

**CITY COUNCIL MEETING
JULY 20TH 2015, 6PM
CITY HALL COUNCIL CHAMBERS
405 N. PASEO DE OÑATE ESPAÑOLA, NM**

A. CALL TO ORDER

The meeting was called to order at 6:04 by Mayor Alice A. Lucero

B. PLEDGE OF ALLEGIANCE/ MOMENT OF MEDITATION/INVOCATION

Mayor Lucero led the Pledge of Allegiance. Councilor Dennis Tim Salazar led the Moment of Meditation/Invocation. Councilor Dennis Tim Salazar asked for a moment of silence for the recently departed MaryAnn Romero, a seamstress who and public servant who had sewn for the Fiesta Del Valle De Española for numerous years.

C. ROLL CALL/DETERMINATION OF QUORUM

The following in attendance:

Mayor	Alice A. Lucero
Mayor Pro-Tem	Pedro Valdez
Councilors:	John Hernandez
	Peggy Sue Martinez
	Adrianna Ortiz
	Dennis Tim Salazar
	Michelle R. Martinez
	Tania Sanchez

Absent: Councilor Cory Lewis

City Manager Kelly Duran- *residing*
City Attorney Frank Coppler-*not present*
City Clerk Anna Squires – *residing*
Deputy City Clerk Jeanne Bustos - *residing*

D. APPROVAL OF AGENDA

Agenda as presented:
---Begin---

A. CALL TO ORDER**B. PLEDGE OF ALLEGIANCE/ MOMENT OF MEDITATION/ INVOCATION****C. ROLL CALL/ DETERMINATION OF QUORUM****D. APPROVAL OF AGENDA****E. PUBLIC COMMENTS**

PLEASE SIGN IN: *Print First Name and Last, including Affiliation and/or Address if Applicable. Please Keep Comments to a three (3) Minute Time Frame. Public Comment Log Sheet Located upon South East Entry near the City Clerk. Thank You.*

F. COUNCILOR COMMENTS/ ANNOUNCEMENTS**G. MATTERS FROM THE MAYOR**

1. Certificates of Appreciation to the Fiesta del Valle de Española Fiesta Council Members

H. BUSINESS WITH VISITORS

2. "Cuts for Kids" Initiative Presentation - Antonio "Toner" Fresquez & COE Detective George Martinez
3. Presentation by Northern New Mexican Protecting Land, Water, and Rights, Inc. – Presented by Dave Neal

I. CONSENT AGENDA

1. City Council Meeting Minutes 05-12-15
2. Finance Board Meeting Minutes 05-12-15
3. City Council Meeting Minutes 05-26-15
4. Finance Board Meeting Minutes 05-26-15
5. City Council Meeting Minutes 06-23-15

J. MATTERS FROM THE CITY MANAGER

6. Department Overview Report - City Manager Kelly Duran

K. ITEMS PROPOSED FOR COUNCIL CONSIDERATION/DISCUSSION ITEMS /ACTION ITEMS

7. **Consideration of FY16 Budget Resolution 2015-10;** A Resolution Approving the Proposed Final Budget for FY16. Whereas the Governing Body in and for the City of Española developed a final budget for fiscal year 2016 on the basis of need and thorough cooperation with all user departments, divisions and elected officials through the majority opinion of the Governing Body.
- *City Manager Kelly Duran & ASD Joyce Sandoval*
8. **Consideration of Resolution 2015-11;** A Resolution of the Governing Body of the City of Espanola ; requesting the N.M. Municipal League to Support the City's Effort to Secure A Declaratory Judgement Regarding the Lawfulness of Application of the Santa Fe County Hold Harmless Gross Receipts Tax on Person's Doing Business in the City Boundaries. - *City Attorney Frank Coppler*
9. **Consideration of Resolution 2015-12;** A Resolution of the Governing Body of the City of Espanola Adopting an Annual Open Meeting Resolution; A Resolution Concerning Governing Body Meetings, Committee Meetings & Public Meetings and Public Notice Required. - *City Clerk Anna Squires*
10. Consideration of Approval of Contractual Services Agreement entered into by and between the City of Española and the Española Valley Animal Humane Society for animal care services.- *CM Kelly Duran*
11. Consideration of Approval of Professional Services Agreement entered into by and between the City of Española and THE FAMILY YMCA - *City Manager Kelly Duran*
12. Consideration of Approval of Proposed Agreement entered into by and between the City of Española and the Northern New Mexico Regional Art Center. - *City Manager Kelly Duran*

L. EXECUTIVE SESSION**MATTERS FROM THE CITY ATTORNEY**

13. In accordance with the New Mexico Open Meetings Act Section 10-15-1 (H) (7) NMSA 1978, Discussion Regarding; Pending or Threatening Litigation in Which the City of Española Is or May Become a Participant, City of Española, et al. v. Santa Fe County and the N.M. Taxation and Revenue Department.
-*City Attorney Frank Coppler*
Pursuant to New Mexico Open Meetings Act Section 10-15-1 (H) Subsection (2) limited personnel matters; (5) discussion of bargaining strategy preliminary to collective bargaining negotiations; (7) attorney-client privilege pertaining to threatening or pending litigation in which the public is or may become a participant; (8) discussion of the purchase, acquisition or disposal of real property or water rights by the public body. **NOTE:** New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.

M. ADJOURNMENT

The Governing Body may revise the order of the agenda items considered at this Open Meeting. If you are an individual with a disability who is in need of an amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the City Clerk at 747-6019

--End--

Mayor Alice A. Lucero deliberated with Council about the approval of the 7.20.15 City Council Agenda. She asked that City Council Agenda Item No. 8 be placed after item No. 13. Executive Session Matters from the City Attorney. Councilor Peggy Sue Martinez asked that Consent Agenda Item No. 2 Finance Board Meeting Minutes of 05.12.15 and Item No. 4 Finance Board Meeting Minutes of 05.26.15 be placed on the 8.11.15 City Council Agenda for approval as there was not ample time for thorough review. Councilor Dennis Tim Salazar made a motion to approve the 7.20.15 City Council Agenda as amended; 2nd by Councilor Adrianna Ortiz.

Motion Carried 7-0

E. PUBLIC COMMENTS

Mrs. Jeannette Salazar resident of Valley Estates within Española stated her name for the record. She advised the listening public that there would be a recent article published on the Valley Daily Post Website entitled The Work of Water which had information regarding the quality of local water.

F. COUNCILOR COMMENTS/ ANNOUNCEMENTS

Councilor Michelle R. Martinez expressed gratitude towards Library Director Sherry Aragon and Community Services Director Mark Trujillo for their joint efforts in making Community events such as "Movie Nights", exhibits and educational forums more feasible and affordable for the community.

Mayor Pro- Tem Valdez expressed gratitude towards everyone who aided with making the 2015 Fiesta del Valle de Española event and parade a successful occurrence. He expressed special thanks to John Ramon Vigil, Public Works Streets Operator Lawrence Aragon, Community Services Director Mark Trujillo and Fiesta Council and Volunteers. Similar comments were echoed by Councilor Adrianna Ortiz.

Mayor Alice A. Lucero expressed gratitude toward City Attorney Frank Coppler for his sponsorship of the Governing Body parade float which was developed by Mayor Pro- Tem Pedro Valdez during the 2015 Fiesta del Valle De Española. Similar comments were echoed by Councilor Peggy Sue Martinez who also expressed gratitude toward Councilor Cory Lewis as well as City Hall staff who aided with the fiesta parade contributions.

Councilor Peggy Sue Martinez expressed sincere gratitude and remorse for the recently departed MaryAnn Romero. She sympathized with the loss of her family and expressed condolences. Councilor Martinez stated that her memory will not be forgotten. She also expressed remorse and remembrance of the departed Mr. Eddie A. Trujillo, 88, a resident of Espanola who had passed away on Saturday, July 18, 2015.

Councilor Tania Sanchez announced that the 30th Annual Española Valley Arts Festival would be taking place September 26th and 27th, 2015 at the Plaza de Española. She further commented that she had been working with Española Valley Arts Festival President Andrew Herrera to include a youth art exhibit.

G. MATTERS FROM THE MAYOR

1. Certificates of Appreciation to the Fiesta del Valle de Española Fiesta Council Members

2015 Fiesta del Valle de Española Liaison & CSD Mark Trujillo stated that the Fiesta del Valle de Española Council Members were delayed due to a conflicting matter that recently arouse. He stated that he was not certain they would be able to attend the City Council Meeting for public recognition. He apologized on behalf of the Fiesta Council and further stated that he would be happy to provide all members with the *Certificates of Appreciation*.

Councilor Dennis Tim Salazar recited and presented a *Certificate of Appreciation* for the single representative of the 2015 Fiesta del Valle de Española to volunteer Justine Espinoza.

H. BUSINESS WITH VISITORS

2. “Cuts for Kids” Initiative Presentation - Antonio “Toner” Fresquez & COE Detective George Martinez

Antonio “Toner” Fresquez stated his name for the record. He also introduced his business partner Mr. David Rodriguez. Mr. Fresquez stated that the “Dream Big Kuts for Kids” initiative was a concept that he was a part of through his car club affiliation within the Albuquerque area. He further explained that the initiative provided free haircut(s) and scalp health examinations to youth from grades 1st through 12th. He then explained that the joint initiative allowed for sponsors to provide for schools supplies for the youth prior to the back to school months.

Antonio “Toner” Fresquez stated that he had brought the concept to the City of Española Police Department two (2) years ago. He further explained that the concept developed amongst his affiliation(s) and the City of Española Department of Public Safety into a *Back to School* community initiative supporting local youth and their positive rapport with public safety departments. Mr. Fresquez further stated that the Department of Public Health volunteered in years past to conduct scalp health examinations for the youth participants. He stated that the event had been very successful for the past two (2) years and he was hoping the collaborative would continue to allow for a 3rd Annual Cuts for Kids community event.

EPD Corporal–Detective Daniel Espinoza stated his name for the record. He stated that Detective George Martinez was not present to speak in support of the initiative. He further stated that the community event had been very successful two (2) years prior and also helped bridge a closer gap between the youth of the

community and public safety departments.

Antonio "Toner" Fresquez stated that the venue for the event had not yet been secured. He further stated that he would like the City to address the matter and collaborate to secure the venue, determined date, as well as solicit much needed sponsorship for food and school supplies.

Mayor Alice A. Lucero stated that the matter was not placed on the agenda for Council Consideration and/or action to adhere to the request. She asked that Community Services Director Mark Trujillo develop a committee to aid with the development of the *Cut for Kids* community initiative. Mayor Lucero stated that she would like CSD Trujillo to report in the development of the initiative during the next City Council Meeting.

Community Services Director Mark Trujillo replied in the affirmative stating that he would need the assistance of other Departments such as the Clerks Department to assist with committee meetings and direction and/or input from the City Council.

Councilor Peggy Sue Martinez stated that she was in favor of supporting the initiative and would offer her professional services.

3. Presentation by Northern New Mexican Protecting Land, Water, and Rights, Inc.

– Presented by Vice President of NNMPLWR Dave Neal

Dave Neal Vice President of the Northern New Mexicans Protecting Land, Water and Rights Inc. stated his name and affiliation for the record. Mr. Neal stated that the organization was a nonprofit with approximately five hundred members and is legally represented by N.M. Attorney Blair Dunn. Mr. Neal stated that the board consisted of six members; Arcenio Trujillo, Mike DeMaria, Beverly Duran, Dave Neal, Gail Martinez and Martha Trujillo.

Mr. Dave Neal stated that negotiations between San Ildefonso Pueblo and Santa Fe County over easements to roads around the village of El Rancho have reached an impasse, leaving the long-running road dispute in limbo and opening the door to possible legal action. He further stated that the San Ildefonso Pueblo claimed to own County Road 84 and other roads in the area that cross pueblo land. Mr. Neal stated that Santa Fe County and residents of El Rancho, a community of about 800 people north of Santa Fe, claim that the roads belong to the county and was public. Mr. Dave Neal stated that El Rancho is surrounded by pueblo land, and residents must use main roads like County Road 84 to go to and from their properties.

Mr. Dave Neal stated that the U.S. Bureau of Indian Affairs had come in on the side of the pueblo. He further stated that El Rancho resident's claimed that the easement issue had clouded the titles to their properties, making it hard to obtain insurance or sell. Mr. Dave Neal reported that the pueblo claims that the county has repeatedly refused to come to the table and negotiate a resolution with the pueblos on proposals for County Road 84 and 84B. Mr. Neal further stated that the County Road situation was brought to a head when the Bureau of Indian Affairs (BIA) asserted that most County Roads within San Ildefonso were in trespass. Mr. Neal stated that Santa Fe County strongly disputed the trespass claim and further stating that the rights within County Roads were established by the Pueblo Lands Act, proceedings of the Pueblo Lands Board and the agreement between the County and San Ildefonso. He expressed that as claims viewed favorably for tribal jurisdiction the County continued the maintenance of the road and absorbed cost(s).

Beverly Duran Board Member Northern New Mexicans Protecting Land, Water and Rights Inc. stated her name for the record. She further stated that the San Ildefonso and BIA had cast a cloud over all private property within the Pojoaque Valley that depended upon County Roads running through Pueblos for access. She explained that this was a result San Ildefonso asserting County Roads to be in trespass. Ms. Duran stated that the assertion of trespass was causing title companies to not insure access for such property, causing lenders not to lend. Ms. Duran stated that according to residents, the results are that they are unable to sell or refinance their homes or take out construction loans and the result is unrest and mistrust throughout

the Pojoaque Valley. Ms. Duran stated that the Northern New Mexican Protecting Land, Water, and Rights, Inc. had engaged in legal proceedings regarding the road easement lawsuit to protect the rights of non-tribal land owner(s) within tribal jurisdiction. She graciously requested the aid of the Governing Body of the City of Española and the consideration of sharing any credible legal information that may be useful for the legal claim as it pertains to tribal easement disputes.

Municipal City Attorney Frank Coppler replied in the affirmative, stating that he did possess useful case law and would provide it to NNMPLWR with Council(s) consent. Mayor Alice A. Lucero deliberated with Council about the friendly consideration to share relevant past case law which had already become public information.

Mayor Pro-Tem Pedro Valdez stated that he felt it would help build good communication amongst two (2) lifelong neighboring communities. Similar comments were echoed by Mayor Lucero, Councilor Peggy Sue Martinez, Councilor Adriana Ortiz and Councilor John Hernandez.

I. CONSENT AGENDA

1. City Council Meeting Minutes 05-12-15
2. ~~Finance Board Meeting Minutes 05-12-15~~ *Removed to be placed on the 8.11.15 City Council Agenda for Approval*
3. City Council Meeting Minutes 05-26-15
4. ~~Finance Board Meeting Minutes 05-26-15~~ *Removed to be placed on the 8.11.15 City Council Agenda for Approval*
5. City Council Meeting Minutes 06-23-15

Motion made by Councilor Peggy Sue Martinez to approve all minutes on the Consent Agenda with exception to Item No. 2 Finance Board Meeting Minutes of 05.12.15 and Item No. 4 Finance Board Meeting Minutes of 05.26.15; Motion 2nd by Councilor John Hernandez.

Motion Carried 7-0

J. MATTERS FROM THE CITY MANAGER

6. Department Overview Report – City Manager Kelly Duran

Councilor Michelle R. Martinez questioned City Manager Kelly Duran with regard to estimated timeline and potential location of Version Wireless and placement of a Cell Tower within City limits.

CM Kelly Duran stated that he has spoken with Version Wireless engineers who had sighted other location(s) deemed suitable for the placement of a Cell Tower and a final determination had not yet been conveyed. He concluded that follow-up and relative communication would be taking place.

Mayor Pro-Tem Valdez sighted a grammatical error on page six (6) within the CM Report, further sighting the use of the word *intimidate* and suggested the substitute word to be *initiate*.

Councilor Adriana Ortiz questioned City Manager Kelly Duran with regard to the feasibility of obtaining a City Streets Maintenance Schedule. CM Kelly Duran expressed that weeds had grown considerably due to the heavy rainfall and further stated that the Streets Department with limited equipment could only handle the overgrowth at a limited pace and location. He replied that he would communicate the request with General Services Director Juanito Maez who was not present to speak on the matter. Similar concerns regarding streets maintenance were addressed by Councilor Tania Sanchez.

Councilor Adriana Ortiz sighted page two (2) of the CM Report and questioned CM Kelly Duran with regard to Code Enforcement. She referenced two dismissed Municipal Court Cases as well as International Property Maintenance Code 2012 Edition. CM Kelly Duran deferred the question to City Attorney Frank Coppler.

City Attorney Frank Coppler stated that condonation of property maintenance through penalty of legal ordinance was previously discussed with the Planning and Zoning Director Russell Naranjo. He further stated that after the resignation of the P& Z Director no further dialogue pertaining to developing the ordinance had

been voiced from the Planning & Land Use Department.

Councilor John Hernandez stated that he had spoken during previous City Council meetings questioning the feasibility of enforcing penalty fees through a developed property maintenance ordinance. He further stated that he understood there was a delay in the development due to the departure of the Planning Director. Councilor Hernandez stated that the health and welfare of citizens should be considered with the development of the ordinance as some of the building(s) and homes within City limits were in his opinion non-habitable as well as obvious nuisances throughout the City. He further added that by enforcing penalty fees through code enforcement and perhaps condemning extreme structure cases would ensure much needed change. Similar comments were echoed by Councilor Peggy Sue Martinez.

K. ITEMS PROPOSED FOR COUNCIL CONSIDERATION/DISCUSSION ITEMS (ACTION ITEMS)

7. Consideration of FY16 Budget resolution 2015-10; - City Manager Kelly Duran and ASD Joyce Sandoval

City Manager Kelly stated that during the Finance Board Meeting and preliminary review of FY2016 Budget, it was determined that the furloughs would be removed. He further stated that the corrected salary schedule to reflect the most current payroll schedule was reanalyzed and an oversight on the Municipal Court salary for the Outreach Coordinator position was incorrectly funded at 50% percent and should have reflected at 100% percent resulting in an increase to the budget of \$25,058.00 dollars.

City Manager Kelly stated that his salary was adjusted from an annual \$100,000 thousand dollars to \$94,994 thousand dollars but the City Manager s Budget had increased by \$4,002 thousand dollars for various expenses. He further stated that with the hire and development of the new Human Resource Director position, professional development funds were needed in the amount of \$1,500 thousand dollars. CM K. Duran stated that the remaining income of \$43,416 thousand dollars would be reallocated to Claims, Judgements and Settlement line item.

ASD Joyce Sandoval requested the approval and adoption of budget resolution 2015-10. She explained that the resolution was required by the Local Government Division of the Department of Finance and Administration from the Governing Body of the City of Española. She further explained that the final balanced budget for fiscal year 2015-2016 was developed on the basis of need and thorough cooperation with all user departments, divisions and elected officials and through the majority opinion of the Governing Body the final budget had met the requirements currently determined for Fiscal Year 2016.

Mayor Pro-Tem Pedro Valdez made a motion in favor of FY16 Budget Resolution 2015-10; Motion 2nd by Councilor Michelle R. Martinez.

Motion Carried 7-0

8. Item No. 8 Consideration of Resolution 2015-11; A Resolution of the Governing Body of the City of Española; requesting the N.M. Municipal League to Support the City's Effort to Secure A Declaratory Judgement Regarding the Lawfulness of Application of the Santa Fe County Hold Harmless Gross Receipts Tax on Person's Doing Business in the City Boundaries. – City Attorney Frank Coppler **Moved after Item No. 13 Executive Session; Matters from the City Attorney.**

9. Consideration of Resolution 2015-12; A Resolution of the Governing Body of the City of Espanola Adopting an Annual Open Meeting Resolution; A Resolution Concerning Governing Body Meetings, Committee Meetings & Public Meetings and Public Notice Required. – City Clerk Anna Squires

City Clerk Anna Squires stated that she was not only the official Custodian of Records for the City of Española but she was also City Public Information Officer. She further stated that Councilor Peggy Sue Martinez graciously advised the Clerks Department of a free training seminar in Los Alamos N.M. held by the Attorney

General's Office July 15th 2015. CC Squires further stated that the training pertained to the Inspection of Public Records Act (IPRA) and Open Meetings Act (OMA). City Clerk Squires stated that several other members of staff who aid her with Public Records Request(s) including Records Clerk Theresa Salazar and Public Safety Records Supervisor Francisco Galvan both attended the training.

City Clerk Anna Squires stated that representatives from the Attorney General's Office advised of placing Executive Session discussion matters on the City Council Agenda as well as adhering to Inspection of Public Records requests in a timely manner and furthermore the necessity of adopting an annual open meeting resolution.

Councilor Peggy Sue Martinez thanked City Clerk Squires and supporting staff for taking advantage of the free course and adhering to current rules and regulations deemed necessary by the Attorney General's Office in relation to the Inspection of Public Records Act (IPRA) and Open Meetings Act (OMA). She requested that the entire Council be informed of all future Planning and Zoning Agendas as well as other City committee agendas. Similar comments were echoed by Councilor Tania Sanchez.

Mayor Pro-Tem Pedro Valdez made a motion in favor of Resolution 2015-12; Resolution of the Governing Body of the City of Espanola adopting an Annual Open Meeting Resolution; A Resolution Concerning Governing Body Meetings, Committee Meetings & Public Meetings and Public Notice Required; Motion 2nd by Councilor Peggy Sue Martinez.

Motion Carried 7-0

10. Consideration of Approval of Contractual Services Agreement entered into by and between the City of Española and the Española Valley Animal Humane Society for animal care services.

- City Manager Kelly Duran

City Manager Kelly Duran stated that he had met with the Executive Director Española Valley Animal Humane Society Bridget Lindquist to discuss the annual Contractual Services Agreement (CSA) between the City of Española and the Española Valley Animal Humane Society the for animal care services.

City Manager Kelly Duran stated that the City would pay the contractor the sum of seventy thousand dollars (\$70,000.00) for twelve (12) months of service beginning July, 2015, ending June 2016 and payment shall be made in monthly installments at a rate of five thousand eight hundred and thirty three dollars (\$5,833.33) per month to allow the contractor to accept all stray and seized dogs and cats that were brought to the shelter by the City Animal Control Officer as the City is responsible for upholding all city ordinances regarding the protection of animals as well as patrolling, collecting dogs and cats and delivered them to the shelter.

Mayor Pro-Tem Pedro Valdez made a motion to approve the Contractual Services Agreement entered into by and between the City of Española and the Española Valley Animal Humane Society for animal care services; Motion 2nd by Councilor Michelle R. Martinez.

Motion Carried 7-0

11. Consideration of Approval of Professional Services Agreement entered into by and between the City of Española and THE FAMILY YMCA - City Manager Kelly Duran

City Manager Kelly Duran stated that he had met with the *Family YMCA* CEO, Linda Daly to discuss the Professional Services Agreement (PSA) between the City of Española and The *Family YMCA* the for daily operation of the Teen Technology Center provided that qualified and trained staff including a full time director, tutors, instructors, and other staff as needed allow for teen programming, resources, and services. City Manager Kelly Duran stated that the PSA indicated to provide an annually sum of fifty-five thousand dollars (\$55,000) to be used for programming costs associated with the student information technology center. CM K Duran stated that the contractor will invoice the City of Española for reimbursement of the programming costs as they were

incurred, along with the supporting documents for reimbursement. The City of Española will pay for all utility costs associated with operation of the Teen Technology Center as added consideration for services. CM K Duran stated that the City of Española will provided routine maintenance to the building as it deems appropriate and the contractor shall maintain general liability insurance throughout the term of the agreement and a minimum coverage of one million dollars (\$1,000,000) would be required.

Mayor Pro-Tem Pedro Valdez made a motion to approve the Professional Services Agreement entered into by and between the City of Española and THE FAMILY YMCA; Motion 2nd by Councilor John Hernandez

Motion Carried 7-0

12. Consideration of Approval of Proposed Agreement entered into by and between the City of Española and the Northern New Mexico Regional Art Center. - City Manager Kelly Duran

City Manager Kelly Duran stated that he had spoken to Ms. Gabriela Silva- Executive Director of NNMRAAC and the term discussed for the temporary lease agreement would commence in July 2015 and shall terminate on June 30, 2017, notwithstanding the term of the lease either party may without cause terminate this lease agreement upon thirty (30) days' notice to the other party. City Manager Kelly Duran stated that the lease would allow a portion of the City owned building designated as the Misión y Convento, 1 Calle de Las Española's, Suite E, Española, New Mexico approximately 400 square feet, and Suite C and D approximately 1358 square feet, to the lessee.

City Manager Kelly Duran stated that the lessee will also have access to the building located on 702 Bond Street and Calle de Las Española's (a/k/a the US Post Office facility) for the purpose of offering a community education program with approximately 7,579 square feet. He explained that the lessee would accept the premises in its present state and agreed that it was in good condition, without any representation or warranty by lessor as to the condition of the premises.

Councilor Peggy Sue Martinez made a motion to approve the proposed lease agreement as presented and entered into by and between the City of Española and the Northern New Mexico Regional Art Center; Motion 2nd by Councilor Michelle R. Martinez.

Motion Carried 7-0

L. EXECUTIVE SESSION

MATTERS FROM THE CITY ATTORNEY

- 13.** In accordance with the New Mexico Open Meetings Act Section 10-15-1 (H) (7) NMSA 1978, Discussion Regarding; Pending or Threatening Litigation in Which the City of Española Is or May Become a Participant, City of Española, et al. v. Santa Fe County and the N.M. Taxation and Revenue Department.
-City Attorney Frank Coppler

Pursuant to New Mexico Open Meetings Act Section 10-15-1 (H) Subsection (2) limited personnel matters; (5) discussion of bargaining strategy preliminary to collective bargaining negotiations; (7) attorney-client privilege pertaining to threatening or pending litigation in which the public is or may become a participant; (8) discussion of the purchase, acquisition or disposal of real property or water rights by the public body. **NOTE:** New Mexico law requires the following administrative procedures be followed when conducting "quasi-judicial" hearings. In a "quasi-judicial" hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.

Motion to enter into Executive Session made by Councilor Peggy Sue Martinez and 2nd by Mayor Pro-Tem Pedro Valdez

Roll Call Vote:

<i>Mayor Pro-Tem:</i>	<i>Pedro Valdez</i>	<i>in Favor</i>
<i>Councilors:</i>	<i>Tania Sanchez</i>	<i>in Favor</i>
	<i>Michelle R. Martinez</i>	<i>in Favor</i>
	<i>Dennis Tim Salazar</i>	<i>in Favor</i>
	<i>Adrianna Ortiz</i>	<i>in Favor</i>
	<i>Peggy Sue Martinez</i>	<i>in Favor</i>
	<i>John Hernandez</i>	<i>in Favor</i>

Motion Carried 7-0

*The Governing Body entered into Executive Session at 7:55 pm
Councilor Peggy Sue Martinez made a motion to come out of Executive Session, Motion 2nd by Councilor Michelle R. Martinez*

Roll Call Vote:

<i>Mayor Pro-Tem:</i>	<i>Pedro Valdez</i>	<i>in Favor</i>
<i>Councilors:</i>	<i>Tania Sanchez</i>	<i>in Favor</i>
	<i>Michelle R. Martinez</i>	<i>in Favor</i>
	<i>Dennis Tim Salazar</i>	<i>in Favor</i>
	<i>Adrianna Ortiz</i>	<i>in Favor</i>
	<i>Peggy Sue Martinez</i>	<i>in Favor</i>
	<i>John Hernandez</i>	<i>in Favor</i>

Motion Carried 7-0

The Governing Body came out of Executive Session at 9:00 pm.

Councilor Peggy Sue Martinez stated that there was no action taken in Executive Session only discussion of professional development training for the Human Resources Director and Staff pertaining to ADA and EEOC training. Councilor Peggy Sue Martinez stated that Council only discussed the pending and/or threatening litigation in which the City of Española is or may become a participant, City of Española, et al. v. Santa Fe County and the N.M. Taxation and Revenue Department.

CONT. - K. ITEMS PROPOSED FOR COUNCIL CONSIDERATION/DISCUSSION ITEMS (ACTION ITEMS)

8. Consideration of Resolution 2015-11; *A Resolution of the Governing Body of the City of Española; requesting the N.M. Municipal League to Support the City's Effort to Secure A Declaratory Judgement Regarding the Lawfulness of Application of the Santa Fe County Hold Harmless Gross Receipts Tax on Person's Doing Business in the City Boundaries. – City Attorney Frank Coppler*

City Attorney Frank Coppler stated that in 2013 the legislature passed HB 641 as amended and the title of the bill being unclaimed film production tax credits, accelerated payments of future scheduled payments of film production tax credits, additional eligibility requirements changing the scope of film production tax credits, reconciling the film tax credit provisions and repealing related film tax credit provisions. City Attorney Frank Coppler stated that HB 641 title failed to meet the Art. 4 Sect. 16 New Mexico constitutional requirement that: "The subject of every bill shall be clearly expressed in its title, and no bill embracing more than one subject shall be passe but if any subject was embraced in any act which is not expressed in its title, only so much of the act as is not so expressed shall be void.

City Attorney Frank Coppler stated the City of Española joined by four of its businesses, Country Farm Supply, New Mexico Office Products, Johnny's Standard Motor Parts and Accu Blueprint and Copy had filed a declaratory judgment action requesting the Court declare as a matter of law that the County hold harmless gross receipts taxes may not be applied to sales reported within the boundaries of a city. He further stated that the City of Las Cruces has joined in requesting a declaratory judgement with regard to the same issue in Doña Ana County.

Councilor Peggy Sue Martinez made a motion to approve Resolution 2015-11; A Resolution of the Governing Body of the City of Española; requesting the N.M. Municipal League to Support the City's Effort to Secure A Declaratory Judgement Regarding the Lawfulness of Application of the Santa Fe County Hold Harmless Gross Receipts Tax on Person's Doing Business in the City Boundaries.; Motion 2nd by Councilor John Hernandez.

Motion Carried 7-0

M. ADJOURNMENT

Motion to adjourn made by Peggy Sue Martinez; 2nd by Mayor Pro-Tem Pedro Valdez

Motion Carried 7-0

Meeting Adjourned at 9:20 pm

ADOPTED AND APPROVED by the Governing Body of the City of Española this 25th day of August 2015.



The Honorable Alice Alarid Lucero
Mayor, City of Española

ATTEST:



Anna Squires, City Clerk

