

CITY COUNCIL
REGULAR MEETING
TUESDAY, JANUARY 28, 2020

1. The meeting was called to order at 7:30 p.m., and was opened with the Pledge of Allegiance. Councilmembers present were Mayor Karen Sheek, Mayor Pro-tem Orly Lucero, Sue Betts, Ty Keel, Mike Lavey, and Gary Noyes. Staff members present were Interim Chief of Police Andy Brock, Director of Public Works Phil Johnson, Associate Planner Neva Connolly, City Planner Tracie Hughes, Management Intern Peyton Heitzman, Permit Technician/Receptionist Cheryl Lindquist, Interim Police Chief Andy Brook, Detective Tom Quinnett, Detective Jerry Tevault, Detective Angelo Martinez, Patrol Officer Koby Guttridge, Recreation Supervisory Rosa Dimon, Finance Director Ben Burkett, Fire/Building Inspector Sean Canada, Community Service/Code Enforcement Officer Mark Thompson, Deputy City Clerk Sara Coffey, City Manager John Dougherty, and City Attorney Mike Green. There were over 300+ people present in the audience (Council Chambers/Training Room/Mesa Verde Room).
2. Mayor Sheek asked that Agenda item 7c. (Cortez Youth Commission Appointment) be moved up for consideration following Citizen Participation. The Consent Agenda items acted upon by Council were as follows:
 - a. Approval of the Worksession and Regular Meeting Minutes of January 14, 2020.
 - b. Approval of the payment of the Expenditure Vouchers of January 28, 2020.
 - c. Approval of a renewal Hotel and Restaurant Liquor License for Rudosky Unlimited LLC, DBA Rudosky Unlimited, located at 2310 East Empire Street, Cortez.
 - d. Approval of a Special Event Permit for the Cortez Area Chamber of Commerce to host a ‘Business After Hours’ event on Thursday, January 23, 2020, from 4:00 p.m. to 7:00 p.m., at Southwest Health System, Inc., located at 1311 North Mildred Road, Cortez.

Mayor Pro-tem Lucero moved that the Consent Agenda be approved with the additional expenditure vouchers of \$16,950.04 and that Item 7c. be moved up in the agenda following Citizen Participation. Councilmember Keel seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

3. PRESENTATIONS – None.
4. CITIZEN PARTICIPATION
 - a. Comments on Facebook Postings. Allen Mayes, Road 21; Lana Waters, Road 21.4; Mindy Nelson, Road N; Don Kirk, 9 West 2nd Street; and Richard Cox, 701 Hartman; made comments on their concerns with the response that City Councilmembers have made regarding the concern of

Planning and Zoning members that have made comments about Veterans Park on Facebook and that a public apology should be made by Council to the Veterans. A request was made to unappoint Planning and Zoning members Lance McDaniel and Rebecca Levy. Mayor Pro-tem Lucero asked that Council speak about Planning and Zoning members at the next Council worksession.

b. Airport. Larry Don Suckla, 11721 Road 27.1, Montezuma County Commissioner, spoke about the Airport and improvements that are funded by the Federal Government at 95%. He stated that the City and the County should work together to fund the 5% difference so additional improvements could be made at the Airport. He suggested that an Airport Advisory Committee be created to review the prospects of economic development that could be derived from the Airport. He also commented on the cost for the completion of 7th Street by the High School.

c. Rights of Liberty. Debbie Boyd, no address given, spoke about the People's Right of Liberty and asked for Council to stand up for those rights. Steven Foutz, 11636 Road 28.3, also spoke about liberty and justice for all.

5. PUBLIC HEARINGS

a. Ordinance No. 1267, Series 2019. Mayor Sheek stated that Ordinance No. 1267, Series 2019, adopts by reference the Cortez Land Use Code and zoning map for the City of Cortez. Mayor Sheek thanked everyone for coming and spoke of the public hearing process that would be adhered to. She reminded everyone that City staff and Council are trying to do their best for the community and that the comments should be limited to the Land Use Code, not personal attacks.

Mayor Sheek opened the public hearing. Following were community residents that spoke: Dave Waters, Road 21.4; Tammy Lindsay, 1205 South Broadway; Elizabeth Berger (no address) presented petitions with 481 signatures requesting Council vote no on the proposed Land Use Code; Roman Jefferson, 18501 Road J, presented a book to Council on the benefit of trees in the community; Richard Cox, 701 Hartman; Amy Long, 1515 South Chestnut; Kent Lindsay, 1201 South Broadway; Dax Koskie, 1532 Arrowhead; Bud Garner, 608 N. Washington; Al Shafer (no address); Melanie Scott, 12107 Highway 145; Jason Witt, 1181 East Montezuma, presented a petition with 53 signatures from the realtors opposing the proposed Land Use Code; Susan Thomas, 12249 Road G (provided letters and spoke for Lois Stein and Graham Johnson); Donna Tanner, 611 Henry Street; Emily Cole, 701 Canyon Drive; Stephen Candelaria, 1656 Golf Course Lane; Steven Foutz, 11636 Road 28.3; Sharlene Odell, 43 North Maple; Jody Henley, 255 West 4th Street; Rafe O'Brien, 403 South Market; Allen Mayes, Road 21; Kristy Ross, Road 24.5; Charlotte Hager, 1306 Cottonwood; and Harley Robinson, 779 Aspen.

Comments continued from: Donna Foster, 2021 East Downey; Katelyn Alexander, 1161 East Montezuma Avenue; Bob Ower, 26223 Road M; Lynette Ward, 783 Aspen; Bob Gafford, 215 South Linden; Tiffany Randall, 519 North Texas; Ed Rice, Road M; Lana Waters, Road 21.4; Dennis Geisler, 25401 Road H; Mindy Nelson, Road N; Gene Baxstrom, Highway 145; Jenny Todacheeny, Kaleigh Circle; Glenn Leighton, 45 East Andrew Lane; Teresa Oakes, 708 South Broadway; James Rodd, Detroit Avenue; Marion Rodd, 11773 Highway 145; Kelly Belt, Fairway Drive; Frank Green, 27183 Road H; Charna Jacobs, Acoma Street; Justin Carson, Linden Street; Jerry Johnson, 1311 Melrose; a resident from County Road 25; Sheldon Randall, 22668 Road S;

Ms. McDonald, 22100 Highway 491; Jordan Owens, 235 South Broadway; Jerry Ramirez, 5861 Road 25; Stacy Morris, 5637 Highway 160; Daniel Hoch, Industrial Park; Bonnie Leighton, 816 Arbor; Derrick Morris, 5637 Highway 160; Gayle Alexander, 491 North Broadway; Emiko South, Road 25.4; Colton Black, 29078 Road M; Larry Don Suckla, 11721 Road 27.1; Mary Richenau, 24851 Road S; Andrew Archer, Pleasant View; Misty Wallace, 26039 Road N; and Charles Jeter by phone (San Diego).

Also, Ray Goodall, 405 North Henry, Rick Keck, 23113 Road G, Jedakiah Coy, 708 Hartman Road; Dorothy Phillips, 6452 Road 24.2; Emily Cole, 701 Hartman Road; Connor Hind (no address); Tim Darland, 715 North Market; Gene Nowlin, Linden Street, also spoke.

Comments received from the audience members included: concern for the DOLA grant that was received to conduct the Land Use Code re-write, the flawed process of the review of the code, award of the re-write of the code to Kendig Keast and their reputation, community interaction/transparency/public outreach, landscaping concerns, vested interest rights, code is confusing/ambiguous, support for trees/landscaping in the community, current Land Use Code is out of date/needs revised, three-mile plan seems illegal, day-care regulations, County Land Use Code process and how it was completed, increased/excessive fines/fees, citizens rights, keep current code with a few tweaks; allow new businesses to come/support old businesses to thrive; frontage/setbacks requirements; citizens volunteered to serve on committees to re-write/review the current code; infringement on property rights; the Land Use Code is overbearing/overreaching/oppressive; cost of fixing up property due to new regulations; and the plan doesn't represent the community;

Comments continued noting that the code is not understandable by the average citizen; endangers health and welfare; consider costs to senior citizens and low income families; code is vague; old code hard to interpret but proposed code is worse; won't allow for expansion of businesses; Cortez is beautiful and the citizens are caring; get rid of unnecessary regulations; the proposed code does have some improvements; fear mongering to incite reaction is not fair to staff or citizens; codes are suppose to help people not create problems that don't exist; not enough public meetings were held on the process and too much time was taken to complete the code; look at the diverse community instead of listening to researchers; and work together so the code can work for everyone. Many thanked Council for listening. Mayor Sheek closed the public hearing.

Mayor Pro-tem Lucero thanked everyone for speaking. Councilmember Lavey stated that he loves the City like everyone else does and he would like to work with everyone in the future to make the current code better. Councilmember Keel stated that it is humbling to sit as a Councilmember and he thanked everyone for coming. Councilmember Noyes stated that he has asked people to come to the Council meetings and here they are and also thanked the people for coming. Councilmember Betts stated that she agrees the code is rigid and she is glad that people have spoke out. Mayor Sheek stated that the community has made compelling arguments and Council appreciates everyone coming. She stated that she hopes that better decisions and interpretations can be made for a future code. She stated that government works best when it is a collaboration between the people that you have elected to office and the citizens.

Councilmember Noyes moved that Ordinance No. 1267, Series 2019, be denied in its entirety.

Mayor Pro-tem Lucero seconded the motion and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

6. UNFINISHED BUSINESS – None.

7. NEW BUSINESS

a. Re-Appointment to the Parks, Recreation, and Forestry Advisory Board. Recreation Supervisor Dimon stated that the Parks, Recreation, and Forestry Advisory Board has recommended that Tom Rennick be re-appointed to another term on the board. She stated that Mr. Rennick has served on the board for six years and is very involved in the Arbor Day celebration that is sponsored by the Parks, Recreation, and Forestry Advisory Board each year. In answer to a question from Mayor Pro-tem Lucero, it was noted that the board continues to advertise for open positions on the City's web site.

Councilmember Lavey moved that Council re-appoint Tom Rennick to another term with the Parks, Recreation, and Forestry Advisory Board. Councilmember Keel seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

b. Resolution No. 2, Series 2020. Mayor Sheek stated that Resolution No. 2, Series 2020, would approve rules for public hearings on retail marijuana approvals. City Attorney Green stated that the items for which Council can consider for a public hearing process have been included in the resolution as requested by the Judge in the review of a recent appeals case. He stated that the information will help Council as a guideline for how to proceed with retail marijuana applications. In answer to a question from Mayor Sheek, City Attorney Green stated that the neighborhood shall be considered the people that live, own property, or own a business in the City. City Attorney Green noted that people that do not live, own property, or own a business in the City would not be allowed to speak at the public hearing on a retail marijuana application. He stated that the rules have been reviewed by the attorneys that represented the City in the recent retail marijuana application appeal and they have agreed with the regulations meet what the Judge had ordered.

Councilmember Lavey moved that Council approve Resolution No. 2, Series 2020, approving rules for public hearings on retail marijuana approvals. Councilmember Betts seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

c. Cortez Youth Commission Appointment (Council reviewed this item prior to the Public Hearing). Recreation Supervisor Dimon noted that Management Intern Heitzman will be leaving Cortez and she thanked Ms. Heitzman for all her work in creating the Youth Commission in Cortez.

Recreation Supervisor Dimon stated that Jada Mitchell has applied to serve on the Cortez Youth Commission and has completed the interview process and is being recommended by her peers that she be appointed to the Commission. Ms. Mitchell thanked Council for the opportunity to serve on the Commission.

Councilmember Lavey moved that Jada Mitchell be appointed to the Cortez Youth Commission. Councilmember Betts seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

d. Welcome Center Janitorial Bid Results. Management Intern Peyton Heitzman stated that two bids were received for the janitorial services at the Welcome Center and staff recommends that the bid be awarded to the lowest bid, Red Fin Janitorial, at a bid amount of \$21,775.16. She stated that the bid is \$3,775.16 over the budgeted amount of \$18,000.00. Discussion was held on the fees that were charged in the bid and it was noted that carpet and window cleaning is included. In answer to a question from Councilmember Noyes, City Manager Dougherty stated that the additional amount for the bid would have to be trued up at the end of the year in the budget.

Councilmember Noyes moved that the Welcome Center Janitorial Bid be re-bid. Councilmember Betts seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

e. Agreement with Living Solar. Management Intern Heitzman stated that during the installation of the EV Charging Station at the Welcome Center it was discovered that there is some root damage to some of the trees in the location of the installation. She stated that an agreement has been completed with Living Solar that would require the replacement of the trees should they die. She stated that the agreement would be in place until October 2021. City Attorney Green stated that staff had picked the trees that would be replanted should the other trees die. After discussion, Council suggested that the agreement be re-negotiated with the cost for removal and replacement of the trees (using City equipment) should that have to be done. Management Intern Heitzman stated that the Parks and Recreation staff felt they could remove the current trees if needed as they have the equipment and Living Solar would not have that equipment.

Councilmember Betts moved that the agreement be re-negotiated with Living Solar to include removal and replacement labor costs (using City equipment) along with the cost of the replacement of the trees should the trees die. Councilmember Keel seconded the motion, and the vote was as follows:

Betts	Keel	Lavey	Lucero	Noyes	Sheek
Yes	Yes	Yes	Yes	Yes	Yes

City Council thanked Management Intern Heitzman for her work with the City over the last two years and wished her Good Luck. Management Intern Heitzman stated that she has appreciated the

opportunity to work for the City of Cortez.

9. OTHER ITEMS OF BUSINESS – None.

10. ADDITIONAL CITIZEN PARTICIPATION

a. Thank You. Lana Waters thanked Council for making a responsible and right decision on the Land Use Code. She stated that she would volunteer to serve on a committee to review the current Land Use Code and restructure it to fit everyone's needs. Jody Henley thanked the Council for keeping the charm and atmosphere that has made Cortez a desirable place to live a visit for decades. She also offered to serve on a committee and be involved from the beginning of the next phase. Tammy Lindsay thanked the Council as well and offered to serve on a committee offering a business standpoint.

b. Marijuana Resolution. A citizen in the audience asked about the new marijuana regulations and Mayor Sheek stated that Council will hold a new hearing for a retail marijuana application that was denied in 2018 and has been requested by the courts to be reheard by Council. She stated that the new hearing will have clear guidelines on how Council will proceed. In answer to a question from Elizabeth Berger, City Attorney Green stated that he did not have the Case Number (NuVue); however, she could receive the information if she called his office.

11. CITY ATTORNEY'S REPORT

a. City Attorney Introduction. City Attorney Green introduced Tina Martinez who has been working in the office to help with City Attorney research.

12. CITY MANAGER'S REPORT

a. Goodbye Peyton. City Manager Dougherty thanked Management Intern Heitzman for her work with himself and all of City staff and he wished her well with her career.

13. CITY COUNCIL COMMITTEE REPORTS

a. Mayor's Report on Workshop. Mayor Sheek stated that Council did not hold a Council worksession this evening.

b. Parks, Recreation, and Forestry Advisory Board. Councilmember Lavey spoke of the Parks, Recreation and Forestry Advisory Board meeting held on January 17, 2020, noting that discussion included naming of the south neighborhood park and nomination of a new chairperson.

c. Cortez Cultural Center Board. Councilmember Lavey stated that the Cortez Cultural Center Board meeting was held on February 11, 2020, and discussion included a presentation that will be held by Marty McKean titled "Veterinarian Tails" on February 19, 2020, and other activities that will be held in the coming months.

d. Mike Lavey Survival. Councilmember Lavey stated that a year ago today he was in a helicopter

fighting for his life and he is celebrating with everyone his survival and thanked everyone who helped him through the rough time. Councilmember Keel noted that it is a honor to sit with him on Council.

The regular meeting was adjourned at 12:10 a.m.

ATTEST:

Karen W. Sheek, Mayor

Sara Coffey, Deputy City Clerk