

**Regular Meeting of the Legal Committee
Held in the Roswell City Hall
Thursday, February 23, 2023**

Notice of this meeting was given to the public in compliance with NMSA 1978 §§10-15-1 through 4 and Resolution 23-01.

ROLL CALL

The meeting convened at 4:00 p.m. with Chair Heldenbrand presiding, Councilor Arnold, Councilor Oropesa, and Councilor Corn being present.

Staff present: Tisha Tu'ua, Amalia Martinez, Mike Taylor, Juanita Jennings, TJ Conyers, Christopher Josh Nairn-Mahan, Vicky Eaton, Della Andazola, Mike Mathews, Kevin Maevers, Jenna Lanfor, Jennifer Griego, Shelly Bell, Renee Trujillo, Juan Fuentes, Justin Holcombe and Mike McClain.

Guests present: Mayor Tim Jennings, Councilor Perry Councilor Best, Councilor Foster, Rita Kane-Doerhoefer, Tracy Schultz, Andrea Moore, Tammie Malcolm, Mike Espirito, Lisa Dunlap, Jim Mitchell and Juan Remaid.

Go To Meeting: Bruce Andler, Arlyn Crow, Hessel Yntema, H. Mitchell, Juanita Jennings, Louis Najar, Renee Trujillo, Robert Contreras, T.Kozma, MBA/SD, M.ED, BA, Shelly Bell, TK, Rita Kane-Doerhoefer, JM, B, and Car.

APPROVAL OF AGENDA

Councilor Corn moved to amend the February 23, 2023 Legal Committee meeting agenda to move item 15 to item 1. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.

APPROVAL OF MINUTES

Councilor Corn moved to delete item 5 Resolution 22-76 "On Patrol Live" for RPD from page 7 and bring item back to next Legal Committee. Councilor Oropesa was the second. A voice vote was 4-0 and the motion was passed. The correct item for Resolution 22-76 is MIRP Reauthorization and funding. Item was postponed indefinitely during this committee meeting.

NON ACTION ITEMS

1. Department Reports - City Clerk Department, Human Resource Department, Legal Department, and Safety Department

REGULAR ITEMS

2. RAC Lease Agreements:

- a. AEVEX Aerospace, LLC - Jenna Lanfor presented the lease. AEVEX Aerospace, LLC requests a lease for bunkers 1130, 1131, 1137, consisting of 1,560 square feet more or less, and 1144, consisting of 2,080 square feet, more or less located at Roswell Air Center for the purpose subletting

to a third party for storage of weapons, explosives and tactical training munitions. The lease term is (1) one year, commencing on April 1, 2023, and ending on March 31, 2024. Email confirmation of acceptance by Tammie Mulcahy, FSO for AEVEX Aerospace, LLC 02/15/2023. Tenant agrees to pay to Landlord as annual rent for Bunker No. 1130, 1131, and 1137 the sum of (\$10,530.00), payable in 12 monthly installments of \$877.50, and an annual rent for Bunker No. 1144 the sum of (\$4,680.00), payable in 12 monthly installments of \$390.00; \$2.25 psf. Councilor Corn moved to send to consent agenda for City Council recommending approval for AEVEX Aerospace to enter a lease for bunkers 1130, 1131, 1137, and 1144 located at the Roswell Air Center. Council Arnold was the second. A voice vote was 4-0 and the motion was passed.

FOR THE RECORD: Recess: 04:29 PM – Due to technical difficulty with PowerPoint slide. Back from recess at 04:31 PM

- b. Bureau of Land Management** - Jenna Lanfor presented the lease. Bureau of Land Management requests a lease for parcel of land with AOA ramp access, consisting of 117,666 square feet, more or less located at Roswell Air Center for the purpose of operating a Single Engine Air Tanker (SEAT) base. The lease term is twenty-five (25) years, commencing on October 1, 2023, and ending on September 30, 2048. BLM provided the final draft lease. Councilor Corn made a motion to amend and change the following items on the lease handout page 3 of 19 under terms strike out “30 years” and change it to 25 years. Page 17 of 19 under BLM Identified Elements strike out “the newly constructed building will be leased from the City/Airport”. Tenant agrees to pay to Landlord as rent the sum (\$11,766.66), payable in 12 monthly installments of \$980.56 for the first year. Thereafter rent will increase annually by 3%; \$0.10 psf. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed. Councilor Corn moved as amended to send to the consent agenda for City Council recommending approval for Bureau of Land Management to enter a lease for a parcel of land with AOA ramp access located in the Airport Operations Area located at the Roswell Air Center. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.
- c. Bravo-3 Holdings, LLC** - Jenna Lanfor presented the lease. Bravo-3 Holdings, LLC requests a lease for bunker 1133, consisting of 2,080 square feet, more or less, at Roswell Air Center for the purpose of storing components of small arms and construction/mining fuse blasting caps. The lease term is (1) one year, commencing on March 1, 2023, and ending on February 28, 2024. Email confirmation of acceptance by Andy Brown, President for Bravo Holding-3, LLC on 02/08/2023. Tenant agrees to pay to Landlord as rent the sum (\$4,680.00), payable in 12 monthly installments of \$390.00; \$2.25 psf. Councilor Arnold moved to send to the consent agenda for City Council recommending approval for Bravo-3

Holdings, LLC to enter a lease for bunker 1133 located in the southeast non-aeronautical area of Roswell Air Center. Councilor Oropesa was the second. A voice vote was 4-0 and the motion was passed.

- d. Ascent Aviation Services, LLC - Jenna Lanfor presented the lease. Ascent Aviation Services., LLC requests a lease for a parcel of land in AOA area with ramp access, consisting of 9,500 square feet, more or less, located at the Roswell Air Center for the purpose of Ground Service Equipment (GSE) storage. The lease term is one (1) year, commencing March 1, 2023 and ending February 28, 2024. David Querio, President of Ascent Aviation Services, LLC agreed to the terms of lease via email 02/13/2023. Tenant agrees to pay to Landlord as rent the (\$2,375.00), payable in 12 monthly installments of \$197.70; \$0.25 psf. Councilor Oropesa moved to send to the consent agenda for City Council recommending approval for Ascent Aviation Services, LLC to enter a lease for a parcel of land with ramp access in the Airport Operations Area located at the Roswell Air Center. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.
 - e. AVFlight Roswell Corporation - Jenna Lanfor presented the lease. AVFlight Roswell Corporation requests to exercise the option to renew the lease term for the third of four five-year terms until May 31, 2029. In addition amending the Great Southwest Aviation, Inc. assigned lease agreement, dated June 24, 2009, paragraph 22 language regarding subleasing from “Tenant shall not assign this Lease, in whole or in part, nor sublet all or any part of the premises” to “Tenant shall not assign this Lease, in whole or in part”. Garrett Hain, AVFlight Roswell Corporation’s Vice President of Finance acknowledged acceptance of the first amendment via email 02/14/2023. Tenant agrees to continue to pay to Landlord as rent the sum (\$193,325.76), payable in 12 monthly installments of \$16,110.48. The annum rent will continue to increase by 2.5% or CPI whichever is greater annually until the lease termination date. Councilor Corn moved to postponed item until next Legal Committee recommending approval of AVFlight Roswell Corporation request to exercise the option to renew the lease for the third of four five-year term and amend the lease language in Paragraph 22. Councilor Oropesa was the second. A voice vote was 4-0 and the motion was passed.
3. RFP23-009: RAC Strategic Planning - Jennifer Griego presented the item. The City of Roswell went out for RFP for RAC Strategic Planning. One proposal was received. The Evaluation Committee recommended rejection of the proposal, revise SOW and re-advertise. Proposals were received on February 7, 2023. The proposed resolution creates no financial obligation for the City. Councilor Oropesa moved to send to the consent agenda for City Council with recommendation of rejection for RFP-23-009 Roswell Air Center Strategic Planning. Councilor Corn was the second. A voice vote was 4-0 and the motion

was passed.

4. Building 500 ILEA Roof Care - Jennifer Griego presented the item. Facility Maintenance has secured a quote to repair the existing roof on Building 500 to avoid interior damage to structure. ILEA intends to receive their first class of delegate's mid-April. Roof Care has extended the proposal to current date. \$28,448.96 as per quoted through CES \$7,000 will be reimbursed back to the City by ILEA. Councilor Arnold moved to send to the consent agenda for City Council recommending approval to reallocate funds from 51004334-817504 Capital Infrastructure in the amount of \$28,450 to 51004332-614002 M&R Building for contracting Roof Care to repair the roof on Building 500 (ILEA) under a CES Contract. Councilor Oropesa was the second. A voice vote was 3-1, and the motion passed with Councilor Corn-no.
5. South Hammerhead CES Contract - Jennifer Griego presented the item. The South Hammerhead has deteriorated and is in condition requiring repairs in order to meet FAA Part 139 inspection minimum standards. The 2023 FAA annual inspection is scheduled for March 28, 2023. \$96,722.05 as per quoted through CES. Councilor Corn moved to send to the consent agenda for City Council recommending approval to reallocate funds from 51004332 817505 Capital Outlay Equipment for \$96,722.05 to 54004332-614005 M&R Field for contracting Constructors, Inc. to repair the South Hammerhead warm up pad edging through a CES Contract. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.
6. Access IT Doors (J&G Electric) - Jennifer Griego presented the item. The original PO issued to J & G Electric is for \$269,135.09. TSA required the existing Air Center server be relocated to a new room with controlled access. The cost of the server room was not included in the initial scope of work. A change order was anticipated for this expense (\$26,443.96) meeting the change order tolerance of 10%. However, the building plans given to J & G initially to create a quote from, were inaccurate therefore; discovering an increase of the scope of work and projected expenses. J & G submitted an estimate for additional access control doors (\$43,628.19). The new server room (\$26,443.96) and additional access control doors (\$43,626.19) exceeds the 10% threshold for PO changes without City Council approval. This expenditure will require a budget adjustment if approved. Additionally, there are still unknown requirements associated with the security upgrades. Because the TSA and ROW continue to work on increased security there is anticipation of further costs in the future. \$269,135.09 currently encumbered; requesting an increase of \$70,070.15 to be added to PO 22201097. Total estimated cost \$339,205.14. Councilor Arnold moved to send to the consent agenda for City Council recommending approval of an increase to the current purchase order 22201097 (\$269,135.09) for J & G Electric for additional expenditures for security upgrades to include TSA required New Server Room (\$26,443.96) and additional Access Control Doors (\$3,626.19). Councilor Corn was the second. A voice vote was 4-0, and the motion passed. Councilor Corn

having voted in the affirmative wished to reconsider the action. Councilor Arnold was the second. A voice vote was 4-0, and the motion passed. Councilor Corn moved to send to Finance Committee. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.

7. Runway & Taxiway Painting (Highway Supply Contract) - Jennifer Griego presented the item. Federal regulations required the RAC to maintain runway and taxiway markings to meet FAA Part 139 minimum standards. The centerline markings on runway 21 and 03 ends have faded as well as taxiway lead-in lines at Delta and Foxtrot. FAA annual inspection is scheduled for March 28, 2023. The financial consideration for this item \$25,060.17 as per bid. Councilor Oropesa moved to send to Finance Committee recommending approval to reallocate funds from 51004332 817504 Capital Outlay Infrastructure in the amount of \$25,060.17 to 51004332 614005 M&R Field to contract Highway Supply to paint certain runway centerline and taxiway lead-in lines at the RAC. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.
8. Memorandum of Understanding between Roswell Police Department and CASA - Chief Mike Taylor presented the item. CASA owns a Mobil Command Post and is willing to allow RPD its use, rent free. This MOU establishes the relative rights and responsibilities between the City and CASA. The proposed MOU creates no financial obligation for the City. Councilor Arnold moved to send to Full City Council recommending to approve an MOU between CASA and RPD regarding the use of a Mobil Command POST. Councilor Oropesa was the second. A voice vote was 4-0 and the motion was passed.
9. The Liberty Contract UFO Festival 2023 - Tommi Jo "TJ" Conyers presented the item. This contract will allow Josh Ragsdale, owner of The Liberty, Inc. to secure an artist for this year's UFO Festival. The finances were approved during the December 2022 City Council Meeting. Councilor Corn made a motion to amend and strike the following on page 74 Exhibit A number 4 which states "the Liberty shall apply for and furnish an appropriate picnic license for serving alcohol at the site location of the entertainment services." Moving item 5 up to number 4 and moving item 6 to item 5 on Exhibit A. Chair Heldenbrand was the second. A voice vote was 3-1, and the motion passed with Councilor Arnold-no. Councilor Corn moved to send as amended with recommendation to full city council. Chair Heldenbrand was second. A voice vote was 2-2, and the motion fails with Councilor Arnold-no and Councilor Oropesa-no. Councilor Corn moved to send as amended without recommendation to full City Council the contract between the City of Roswell and The Liberty, Inc. for talent buying for UFO Festival 2023 main stage concert. Chair Heldenbrand was the second. A voice vote was 2-2, and the motion fails with Councilor Arnold-no and Councilor Oropesa-no.
10. UFO Entertainer Contract EC Touring - Tommi Jo "TJ" Conyers presented the item. The finances were approved during the December 2022 City Council

Meeting. Council Corn moved to send to full City Council Consider and approve the contract between the City of Roswell and EC Touring, Inc. for the entertainment for the UFO Festival 2023 main stage concert. Chair Heldenbrand was the second. A voice vote was 2-2, and the motion fails with Councilor Arnold-no; and Councilor Oropesa-no. Councilor Corn moved to send to full City Council without recommendation. Chair Heldenbrand was second. A voice vote was 2-2, and the motion fails with Councilor Arnold-no and Councilor Oropesa-no.

FOR THE RECORD: Recess: 06:09 PM – Chair Heldenbrand called for a break. Back from break at 6:19 PM.

11. Ordinance 23-XX: Zoning Ordinance Amendment (SUP & CUP) - Kevin Maevers presented the item. The following Ordinance has been proposed to amend Appendix A. Section 8 of the Roswell Municipal Code to provide additional understanding, definitions, applicability, and enforcement for development projects and other permits requiring a Special Use Permit or Conditional Use Permit. The intent of the Ordinance Amendment is to create and/or amend certain sections of the City of Roswell Zoning Ordinance to facilitate the consistent application of development standards to projects requesting a Special Use Permit or Conditional Use Permit. Councilor Oropesa moved to send to full City Council with recommendation for draft number 3 discussed proposed Ordinance 23-XX, and vote to recommend that the City Council set a date to consider adoption of proposed Ordinance 23-XX, amending Appendix A of the Roswell City Code, Section 8, related to Special Use Permits and Conditional Use Permits. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.

12. Ordinance 23-XX: Housing Development and Construction Fee Holiday - Kevin Maevers and Hess Yntema presented the item. The following Ordinance has been proposed to amend Chapter 6 of the Roswell Municipal Code for a Fee Holiday on all fees associated with the development and construction of single-family and multi-family residential housing units. Intent of the Ordinance is to create a temporary fee holiday program to encourage the development, construction, revitalization, and rehabilitation of single-family and multi-family units to provide clean, safe, and adequate housing for residents at all socio-economic levels and in all areas of the city. The financial impact associated with this ordinance is dependent upon the number and type of residential units built. Councilor Oropesa moved to postponed item for next month Legal Committee review proposed Ordinance 23-XX, and vote to recommend that the City Council set a date to consider adoption of proposed Ordinance 23-XX, amending the Roswell City Code, Chapter 6 – Buildings and Building Regulations to Create a Housing Development and Construction Fee Holiday. Council Arnold was the second. A voice vote was 4-0 and the motion was passed.

FOR THE RECORD: Mr. Mitchell with MIRP requested Mr. Yntema confirm if this is legal. Mr. Yntema confirmed yes it is legal.

13. Resolution 22-76: MIRP Reauthorization and Funding - Kevin Maevers presented the item. The Municipal Infrastructure Reimbursement Program (MIRP) was approved by the City Council on October 26, 2021 as Res. 21-65. The Program Highlights of Resolution 22-76 provide for a Yearly Program Budget to be set by the City Council with initial funding levels that may increase or decrease from time to time. A program budget was not established for FY/22, therefore this resolution will provide the initial funding for the program. The potential financial impacts to the City were established under Resolution 21-65. Requested budget amount for the remainder of FY/23 is \$750,000 based upon the number of MIRP applications received to date. Councilor Arnold moved to postponed indefinite consider approval and adoption of proposed Resolution 22-76 to provide for partial reimbursement for the construction of required municipal infrastructure, pursuant to the provisions of the Municipal Infrastructure Reimbursement Program (MIRP). Councilor Oropesa was the second. A voice vote was 4-0 and the motion was passed.

14. Ordinance 23-XX: Administrative Code - Hess Yntema presented the item. NMSA 1978, §3-12-4 provides for the creation of certain municipal offices. Following Attorney General Opinion 2022-02, these amendments to the administrative code would bring the city into accord with the opinion and provide for greater council oversight of top level employee / appointee positions in city government. These amendments also will bring the administrative code and current governing body procedural practice, existing resolutions, and the Open Meetings Act into harmony. The proposed ordinance creates no financial obligation for the City. Councilor Corn made a motion to amend the following from this contract. Page 6 of 12 on line #5 strike out "These offices are the clerk, Office of the Treasurer/Finance Officer, Office of the Chief of Police, and Office of the City Attorney." Line #12 add an s to the end of officer. Throughout this contract change he to he/she. Page 7 of 12 under line #28 change the wording to "There shall be a Deputy City Clerk who may exercise the powers and duties granted the managers absence or disability of the manager and as assigned by the manager. The deputy City Clerk shall be recommended by the manager through the mayor's nomination for approval by the governing body." On page 8 of 12 on line #10 strike out "(e) The principal unit under the city's executive branch is a "department", headed by a "Director" who shall be appointed by the manager with the consent of the governing body and who shall serve in his pleasure." On page 10 of 12 line #3 strike out "be a CPA" on line #5 strike out the word "also" and add 6 years of government work or. Councilor Arnold was the second. A voice vote was 4-0, and the motion passed with Chair Heldenbrand-yes; Councilor Arnold-yes; Councilor Oropesa-yes; and Councilor Corn-yes. Councilor Corn moved to send to full City Council as amended recommending to authorize to advertise for a public hearing to consider adopting Ordinance 23-XX amending Chapter 2 of the Roswell City Code to relate to appointments, officer position, and department directors. Councilor Arnold was the second. A voice vote was 4-0 and the motion was passed.

NON-ACTION ITEMS

15. Discussion Item - Fugitive Dust Mitigation & Convention/Civic Center

CHAIR COMMENTS, REPORTS, ANNOUNCEMENTS

None

PUBLIC PARTICIPATION

None

ADJOURN

The meeting adjourned at 9:19 PM