

**Regular Meeting of the Legal Committee
Held in the Roswell Convention & Civic Center
Thursday, April 29, 2021**

Notice of this meeting was given to the public in compliance with Section 10-15-1 through 10-15-4 NMSA and Resolution 21-07.

ROLL CALL

The meeting convened at 4:01 p.m. with Chair Stubbs presiding, Councilors Perry and Foster being present, and Councilor Peterson being absent.

Staff present: Joe Neeb, Todd Verciglio, Lorenzo Sanchez, Kevin Maevers, Josh Nairn-Mahan, Parker Patterson, Sharon Coll, Juan Fuentes, Mike Mathews, Chief Smith, Denise Garcia and Jeff Bechtel.

Guests present: Councilors Jeanine Best and Juan Oropesa, Melissa Juarez and Lisa Dunlap.

APPROVAL OF AGENDA

Councilor Perry moved to approve the April 29, 2021, Legal Committee meeting agenda. Councilor Foster as a second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

APPROVAL OF MINUTES

Councilor Foster moved to approve the April 1, 2021, Special Legal Committee minutes. Councilor Perry as a second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

REGULAR ITEMS

1. Deputy City Attorney – Parker W. Patterson welcomed the new Deputy City Attorney Christopher J. Nairn-Mahan, he started on April 15, 2021. The Deputy City Attorney will head up representing the City in civil and criminal litigation at all levels and will be involved in numerous projects for various City departments. No action taken.
2. Alien Motor Speedway Follow Up – Kevin Maevers, Community Development Director, discussed an update regarding the Alien Motor Speedway. The City Council considered a presentation relating to this subject at its regular meeting on April 8, 2021. No financial impact associated with this item. Kevin Maevers passed out a letter (see attached) from owner Steve Therrin, Jim Collins, Alien Motor Speedway.
3. Building 93 Lease – Parker Patterson and Melissa Juarez discussed the lease. The Roswell-Chaves County Economic Development Corporation proposes to lease Building 93 at the RAC, consisting of 36,875 square feet, more or less. The EDC will not pay monetary rent to the City pursuant to the Agreement. Consideration for this Lease consists of improvements to Building 93. Consider recommending approval of a Lease with the Economic Development Corporation for Building 93 at the RAC.

Councilor Foster moved to send to full City Council without recommendation. Councilor Perry as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

FOR THE RECORD: Councilor Stubbs stated there are a lot of things in the lease that really need to be looked at prior to coming to full council but understand that this was done very quickly to get it into the packet in time and referring to some information on the rent and security deposit.

4. Air Services Consultant RFP Scope of Work – Parker Patterson and Scott Stark discussed the Request for Proposal Evaluation Criteria – Seeking a qualified air service consultant to provide support for the Roswell Air Center (RAC) for a contracted period of one-year, with optional second year based on performance. Consider recommending approval of an RFP scope of work for an air service consultant for the RAC. Councilor Perry moved to send to full City Council. Councilor Foster as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.
5. ITB-21-002 Improvements to Roswell Air Center Taxiway A and J – Parker Patterson discussed the Roswell Air Center Taxiway A and J project Bid ITB-21-002; it was advertised for bids on July 12, 2020. Bids were publicly opened via a Zoom Meeting on August 6, 2020 at 10:00 a.m. by Armstrong Consultants, Inc. There were two bids received (excluding NMGRT). Both bids were reviewed for responsiveness by Armstrong Consultants, Inc. 1) Constructors, Inc. of Carlsbad, NM, with base bid total \$2,675,223.75 and 2) J&H Services, Inc. of Albuquerque, NM, with base bid total \$2,435,048.00. Councilor Perry moved to send to full City Council the recommendation to award ITB-21-002 Improvements to Roswell Air Center Taxiway A and J to Constructors, Inc. of Carlsbad, NM at their proposed bid of \$2,675,223.75 plus Gross Receipts Tax. Councilor Foster as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.
6. Resolution 21-XX Urban Development Action Grant (UDAG) – Parker Patterson discussed the Resolution. In 1980, the City of Roswell made an application for UDAG funds in the amount of \$3 million dollars. Thereafter, the City Council adopted Resolution No. 1767 to retain remaining UDAG funds in the Airport Fund to facilitate additional industrial development at the RAC. In August 2017 HUD posted a notification informing recipients that UDAG awards were closed. In Resolution 19-04, the City Council resolved that remaining UDAG funds were to be utilized in accordance with the Airport Capital Improvements plan. The City now intends to make capital improvements to Hangar 84 at the RAC, in accordance with its Capital Improvements Plan and, will seek a grant for \$2.787 million from the U.S. Economic Development Agency (“EDA”) to contribute funding. The proposed resolution would commit remaining UDAG funds in the amount of \$1,250,000 as matching funds to secure the EDA grant. The City intends with this Resolution to commit \$1,250,000 in UDAG funds to match a grant from EDA for \$2.787 million. Councilor Perry moved to send to full council approval of Resolution 21-XX committing UDAG funds for a project at the RAC with the following change:
 - In the title of the Resolution to read: “A Resolution Declaring the City Council’s Intent

to Apply Urban Development Action Grant “to comply with the acronym.

- In the last “WHEREAS” strike the words “in the amount of \$1,250,000” to read “WHEREAS the city council desires to apply the remaining UDAG funds as matching funds to secure the EDA Grant
- Section 1 in the Resolve, to read as follows, “the remaining City of Roswell UDAG Funds shall be utilized as matching funds to apply for a \$2.787 million grant from the EDA for capital improvements to Hanger 84 at the RAC”.

Councilor Foster as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

7. Test Facilities Lease Agreement – Todd Verciglio discussed the lease agreement. The City owns a parcel of real property located on Highway 380 known as the Roswell Test Facility. A.O. Smith has leased this property from the City since 1986. The most recent lease agreement expired in October 2020 and the parties have continued on a month-to-month basis. The company uses the facility for product testing. The proposed Lease Agreement has an initial five-year term, with four additional renewal terms, at A.O. Smith’s option. Rent for the initial term is \$57,667.62, escalating to \$100,546.62 over the initial term. Thereafter, rent will increase by CPI or 3%, whichever is greater, during any renewal term. Councilor Perry moved to recommend to full City Council on the consent agenda the approval for A.O. Smith to enter into a renewed lease agreement at the Roswell Test Facility with all terms and conditions. Councilor Foster as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

8. Effluent Use Agreement – Parker Patterson and Lorenzo Sanchez discussed the agreement. The City sells treated effluent water from the WWTP to surrounding farms and other private properties. Sale of effluent provides a benefit to the City by reducing the amount discharged into the Hondo River, thereby decreasing the need for sampling, testing and reporting. The proposed agreement, if approved, will provide a standard template for use with all customers purchasing effluent from the WWTP. Customers will pay the City \$6.25 per acre-feet for a predetermined amount of effluent and \$7.50 per acre-feet for effluent beyond the predetermined amount. Rates are subject to annual CPI or 3% increase. Councilor Perry moved to send to full City Council for the approval of the Effluent Use Agreement with the following addition:

- Section 3 adding “The City reserves the right to increase the above rates at its discretion upon 30 days written notice”.

Councilor Foster as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

Recess: 5:41 pm – 5:46 pm

9. Ordinance 21-XX Leprino Industrial Revenue Bond Act (IRB) Joe Neeb presented the Ordinance. Industrial Revenue Bonds are a mechanism by which the City can take legal title to property in order to fund bonds to provide tax benefits to further capital improvements by

a private company thereby providing for local economic development. In Ordinance 19-04, the City issued IRB Series 2019A, on August 21, 2019, in an amount of \$90,000,000, to finance construction, reconstruction, installation and equipping of a wet whey facility and freezer warehouse, and renovation, installation and equipping of a wastewater facility by Leprino Foods Company. The City also provided for the issuance of Series 2019B Bonds, subject to an authorizing ordinance, prior to November 30, 2023. Leprino has now requested that the City issue the second series bond (re-named 2021B) in an amount up to \$60,000,000 for further financing of renovation, construction, reconstruction, installation and equipping of upgrades to the Company's facility. Councilor Foster moved to send to full City Council to advertise and hold a public hearing. Councilor Perry as the second. A voice vote was 3-0, and the motion passed with Councilor Peterson being absent.

PUBLIC PARTICIPATION: Donald Monnheimer, bond council to Leprino Foods Company

10. Ordinance 21-XX Section 10-6 – Parker Patterson discussed Ordinance 21-XX Section 10-6. In House Bill 2, the New Mexico Legislature legalized the possession of cannabis by private individuals, as a matter of state law, effective June 29, 2021. Section 10-6 of the Roswell City Code prohibits the possession of cannabis. HB 2 will render Section 10-6 null and void. Failed for a lack of a motion.

11. Department Reports - For discussion only

CHAIR COMMENTS, REPORTS, ANNOUNCEMENTS

None

PUBLIC PARTICIPATION

Scott Stark and Donald Monnheimer

ADJOURN

The meeting adjourned at 6:10 p.m.