

**MINUTES  
REGULAR COUNCIL MEETING  
WEDNESDAY, OCTOBER 7, 2009 @ 6:30 P.M.  
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD**

**1. CALL TO ORDER.**

Mayor Stearley called the meeting to order at 6:30 P.M. All Councilors were present. Also present was Ms. Mahalick A.I.C.P., Administrator, and Ms. Estefanie B. Muller, Clerk-Treasurer.

**2. PLEDGE OF ALLEGIANCE.**

**3. APPROVAL OF AGENDA.**

**MOTION:** Councilor Simmons made a motion to approve the Agenda as presented. Councilor Felton seconded the motion.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

**4. APPROVAL OF CONSENT AGENDA.**

- A. Regular Council Meeting Minutes of September 16, 2009.
- B. Acknowledge Receipt of the Planning & Zoning Commission Meeting Minutes of September 8, 2009.
- C. Acknowledge Receipt of the Planning & Zoning Commission Meeting Minutes of September 21, 2009.
- D. Acknowledge Receipt of the COLTPAC Sub-Committee Meeting Minutes of June 8, 2009 and July 13, 2009.
- E. Acknowledge Receipt of the POST Sub-Committee Meeting Minutes of July 6, 2009 and August 24, 2009.
- F. Acknowledge Receipt of the Recycling Sub-Committee Meeting Minutes of July 21, 2009 and August 18, 2009.

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

**VOTE:** Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. Councilor Hill voted aye. The motion carried.

**5. MATTERS FROM THE MAYOR.**

G. Request to Intervene in New Mexico American Water Rate Case.

Mayor Stearley reviewed this item for the Council and asked for a motion and approval for intervention.

Councilor Simmons asked about the previous increase and if they received what they asked for.

Mayor Stearley responded that they did receive what he remembers as 37% and that they will request an increase every two years.

Councilor Simmons also asked about the costs from the Attorney.

Mayor Stearley stated that what he was asking for tonight was approval to intervene and that was a minimal charge and then the Attorney would come back with a proposed budget.

**MOTION:** Councilor Felton made a motion to direct Attorney David Henderson to intervene in the New Mexico American Water Rate Case. Councilor Simmons seconded the motion.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

H. Approval of Santa Fe County Commission Presentation.

Mayor Stearley reviewed this item with the Council.

Mayor and Council entered into discussions regarding the availability of funds, invoicing and requirements under the current JPA. They also discussed whether or not this JPA would then forfeit the \$400,000.00 already in the contract and if this was an advisable risk.

Mayor and Council discussed the Counties revenue shortfalls and how this would play into the request for the JPA.

Mayor Stearley stated the Council had needed to make a decision on the Wal-Mart Sewer prior to pursuing this JPA. He added that this decision was just made at the last Council meeting.

Council discussed amending the JPA to state Phase One instead of Phase Two and maintain the amount of \$400,000.00.

Mayor Stearley stated that he felt it would be a mistake to only ask for the \$400,000.00 and the Town should ask for the entire 1.3 million dollars. He added that the County could always deny the Town the full amount and fund the \$400,000.00 already agreed to.

Councilor Hill stated he felt that it was not good business practice to ask for more money this way and that it could potentially harm the Town politically.

Mayor Stearley stated the Town should never have entered into the first JPA with out having an Engineer's analysis.

Councilor Abrams stated the Town was immediately jeopardizing the original JPA if it does not fulfill its promise to extend sewer service to Section 16 for the use of the fire station. He added that an Engineering study to determine the cost to extend this line would be the next step.

Mayor Stearley responded the fire station was already planning a water treatment plant for themselves because they can not wait on the Town.

The Mayor asked to hear from all the Councilors for their opinion on which way to go.

The Councils concensus was that is would be best to amend the current JPA to state Phase One and to spend the \$400,000.00 on the current construction.

**MOTION:** Councilor Hill made a motion to approve the Santa Fe County Commission Presentation. Councilor Felton seconded the motion.

**VOTE:** Councilor Abrams voted nay. Councilor Felton voted nay. Councilor Simmons voted nay. Councilor Hill voted nay. The motion died.

I. Certificate of Appreciation for Mr. Dennis Gallagher.

Mayor Stearley presented a certificate of appreciation to Mr. Dennis Gallagher and thanked him for his dedication and service on the Parks and Recreation Advisory Committee.

**6. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.**

J. Resolution No. 2009-28 – Councilor Simmons.

Councilor Abrams discussed a call from a resident from the un-incorporated area whose wife was attacked by a pit bull. He added that the resident was unable to get assistance by calling 911, the

Edgewood Police Department and the Albuquerque Fire Department who relayed a message, he stressed the need for clarity of boundaries and the importance of annexation. Mayor Stearley responded the appropriate place to address this issue would be at the Town offices instead of this meeting. He invited the affected parties to come in and discuss the situation. Councilor Simmons presented Resolution 2009-28 and reviewed it for the Council and asked for approval.

**MOTION:** Councilor Felton made a motion to approve Resolution Number 2009-28. Ms. Muller asked for a correction to a portion of the Resolution to read, "Leaving No New Mexico Child Inside" as per the adopted Resolution No. 2008-05. Councilor Abrams seconded with amendments.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried

**7. MATTERS FROM THE ATTORNEY.**

K. Update on In-fill Annexation.

Ms. Mahalick reviewed this item for the Council stating she was waiting for a date.

**8. MATTERS FROM THE MUNICIPAL JUDGE.**

L. Judge White will present his report for the month of September, 2009.

Ms. Muller stated the Judge was unable to attend the meeting tonight and asked if the Council had any questions.

**9. PUBLIC COMMENTS. (Limit to 2 minutes per person).**

**Note: If you plan to testify under Public Hearings, please do not sign up for this topic.**

Mr. Chuck Ring commented on the Sewer System and the direction the Council was going with it and the funds from the County.

**10. MATTERS FROM THE ADMIN-PLANNER.**

M. Police Vehicles – Maintenance, Inspection & Issuance Agreement.

Ms. Mahalick reviewed this item for the Council regarding Take Home Vehicles for the Police Department.

**MOTION:** Councilor Hill made a motion to adopt the Police Vehicles Contract. Councilor Simmons seconded the motion.

Councilor Felton stated some of these items are subjective and suggested detailing the consequences by infraction.

Mayor Stearley asked about the responsibility of the officers for washing the vehicles.

Ms. Mahalick stated this was the policy in other departments to wash their own vehicles.

**VOTE:** Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. Councilor Hill voted aye. The motion carried.

N. Notification to Advertise for a Wastewater Plant Operations.

Ms. Mahalick reviewed this item for the Council. She stated that the plant will be online by the end of December and that she will bring the finished RFP to Council for review at the next meeting.

O. Project Updates.

1. Edgewood 7

Ms. Mahalick stated that she had not heard anything back on the AARA grant that they had applied for but that Dennis Engineering had a request for information submitted.

Councilor Hill asked if it would be helpful if he talk to Congressman Heinrick as he was scheduled to meet with him on Saturday.

Ms. Mahalick stated she would send Councilor Hill an email regarding the Grant.

2. Municipal Facilities RFP.

Ms. Mahalick asked for direction from the Council regarding a concept plan for the facilities.

Councilor Felton stated he does not want the architect to render the entire plan but to start with the Library and Community Center Buildings.

Councilor Simmons discussed the wind and asked if the buildings could not be placed closer together.

Council agreed that a Plaza Concept was best.

3. Water Service for Section 16 Municipal Areas.

Ms. Mahalick reviewed this item for the Council and discussed a map of the area that she had provided that showed the directions the water pipe could run. She discussed the possibility of drilling a well and purchasing water rights in Section 16 for the soccer fields and the costs for this.

Ms. Mahalick reviewed the grants for the various Municipal facilities and how those funds could be used to run these water lines. She added that the Town risks losing some of the Grant funds if they are not filed again by October 17, 2009.

Councilor Hill stated he was not satisfied with where the water was going to come from for the soccer fields.

Councilor Abrams requested that this be placed on the next agenda with further information.

Ms. Mahalick stated that a decision could wait two weeks to allow time for Council consideration.

4. Update on Wind Project Bids.

Ms. Mahalick reviewed this item for the Council and stated that she had received letters from 3 wind turbine distributors all stating that they could not provide the necessary energy within the confines of this particular grant.

5. Appointment of Impact Fee Committee Member from the Development Community.

Ms. Mahalick asked the Council to consider Mr. Tim Oden for the Impact Fee Committee.

Mayor Stearley appointed Mr. Tim Oden to the Impact Fee Committee and asked for the Councils approval.

**MOTION:** Councilor Hill made a motion to approve the appointment of Mr. Tim Oden to the Impact Fee Committee. Councilor Felton seconded the motion.

Councilor Hill discussed the fact that the construction of the new Fire Department Facility has been delayed and the expenditure of the fees already collected.

Ms. Mahalick responded that the local fire station has requested the some specific items that these funds may be spent on. She added that these were items that were on the Capital Improvement Plan and are eligible for the Impact Fee Funds.

**VOTE:** Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. Councilor Hill voted aye. The motion carried.

6. Library Closing for Inventory – November 2<sup>nd</sup> – 6<sup>th</sup>.

Ms. Mahalick stated the Library would be closed the week of November 2<sup>nd</sup> – 6<sup>th</sup> to perform an inventory of books.

Councilor Simmons asked if this inventory would determine a value for the books and computers that the Library has.

Ms. Mahalick stated that it would be an inventory control not necessarily a dollar figure.

7. Campbell Ranch Update.

Ms. Mahalick discussed the Development Agreement between the Town and Campbell Corporation stating that it was to be reviewed annually and if Campbell was not in compliance they were to be notified and this has never been done. She added that she would be sending out a letter this week regarding any progress or deficiencies and would bring the PID back to Council for review at the next meeting.

Councilor Felton asked if there was a sunset date and time for the PID.

Mayor Stearley responded that it was seven years from the time it is formed and it has not been formed yet.

**11. PUBLIC HEARING.**

**Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required:**

Ms. Mahalick certified that public notice of this hearing had been posted as required.

P. Wind Turbine Ordinance No. 2009.

Mayor Stearley reviewed this item for the Council and proposed that they take a look at the two versions of the Ordinance that he had presented and then ask for recommendations and changes.

Councilor Abrams requested that the Council hear the public's input as they have not yet been heard on this matter.

Mr. Tim McDuffey stated he had moved here for the views but was a proponent of alternative energy. He added he felt there is a place for everything and 60' tall windmills should not be placed in the back yards of residents as he was invested in Edgewood and did not want to lose the views they moved here for. He strongly urged the Council to keep windmill out of residential areas.

Mr. Robert Padilla stated he supports Mr. McDuffey's opinion and agreed with him that windmills do not belong in residential areas.

Mr. Art Cravens stated he agreed also that these windmills did not belong in residential areas.

Ms. Carol Ring asked that a viable Ordinance be passed tonight so it is not sent back to the Planning & Zoning Commission again. She added it was great to live in a town that is forward looking into alternative energy and as a homeowner she should have a right to have a turbine on her property. She continued that the wind turbine technology would progress rapidly and they would not always be so large.

Mr. Tim Oden discussed restrictive covenants that are found in many of the subdivisions in Edgewood that would prevent the erection of these types of towers. He added that he had created a speculative color coded map that led him to believe these restrictive covenants would leave very few locations that wind turbines could be placed. He stated he felt that it would be best if Wind Turbines were placed in a special use category and permitted accordingly so they affected parties such as neighbors would have some input. He is uncomfortable with an amendment allowing such a permissive use of wind turbines.

Mr. Bob Steiner stated that even though he was still undecided he did feel it would be a shame to simply reject all the efforts that have been made so far. He added the technology will improve and would likely be an incentive to buyers and that energy is not going to get cheaper so it is good to be looking at alternate sources.

Mr. Kenneth Brennan works in the wind industry and discussed the residential scale turbines including their size and costs. He feels it should be the right of land owners to utilize alternative energy sources to become self sufficient if they choose to.

Ms. Rita Snyder stated she moved to Edgewood because of its many unrestricted areas and is in favor of renewable energy sources that this wind Ordinance offers and hopes that the Council considers the broader issues as they consider these alternative energy opportunities and it passes.

Ms. Audrey Jaramillo stated she was in favor of alternative energy but felt the towers need to be small to maintain the views that Edgewood has to offer. She also discussed the issues of noise and vibration the towers can generate as well as cost benefit analysis. She agreed with Mr. Oden that special use permitting should be used in regards to the turbines and that consistency with towers and sign was important.

Mr. Chuck Ring discussed the possibility of a future subdivision that can receive the majority of its power from one large wind turbine. He added that like the water rates, electricity costs would only increase and it was time to consider these alternatives.

Ms. Sherry Smyle asked the Council to consider the danger to wildlife as well as the views but that she was in favor of reducing energy costs. She added this is a big issue and would like the community be considerate of neighbors but it is great to have the freedom to make different choices in energy sources.

Ms. Debbie Brennan stated this was a hard balance between nature and energy. She added that she would rather have the wind energy then the pollution and acid rain generated from the burning of coal. She also discussed the different types of wind turbines and the required sizes for lots they can be placed on and special use permitting is the way to go.

Ms. Mahalick reviewed email comments that she had received from Mr. Weckerle who requested this be tabled as he feels it needs to have environmental assessments and it contradicts the Comprehensive Plan as well as the view shed protection portion of the plan. Ms. Sue West requested that a portion of the revised Ordinance be changed as no one would be able to comply with the Ordinance the way it is written.

Ms. Mahalick discussed some corrections that she would propose, one adding the word, "conversion", to a portion of the Ordinance and that Zoning be placed in front of the administrator so that it reads Zoning Administrator throughout. She added this is not permissive use but is a conditional use addition to the Zoning Ordinance and goes through the same public hearing process as any other conditional use permit. She continued by detailing this process for the Council and public.

Councilor Simmons discussed the strengthening of covenants as a means for subdivisions to prevent structures such as wind turbines if the lot sizes were small.

Councilor Felton asked if the Comprehensive Plan could be considered when looking at these conditional use permits and that the proposed subsection regarding time frames is inconsistent with CID.

Ms. Mahalick stated the Comprehensive Plan would be considered and that the Planning Commission felt 24 months would for a little more latitude if there were financial constraints.

Councilor Abrams discussed the State of New Mexico producing a solar bill of rights and this supersedes any restrictive covenants imposed by subdivisions. He added that by approving this Ordinance the Town of Edgewood would be ahead of that curve should the state decided to take similar action with wind energy.

Councilor Felton asked if the silence of the Zoning Ordinance in regards to wind turbines would prohibit them entirely.

Ms. Mahalick responded that the Ordinance was a permissive and the Town would not be able to give approval for it. They are not permitted as it stands.

Councilor Hill asked if a roof mounted system would be different.

Ms. Mahalick stated it could be possible.

At this time Mayor Stearley presented two versions of the amendment and discussed some of the changes he would like made.

The Council responded to each of the proposed changes and discussed them.

**MOTION:** Councilor Abrams made a motion to approve the Zone Ordinance Amendment as discussed and outlined 5 items.

1. Add the word conversion where appropriate
2. Change the initials dba to the word decibels
3. Add the word zoning to prefix administrator in the appropriate areas
4. Omit the word building in section 5
5. Add additional language as discussed by Ms. Mahalick

Councilor Hill seconded the motion for discussion.

Councilor Hill stated it is always a challenge to make these types of decisions but the issues of seeking alternative energy is significant and this needs to move forward.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

**12. REVIEW OF THE PARKS & RECREATION ADVISORY COMMITTEE ORDINANCE NO. 2007-14.**

**MOTION:** Councilor Simmons made a motion to table this item. Councilor Hill seconded the motion.

**VOTE:** Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. Councilor Hill voted aye. The motion carried.

**13. RESOLUTIONS.**

Q. Resolution No. 2009-37 – Establishing a Cooperative Program with the New Mexico Department of Transportation.

Ms. Mahalick reviewed this item for the Council stating this was required of NMDOT for the award of the local government road fund. The total of the award was \$114,306.66 leaving the Towns share at \$28,576.66, and it assigns her as the authority to execute the agreement.

**MOTION:** Councilor Hill made a motion to adopt Resolution No. 2009-37. Councilor Abrams seconded the motion.

**VOTE:** Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Simmons voted aye. Councilor Hill voted aye. The motion carried.

**14. CONTINUED DISCUSSION FOR THE BOND QUESTION ON THE ELECTION RESOLUTION.**

Ms. Mahalick reviewed this item for the Council stating that it was informational and she provided a sample potential bond questions formatted based on Albuquerque's recent election. Ms. Mahalick stated she would narrow the details and bring it back for Councils review at a later meeting.

**15. ANNOUNCEMENTS & CALENDAR REVIEW.**

R. Regular Council Meeting October 21, 2009.

S. Regular Council Meeting November 4, 2009.

T. Regular Council Meeting November 18, 2009.

Note: The Municipal Offices will be closed on Monday, October 12, 2009 in observance of Columbus Day.

Mayor Stearley reviewed these items for the Council and asked if there were any other items they would like added.

**16. FUTURE AGENDA ITEMS.**

- Public Hearing – Amendment to Uniform Traffic Ordinance.

Councilor Felton requested the policy discussion regarding ex-parte communication and conflict of interest.

**17. CLOSED SESSION.**

**As per motion and roll call vote, pursuant to NMSA 1978, 10-15-(H)(2) the following will be discussed in Closed Session.**

- Limited Personnel Matters

**MOTION:** Councilor Hill made a motion to go into Closed Session. Councilor Abrams seconded the motion.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

**MOTION:** Councilor Hill made a motion to come back into open session. Councilor Abrams seconded the motion.

**VOTE:** Councilor Hill voted aye. Councilor Simmons voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

**MOTION:** Councilor Hill made a motion to certify that only the matters listed were discussed and no decisions were made. Councilor Felton seconded the motion.

All Councilors confirmed as follows:

Councilor Abrams confirmed.  
Councilor Felton confirmed.  
Councilor Simmons confirmed.  
Councilor Hill confirmed.  
Mayor Stearley confirmed.

The motion carried.

**18. ADJOURN.**

**MOTION:** Councilor Simmons made a motion to adjourn.

**VOTE:** All Councilors voted aye. The motion carried.

Mayor Stearley adjourned the meeting at 10:40 P.M.

**PASSED, APPROVED and ADOPTED this 21<sup>st</sup> day of October, 2009**

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Honorable Robert Stearley, Mayor

**ATTEST:**

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Estefanie B. Muller, Clerk-Treasurer