

"AMENDED NOTICE OF MEETING"
"NOTICE OF RECONVENED SPECIAL MEETING"
 City of Anthony Board of Trustees
 Venue: 820 Highway 478, Anthony NM 88021
 & Conference Call

Mayor Diana M. Trujillo
MPT Elva Flores
Trustee Javier Silva
Trustee Daniel Barreras
Trustee Gabriel Holguin

Monday, March 28th, 2022
6:00 P.M.
MINUTES

You can join meeting using your phone by dialing.
United States: +1 (224)501-3412
Access Code: 162-621-021
Please join meeting from your computer, tablet or smartphone.
<https://meet.goto.com/162621021>

All members of the public entity participating remotely must identify themselves whenever they speak and must be clearly audible to the other members;

1. **CALL TO ORDER** by Mayor Diana M. Trujillo- 6:01 pm
2. **PLEDGE OF ALLEGIANCE** led by Diana M. Trujillo
3. **ROLL CALL** Present:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO
Trustee Daniel Barreras	YES	NO
Trustee Gabriel Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO
Quorum Established	YES	NO

Traduccion del ingles al español y del español al ingles esta disponible a petición.

4. APPROVAL OF AGENDA ORDER

- Motion to amend Discussion item 7c, to read "Discussion for City Employee Handbook, provisional pay section"

To Amend: 1st motion: Trustee Holguin 2nd Motion: MPT Flores

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion passes.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

Original Motion: 1st Motion: MPT 2nd Motion: Trustee Barreras

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion passes.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

5. **ITEMS FROM THE FLOOR – PUBLIC COMMENTS** (public will be allowed 3 minutes presentation)-NONE
6. **APPROVAL OF MINUTES**
 - a) Special Meeting: 2/14/2022

- **Trustee Holguin** – with corrections on item 6.

1st Motion: **Trustee Holguin** _____ 2nd Motion: **MPT Flores**

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion passes.
Trustee Daniel Barreras	YES	NO
Trustee Gabriel I. Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

7. DISCUSSION

- a) Discussion concerning the lease agreement between the Anthony Water & Sanitation District and the City of Anthony, **Presented by the Mayor**

Mayor Diana M. Trujillo- I do have Dr. Coleman and Mr. Jose Terrones helping me present this item. I know everyone received the lease agreement. I know Mr. Terrones and Dr. Coleman did have conversations with the former city manager regarding the city and the lease agreement with Anthony Water and Sanitation. We have also provided the real property appraisal report. We do have other entities that are interested in that property as well.

Commissioner Terrones - Thank you, Mayor. Yeah, as you are aware, we have several entities wanting to use that property. I just wanted to move forward with this and do something with this lease agreement, we have already invested some money in this property by getting it appraised. The district is open to ideas, and we'd like the idea of the city leasing the land from us. There are several entities that are willing to lease from the city. Right now, one of them is the community action group that was here last meeting. They wanted to present what they do. As you know, the property is empty right now and we're in the district just concerned with liability. This lease agreement, the district initiated, it was sent to the city manager, attorney reviewed, we've got comments back, and they're the ones in red, so this is your last version. We can still make changes.

MPT Flores – I want to thank Mr. Terrones and Dr. Coleman for coming. Just to confirm, you want the City to lease the land from you?

Commissioner Terrones- correct.

Trustee Silva – on the paperwork on the right-hand side, who is the person writing in red.

Commissioner Terrones – that's mine.

Trustee Silva -Are you the one that did all the crossing out?

City Attorney- It appears the red markings is from our firm, aside from the hand written markings.

Trustee Silva - And the reason I'm asking is, for example on page two, it states the City manager. How are we going to approve a document when the City is lacking a City Manager?

City Attorney- The comments were made on December 2020, they're outdated and this is not an action items, this is purely a discussion item. As I recall Trustee, one of the major issues was what percentage will Anthony water sanitation should get from any lease. At this point the City is able to look at this document one more time and make any changes. Changes do not effect the percentages that Anthony Water Sanitation will be getting.

Trustee Silva- I do know that one of the issues was that percentage. May I kindly request a copy of the lease agreement that does not have any of the red markings?

Commissioner Terrones - This is a draft, we can still keep working on it. Any other ideas or concerns, just let us know, we want to work with the city.

MPT Flores –On the same page that says Mayor, and/or City Manager I would like to leave the city manager and the Mayor. Can we leave that in there?

City Attorney –Yes, that is a non-issue.

Trustee Silva – Could we add “The City of Anthony” instead?

City Attorney - Typically, what you can do is have the city of Anthony as the recipient, but you have an attention line. With these contracts, it would be whoever is in charge of managing the City's business. I recommend, we can set it to the city of Anthony, attention, Mayor, City Manager, just so that we cover the basis, as to fill out. Water and sanitation are OK for us. I know,

Trustee Silva - I'm OK with saying that. You know, six years down the road. We're not here We'll come back again. Whoever's here, doesn't have to go back and redo the documents?

Mayor M. Trujillo Trustee Silva I signed some documents, the New Mexico, the DOT, and stuff. What does it say in the bottom? Gloria, it doesn't say my name, it just says, City of Anthony and then some say owner or leaser. It doesn't have my name or Mayor it just says, the highest elected official.

Trustee Silva - I am agree with that

Mayor M. Trujillo -So, we can do that. Alright. Any further discussion? No,

MPT Flores- no, I just want to thank you, opt for being so patient. Finally, we can come to an agreement into something with this. So, thank you for talking with us and coming over. We really appreciate it.

b) Discussion of the Memorandum of Agreements, MOA, between the City of Anthony and Anthony Water & Sanitation District, **Presented by the Mayor**

Mr. Terrones -Yes, we've had issues come up and stuff, and we just started with, we just thought it would be good to have an MOU between both entities for things such as asphalt cuts and projects. And it was just a tool to help us work with you in planning projects, economic development, emergency responses, infrastructure, just, and any other items that anybody can think of to make sure we were working together and coordinating. It was just a tool to kind of make sure we're working together You know; we really want don't want you to be paving streets, and then know, a year later, we're going there, and we're putting in waterlines and tearing up new asphalt. We wanted to make sure we were working together and we were meeting with you. We were meeting with Mr. Dominguez on a monthly basis. So, we invited the mayor and we want to continue doing that, because I think it's important for both of us work together. This is a draft that we put together, so look at it, review it. Do you have any questions or any concerns or something, we just think it's important to have something that binds us. It has things such as possession of premises, city operations, facility licenses, joint efforts, construction projects, permits, maybe meet once a year, to go to all of your capital improvement projects. Working together to make sure that we minimize the cost impact both on us and on your projects, too. As it, you know, they're getting more expensive. It also has joint use facilities, you know, for example, like the Charter School, that we both have a common goal there, amendments and breach of contract. This was sent in 2019 and we just want to tie up loose ends.

Mayor M. Trujillo -Any further discussion on this item?

Allan -I'll just note, I haven't seen this document before, but, if the Board wants me to look it over, I'm happy to do so. Make any suggestions for revisions that may need to happen,

Trustee Silva - you know, we're going forward because of the projects that we have, or whether it was Dos Logos. That's going to be huge. You know, the fact that, we're talking about co-ordination for joint funding applications and stuff like that. I know that, in my opinion, it fell apart because we asked you guys for franchise fees and I think that's kind of the last straw, if you will, that kind of said, you know what? We're just going to step away from this for a second. Then, you know, like our other document right there, it was time to revisit it, and going forward with the understanding that we're both two equal entities, without being able to impose the franchise fees, we're trying to do that. I mean, we were trying to do that to all our utilities within the area, it wasn't just a water company, but, you know, going forward. I think it's going to be a good relationship, and hopefully, we'll all prosper from that huge project that we have coming forward.

Mr. Terrones - yes, and that's something that we definitely need to sit down and discuss, and there's been some communication already with Wilson on that. We have reviewed your plan and there's things that come up. And I think we have an issue right now, and that's on the fees to connect you with water rights and that kind of stuff. Mr. Infante was going to set up a meeting and discuss this.

Trustee Silva - And that's why, Alan. It's not just Alan, but the rest of us. It's important that we all come to a mutual agreement on that on that document, and maybe we should have a sit down with Mr. Infante to see what the actual issue is to make sure that we're not signing something that's going to contradict the discussion between you and him or the water company and our engineers.

Mr. Terrones - This is basically giving us a tool to force us, both entities, to sit down and do exactly that. That's all this is. But, because, know, if we would have done that in the beginning of Dos Logos, you all would have been aware of what fees and everything and Mr. Infante could have planned accordingly. And, this is what's going to take for us to serve you. This is just a great tool that we visit and get done.

c) Discussion of City Employee handbook, provisional pay section, **Presented by Trustee Gabriel I. Holguin**

Trustee Holguin - Page seven of the Employee Handbook, section 3-2 it states "provision pay of an appointment of an employee covering a vacant position. A provisional appointment is when an employee assumes the duties of vacant position pending a regular competitive recruitment" And then there it goes on, so I really wanted to go over Section two, provision of compensation on time limit of appointments, item 2 A. When a provisional appointment exceeds 10 working days, provision of compensation of 15% of the hourly rate of the vacant position, shall be awarded on the 11th day. Provisional pay should not exceed more than two months, for extenuating circumstances, the city manager may request approval of the governing body for an extension failure to carry out

the duty so that they can position will be subject to none payment of provisional of compensation. The city manager and supervisor will determine and document performance of provision appointment. I just wanted to go over this real quick, because I know we'll be going into an executive session later on to discuss the pay for the individuals listed on there. So, I just wanted to go over this real quick, to make sure that everybody understands the employee handbook.

8. CONSIDERATION AND ACTION

- a) Consideration and Action to approve the grant agreement for the New Mexico State Library ARPA grant, **Presented by Head Librarian**

Casey McCool - The AARP grant is provided by the New Mexico State Library and this is an American Rescue Plan Act grant that they provide for us. The grant is in the amount of \$17,828, and this has to be spent by September 30th of 2022. These funds are able to be used for library collections, library staff salaries, library staff, professional development, library equipment, and any other operational expenditures that are associated with the delivery of library services. So, it's very open up to interpretation, so we can essentially use these funds for any library expenses and this grant differs from the Go Bond Grant that we had discussed at the last regular meeting in that it is not a reimbursement grant they give us all this money upfront and we just have to track our spending.

1st Motion: Trustee Silva 2nd Motion: MPT Flores

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion passes.
Trustee Daniel Barreras	YES	NO
Trustee Gabriel I. Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

- b) Consideration and Action to create a GL line item for the \$10,000 ALA Grant Funding, **Presented by Head Librarian**

Casey McCool - Thank you, Madam Mayor, And the board of trustees, once again, this \$10000 ALA grant funding is funding that we received after our proposal was accepted by the American Library Association back in February of 2022. Checks were distributed to us on the 28th of February, 2022. So, we already have the check in our possession, this \$10000 is going to be used to expand our summer reading programming. We need the spending account created as soon as possible so we can begin using these funds because they must be spent out by August 31st of this year [2022].

MPT Flores- with GL line items do we speak to the Finance Office? Does he appoint/assign this line item?

Mayor Trujillo- he will be the one to assign it and give it a number.

1st Motion: Trustee Silva 2nd Motion: Trustee Barreras

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

- c) Consideration and Action to amend the minimum qualifications section under job description for Neighborhood Services Officer, **Presented by Neighborhood Services Supervisor**

Neighborhood Services Supervisor - Good evening, Mayor, Mayor Pro TEM Flores and Trustees. It's nice to be here, and the reason why I'm here is to thank you for the action, consideration, and action to amend the minimum qualifications for the job posting for Neighborhood Services Officer. I spoke with the city manager before but his thoughts were that the new applicant, or the new employee should have some sort of construction degree. That would help, obviously would be great to help the city but we do have a limited amount of applicants due to that. I

think we reduced the amount of applicants that come in because not many of them have degrees. Now, it kind of contradicts also, because we're not building inspectors, we're just enforcers. So basically, what it is, you have an ordinance and then we just enforce the ordinance, we need to be knowledgeable of the ordinances that if someone in construction, obviously it does help I just don't feel it's necessary to have a degree in construction to do this job. So, I would like to ask, that we removed that qualification to have a degree from our job posting, who hopes to get higher number of applicants

Trustee Silva - Perfect, and it's kind of hard to ask somebody that just came out with an associate's degree to come in at an entry level that's at \$11/hr.

Neighborhood Services Supervisor - Correct, and we do get that a lot and responses, obviously, it is a big attracted to new job is to pay because we all have bills, right? But my interest is, you have to have the passion to help people, to be a public servant being there for them, you know.

City Attorney - Just to be clear for the record, Madam Mayor. So, the orange language in this posting would be removed and the blue language is what is to be added.

1st Motion: **MPT Flores** 2nd Motion: **Trustee Silva**

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

- d) Consideration and Action to approve the engineer's on-call contract for RFP No. 072021-02,
Presented by the Mayor

Trustee Silva - Madam Mayor. Yes, just to show up, and one of the questions that I had, the main question, and I don't know. Because the date that we brought this up, have you seen this, Allan?

City Attorney - Yes, trustee. I have seen the contract itself It looks like in the packet we don't have the exhibits to the contract. Well, I did look it over. I did make edits, which were sent to Mr. Infante and which were accepted as far as I understand.

Trustee Silva - . The one issue that I was I was concerned with was the compensation, it says exhibit, b. compensation, estimated fee value, and deliverables. Compensation shall not exceed the statutory limitation and it goes on through MSAs.... then goes down to professional services billing rates: Wilson shall be reimbursed for documented professional service at the following rates see attached and then it has stayed at rates are all inclusive comprised but not necessarily limited to... the last thing we want to do is have something in there that's not included. Because we're, for one, we're not limiting it to what they are. There, bullet comments are wages and salaries, which is expected, payroll taxes and burdens, welfare benefits, insurance, vacation and holidays safety, related expenses, telephone expenses, train need, visas, overhead, and profit. And that's down on page 27 of 28. So, I mean, personally, I wanted an explanation for that. I mean, that's kind of broad.

City Attorney - What we may need to compare that with Trustee Silva, is the RFP that was provide it. Because if that's, presumably, the rates and rate schedules were all part of the RFP process. And so, the city has agreed to accept the proposal from, Wilson and Co. this is just a formalization of is. But, uh, yeah, we can look at that and see whether that's from the RFA directly prior to approving it.

Trustee Silva - That was just, a definition of that, is what, me, personally and I, was looking for, because, I mean, it notes on compensation. I understand, time and material. No, but that's that, in my opinion, that seems to be outside the scope of the work.

MPT Flores - Yes, Allen, I'm looking after the contract, are you that once you, the one that did the little pink, kind of sight correction or that's not you?

City Attorney - it does not appear that, it looks like this is a clean version where my corrections have been incorporated, what page are you you're looking at, Trustee?

MPT Flores - there's a correction on page 13. And they're kind of like off to the side.

City Attorney - Yes, I do see that those are comments that I provided to the City, so those aren't necessarily changes that were made to the contract itself just suggestions for things that the state should be aware of. Suggestions that haven't necessarily been incorporated into the contract; I can suggest language to address them. So, for example, I can go in and add language or delete language, saying, OK, we're not going to identify, I'd have to compare this with

the version that I put together to see if I already did delete it, but we could get a cleaned-up version without my comments on it. That's actually my preference. And we can also touch base with Wilson on the issue of the scope of their fees, and see if that's consistent with their RFP.

MPT Flores -Allan, could I please ask you to wherever you have any changes, that you can just highlight them or something just so that we don't have to go through the whole document. And, we just go straight to your corrections.

City Attorney - Typically, I wouldn't have the city looked at a red line version of my document at the approval stage. Typically, the, the ideal way that this works is, the city can look over, provisions that I suggest, and sort of talk about them, and discuss, and once informally after discussion we would prepare a totally clean copy of the agreement for your consideration. So, what I can do is, I mean, I can provide a version of this with all my red lines in it, so that you can see what's been changed and what stayed the same from the previous version,

1st Motion: **MPT Flores** 2nd Motion: **Trustee Barreras**

Motion to table: Trustee Silva, 2nd Trustee Holguin

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO (Table)April 7, 2022
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

e) Consideration and Action of the City Managers Contract and its exhibit A, **Presented by Trustee Gabriel I. Holguin**

Trustee Holguin – I essentially want to go over the revision and changes that were made on the City Manager's contract. I do think that it needs to be approved soon, it doesn't need to be done today if that's what the board wants it can be done at a later date, but I do want to get the city manager's contract and the exhibit A approved sooner rather than later, just so we can get the ball rolling with any city manager. But I do want to, I guess, discuss the revisions that Alan made to the contract, hmm, to see if we have any questions or concerns with what Alan recommend.

City Attorney - Madam Mayor and Trustees, I will try and go through this briefly because if I go through every little change, we may be here all night. Trustee Holguin provided the city manager agreement, template and for the most part to look good, I made some minor changes, a few places. So, probably the first larger scale change is just adding in additional duties, to the section entitled Duties, just clarifying the hiring and firing duties and the annual budget duty that's going to be expected of the city manager, now those are established by statute and by City ordinance, so nothing too outlandish there. I wanted to highlight there is a section Devotion to City Business and it says "The manager position is considered a full-time position therefore, the managers shall not engage in any outside business, educational, professional, and charitable, or other activities, whether, for compensation or otherwise, that would conflict or materially interfere with performance of city manager duties, without written prior approval, by the mayor." We'll start with that, so it's not unusual to see, and I think they're actually as later down in the contract, a provision that says that you won't take other employment without approval of the governing body or the mayor or whoever. This one's a little bit broader, in the sense that it says anything that conflicts, including, you know, charitable activities so that could be a potential turnoff for interested parties, my recommendation would probably be to say, to limit it to professional, no, you're not allowed to take another job without approval of the governing body or mayor, whichever the city prefers. Then the other half of this is that as a condition of employment, the manager shall move or relocate to the city of Anthony within 90 days of the employment date and provide their address to the mayor and if the manager doesn't, the employment agreement is terminated. Some cities do require city managers to actually move to the city itself, Las Cruces for example, does, other cities do not. For smaller cities, it could limit your pool that you can draw from if you're telling them, "Hey, you have to live in Anthony in order to do this" when they might prefer to live in El Paso or Las Cruces and commute. Both those are total judgement decisions which is why I didn't redraft that provision I just wanted to highlight it for your consideration. So, that you can give me direction on whether you would rather keep it or make changes to it.

Trustee Silva- I did bring a board at the last meeting that I personally would prefer that we scratch it out altogether because, I mean, our community is a lot smaller than what Las Cruces and you hit it on the head when

you said, it's going to limit the pool of people. Because we're actually fortunate enough to live within the boundaries.

City Attorney: So, what I can do is, because this process, what we can do is, table the matter, and I can come back with the revised version. I'm still going to go through the rest of it but just so you understand, I'll make a revision to it that we can remove the residency requirement. If that sounds agreeable. Ok, so let's move forward manner.

Trustee Silva- as far as the removing other employment, if we could word it somehow to say, if you seek employment outside of the city manager's position, it can't be within those same hours.

City Attorney- And and I do like that it says 'materially interfere', I think that's a good term in there you if you go with 'conflict' it's a little bit squishier, like what does conflict mean but doesn't materially interfere with your job, well, if I'm doing it from eight o'clock to nine o'clock, on non-meeting dates, like, probably not, but yeah, we can, we can definitely do that.

MPT Flores- I have an issue with this, because I think it all depends on who we get some people can handle maybe handle a job and a part-time job, but some people can't but they'll still try and then the city is lacking their attention. I kind of feel that I am kind of leaning more towards the fact that maybe we shouldn't have another job, even though I know it's hard. We did raise the pay and so, I think that matters, and they should know that. Where they come in, you know, they're trying to do this job here half ways and then they go over there and they do that one halfway too. Some people might be able to manage it, but not everyone. And I think that the pool on the, not being able to manage this greater than the other side.

City Attorney: Currently, we wouldn't be changing the contract in a way that says, you definitely can pull down a second job, if you want it's still going to require the individual, whoever ends up being the city manager, to come to the city for approval to work on that second job. Now, right now, it's just the mayor that they have to go to for approval, we can change that if it will make you more comfortable to the governing body as a whole, would have to approve any requests to do additional work, but that's, that's up to you.

MPT Flores- And I can see if they're working, like, maybe, no, a few hours, but not like a part-time job, that requires them to be there every day. No. I don't agree with that, because I really feel that, especially right now, we really need to get going. We have a lot of projects coming up, and I would really like to see this person involved in all the things that are coming up, and when that is lacking, then it kind of creates a lot of issues.

City Attorney- And we can, we can make it for all outside employment, it's pretty standard to have a requirement that they get approval for all other outside work. Moving forward, for the term, the way that this contract was set up it had a one-year term, which is fine, it's not unusual to see a one-year term with an option for renewal for a city manager but there wasn't a renewal option here so, I added one end that just says, like, the managers employment, is for one year unless it's renewed with an added provision that says, the governing body, of course, with the consent of the manager because he's a party to this too, can renew the term of the agreement so the one-year term and it can be indefinitely renewed. So, under state law, it actually says that city managers are hired indefinitely. and that never is how the contracts are written, but to honor that law, I would say, all right, let's not put a limitation on how many times the one-year term can be renewed but it does need to be renewed by the action of governing body. So, previously, it was the automatic renewal but now it would be, you know, we have to remember, at the end of the one-year term, to sit down and vote on it. You don't want to be without a city management by accident. but this would resolve that issue. For compensation, I just deleted one section that says the city agrees to renegotiate the annual base salary on or before adopting, you know, salary can be negotiated at any point, if that's what the city manager wants or if that's what the city wants. One of the issues that we've had in the past, and I think this is true of all cities, is evaluations and how do we go about making sure they get done. So, I think one of the hang-ups with previously evaluations was that it was a collaborative, city manager has to do have their input on the evaluation, and the city does as well. Here, I added in a section under evaluations that says, like, the city develops the criteria to evaluate the city manager it has to be based on the standards and agreements, state law, city ordinances, so we're going to have criteria based on the agreement, but you, as the governing body, would prepare that criteria and then you would let the city manager know before his evaluation, what the criteria is, out of fairness. Say, "Hey, here's your criteria, just so you're aware, it's based on all this law", and that way, the city manager isn't surprised by whatever the criteria ends up being. That may change if the city manager who applies for the job, says, no, I want to have input on that, but, for now, I think that that's a fair, a fair way to draft it.

MPT Flores: I would like for all of us to sit and either put that evaluation together, I feel that all of us should get together and make maybe even a friendly evaluation, just something that we can evaluate him or her on everything. But just make sure that we know what we're asking.

City Attorney: And right now, the way it's drafted, the first evaluation would be 90 days after they start or within 90 days, which I think it's probably realistic to sit down, do a work session or, you know, even just a regular meeting and figure out, here's the criteria we want and then do the evaluation. I'm a little bit concerned about the provision, maybe, it's too ambitious as in section F, subsection A in the middle, it says, the quarterly performance evaluation shall include preparation of a written evaluation or shall be provided to the manager within 30 days of the evaluation meeting. That means every three months, you'd be doing an evaluation, a written evaluation, not just an informal sort of touch base, I do worry about the city's capacity to conduct an evaluation every three months now, annual doable, six months, probably doable but just based on some of the difficulties we've had in the past, I do have concern about that, but I wanted to get your thoughts before I changed anything.

MPT Flores- Maybe on the first year, we could have every six months and after that, depending on how it's going, just once a year would be, OK?

City Attorney- Well, this contract is only for one year so, we can't necessarily plan multi year, but, of course, we could change it. If, if you have a good relationship with the city manager and he gets to a second year before you approve this contract, again, you can always amend terms and say "Hey, here's some suggested changes. You seem to be doing great. You don't need an eval every six months." So, that's an option or, you could, you know, have an eval, at 90 days and then you get to decide how often after that. So even if you only did one eval a year, after the 90 eval, that would be two total. So, you could have functionally six-month evaluations, one at 90 days and one at nine months, that would be six months apart. And if the contract gets renewed, and you've been doing them every six months, maybe that's OK, too

Trustee Silva- So my concern with that is, is for the individual to question, everybody else's paperwork that's being hired by the city is like, OK, well you're running an evaluation on me every 90 days is that have been offered to the other department heads, or, I mean, how come you're just doing it for my position? Are you singling out the position of the city manager

City Attorney- The city manager is your only employee as a board of trustees, if the city manager comes in and decides he wants to, or she wants to, eval people, every 90 days or have the department heads do evaluations every 90 days, and, you know, we can address that at that point. I think you're entitled to have that extra scrutiny if you want to, my concern is more of a practical one, right 90 days goes by pretty fast, especially when you're only meeting two times a month so it could be burdensome because ultimately, you'd have to, do they eval at one meeting, approve the written results of the eval at another meeting. And then, you know, within a few additional meetings you're doing it all over again.

Trustee Silva- I mean, personally, I would ask, if we're going to consider something like that, at least, do it at the six-month period. Because, at 90 days, an individual's barely starting to sit down and get accustomed to daily operation, the last thing you want on an individual's mind aside from being overwhelmed with everything else, is being evaluated at 90 days. Give them the option, to come in and sit down and get familiar the process. So, I have no problem with doing one 6 months out. And then at the end of the other six months, it's going to be at a year already so if you don't want to renew the contract you just don't at that time. And then down at C "Salary increases to the base salary may be considered as the sole description of the city" I would ask, that you put the governing board as part of the fourth quarter evaluation of the year.

City Attorney- And we would actually change that if you wouldn't be doing the fourth quarterly evaluation, we could make it part of the annual evaluation, OK. All right. so, after that, no changes to pension, health insurance, anything like that, equipment, I just added that, in the event of termination, equipment needs to be returned in the same condition that they received it, wear and tear excepted.

Trustee Silva- I like the fact that you put on equipment on C because we did discuss that the city manager, there's a difference between shall be provided and may be provided, you don't want them to come in with the understanding that they are going to get a vehicle

City Attorney- So then we have outside business and professional activities, subsection K, that, I just made few mostly deletions. And the deletions really were just to clarify the meaning of these provisions. Typically, with city managers, the city pays their fees for their professional organizations that they're part of, subscriptions, all the stuff that they need, the resources they need to stay up to date on, how to run a city and so I just tried to clarify the language there. But there's no substantive changes to that section. One of the really big differences with this agreement is the way it's set up for termination. And the agreement, basically, I didn't do anything to change the spirit of the agreement, I wanted to keep it, I just wanted to clarify a little bit. Basically, the idea behind this agreement is that the city manager can leave whenever he wants or she wants, the city can let them go at any point in time and if that happens, if they are terminated without cause, they will be entitled to severance but only if they

are willing to sign a release of their claims. We'll go ahead and look over that release here in just a moment but all of my changes are simply meant to clarify that goal, under Section M. And specifically, with relation to the severance, if we go down to section M, subsection C it says the severance payment referenced above would be entitled to for termination without cause is subject to the following terms; the manager shall execute and comply with the terms of the general release agreement, which is exhibit A and I took out that additional material because really, we don't want to bogged down this contract with all the terms from the general release agreement. We referring to it as enough and then we'll get into the general release and it will govern the terms of the severance payments. The manager doesn't get severance if they voluntarily quit. And then we provide, what is misconduct? So, what are the instances in which she could be fired for cause? And wouldn't be entitled to severance and those are fairly standard. I did add that failure to address deficiencies identified in the manager evaluations is a cause for termination. This is a policy decision, section N enforcement of the agreement, there's some schools of thought that think you shouldn't have attorney's fees provisions in an agreement, this is a standard section and it says, "hey, if someone has to sue to enforce this agreement, whoever wins gets their attorney's fees paid." That's a policy decision that I'd like to get your input on. Would you like an attorney's fees provision in this agreement? Some people suggest that no because you can't contemplate within the budget. I leave it up to you whether to include the attorney's fees provision. I'm comfortable deleting it, but I didn't want to do that without your input. I know there was a concern about the section related to disability, of the city manager and his ability to perform duties. So, I double check that and I altered it just a little bit just because someone has a disability, obviously does not mean that they should be fired or can't do their job. The test under the law under the Americans with Disabilities Act, is: Are they able to perform the essential functions of their job with a reasonable accommodation? If they can, then they keep their job, if they can't, then only at that point can you consider termination, I included that reasonable accommodation language saying if they're unable to perform the duties, even with reasonable accommodations, that's when you can have a forecast termination. So that's just a provision to make sure that we're fully compliant with the law.

Trustee Silva- Back to the attorney's fees, personally, I'm just asking to have it removed, but I would like to hear Trustee Holguin's opinions since he's the one that took it under his wing.

Trustee Holguin- I got a lot of municipalities and I included a lot of ideas in there that way we can decide to keep some items or take some items, I'm fine either way.

City Attorney- Aside from the attorney's fees provision, we have indemnification, there was the second half of subset or section O just said, explained that in the event, the city manager gets sued, how the city is going to cover his legal fees that's, that's all covered under the law, the city has to do that. But for the time being, the city's obligations are its obligations in terms of covering him for liability arising from performing his or her job.

Trustee Silva- That's not going to come from our budget that will come from the league.

City Attorney- Yes, so, I mean, I'd have to look over your policy, I'm not intimately familiar with it, but almost, you're going to have your deductible that you have to pay with the league policy, and then the rest will be generally covered settlements, things of that nature, attorney's fees, obviously, that is covered by the league. It's one of those things where the law says, the city has to cover it or the city contracts with the league, the self-insurance fund and under that contract, it's covered. In subsection are on section Q, Conflict with Municipal Code I indicated that the municipal code applies to the manager in the same way as it's applied to other employees, I didn't include the personnel, ordinances, resolutions, rules, and policies, partly because we don't necessarily want the personnel policies to apply to the city manager because those same policies guarantee hearing and notice an opportunity to be heard prior to any action discipline. Appropriations, I added in this section because all contracts for municipalities tend to include this, saying that this is based on what we're able to appropriate and then the rest is really just standard language, so those are those, those are the substantive changes that I made. I'm happy to go back and incorporate these changes that we've discussed this evening on this portion of the contract. I don't, we don't have a separate item on exhibit A so if it's OK with the trustees, if you don't want to table this right now, I can go through exhibit A briefly and let you know the changes I made on that...Exhibit A is the release, the general or lease agreement so this is what the city manager would have to sign, in order to get his severance package. Fundamentally, it's just a release of all the claims arising from when the city manager was an employee, I just tweak the language a little bit but the, the purpose of it remains the exact same, which as, if you want to get your severance pay, you're going to have to execute this agreement and I just included what the severance pay consists of, and that's, that's lifted directly from the contract, you'll see that under section B subsection two It says, severance pay is equal to this much, that it had to be within 10 days after employee execute the agreement and I added a provision, subsection four there that says, the employer's responsible for their own taxes. Ultimately, the

employee is going to get this lump sum of money, and if the IRS says, "Hey, you owe us taxes" and they try to come after the City, it's the job of the former employee to defend the City against any claims. The release of claims, Section D, just provides that the employee, their beneficiaries, their heirs assigns, everyone they are related to is waiving and discharging or leasing their claims against the city, including its employees, its departments, everything. In return for this lump sum, you are giving up your lawsuits against the city relating to your employment. I tweaked the language about the specific statutory provisions but the purpose is still the same it's to ensure that the person releasing understands that they're not just giving up, you know, general sort of claims, like, breach of contract, but also, statutory claims, claims under Title Seven of the Civil Rights Act so that's discrimination, Fair Labor Standards Act, ADA, Disability Claims, FMLA claims, Whistleblower Protection Act, all the employment statutes, they're giving up. We want to make this as broad as possible, I did delete one section, title the waiver, because it's just restating what has already been dealt with. I liked the document I thought it was a cool idea, and, like I said, the changes I made don't really affect the outcome of the document just some refining of it. I will work on, they, city, manager, contract, if you're willing to table it tonight, I can make those changes that we've discussed. My recommendation is to table it so that I can provide you the changes that we've discussed, and make sure that you're comfortable with them. Then, we can bring it back, and you can approve it as the contract that you want to issue, to whatever candidate you decide is most qualified. So, I'd recommend not voting on it tonight I'd prefer to be able to give you a clean copy with all my changes in it, I can provide you a red line copy to so you can see side-by-side but that way, you're voting on a nice, clean copy with all my notes removed and that's the copy that you would send to the city manager for his review.

Trustee Silva-We'll go ahead and table it.

Original Action 1st Motion: **Trustee Holguin** 2nd Motion: **MPT Flores**

Motion to table, 1st motion: Trustee Silva, 2nd motion: Trustee Barreras

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

9. CLOSED SESSION

- a) NOTICE IS HEREBY GIVEN that the City of Anthony Board of Trustees will meet in Executive Session Pursuant to NMSA 1978, Section 10-15-(H)(8) Discussion of Limited Personnel Matters, to discuss Police Department, Motor Vehicle Department, City Clerk Department, and Payroll & Procurement.

1st Motion: **Trustee Silva** 2nd Motion: **MPT Flores**

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

- b) Motion to return to open session

1st Motion: **Trustee Silva** 2nd Motion: **MPT Flores**

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

10. CONSIDERATION AND ACTION

a) Consideration and Action to approve Gabriela Chavez as Temporary MVD Lead Clerk with amended pay

1st Motion: Trustee Barreras 2nd Motion: Trustee Silva
With amended provisional pay at 14.01

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

Roll Call:

Trustee Silva- can we include in that amendment that it's a provisional appointment

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

Original: 1st Motion: Trustee Barreras 2nd Motion: Trustee Silva

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

b) Consideration and Action to hire Bonnie Hidalgo as Payroll & Procurement with the amended pay rate \$18.08 per hour

With amendment: 1st Motion: Trustee Silva 2nd Motion: MPT Flores

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 3 to 1 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO

Original 1st Motion: Trustee Silva 2nd Motion: MPT Flores

c) Consideration and Action to approve \$5 pay rate increase to Bonnie Hidalgo for the HR duties

Original: 1st Motion: MPT Flores 2nd Motion: Trustee Barreras

City Attorney: I suggest the language of "Consideration and Action to approve a provisional pay rate increase of \$3.90 per hour to Bonnie Hidalgo for the provisional HR liaison duties.

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 3 to 1 vote, motion pass.
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO

Mayor Diana M. Trujillo ~~YES~~ ~~NO~~

- d) Consideration and Action to approve \$5 pay rate increase to Gloria K. Ramirez for the City Clerk duties. **Consideration and Action to approve a provisional pay rate increase of \$3.90 per hour to Gloria K Ramirez for the City Clerk duties, consistent with the Employee Handbook.**

Original 1st Motion: **Trustee Silva** 2nd Motion: **Trustee Barreras**

Roll Call:

MPT Elva Flores **YES** NO
Trustee Javier Silva **YES** NO **4 to 0 vote, motion pass.**
Trustee Barreras **YES** NO
Trustee Holguin **YES** NO
Mayor Diana M. Trujillo ~~YES~~ ~~NO~~

With Amendment: **1st Trustee Silva** **2nd: Trustee Holguin**

Roll Call:

MPT Elva Flores **YES** NO
Trustee Javier Silva **YES** NO **4 to 0 vote, motion pass.**
Trustee Barreras **YES** NO
Trustee Holguin **YES** NO
Mayor Diana M. Trujillo ~~YES~~ ~~NO~~

- e) Consideration and Action to approve Sgt. Ruiz as interim Police Chief for the Anthony Police Department **with the pay rate of \$24.71 per hour**

With Amendment 1st Motion: **Trustee Silva** 2nd Motion: **Trustee Holguin**

Roll Call:

MPT Elva Flores **YES** NO
Trustee Javier Silva **YES** NO **4 to 0 vote, motion pass.**
Trustee Barreras **YES** NO
Trustee Holguin **YES** NO
Mayor Diana M. Trujillo ~~YES~~ ~~NO~~

Original 1st Motion: **Trustee Silva** 2nd Motion: **Trustee Holguin**

Roll Call:

MPT Elva Flores **YES** NO
Trustee Javier Silva **YES** NO **4 to 0 vote, motion pass.**
Trustee Barreras **YES** NO
Trustee Holguin **YES** NO
Mayor Diana M. Trujillo ~~YES~~ ~~NO~~

11. ITEMS FROM THE CITY CLERK

- a) Projects Coordinator submitted E-Rate application on March 18th for the next fiscal year, to have the library internet requesting to have this grant administered by Head Librarian starting next fiscal year. Projects Coordinator mentioned she spoke with Head Librarian and she is okay with administering the E-Rate Grant if the Board of Trustees approve.

12. ITEMS FROM THE MAYOR AND TRUSTEES

- a) **Trustee Holguin:** Contacted by Mountain View Hospital, they are looking for a wall for a mural for breastfeeding awareness, they will be paying for material but they are just looking for a wall where they can have this mural to promote breastfeeding awareness. She would run it by the board as to what they would paint. Also, Herinda Road and focus on repairs. Lastly was also asked by a Mcdonald Lane and Church St if it would be possible to put a stop sign as the view is blocked.

- b) **Trustee Barreras:** wants to know if they have started the 3-way stop on Acosta. Same concern with Herinda St
- c) **Trustee Silva:** San Andres was repaired and resident would like to show appreciation to Public Works for that continued work. Would like to see the Soccer field water more. Where does the city stand with the city manager position and city clerk?
Mayor: City Clerk, Officer and Neighborhood Services open position will be posted tomorrow.
- d) **Mayor:** GL 520-43700 expense 250-10-61700 for Head Librarian Casey McCool. Public works has a complaint, there is vandalism on Oñate median, several broken sprinklers.
Trustee Silva: We had already agreed to not be watering that, Mr. Scott had requested a grant and when the grant expired the Water Company was to take over, now that we are getting an MOU we can have that conversation over them watering again.
Mayor: we would need to have a conversation with the residents there because they still want us to water it and take care of it but as of right now the complaint is that it has been vandalized.

13. ADJOURNMENT

1st Motion: Trustee Silva 2nd Motion: Trustee Holguin

Roll Call:

MPT Elva Flores	YES	NO
Trustee Javier Silva	YES	NO 4 to 0 vote, motion pass. Adjourned at 9:30pm
Trustee Barreras	YES	NO
Trustee Holguin	YES	NO
Mayor Diana M. Trujillo	YES	NO



Diana M. Trujillo
 Diana M. Trujillo, Mayor

{SEAL}
 Attest:

KOA

Karla Oropeza, City Clerk