

**Regular Meeting of the Legal Committee
Held in the Roswell Convention & Civic Center
Thursday, September 24, 2020**

Notice of this meeting was given to the public in compliance with Section 10-15-1 through 10-15-4 NMSA and Resolution 20-26.

ROLL CALL

The meeting convened at 4:00 p.m. with Chair Stubbs presiding, Councilors Peterson, and Perry being present, and Councilor Foster attending via GoToMeeting.

Staff present: Juan Fuentes, Bill Morris, Scott Stark, Mayor Kintigh, Parker Patterson and Joe Neeb

Guests present: Kurt Gass and Kyle Armstrong

APPROVAL OF AGENDA

Councilor Perry moved to approve the September 24, 2020, Legal Committee meeting agenda with changes as follows:

- Regular Item #2 Resolution 21-xx change to Resolution 20-xx;
- Regular Item #3 Resolution 21-xx change to Resolution 20-xx;
- Regular Item #5 Ordinance 21-14 change to Ordinance 20-13;
- Regular Item # 6 Resolution 21-xx change to Resolution 20-xx.

Councilor Peterson as the second. A voice vote was 4-0, and the motion passed with Councilor Foster voting via GoToMeeting.

APPROVAL OF MINUTES

Councilor Perry moved to approve the August 27, 2020, Legal Committee minutes with the following changes:

- Page 4, Item 2 change the word revising to revisions;
- Page 4, Item 4 change Councilor Peterson was the second to Councilor Perry was the second.

Councilor Peterson as the second. A voice vote was 4-0, and the motion passed with Councilor Foster voting via GoToMeeting.

REGULAR ITEMS

1. RAC Agreements

- A. AerSale, Inc. – Scott Stark stated AerSale, Inc. leases Building No. 115 for the purpose of storage to provide commercial aircraft engines and their component parts to the secondary market. Lease Term is for five years, commencing on October 1,

2020 through September 30, 2025. Rent amount is \$8,477.00 monthly; \$101,724.00 annually. Councilor Perry moved to recommend to full City Council on the consent agenda the approval of a lease agreement with AerSale, Inc. for Building No. 115 consisting of 67,431 square feet, more or less at the Roswell Air Center, for a five-year term commencing October 1, 2020 and ending September 30, 2025, unless sooner terminated, in the amount of \$101,724.00 annually in twelve monthly installments of \$8,477.00, and including an annual increase of 3% or CPI, whichever is greater, subject to all other terms and conditions of the lease with Councilor Foster as the second. A voice vote was 4-0, and the motion passed with Councilor Foster voting via GoToMeeting.

- B. Red Mountain Arsenal – Scott Stark stated that Red Mountain Arsenal, LLC request Bunker 1112 consisting of 1,500 square feet, more or less, for the purpose of small storing ammunition. Term is November 1, 2020 through October 31, 2021. Rent amount is \$300.00 monthly; \$3,600.00 annually. Councilor Perry moved to recommend to full City Council on the consent agenda with Councilor Peterson as the second. A voice vote was 4-0, and the motion passed with Councilor Foster voting via GoToMeeting.
 - C. NTVI FED, LLC – Parker Patterson stated that NTVI FED, LLC leases real estate described as Seven Bays to include office area and restrooms in Building No. 115, consisting of 12,950 square feet, more or less for the purpose of a transportation garage and office. The proposed document would assign the current lease to a subsidiary of NTVI, Aurora Alaska, LLC, amend the rent provision, and extend the Lease from October 31, 2020 to September 30, 2021. Rent amount is \$1,804.00 monthly; \$21,648.00 annually. Councilor Perry moved to recommend to full City Council on the consent agenda with Councilor Peterson as the second. A voice vote was 4-0, and the motion passed with Councilor Foster voting via GoToMeeting.
- 2. Resolution 20-XX Roswell Air Center Minimum Standards – Scott Stark stated that Ordinance 20-07, recently adopted by the City Council at its July 9, 2020 Regular Meeting amended Chapter 5 of the Roswell City Code relating to Aviation. Among the changes made by Ordinance 20-07, the substantive rules governing conduct of activities at the Roswell Air Center were deleted, so that these standards, rules and regulations could instead be promulgated in policy. In particular, amended Section 5-5 of Chapter 5 provides that the City shall develop and adopt Airport Minimum Standards consistent with applicable Federal Aviation Regulations. This resolution would adopt airport minimum standards previously considered and recommended by the Airport Advisory Commission, pursuant to Section 5-5. The Airport Advisory Commission previously recommended approval of the Roswell Air Center Minimum Standards for Commercial Aeronautical Activities at its September 17, 2020 meeting by a unanimous vote. Councilor Perry moved to recommend to full City Council on the consent agenda with Councilor Peterson as the second. A voice vote was 4-0 and the motion passed with Councilor Foster voting via GoToMeeting.
 - 3. Resolution 20-XX Roswell Air Center Rules and Regulations – Scott Stark stated Ordinance 20-07, recently adopted by the City Council at its July 9, 2020 Regular

Meeting amended Chapter 5 of the Roswell City Code relating to Aviation. Among the changes made by Ordinance 20-07, the substantive rules governing conduct of activities at the Roswell Air Center were deleted, so that these standards, rules and regulations could instead be promulgated in policy. In particular, amended Section 5-4 of Chapter 5 provides that the Airport Director may prepare and present to the governing body for approval and adoption rules and regulations governing the use, occupancy, management, operation, care, maintenance and control of the Airport and its facilities, property and realty. Councilor Perry moved to recommend to full City Council on the consent agenda with Councilor Peterson as the second. A voice vote was 4-0 and the motion passed with Councilor Foster voting via GoToMeeting.

FOR THE RECORD: Councilor Foster dropped off GoToMeeting and joined the meeting in person at 4:36 pm.

4. Rail Spur Maintenance Agreement – Parker Patterson stated Ergon leases from the City 13.3974 acres of real property located at the Roswell Air Center. Ergon and the City are currently negotiating a sale of the property from the City to Ergon. Ergon’s operations at the property benefit from a City-owned rail spur, which crosses Wells Road, enters the north side of the property and terminates at the southern end of the property. Pursuant to this proposed agreement, Ergon would reimburse the City’s expenses in maintaining the Rail Spur from its southern terminus on the Ergon Property to its intersection with SE Main Street/Hwy 285, up to \$20,000.00 annually. The initial term of the agreement is for one year with four additional options to renew. Pursuant to the agreement, Ergon would reimburse the City up to \$20,000 annually for rail spur maintenance costs. Councilor Perry moved to send to full City Council recommending approval to adopt the Rail Spur Maintenance Agreement by and between Ergon Asphalt & Emulsion, Inc. and the City with amendments requested by Ergon and attached hereto as Exhibit “A”. Councilor Foster as the second. A voice vote was 3-1 and the motion passed with Councilor Peterson voting no.
5. Ordinance 20-13 Approving Sale of Land at Roswell Air Center – Parker Patterson and Joe Neeb stated Ergon Asphalt and Emulsions has offered to purchase land at the RAC which it currently leases from the City, in order to invest in plant expansion. In addition to the purchase price, Ergon has offered to make infrastructure improvements, including construction of a new connector road linking Railroad Avenue to E. Earl Cummings Loop. Since the purchase price is less than the appraised value, the governing body must adopt written findings justifying the difference. Staff anticipate that the proposed infrastructure improvements will provide sufficient value to the City to justify the price. Councilor Perry moved to send to full council without recommendation. Councilor Foster as the second. A voice vote was 3-1 and the motion passed with Councilor Peterson voting no. Kurt Gass passed out a handout attached hereto as Exhibit “B”.

FOR THE RECORD: Recess from 5:24 pm – 5:30 pm

6. Resolution 20-XX Directing Budget Priorities – Mr. Patterson explained FY2021 City budget included significant spending decreases over previous years, in anticipation of falling GRT revenue due to the economic impacts of COVID 19 and the Public Health Orders. To

date, actual GRT revenue for FY2021 has exceeded anticipated revenue. The proposed resolution would provide the City Manager guidance regarding spending priorities for additional revenue, in the event actual revenue continues to surpass anticipated revenue. Councilor Perry moved to not send to full City Council with Councilor Peterson as the second. A voice vote was 4-0 and the motion passed.

7. Old Municipal Airport Master Plan – Bill Morris stated that the intent is to present the proposed Master Plan for the Old Municipal Airport (OMA), and with more specific discussion about the Cielo Grande’s potential new Ballfields and All-Inclusive Park. Following presentations before all of the Council committees, staff will present a Resolution to the entire City Council on whether to adopt the Master Plan for OMA. The City has received two grants totaling approximately \$2.3 million for the All-Inclusive Park and ballfields, thus, staff will request a formal approval of the general configuration of these facilities with the Cielo Grande Sports Complex. Discussion only, no action taken.
8. Charter Discussion – Parker Patterson stated that Article 10, Section 6 of the New Mexico Constitution authorizes a municipality to adopt a charter empowering that municipality to exercise all legislative powers and perform all functions not expressly denied by general law or charter. The purpose of this section of the Constitution is to provide for maximum local self-government and consequently, a liberal construction is given to the powers of municipalities. Section 6 is further executed by the legislature in the Municipal Charter Act, NMSA 1978, Section 3-15-1 et seq. The City of Roswell was established in the 19th Century by an act of the New Mexico legislature and has never adopted such a charter. The City Attorney presented for consideration of the Committee the procedure for adopting a charter and the pros and cons of such an action. There is no financial impact directly associated with this item. Discussion only, no action taken.
9. Department Reports – City Clerk, Legal Department, Human Resources and Air Center. Discussion only, no action taken.

CHAIR COMMENTS, REPORTS, ANNOUNCEMENTS

None

PUBLIC PARTICIPATION

Kyle Armstrong and Kurt Gass

GOTOMEETING PARTICIPATION

ADJOURN

The meeting adjourned at 6:05 p.m.