

Summary Minutes of:

City Council Meeting Workshop  
Tuesday, February 16, 2010  
6:00 P.M., Public Safety Meeting Room  
1316 Calle Adelante, Española, NM

**Call to Order**

Mayor Pro Tem Alice Lucero called the meeting to order at 6:06pm with the following in attendance:

Mayor: Joseph M. Maestas (*arrived at 6:10pm*)  
Mayor Pro Tem: Alice Lucero  
Councilors: Alfred Herrera  
Danielle Duran  
Dennis Tim Salazar  
Cecilia Lujan

City Attorney: Paula Maynes  
Deputy City Clerk: Sally Baxter  
City Clerk: Heather Velasquez  
Staff: Ben Ortega, Public Works Director; Julian Gonzales, Chief of Police; Municipal Judge Stephen Salazar; Joyce Sandoval, Finance Department

Members of the Public: Julie Walleisa, Clarissa Duran, Tim Martinez, John Vigil, Presiliano Garcia

Absent: Councilor Edward Maestas, Councilor Helen Kain-Salazar, Councilor Rosario "Chayo" Garcia

**Pledge of Allegiance**

Councilor Herrera led the Pledge of Allegiance

**Roll Call**

The City Clerk read the names for the roll call.

**Approval of Agenda**

Agenda as presented:  
---begin---

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF AGENDA**

**PUBLIC COMMENTS**

**COUNCILOR COMMENTS**

**EXECUTIVE SESSION: 10-15-1 (H) SECTION 7** Meetings subject to attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant.

**MATTERS FROM THE MAYOR**

1. Update on Drug Summit

**STAFF REPORTS**

**FINANCE REPORTS**

**BUSINESS WITH VISITORS**

2. Presentation and progress update by Dekker/Perich/Sabatini for New Library
3. Presentation from Daniel Roybal on Library Board Member Appointments
4. Update on Industrial Park Road by Jon Paul Romero

**ITEMS PROPOSED FOR COUNCIL CONSIDERATION**

5. Acknowledgement of FY10 Department of Finance and Administration Budget Approval
6. Ordinance 2010-01 Windstream Franchise Ordinance
7. Resolution 2010-01 Amending Drug and Alcohol Policy
8. DFA Budget Resolution(s)

## **ANNOUNCEMENTS**

### **ADJOURNMENT**

*At any time during the Open Meeting, the Governing Body may close the meeting to the public to discuss matters not subject to the New Mexico Open Meetings Act. 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 at least three days prior to the meeting.*

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The Mayor Pro Tem said she wanted to move up “Business with “Visitors” to be after “Public Comments”. Councilor Duran said she wanted to add AG Helton under “Business with Visitors”. The Mayor Pro Tem said to remove Item #8, and move Item #5 to the meeting the next week as the paperwork was not in the packets. Councilor Duran said to add Committee Reports.

***Councilor Salazar made a motion to approve the agenda as amended, seconded by Councilor Duran. The motion carried 5/0.***

### **Public Comments**

There were no public comments.

### **Business with Visitors**

***Mayor Maestas arrived at 6:10pm.***

Item #2, Presentation and progress update by Dekker/Perich/Sabatini for New Library  
Julie Walleisa with Dekker/Perich/Sabatini presented:

Ms. Walleisa said she had been at a previous meeting, they were doing phase one preliminary design now, and they had held two public meetings and a series of weekly Coalition meetings. She said on Thursday there would be the final public input meeting and the public was invited to all meetings. She said they were focusing on size, space requirements, and answering questions.

Ms. Walleisa regarding why a new library was needed, people said the current library was small, needed amenities, and Dekker/Perich/Sabatini had quantified that the 26,000 library cardholders needed 26,000 square feet. She said they were planning a space approximately 16,000 square feet. She said the ideal number of books would be 78,000 to 100,000.

Ms. Walleisa said the new library would serve missing amenities, and they were focusing on expanding the children’s area. She said people looked at the floor plan and thought it was final, but there were still months of work needed. She showed a site plan, and said it included room to expand in the future, the building will allow for a larger children’s and teen’s area, courtyard spaces that could be used for programs, and an area devoted to local history and culture.

Ms. Walleisa said in terms of cost, the answer was estimated construction cost was \$4.5 million for a total project cost of approximately \$6 million and the information was verified by a professional estimator. She said the intent was to be cost effective, and this was a good time to build with construction costs approximately 15% lower, costs would go up, and currently the city could get as much as possible.

Clarissa Duran, a member of the Library Coalition, said they were having the last public input meeting but the Coalition had planned other public events so there was time for people to continue to give input.

Teddie Riehl, Library Director, thanked Dekker/Perich/Sabatini, said they had worked hard, and she was grateful for the support of the Council and the public.

Mayor Maestas said Dekker/Perich/Sabatini had been featured in the Albuquerque Journal, including information about their projects, etc., and the city had quite a firm working on the project.

Item #3, Presentation from Daniel Roybal on Library Board Member Appointments

Daniel Roybal thanked the Governing Body for the opportunity to address them; he said regarding the two appointments to the Library Board, Tim Martinez would be a great asset to the community and the Board and he asked them to also consider the first honorary youth advisor, John Vigil, as a non-voting member, to give the youth a voice.

Tim Martinez said he was honored to be considered, hoped to be a great asset, had worked with many boards, and hopefully the Governing Body would consider his nomination.

John Vigil thanked the Governing Body for considering him, and Mr. Roybal for recommending him. He said he served on many committees including the Downtown Action Team, and the San Gabriel Historical Society, which he believed gave him a lot of experience, and he wanted to help enhance the use of the library for the youth.

Mayor Maestas said it would be on the formal agenda for meeting next week for ratification; he thanked Mr. Roybal for his work.

The Mayor Pro Tem said she wanted to commend Mr. Roybal on the two recommendations. She said Mr. Martinez was a mover and a shaker, and she had known Mr. Vigil since he was a little boy and he was an up and coming role model.

Mr. Roybal thanked the Mayor and Mayor Pro Tem for their comments and the Council for their time and support.

*The City Clerk left at 6:30pm.*

Item #4, Update on Industrial Park Road by Jon Paul Romero

Mr. Romero said to date the project was 45% complete with 40% completion of expenditure of monies. He said recently they had had bad weather so they gave the contractor weather days and added 15 day. He said they were looking for avenues to accelerate the project to have it open in May for the Memorial Day season. He said there had been problems with the storm drain system, they had run into conflicts with gas and electric utilities, and were working to have those relocated. He said during the progress of the project they had implemented value added using millings, and were saving \$40,000. He said regarding an update on lighting, with extra monies it was determined it would be beneficial for safety enhancements and they had the plans ready to go. He said they wanted to do a change order, but since ARRA (America Recovery and Reinvestment Act) protocol was stringent, after a discussion with DOT (New Mexico Department of Transportation), they had deemed it necessary to go out to bid and Souder Miller was working on a bid package. He said they wanted to turn it around, get the bids back, do the evaluation, and make a recommendation for the Governing Body.

Councilor Duran thanked Mr. Romero for coming to the meeting and making a presentation. She said they fought hard to make it complete with lighting, and thanked him for working hard and being accessible.

Mr. Romero said he wanted to thank staff, both field and administration. He said there had been three inspections to date and the project had passed all three, everything had been going well, and he would be happy to come back and give updates.

Mayor Maestas asked if the lighting could be done concurrently with the current project; Mr. Romero said when they got the bids, they would work closely with the contractor, and if it was not the contractors sub, they would start at the top and work down, and would work closely with the contractor. He said the language in the bid was that the lighting would be done concurrently.

The Mayor said he saw a jogger using the sidewalk along Industrial Park Road, sidewalks were rare in the city, and he wanted to make the city friendlier. He said it was great to see someone using an amenity.

Mr. Romero said it would be a nice project, and an asset to community and the west side.

Presentation by AG Helton, Action Properties, LLC

Mayor Maestas apologized to Mr. Helton regarding not taking action on his presentation at this meeting, and thanked him for coming to the meeting to make a presentation.

Mr. Helton said Action Properties was a developer that redeveloped properties, and was looking at 900 Riverside for redevelopment.

He said Action did redevelopments, new developments, rehabbing and revitalizations, and had 650,000 that the company owned or managed. He said they had ten properties currently and this would be the eleventh. He gave handouts to the members of the Governing Body.

Mr. Helton said the first part was biographical describing who he was, where he was from, and had cities he had partnered with in the past, and included letters of recommendation from the Mayors of those cities. He said the information provided included a development in Mississippi, and pictures of a building in Arkansas before and after development.

Mr. Helton said the before and after pictures were to show he had experience doing this, the impact in these towns was significant, and he would like to talk about Española. He said he was proposing a possible 40,000 square foot development at 900 Riverside Drive, the jobs that he estimated would be created would be 50 to 60 jobs, and depending on what businesses went in could be a \$400,000 payroll; he said he had an economic application to submit for review.

Councilor Duran said she wanted to note for the record that in the Local Economic Development Act (LEDA), adopted in Española there were certain kinds of developments that made a person qualified to receive tax incentives and funding, Mr. Helton had met with the New Mexico Economic Development Department, and part of the LEDA process was to make an application as part of the ordinance process, then a partnership agreement, and Mr. Helton had an application with him this evening.

Councilor Duran said regarding requests for economic development incentives, the application was reviewed by three people at the Economic Development Department.

The Mayor said the members of the Governing Body needed time to review the information.

Councilor Duran said the ordinance said the Governing Body reviewed, and if they deemed him to be qualified applicant, the Mayor could ask the administration to post it tomorrow, it was a boilerplate and listed LEDA information, had information regarding what the business owner would get from the state, what kind of job requirement there was, and what the callback procedure for callback of monies was. She said it took about 30 days, and if it was very complicated like in Albuquerque it could take 60 to 90 days.

Mayor Maestas said they needed to focus on what the developer wanted from the community. He said they needed to determine if the city would provide the incentives requested, and if so how to accomplish it.

Councilor Duran said that was part of the negotiation; she said the application included what was requested and what gross receipt taxes would be generated. She said the application was very detailed and the city could negotiate items.

The Mayor said he suggested the city focus on this, including planning and public works issues, budget issues, and convene the DRT (city Design Review Team) with the City Manager. He asked Public Works Director Ben Ortega to take the lead. He said the thought the DRT with the City Manager should do an initial evaluation.

Mr. Ortega said he hadn't seen list yet; Councilor Duran said Russell Naranjo, Planning Director, had seen it, and the city could do it concurrent with posting the ordinance; she said the city didn't have to do an ordinance as part of the request was negotiating issues.

The Mayor said they needed to see if the city could deliver.

Councilor Duran said the application still had to go through the public review process, then sign a public or partnership agreement and then negotiate. She said the application could go to DRT during the waiting period for the ordinance so the city could make good choices.

Paula Maynes, City Attorney, asked if the idea was that the ordinance would be posted tomorrow and acted on the next week; she said the posting period was two weeks. Councilor Duran said it would be acted on in March. Mr. Ortega said he would get it on the DRT agenda.

The Mayor asked if there was a summary of the LEDA process; he said the city had done this for the Fiber Arts Center. Councilor Duran said yes, but this application was a lot more involved, they were asking for outlay funds, the people in charge of the finance portion would be involved, and the Economic Development attorney would look at it. The Mayor asked how much money was involved; Councilor Duran said \$5,000 in LEDA money.

The Mayor asked if that was on top of the concessions; Councilor Duran said it could be used that way.

The Mayor said the design and installation of traffic control devices was a big expense; Councilor Duran said everything was negotiable and on the table. She said Mr. Helton understood there was still a long process ahead.

Mayor Maestas thanked Mr. Helton for his interest in community, for investing in it with the prospect of creating 50 to 60 jobs plus construction jobs. The Mayor said the city didn't have many large scale commercial tracts so this was a substantial development. He thanked Councilor Duran for advocating for the city. The Mayor said Councilor Duran was the economic development expert on the Council and he appreciated what she did especially in these hard economic times. He said he was pleased to see this.

Councilor Herrera said he thought the Mayor had said it very well, and he also wanted to thank Councilor Duran for the work she had done on this and he relied on her guidance and expertise. He thanked Mr. Helton for selecting Española, said this was prime real estate, and if it came to pass it would be good for the city. He said they had just gone through a rigorous budget reduction and needed more economic development in the city. He said sustainable business was important for the community, and he would be in favor of allowing the application to go through, and reviewing the negotiable items. He said as staff started to move forward, in that interaction the Governing Body needed to be engaged. He said it was different from one business coming before them so the Governing Body needed to be fully engaged. He said he was very much in support of this type of development, and he would be looking forward to the next step.

Mayor Maestas asked if this was phase one only; Mr. Helton said yes. Mayor Maestas said he wouldn't be Mayor when they sealed the deal but he wanted to encourage everyone to participate, and he wanted to echo what Councilor Herrera had

said. Councilor Lujan said this was very exciting. Mr. Helton said any bond between the public and private sectors created great economic development.

Mayor Pro Tem Lucero said she also wanted to say thanks, and the city was in dire need of retail establishments.

Presiliano Garcia, a member of the public, asked what the square feet was; Mr. Helton said 40,000.

Councilor Duran thanked Mr. Helton, and said he was great to work with and very dedicated to this project. She said he was not just talking about incentives, but knew there were serious issues and he had moved on the project. She thanked the Mayor and Councilors for being supportive of economic development in the city and thanked them their support and action.

Mayor Maestas thanked Mr. Helton for his presentation; Mr. Helton thanked the Mayor and Councilors for their support.

### **Councilor Comments**

Councilor Duran said going through this with Mr. Helton and thinking about economic development, she wanted to put on the Community Development Committee agenda amending the economic development act to be business friendly.

### **Executive Session**

City Attorney Paula Maynes cited the Open Meetings Act “10-15-1 (H) SECTION 7 Meetings subject to attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant” and said it regarded Robert Cole; she said she also wanted to advise the Council on the status of easements and cited section 10-15-1.

***Councilor Duran made a motion to enter Executive Session as specified, seconded by Councilors Herrera and Lujan. A roll call vote was taken and the motion carried 5/0.***

The meeting entered into executive session at 7:05 pm.

***Councilor Duran made a motion to exit executive session, seconded by Councilor Lujan. The motion carried 5/0.***

The meeting returned to open session at 7:55 pm.

***The matters discussed in the closed meeting were limited only to those specified in the motion to enter executive session.***

#### **Item #1, update on Drug Summit**

Mayor Maestas said at a public safety meeting, people were worried about the rash of break-ins, so he had asked if the Summit was coming to northern New Mexico. The Mayor said the White House ONDCP (Office of National Drug Control Policy) would be coming to northern New Mexico. He said the ONDCP was an initiative by President Obama. The Mayor said he felt it would be good to assess where the city was at, he had worked with Senator Bingaman and the Attorney General’s Office, and the Summit would be regarding drug interdiction. He said he was working with New Mexico First as they sponsored Townhall meetings. He said the Summit was scheduled for the 25<sup>th</sup> and the city would be convening it along with the US Attorney and they had a list of invitees. The Mayor asked Chief Gonzales to give an update.

Chief Gonzales said approximately 60 to 80 people were being invited. He said the goal was to get people in one venue to talk about what they could do to stem the flow of drugs, property crimes, burglaries, and property sold to get money used for drugs. He said invitations had been sent out.

He said one thing hampering getting attendees was that the legislature was in session. He said Remay Sanchis (Executive Assistant to the Mayor and City Manager) had made calls today and Melissa Griego (Executive Assistant to the Police chief) had made calls. He said he was hoping to have a minimum of 35 people attend. He said invitations had been sent to federal, state, local, and tribal governments, and the state drug czar had been invited. He said invitations had been sent to heads of the health department and juvenile justice.

The Chief said the goal was to get policy makers together, and the US Attorney's Office was a co-sponsor, along with Weed and Seed, and the McCune Foundation. He said the goal was to determine how the agencies could better fight against drugs, and their findings would be presented to the US Drug Czar and they would see if they could have an impact on federal legislation.

Mayor Maestas said it was a great opportunity to shine light on the drug problem here and get the attention of the White House and show we were all working together. He said the main thing would be federal related recommendations from the Summit and bringing in the prosecution side. The Mayor said this would bring prosecutors to the table with law enforcement.

The Mayor Pro Tem asked where it would be held; the Chief said the Santa Claran from 8:30am to 5pm, and the Councilors should have email from New Mexico First regarding the registration process.

Councilor Duran said she had gone to conference in Washington DC the previous year and visited with Senator Bingaman's and Congressman Lujan's staff, and the person who had given the most feedback was Congressman Ben Ray Lujan. She said everyone had views that were different so she thought this was a great idea.

## **Staff Reports**

Chief Gonzales said regarding his monthly report, he wanted to mention items from the Community Development meeting. He said there was a report that \$600 million in COPS (Community Oriented Policing Services) grants coming out and he was anxious to see about the grants. The Chief said when Congressman Lujan had visited, he had toured the Police Department, and he had told the Congressman about wanting to store records electronically, and had applied through the Congressman's office for funds to do this. The Chief said he applied for \$465,000 and he was hoping to get some action on that. He said it was October First funding so it was down the road. He said he had ordered new pick up truck for animal control, new cars, and they should be in in a few weeks.

The Chief said regarding the fee schedule, everything currently was \$100, and when the ordinance was adopted, there had been a schedule, an attachment, that no one could find, so the Police Department had stopped issuing parking citations to get this resolved. He said it would be a joint effort involving the Judge, the City Manager, and the Clerk to get a fee schedule, make a proposal, and send it through the Committees. He said it was however the Governing Body wanted to address it.

Councilor Duran thanked the Chief. The Mayor asked if the Police Department was issuing warnings in the interim; the Chief said yes. The Mayor asked if this was an amendment to the Uniform Traffic Code; the Chief said it was an amendment to ensure attachment.

The Mayor Pro Tem asked if people were already cited, if they would be forgiven; the Chief said that was up to the Judge. Judge Salazar said the city didn't have a parking ticket fee schedule so he was uncomfortable enforcing the citations; he said for citations issued on private property he was refunding the fees because the city had no jurisdiction for private property. He said an officer could pull someone over and cite for an offense and issue a \$100 ticket, but the Public Safety Aides (PSAs) did not have jurisdiction for \$100 parking tickets. He said a fee schedule needed to be established so a PSA could issue citations. He said \$100 was steep for parking

citations, and before Deputy Chief Byford had left he had established a fee schedule. The Judge said he would forward the schedule to the Finance or Public Safety Committees then they could forward that to the full board, and then PSAs could give parking tickets.

***Mayor Maestas left at 8:15pm and returned at 8:18pm.***

Councilor Duran thanked the Chief, and said one of her volunteers had gotten a \$100 ticket at Wal-mart and she [Councilor Duran] was shocked. The Chief said the city would get the schedule fixed, but this was not including parking in a handicapped space [without a permit], which was \$250.

Judge Salazar said the handicapped citation was fixed, and in Santa Fe if people didn't pay they would issue bench warrants, and could flag the license.

Councilor Duran said she wanted Marti Griego to do an e911 report at some time because they never got those and citizens were concerned about how the calls were being answered so they needed an update from Ms. Griego; the Mayor Pro Tem said that was on her committee report this evening.

Ben Ortega, Public Works Director, said he would do a report at next week's meeting. He said for the Water Department he had applied for \$4.2 million in grants for Uranium treatment and reactivation of water well #9, and it had been filed the previous week with Congressman Ben Lujan's office, and he would ask the senators to support it. He said the Water Department had drained and refilled water tank #1 and inspected it, and it passed with flying colors. He said it was built in 2002 and they made repairs for normal wear, and would move to tank #5 next. He said they were making sure the tanks were in safe working order.

Mr. Ortega said the Water Department had received an award for the most improved system, and he would make a formal announcement at the Council meeting next week, and he wanted to say good job to Antonio Chavez (Water Department Foreman) and his team.

Mr. Ortega said he applied for two grants for wastewater, there was excessive buildup in the tank, and he was trying to get federal money to assist. He said he applied for a \$200,000 grant to remodel the KDCE lift station.

Mr. Ortega said Public Works had implemented a potholes hotline, and would add the information to the utility bills. He said they were attempting to get immediate response, 48 hours from call to repair, and had repaired 20 potholes and graded public dirt roads. He said they had replaced 31 streetlights, and had installed new lights at the Lucero Center. He said he had met today with the attorney and she prepared opinion letter on maintenance of private roads, and he had communicated this to the Public Works Committee and he could discuss it or talk about it at the next Council meeting. The Mayor said all the Councilors and he should receive the information.

Councilor Duran said they had talked about Corlette Drive in the past, it was a really horrible road, extreme driving, and the road next to the animal shelter was a pitted nightmare. She asked Mr. Ortega to work with Santa Clara Pueblo to get the roads graded on a regular basis.

She said it affected the city's citizens so if he could work out something with Santa Clara it would be better for everyone. Mr. Ortega said he had had a conversation with the City Manager regarding this.

Councilor Herrera said Mr. Ortega had talked about what was discussed in the Public Works Committee; he asked Mr. Ortega to talk about grants for medians landscaping. Mr. Ortega said it was for full enhancement for medians of major roads, and would be a full upgrade of the medians themselves. He said the city was cleaning and scraping them and it was approximately \$15,000 to clean them up, but he had an opportunity to file for the grant, had worked with the City Finance Department, and this would be

beautify the median. The Mayor Pro Tem asked how much the grant was for; Councilor Herrera said \$675,000.

Mr. Ortega said the next grant was a highway safety improvement grant for installing sidewalks in the Wal-mart area north and new sidewalks on both sides Paseo de Oñate, new sidewalks on the south side of Fairview and new bike lanes on Paseo de Oñate and Riverside Drive. He said this would protect the citizens. Mayor Maestas asked what the matching funds requirements were; Mr. Ortega said 25% would be needed to match. The Mayor said that would be approximately half million dollars, and asked if the city had those funds. Mr. Ortega said the city would have to find other sources, would need to find the money, and he would put it in his budget request.

The Mayor said it was easy to apply but they needed the matching funds. He asked what was happening regarding the gateways and said the city was in jeopardy of losing the funding. Mr. Ortega said the state was pulling back funding because of a \$700 million shortfall.

The Mayor said the city had a year to go forward, and asked about putting out the bid; Mr. Ortega said would have to consult with Russell Naranjo, Planning Director.

Mayor Maestas asked about converting streetlights to LED (Light Emitting Diode) he said a third would be paid by Tristate, and Jemez (Electric Cooperative) would pay a third. He said by far the highest utility cost was lighting. He asked if Mr. Ortega had investigated this. Mr. Ortega said he had a presentation from Jemez and the cost was three times more expensive, although there was a lower operating cost. He said it was not in Jemez' budget so they had decided not to go with LED lights in Industrial Park, and there had been no other discussions.

Mayor Maestas said it was a good opportunity with two thirds paid by others and the city would reap the benefits. He asked if Mr. Ortega had looked at the savings; Mr. Ortega said they had looked at the startup cost.

City Attorney Paula Maynes said in a meeting with Jemez to confirm the one third, it had been a meeting with the former Director then those negotiations had crumbled, and recently there had been no response from Jemez.

The Mayor Pro Tem said she was disappointed to hear this, there had been several Public Works meetings when she was the Chairman, and LEDs had lower operating costs and were harder to burglarize. Mr. Ortega said he could restart the objective, and meet with them regarding pricing. The Mayor Pro Tem said initially they were more expensive but the city had to start somewhere.

## **Finance Report**

Joyce Sandoval, Finance Department, presented:

Ms. Sandoval introduced herself, and said she was a temp employee in the Finance Department, and since the City Manager couldn't be at the meeting, she was reporting report for January.

Ms. Sandoval said page one of the Finance Report given to the Governing Body members was a review of revenues which were down in comparison to the previous month and this month last year. She said she did check the prior reports. She said the water revenues were up, indicative of the time of year and expenditures. She said the wastewater fund was indicative of the season, and revenues were up and expenditures were up. She said the net change in the water fund was an increase of \$236,000, year-to-date, and wastewater was \$127,000. She said on page two there was a recap of revenues to date and in the middle section of the page, a comparison to last year, same month. She said this was right in line with no significant changes.

Ms. Sandoval said she didn't want to compare these figures to the budget because she couldn't compare based on 1/12<sup>th</sup> of the budget. She said the city had higher spending months and lower spending months, and she wanted to look at what receiving actually

was, and expending month to month was not so far out of line that it would create a deficit.

Mayor Maestas asked if the report had adjustments incorporated. Councilor Duran asked, regarding expenditures being up \$82,000 from the same month last year, if what was happening was normal and what had happened that would require an additional \$82,000; Ms. Sandoval said when she was looking at month to month, there were not great fluctuations in the total, but she had noticed that while there was an increase from December to January, the figures fluctuated month to month. She said she did not think that overall there city had more expenditures then revenues on a year-to-date basis; she said she had not investigated water or wastewater but she could go back into the numbers to try to identify what the fluctuations were.

Councilor Duran said regarding the growth rate year-to-date on page three, it looked like it was down year to year. Ms. Sandoval said in comparison to the budget they might see a change, but year-to-date there was not a great deficit. She said there were larger fluctuations but she was more concerned with expenditures and if the city kept pushing to get the revenues it was entitled to and did collection efforts and controlled costs, at the end of the year the city wouldn't be in a terrible position. She said she couldn't forecast but diligence in collecting and controlling expenditures was important.

Mayor Pro Tem Lucero said page one showed expenditures were up compared to this time last year but page three showed a contradiction. Ms. Sandoval said she hadn't had a lot of time to review the information but she would look into it and provide more information.

Councilor Herrera said one good thing regarding the growth rate was that while revenues were down for the general fund compared to the previous year, they were down by less than half a percent. He said the report reflected revenues were flat, but the revealing point was that if they looked at the general fund, expenditures had a decrease of almost 4% and that part was good.

Ms. Sandoval said regarding actuals, with diligence controlling expenditures and ensuring the city received what it was entitled to, the city stood a good chance of making it to the end of the year in not a terrible standing. She said efforts would be to try and ensure the city found cost savings in expenditures. She said she did notice something with receipts for general revenues December to January, she anticipated January to February they would see some trends.

Mayor Maestas said he proposed putting this on the agenda for the Council meeting. Ms. Sandoval said she would correct the general fund trend on the first page.

The Mayor said quite a bit of revenues had been capitalized and he wanted to see a report on that. He said if water breaks were being charged to the asset management fund, and the theory was to take from water and wastewater to balance the asset management fund, he wanted to see the fund replenished. He said he didn't want people to think the city was hoarding money it had to have for upkeep, and he didn't want to give the impression that rates were excessive. Ms. Sandoval said she'd work with Mr. Ortega to get financial information to answer the concern.

The Mayor thanked Ms. Sandoval.

Item #6, Ordinance 2010-01 Windstream Franchise Ordinance  
City Attorney Paula Maynes presented:

The City Attorney said the licensing was a holdover franchise statute with Windstream almost ten years [old], the agreement was \$50,000 per year, and she, the City Manager, and the Mayor had met with the Vice-President of Windstream and they had agreed to a new ordinance that would provide for 3% franchise fees. She said this was consistent with all municipalities in New Mexico, she was not aware of any higher, and this would be calculated on all retail sales within Española including

all telecommunication services. She said the numbers indicated it would be approx \$86,000 annually.

Ms. Maynes said the agreement was very standard, but there were two typographical corrections; she said there was a spelling correction needed for the title page and to remove section 18 as the information in that section was covered in section 14. She said this was a ten year term and statute allowed 25 years, but Windstream and the city didn't feel comfortable committing to that length. She said she appreciated Bill Garcia's (Windstream) participation, and he had been responsive. She said this was something that was passed through Windstream to its customers, and it was a good deal for the city and Windstream. She said the Governing Body could expect Bill Garcia to be at the Council meeting Tuesday.

Councilor Herrera asked if the notification of any claims within ten days, on page two, was standard; Ms. Maynes said she had had some concerns but didn't think it would be a significant problem to negotiate a longer period if the city wanted it. She said the city would look to Windstream to indemnify the city quickly; she said there was nothing wrong with making it longer.

Councilor Herrera asked if the city didn't meet the ten days then would the city release Windstream of their liability; Ms. Maynes said that was correct and she didn't know if it was an issue, but she thought she could bring it up and make a recommendation to the Council before formal adoption of the ordinance.

Councilor Herrera said he didn't know how it related but with the checkerboard effect with respect to tribal lands, how to relate tribal properties within the city. Ms. Maynes said possibly the city was not entitled to access franchise fees on tribal land, for example, for property owners on tribal land wiring in the city right-of-way the franchise fee would apply but if it was in tribal land the fee wouldn't apply; she said it was a thorny issue with Windstream.

Mayor Maestas said they had their own agreements for pole attachments and lines in rights-of-way, Jemez used the same infrastructure agreements, and if they deployed high speed Jemez would need approval; Ms. Maynes said by thorny she didn't mean it was a problem, just that it was a complicated issue. She said they had greater issues with movement of the highways.

Mayor Pro Tem Lucero asked if the ordinance was prepared by the city; Ms. Maynes said parts were hers and parts were theirs.

Mayor Maestas said was a culmination of a lot of work, and he wanted to get it finished and not leave it hanging. He said but Windstream had been honoring the lump sum payment but the city couldn't allow utilities to operate in the city's boundaries without an agreement, and the city still needed an agreement with Jemez.

#### Item #7, Resolution 2010-01 Amending Drug and Alcohol Policy

This item was deferred to the Council meeting next week as the packets did not include the Resolution.

#### **Announcements**

Ms. Maynes announced for City Clerk Heather Velasquez that the Honor Society forum would be February 25<sup>th</sup>.

Councilor Duran said there was a Chamber event on the 25<sup>th</sup> and a Business Coalition meeting. She said there was also a Public Safety meeting that day and the Drug Summit all day long.

Mayor Maestas said he had approached local government regarding supporting the library, and had met with Santa Fe County. He said they were looking into if they could support it with a bond of their own but couldn't bond until 2012. He said the

Española public schools were supportive but the city might not get a formal endorsement. He said he had met with the pueblos, and they would give a written endorsement and use of land for signage. He said he was awaiting a meeting with Rio Arriba County.

Mayor Maestas said a Op-ed piece had been sent to the *Santa Fe New Mexican* (newspaper) and it was by David Cargo and Daniel Roybal (Library Board members) regarding the need for a new library.

Ms. Sandoval said the city had schedule the Audit 08-09 exit interview.

The Deputy City Clerk announced the groundbreaking ceremony for the Railroad Museum and Downtown development on February 24, 2010.

### **Adjournment**

***Councilor Duran made a motion to adjourn, seconded by Councilor Lujan. The motion carried unanimously.***

The meeting adjourned at 9:06pm.

*Minutes taken and transcribed by Sally Baxter  
Deputy City Clerk/ Public Information Officer*

**APPROVED AND ADOPTED THIS 27<sup>th</sup> DAY OF April, 2010**

*ELECTRONIC COPY  
SIGNATURES ON FILE*