councilor Ring requested a future agenda item to discuss a citizen's request to have the height allowances amended.

17. CLOSED SESSION.

As per motion and roll call vote, pursuant to NMSA 1978, 10-15-1 (H)(7) the following will be discussed in Closed Session.

- Pending Litigation – John T. Hartigan v. Town of Edgewood; and Town of Edgewood Police Department; and Chief of Police Fred Radosevich, in his individual and representative capacities
- Possible Real Estate Transaction

MOTION: Councilor Simmons made a motion to go into Closed Session, as per listed on the agenda.
Councilor Abrams seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. Councilor Abrams voted aye. The motion carried.

The Council went into Closed Session at 7:52 p.m.

Upon return from Closed Session at 8:10 p.m., Mayor Bassett stated the only items discussed were the two items listed on the agenda.

MOTION: Councilor Abrams a made a motion to go back into Open Session. Councilor Ring seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. Councilor Abrams voted aye. The motion carried.

Councilor Abrams verified only items listed on the agenda were discussed and no decisions were made in Closed Session.

Councilor Abraham affirmed no decisions were made and only the two items listed on the agenda were discussed.

Councilor Simmons affirms no decisions were made and only the two items listed on the agenda were discussed.

Councilor Ring affirms they discussed only the items on the agenda and made no decisions.

Mayor Bassett affirmed they discussed only the items on the agenda and made no decisions.

18. ADJOURN.

MOTION: Councilor Simmons made a motion to adjourn the meeting of May 18, 2016. Councilor Ring seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

Mayor Bassett adjourned the meeting of May 18, 2016 at 8:20 p.m.

PASSED, APPROVED AND ADOPTED THIS 1st day of JUNE, 2016



John Bassett, Mayor

ATTEST:



Juan Torres, Clerk/Treasurer

 Initials