

CITY COUNCIL
REGULAR MEETING
TUESDAY, MARCH 9, 2021

1. The meeting was called to order at 7:30 p.m., with a Hybrid/in-person and through ZOOM format. The meeting was opened with the Pledge of Allegiance. Councilmembers present in the Council Chambers included Mayor Mike Lavey, Robert Dobry, Amy Huckins, Mayor Pro-tem Rachel Medina, David Rainey, and Arlina Yazzie. Councilmember Orly Lucero participated by ZOOM. Staff members present by ZOOM were Director of Parks and Recreation Dean Palmquist, Director of Public Works Phil Johnson, Associate Planner Neva Connolly, City Planner Tracie Hughes, Director of Human Resources Matt Cashner, Director of General Services Rick Smith, and Airport Manager Jeremy Patton. Chief of Police Vernon Knuckles, IT Support Technician Kyle Kuhn, System Analyst Shay Allred, Network Administrator Bill Kuhn, City Clerk Linda Smith, City Manager John Dougherty, and City Attorney Mike Green were present in the Council Chambers. There were 27 people signed up as participants on ZOOM.
2. The Consent Agenda items acted upon by Council were as follows:
 - a. Approval of the Worksession and Regular Meeting Minutes for February 23, 2021.
 - b. Approval of the payment of the Expenditure Vouchers of March 9, 2021.
 - c. Approval of a renewal Hotel and Restaurant Liquor License for The Farm Bistro Cortez LLC, DBA The Farm Bistro, located at 34 West Main Street, Cortez.
 - d. Approval of a renewal Hotel and Restaurant Liquor License for The Wigglin' Pig LLC, DBA The Wigglin' Pig, located at 44 West Main Street, Cortez.
 - e. Approval of Airport Grant – Application for Federal Assistance – SF-424.

Councilmember Huckins moved that the consent agenda be approved. After discussion by Council, Councilmember Dobry moved that Council approve the consent agenda with the addition of New Business Item f – Action on Safely Re-opening the Council Chambers to the Public. Councilmember Yazzie seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

3. PRESENTATIONS

- a. Police Presentation – Axon Enterprise, Inc. Chief of Police Knuckles introduced Axon Enterprise, Inc. and a presentation was made by Claudia Mendiola, Axon Sales Representative, regarding a proposal to update Police body worn cameras, a Taser 7 upgrade, and a new investigations interview room recording system. Ms. Mendiola spoke about the products which Axon have to offer for updating the equipment noting that the Axon body cameras data would be stored digitally in one central cloud-based location. She spoke about the new technology of the

cameras and the battery life which is much improved. She spoke about evidence.com which has been created to consolidate all of the Cortez Police Department’s digital media evidence in one place, rather than three places as is the process currently. Discussion was held on the warranty of the cameras/tasers as well as redaction of the information. Kara Uzelac from Axon, spoke about the improvements that have been made to the tasers and spoke of the upgrade to the Taser T7 which is what is being proposed for the Police Department. Discussion was held on the equipment that is used by other agencies that work with the Cortez Police Department and Ms. Mendiola stated that she could run a report on the various agencies currently using Axon equipment. In answer to a question from Council, Ms. Mendiola spoke about the training that would be given to the Police Department on the equipment and noted that support is always available from Axon staff should there be any questions. Ms. Mendiola also spoke about the retention of the records (in MP4 format) until the period of time with which the records would be redacted as dictated by the City. In answer to a question from Councilmember Lucero, Chief of Police Knuckles stated that the City’s current computer system is able to handle the technology for the new equipment as most of the information is cloud based.

4. PUBLIC HEARINGS

a. Ordinance No. 1285, Series 2021. City Attorney Green stated that Ordinance No. 1285, Series 2021, authorizes a multi-year contract for auditor services for the years 2019-2025. He noted that the audits for 2017-2018 have been awarded to Atlas CPA’s and Advisors PLLC and Ordinance No. 1285, Series 2021, would approve the auditors to continue the auditing process for the City through the year 2025. He noted the benefit for having the auditors continue with the audits through the period of 2025 allows them to become familiar with the City’s process as they move through each of the years. Mayor Lavey opened the public hearing; however, no one spoke and the hearing was closed.

Councilmember Dobry moved that Council approve on final reading Ordinance No. 1285, Series 2021, approving a multi-year contract for auditing services (2019-2025). Councilmember Yazzie seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

b. QUASI-JUDICIAL – New Retail Marijuana Cultivation License for Chronic Therapy – Cortez. City Attorney Green stated that Chronic Therapy – Cortez has applied for a Retail Marijuana Cultivation facility license to be located next to their Retail Marijuana Store located at 1020 South Broadway. He noted that the cultivation facility will be owned by the same corporation and on the same property; therefore, the proposal meets the distance requirement. He reviewed the findings for approval of the facility from City Code Section 4-215 (1-10) and noted that the City Clerk will not issue a City license for the premises until the building (which needs to be constructed) receives a certificate of occupancy from the City. He noted that staff recommends approval of the Retail Marijuana Cultivation facility license. In answer to a question from Mayor Lavey, City Attorney Green stated that the fire hydrants will be required as part of the site development plan process as was approved by City Council (November 20, 2020). It was also noted that the Colorado Department of Transportation (CDOT) regulations will also be met as part of the site development

plan approval. Mayor Lavey open the public hearing; however, no one spoke and the hearing was closed.

Mayor Pro-tem Medina moved that Council approve the application for a Retail Marijuana Cultivation Facility License for Chronic Therapy – Cortez LLC, DBA Chronic Cultivation, located at 1020 South Broadway, Cortez. Councilmember Huckins seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

5. UNFINISHED BUSINESS – None.

6. NEW BUSINESS

a. Ordinance No. 1286, Series 2021. City Attorney Green stated that Ordinance No. 1286, Series 2021, approves the purchase of items from Axon Enterprise, Inc., which would include body cameras, taser 7 update, and an investigations interview room recording system. He noted that the digital evidence is stored in one central cloud-based location and all the equipment would be brought up to date allowing for the Police Department to remain compliant with Senate Bill 20-217. He stated that an ordinance is being presented for the contract with Axon Enterprise, Inc. as the agreement would be for five years. Chief of Police Knuckles spoke about the type of new body cameras that would be purchased (30 total) and the need to upgrade the taser weapons which are out of date. He also spoke about the digital evidence which is currently being stored at three different locations and requires three different processes to retrieve the data. He commented on the importance of storing the data in one location so there are no legal questions regarding the storage and transfer of the evidence. In answer to a question from Mayor Pro-tem Medina, Chief of Police Knuckles confirmed that the amount required to be added to the 2021 budget is \$69,206 for the body cameras and taser upgrade and \$14,822 for the interview room expenses. The total amount for the five-year agreement (total of \$363,356) would be allocated each year through the five-year period. Discussion was held on how the cameras work and it was noted that extra cameras would be available should a camera go down and the camera would be replaced through the warranty period. In answer to a question from Councilmember Huckins, City Manager Dougherty stated there is funding available for the purchase in the 2021 budget and it was discussed which divisions the expense would be designated through.

Councilmember Yazzie moved that Council approve on first reading Ordinance No. 1286, Series 2021, regarding the purchase of items from Axon Enterprise, Inc., and set for public hearing on March 23, 2021. Councilmember Dobry seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

b. Resolution No. 8, Series 2021. City Clerk Smith stated that Resolution No. 8, Series 2021, authorizes a mail ballot election to be held on June 8, 2021. She noted that Ordinance No. 1283, Series 2021, set the question for the election and Resolution No. 8, Series 2021, would set the

election process as a mail ballot election. She noted that Colorado Revised Statutes 31-10-108 allows Council to set the election on any Tuesday designated by resolution. In answer to a question from Councilmember Yazzie, City Attorney Green noted that the election does not obligate the City to provide telecommunications services to the community but the question asks the citizens about the opportunity for the City to research the options.

Councilmember Huckins moved that Council approve Resolution No. 8, Series 2021, authorizing a mail ballot election to be held on June 8, 2021. Councilmember Rainey seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Eight Out-of-City Water Taps and Pre-Annexation Agreement for Property Located at 26833 Road L, Montezuma County, as requested by Jarrod and Colette Wyatt. Director of Public Works Johnson stated that the City allows for owners of property located outside the City limits to purchase a City water tap when they are near an existing City main waterline. He noted that the City has received an application from Jarrod and Colette Wyatt requesting the installation of eight out-of-City water taps to be installed on their property located in Montezuma County and addressed as 26833 Road L. He spoke about the area that is already served by the City that is adjacent to the property and commented that it makes sense to keep the property in the City’s service area. He stated that the Wyatt’s have submitted a letter of application, a signed contract for the out-of-City water service, and completed the Pre-annexation Agreement, as required for consideration of water service outside the City limits. He noted that the Wyatt’s have completed the process with the County for the new lots that will be accessed through County Road L. He stated that staff is in support of approving the water taps with the requirement that a backflow prevention device be placed on each tap. He noted that the water service connections would cost \$8,766.45 per tap. Discussion was held on fire hydrants to be located in the development and it was noted that the Cortez Fire Protection District would be working on that process with the applicants. It was noted that water flow for the fire hydrants would be worked out with the City.

Mayor Pro-tem Medina moved that Council approve the application for eight (8) ¾-inch out-of-City water taps and pre-annexation agreement for the property located at 26833 Road L, as submitted by Jarrod and Colette Wyatt, with the stipulation that the applicant install approved backflow prevention devices for each water tap. Councilmember Yazzie seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

d. Request for New Full-Time Assistant Chief at Police Department. Chief of Police Knuckles stated that a request is being made for an additional full-time employee at the Police Department for the position of an Assistant Chief. He spoke about his desire to focus more on community policing and less on the traditional form of arrest and release policing. He spoke about the role that an Assistant Chief could offer to the Police Department and the supervisory responsibilities that could be shared with the Patrol and Detective divisions. He stated that the Assistant Chief could be a

conduit between the community and the Chief for any complaints or concerns. He spoke about the past history when the City had an Assistant Chief which ended in 2002. He commented that an overall concern that has been brought up by Police Department employees is the lack of direct supervision for some employees and the need for better communication between the different divisions and departments. He stated that he feels that the concerns seem to be due to the enormous management responsibilities that have been placed on two lieutenants. He stated that by adding the new position, the Police Department can restructure some of the positions and spread the responsibility between three employees. Chief of Police Knuckles spoke about his service in the National Guard and noted that if he was called to serve, the Assistant Chief could take over command. Discussion was held on the salary for the new position and it was noted that, depending upon when the position was filled in 2021, the expense would be for only the months that the person is hired in 2021 and the full expense would need to be budgeted in 2022. Discussion was held about possibly using a portion of the jail budget in 2021 for the salary as the jail has not been used by the City much and City Attorney Green commented that there is new legislation that may change the way that Municipal offenses are charged (fines only with no jail time). In answer to a question from Councilmember Huckins, Chief of Police Knuckles stated that there are a couple of employees in the Police Department that would be qualified for the position though he is not sure if they are interested. It was noted that there would be an extra body camera/taser for this position should it be approved.

Councilmember Dobry moved that Council approve a new full-time (FTE) Assistant Chief for the Police Department and the salary be added to the 2021 Budget, and subsequent years thereafter. Councilmember Yazzie seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

e. Resolution No. 7, Series 2021. Associate Planner Connolly stated that Resolution No. 7, Series 2021, approves an amended plat of Lots 8 and 9 of the Southern Bluffs Subdivision, Second Amended, as submitted by owners Rodney and Debra Case. She stated that the lots are addressed as 625 and 633 East 7th Street in the Manufactured Housing (MH) zoning district. She stated that the applicant is proposing to consolidate two lots into one lot, resulting in Lot 8A which will be 16,499 square feet in size. She noted that the existing lots are vacant. She reviewed Section 6.09 of the City’s Land Use Code regarding plat amendments commenting that the proposal meets criteria #9, relocation of one or more lot lines between one or more adjacent lots or parcels where the owner or owners of all such property join in the application for the plat amendment. She stated that there were no concerns from the utility suppliers and affected special districts and staff recommends approval.

Councilmember Yazzie moved that Council approve Resolution No. 7, Series 2021, approving an amended plat of Lots 8 and 9 of the Southern Bluffs Subdivision, Second Amended, as submitted by owners Rodney and Debra Case, with two conditions. Councilmember Dobry seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	Yes	Yes	Yes	Yes	Yes	Yes

f. Safely Re-Open City Council Chambers for the Public. Councilmember Dobry stated that Dr. Aiken spoke during the Council worksession about options to safely re-open the Council chambers and provide a safe environment for everyone. He spoke about the accommodation of allowing the public to attend the meetings in person as some of the public does not have access to ZOOM. Discussion was held about all of the Councilmembers being in attendance in the Council chambers should the public be allowed in. It was noted that Dr. Aiken suggested that the City follow the State guidelines on in-person meetings which the COVID dial currently allows 50% of the room capacity. Councilmember Dobry commented that he would like to include in a motion for re-opening the chambers for Council meetings that face masks would be required to be worn in the Council chambers, health screenings would be held at the front door, and reasonable accommodations would be made to provide an auxiliary room for citizens that can not wear face masks or citizens could continue to participate by ZOOM. Discussion was held on the time limit for people to stay in the building as well as ventilation of the space. It was noted that vaccinations have increased in the community and the County is now in level Blue on the COVID dial. Discussion was held on when the doors would be open (prior to worksession or the Council meeting) for the public. Council agreed that rules would need to be set so that it is clear on what would be required by the public for entrance into the building and Council asked that staff publish the rules prior to the next Council meeting. Discussion was held on the four minute rule being followed for citizen participation and that Council adhere to the safety requirements outlined by the CDC (Center for Disease Control and Prevention). City Manager Dougherty stated that he would work with staff on the ventilation system to continue through the Council meeting and the rules would be sent to Council to review prior to publishing.

Councilmember Dobry moved that the Council chambers be re-opened to the public at a capacity that is appropriate with the State COVID dial regulations, that face masks be required to be worn in the Council Chambers, health screenings will be held at the front door, and reasonable accommodations (an axillary room) will be made to allow citizens that cannot wear masks into the building. Also added to the motion, was that ZOOM would continue to be available for citizens, staff, and Councilmembers. Councilmember Yazzie seconded the motion, and the vote was as follows:

Dobry	Huckins	Lavey	Lucero	Medina	Rainey	Yazzie
Yes	No	Yes	No	Yes	No	Yes

Vote passed 4-3.

7. DRAFT RESOLUTION/ORDINANCES - None

8. OTHER ITEMS OF BUSINESS

a. Executive Session. No Executive Session was held.

9. CITIZEN PARTICIPATION

a. Open Council Chambers/COVID Regulations. Sherry Simmons made several comments on

opening the Council chambers during Council meetings noting that there does not seem to be a problem at the Montezuma County meetings with the public attending. She reviewed information on what COVID regulations have cost the community as well as the damage that has been caused to the citizens. She stated that everyone should work together to open the Council chambers and let each person make the choice for themselves on attending the meeting or not.

b. COVID Information. Tiffany Ghre thanked Council for advocating to meet in person and asked that Council announce who they are when they speak as it is hard to see who is speaking through ZOOM. She spoke about the right of a person to chose what they will and won't do. She shared information that she has researched in regard to wearing masks and the effects of COVID. She asked when the citizens can ask questions of Council and when Council will be responding to those questions.

c. Elected Officials. Mindy Nelson stated that people elected the Council members and Council is not listening to the people. She stated that Council needs to represent the community and step down if they are afraid.

10. CITY ATTORNEY'S REPORT – None.

11. CITY MANAGER'S REPORT – None.

12. CITY COUNCIL COMMITTEE REPORTS

a. Mayor's Report on Workshop. Mayor Lavey stated that discussion in the worksession included a consultation with Dr. Aiken on the safe re-opening of Council meetings to the public. Also, an update was given on plans to open the outdoor pool this summer with Council discussing the issue further in April. Mayor Lavey stated that an Executive Session was held as per C.R.S. Section 24-6-402(4)(b) for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions regarding Water 101. Due to time restraints, the Library report will be rescheduled to the next Council meeting.

b. COVID Vaccinations. Councilmember Yazzie thanked the health care system for getting the vaccine out to the public and noted that the Ute Mountain Ute Tribe has also been contributing to getting the vaccine out to anyone that would like one. She noted that the vaccine has been provided to over 10,000 people in the community so far and it is thanks to all the hard work of many dedicated people including a lot of volunteers.

The regular meeting was adjourned at 10:02 p.m.

ATTEST:

Linda L. Smith, City Clerk

Michael J. Lavey, Mayor