

CITY COUNCIL
REGULAR MEETING
TUESDAY, JANUARY 12, 2021

1. The meeting was called to order at 7:30 p.m., through ZOOM. The meeting was opened with the Pledge of Allegiance. Councilmembers present were Mayor Mike Lavey, Robert Dobry, Amy Huckins, Mayor Pro-tem Rachel Medina, David Rainey, and Arlina Yazzie. Councilmember Orly Lucero was absent. Staff members present were Director of Parks and Recreation Dean Palmquist, Chief of Police Vernon Knuckles, Associate Planner Neva Connolly, City Planner Tracie Hughes, Director of General Services Rick Smith, Network Administrator Bill Kuhn, City Clerk Linda Smith, City Manager John Dougherty, and City Attorney Mike Green. There were 28 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 of December 8, 2020.

 - b. Approval of the payment of the Expenditure Vouchers of January 12, 2021.

 - c. Approval of a renewal Hotel and Restaurant Liquor License for Rodgers Inc., DBA Shiloh Steakhouse, located at 5 Veach Street, Cortez.

 - d. Approval of a renewal Fermented Malt Beverage Liquor License for Safeway Store Forty Six Inc., DBA Safeway Store #1892, located at 1580 East Main Street, Cortez.

 - e. Approval of a renewal Hotel and Restaurant Liquor License for Lakeside Lanes Inc., DBA Lakeside Lanes, located at 410 Lakeside Drive, Cortez.

 - f. Approval of a renewal Liquor Store Liquor License and Tastings Permit for West Slope Liquors Inc., DBA West Slope Liquors, located at 2212-1 East Main Street, Cortez.

 - g. Approval of a Modification of Premises for THA Corporation, DBA The Herbal Alternative, located at 1531 Lebanon Road, Cortez.

Councilmember Dobry moved that the Consent Agenda be approved as presented. Councilmember Huckins seconded the motion, and the vote was as follows:

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

3. PRESENTATIONS – None.

4. PUBLIC HEARINGS
 - a. Resolution No. 1, Series 2021. Councilmember Yazzie disclosed for the record that she had attended one of the preliminary meetings on the project and had spoke to the City Attorney

regarding her participation in the discussion. She noted that City Attorney Green did not feel there was a conflict of interest and she could participate in the discussion. City Planner Hughes stated that Resolution No. 1, Series 2021, approves a Conditional Use Permit to establish a multi-family development on property located on Empire Street in the Multi-family Residential (R-2) zone. She stated that Pinon Associates, Inc., owner of the 9.17 acre lot, is proposing phase one on the property which would consist of 50 apartments varying from one to three bedrooms in size and include a leasing office area and amenity facilities for the residents. She reviewed the proposal which shows four buildings that would consist of a total of 18,132 square feet (three-story) and noted that all the setback requirements have been met for the zoning district. She commented that the proposal is compatible with other surrounding uses which include a multifamily apartment complex located immediately east of the lot. She commented that the Cortez Planning Commission unanimously recommended approval of the project and noted that two audience members spoke (by ZOOM) about a concern with the driveway and funding of the project. She noted that the proposal meets the parking and landscaping requirements. She reviewed the conditions of approval from Land Use Code Section 6.10(f), Conditions of Approval of a Conditional Use Permit, noting that adequate public services are available for the proposed structure and should not cause a reduction in services to other existing uses in the area. She reviewed the agency/utility provider comments and stated that the project meets several goals of the Comprehensive Plan, such as an infill development and offering affordable housing. Mayor Pro-tem Medina spoke about entrance onto Empire Street from the project and suggested that the City consider developing a collector road in the area for future phases of this project rather than the project having a driveway. Director of Public Works Johnson spoke about the easement located on the western boundary of the property commenting that the easement is only for utilities, not a right-of-way (ROW) owned by the City. City Attorney Green spoke about the difference between an easement and ROW. In answer to a question from Mayor Lavey, Chad Holtzinger, Shopworks Architecture, stated that the project is only for phase one and future phases are many years out. He spoke about future development of the lot and a possible connection to Driscoll Street in future phasing of the property. Mayor Lavey opened the public hearing.

Houston Frizzell stated that the driveway for his property is located on the west side of this proposed development and he has a concern with the project lining up with his driveway. He questioned why the Pinon Project is getting into the real estate market and if there is a need for more low income housing in the community. He spoke about the proposal including one bedroom apartments and how that would be serving families. He also stated his concern for water flow on the property towards the Carpenter Natural Area which is the direction in which the property slopes. He stated that people already cut through his yard and that will continue with this new proposal. He stated that he does not support the project; however, if approved the driveway has to be moved away from his back yard.

Alston Turtle, Treasurer for the Ute Mountain Ute Tribe, spoke in favor of the project noting that it is a great opportunity to establish partnerships with the community. He stated that it gives Tribal members the opportunity to apply for housing in Cortez and noted there is a shortage of housing throughout the area. He thanked everyone involved in reaching out and including the Ute Mountain Ute Tribe in the process.

Kelli Willis, representing the Pinon Project, commented that there is a housing shortage in the

community and the waiting list is many years out. She stated that people need their basic needs met to thrive and to do that, housing is a important part of meeting those needs.

Tiffany Ghere stated that Mr. Frizzell has valid concerns about the demographics and what low income housing references. She spoke about her concerns with the Patriot issues that have been happening. It was pointed out that Citizen Participation is later in the meeting and this public discussion is only on the project that is being proposed. Oriana Sanchez, Blueline Development, stated that the presentation is for a Conditional Use Permit for the property, not who will live there. She stated that it has not been full discussed on how many of the apartments will be one, two, or three bedrooms as the discussion on what the housing needs are for the community will be more defined as the project proceeds. Ms. Sanchez stated that information will be shared with the community on what the housing needs will be to best serve the community.

Kelli Unrein stated that she is in favor of the project and noted that there is a two to four year waiting list through the Housing Authority for housing. She spoke about families that get in to homes that they can't afford then they receive bad credit and it is hard to be accepted through the HUD process. She stated that affordable housing is a real need in the community.

Paul Beckler, 818 Sligo Street, stated that he has seen it many times that people that are in rentals they can't afford and become behind on their rent and they bounce from place to place. He commented that affordable housing is really needed. He thanked Mayor Pro-tem Medina for the discussion on the Master Streets Plan and a possible public thoroughfare being developed in the area.

Julie Whiteley thanked Mr. Turtle for his comments on working together and engaging the community as a whole.

Sheldon Howerton stated that he owns property (three houses) to the west of this proposal and has many concerns regarding the development. He spoke about the traffic that travels to fast on Empire Street and the semi-trucks that are also using the street to get through. He asked that someone speak with him about the proposal and City Manager Dougherty asked that Mr. Howerton contact him and City staff would explain the project to Mr. Howerton in more detail. No one else spoke and Mayor Lavey closed the public hearing.

Mayor Pro-tem Medina moved that Council approve Resolution No. 1, Series 2021, approving a Conditional Use Permit to establish a multi-family development on property located on Empire Street in the Multi-Family Residential (R-2) zone, as submitted by Christian Pritchett of Blueline Development, Inc., agent for property owner Pinon Associates, Inc., with five conditions. Councilmember Rainey seconded the motion, and the vote was as follows:

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

b. Resolution No. 2, Series 2021. Associate Planner Connolly commented that Resolution No. 2, Series 2021, approves a site development plan to construct a 931 square foot addition to Mi Mexico, located at 801 East Main Street. She stated that the site plan proposal would be to enclose

an existing concrete slab that currently functions as outdoor dining space. She noted that the new addition increases the gross floor area by over 20%. She reviewed Land Use Code Section 6.14(d) regarding site development plan approval and noted that the addition does not trigger any additional parking or landscaping requirements. She stated that there were no agency/utility provider concerns with the project and staff recommends approval.

Robert Nelson, representing the applicant Mi Mexico, stated that the enclosed area would enhance the dining area for patrons as the outside patio has issues with the weather. In answer to a question from Mayor Pro-tem Medina, Mr. Nelson stated that the proposal will not affect the site distance onto Main Street as the only area being enclosed is the current patio. Mayor Lavey opened the public hearing; however, no one spoke and the hearing was closed.

Councilmember Dobry moved that Council approve Resolution No. 2, Series 2021, approving a site development plan to construct a 931 square foot addition to Mi Mexico, located at 801 East Main Street, as submitted by Robert Nelson, authorized representative for owner Sofia Rodriguez, with two conditions. Councilmember Yazzie seconded the motion, and the vote was as follows:

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

c. Ordinance No. 1282, Series 2020. City Manager Dougherty stated that Ordinance No. 1282, Series 2020, approves the City to enter into an agreement with the Colorado Department of Revenue for the Sales and Use Tax System (SUTS) to collect centralize and simplify the collection of taxes for online sales. He stated that the City does not have the resources for capturing on-line sales taxes except through this system. He stated that this regulations came out of a U.S. Supreme Court ruling which allows merchants a way to collect and distribute taxes. Mayor Lavey opened the public hearing; however, no one spoke and the hearing was closed.

Councilmember Huckins moved that Council approve on final reading Ordinance No. 1282, Series 2020, approving the City to enter into an agreement with the Colorado Department of Revenue for the Sales and Use Tax System (SUTS) to collect centralize and simplify the collection of taxes for online sales. Councilmember Rainey seconded the motion, and the vote was as follows:

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

5. UNFINISHED BUSINESS – None.

6. NEW BUSINESS

a. City Manager's Contract. Mayor Lavey stated that discussion had been held in Executive Session during the Council worksession about the City Manager's contract. He stated that Council would like to further address the issue.

Councilmember Dobry moved that Council amend the agenda to add the City Manager's Contract as the first item of discussion in New Business. Councilmember Yazzie seconded the motion, and

the vote was as follows:

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

Councilmember Dobry moved that Council authorize the City Attorney to complete the addendum to the City Manager's contract adding a 2% raise at Mr. Dougherty's six month date and to include the 3% increase that was already agreed upon for Mr. Dougherty's annual review (July 2020). Councilmember Huckins seconded the motion, and the vote was as follows:

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

b. Appointment to the Parks, Recreation, and Forestry Advisory Board. Director of Parks and Recreation Palmquist stated that two adult vacancies and two youth vacancies exist for the Parks, Recreation, and Forestry Advisory Board and Lucia Story has sent a letter of interest to the City to fill one of the vacancies. He stated that the Parks, Recreation, and Forestry Advisory Board has unanimously given their support for Ms. Story to be appointed and Council interviewed Ms. Story during the Council worksession prior to the regular meeting.

Councilmember Yazzie moved that Council appoint Lucia Story to fill an open seat on the Parks, Recreation, and Forestry Advisory Board. Councilmember Huckins seconded the motion, and the vote was as follows:

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

c. Acceptance of the 2016 Audit. City Manager Dougherty stated that Council was presented the results of the 2016 Financial Audit, as conducted by Mayberry and Associates, at the December 8, 2020, meeting. He stated that the audit needs to be accepted by City Council and after that approval is received, the auditors will be notified to send the finalized copies to the various organizations that are required to have a copy. He noted that the 2017 audit is being worked on by Lorraine Trotter and it seems to be going a lot smoother.

Councilmember Dobry moved that Council accept the 2016 Audit Financial Statements with Independent Auditor's Report as presented by Mayberry and Associates. Councilmember Rainey seconded the motion, and the vote was as follows:

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

d. Phase 1 Fiber to the Airport Budget. Director of General Services Smith stated that at the last City Council meeting (December 8, 2020) Council authorized the Memorandum of Understanding (MOU) to partner with Montezuma County to construct fiber down to County Road G and Highway 491 intersection. He stated that the project will be the first phase of Fiber to the Airport. He stated that the City revenues were better than projected and some surplus is available for capital projects.

He stated that the City Equipment Fund balance grew due to no purchases being made in 2020 and staff is recommending that the Cortez Community Network (CCN) Enterprise receive a loan from the City Equipment Fund to be used towards the match of \$300,000 with Montezuma County for the project. He noted that the CCN Enterprise plans to expand the broadband service area to include businesses and residents along the planned route of the joint project making broadband services available from 5th Street on South Broadway down to the City limits. He noted that the project has regional impacts for broadband and is a win/win for the City and County for economic development and each save half of the cost to build on their own by partnering together. Mayor Pro-tem Medina disclosed for the record that she has participated in the joint meetings in her job as a GIS Specialist. Councilmember Huckins stated that she is appreciative that the City is working on this project with the County and complimented Director of General Services Smith on spearheading the project.

Mayor Pro-tem Medina moved Council approve funding for the Phase 1 Fiber to the Airport Budget. Councilmember Huckins seconded the motion, and the vote was as follows:

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

7. DRAFT RESOLUTION/ORDINANCES – None.

8. OTHER ITEMS OF BUSINESS

a. Council adjourn to Executive Session at 8:50 p.m., for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e). Discussion was held on the Cortez Community Network. Council adjourned from Executive Session at 9:08 p.m.

Councilmember Dobry moved that Council direct the City Attorney to bring forward ordinances to prepare for a special election regarding opting out of Senate Bill 152. Councilmember Rainey seconded the motion, and the vote was as follows:

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

9. CITIZEN PARTICIPATION

a. Pinon Project Concerns. Houston Frizzell stated that Mr. Howerton expressed concerns he has with the Pinon Project and someone from the City should have met with him prior to Council taking a vote on the project so that his concerns could be addressed. He stated that Mr. Howerton could not hear the information and again stressed that Council should re-tract the vote on the project until after Mr. Howerton has had the opportunity to express his concerns.

b. Pinon Project Concerns/Patriot Confrontation. Tiffany Ghre asked where is the money coming

from for the Pinon Project housing project and City Attorney Green stated that Ms. Willis had explained where the funding was coming from during the Planning and Zoning meeting but if Ms. Ghere would like further explanation on the funding she would need to contact Ms. Willis. Ms. Ghere asked about the HUD sanction and if it would be required for the residents of this project to adhere to, and City Attorney Green stated that the information on who reside in the apartments would not be part of the Conditional Use Permit process which was what was presented for Council's review. Ms. Ghere stated that there is no demographics that is known for this project and asked why the City would approve the project without that information. In answer to a question from Ms. Ghere as to why the Council would not re-tract the vote on the Pinon Project proposal, City Attorney Green stated that the project has already been discussed and Ms. Ghere's comments will be included in the record. Ms. Ghere also spoke about the Patriots confrontation that happened with Mayor Lavey and she apologized that she did not want to be a part of that kind of confrontation as it should be addressed directly with Council. She asked that a conversation be held with Mayor Lavey on where he stands.

c. Pinon Project Concerns. Krista Montez stated that she agrees that Council should not approve a project that they don't know where the money is coming from and that it is a concern on what the regulations are for the residents that will live there.

10. CITY ATTORNEY'S REPORT – None.

11. CITY MANAGER'S REPORT

a. Council Retreat. City Manager Dougherty stated that he has found a facilitator that would be available for a Council retreat and asked for direction on how to proceed. After discussion by Council, Mayor Pro-tem Medina stated that she would complete a Doodle Poll and find out which date would work best for everyone. It was decided that a Saturday from 10:00 a.m. to 2:00 p.m. would be the best date and time and it was suggested that the event be held outside, possibly the gazebo in Parque de Vida. Council would like to discuss shared goals that the group may have as well as some team building. Council asked that the City Manager and City Clerk be in attendance.

b. Opening of City Hall. City Manager Dougherty stated that City Hall will be open Monday, January 18 and Friday, January 22, 2021, from 11:00 a.m. to 1:00 p.m. and will open to full business hours beginning Monday, January 25, 2021.

c. CARES Funding Distribution. City Manager Dougherty thanked the committee for distributing all the CARES money to the local businesses by December 31, 2020, and shared that amounts that were awarded by Montezuma County, Town of Dolores, and Town of Mancos. He commented that the City distributed \$189,301 to 57 businesses. He commented that everyone has been thankful for the help.

c. Police Update. City Manager Dougherty stated that Chief of Police Knuckles would like to give a report on the Police handling of marches held on past Saturdays. Chief of Police Knuckles spoke about the Police responses to the calls that have been received and commented that social media comments that continue to be posted are inaccurate. He noted that the investigations that are on going at the Police Department on reports that have been received regarding the Saturday incidents

and noted that six people have been charged with harassment. He stated that everyone has their First Amendment Rights and that is being honored but there is a line that can be crossed and the Police will handle the situations appropriately. He stated that he is available should anyone have any questions. Mayor Lavey complimented Chief of Police Knuckles and his officers for having communication with the various groups so there is an open dialog happening.

12. CITY COUNCIL COMMITTEE REPORTS

a. Mayor’s Report on Workshop. Mayor Lavey stated that discussion in the Council worksession included an Executive Session for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators as per C.R.S. Section 24-6-402(4)(e). He commented that discussion in the executive session was in regard to the City Manager’s contract. Mayor Lavey stated that also in the worksession, Lucia Story was interviewed for an open seat on the Parks, Recreation, and Forestry Advisory Board and an update was given on the Master Streets Plan and Highway Use Tax Fund (HUTF). Mayor Lavey reminded everyone to be kind.

b. Library Advisory Board. Mayor Lavey stated that a ‘greet and meet’ was held with the Library Advisory Board members and an update was given by the Library Director regarding opening the Library to the public as well as capital projects that may happen in 2021.

c. Thank Local Health Care Providers. Councilmember Yazzie asked that everyone take a moment and thank our Local Health Care Providers for their hard work. She stated that the southwest region has been working hard to get the COVID-19 vaccine out to the community and have done a great job.

The regular meeting was adjourned at 9:50 p.m.

Michael J. Lavey, Mayor

ATTEST:

Linda L. Smith, City Clerk