

CITY COUNCIL
REGULAR MEETING
TUESDAY, JANUARY 26, 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, Orly Lucero, Mayor Pro-tem Rachel Medina, David Rainey, and Arlina Yazzie. Staff members present were Director of General Services Rick Smith, Director of Parks and Recreation Dean Palmquist, Airport Manager Jeremy Patton, Director of Human Resources Matt Cashner, Network Administrator Bill Kuhn, City Clerk Linda Smith, City Manager John Dougherty, and City Attorney Mike Green. There were nine 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 January 12, 2021.
 - b. Approval of the payment of the Expenditure Vouchers of January 26, 2021.
 - c. Approval of a renewal Hotel and Restaurant Liquor License for El Burro Pancho LLC, DBA Gustavo's Authentic Mexican Restaurant and Bar, located at 125 East Main Street, Suite #A, Cortez.

Councilmember Rainey moved that the agenda be amended to allow item 6c (Airport Security Camera Upgrade) to be open for public comment. City Attorney Green stated that item 6c would not require public comment as the item is an RFP (request for proposal) process. He stated that more information will be shared on the item when it is reviewed by Council under New Business and will probably be recommended that the item be tabled.

City Attorney Green asked that the motion be made to amend the agenda should Council wish to make a motion following the discussion held in Executive Session. Councilmember Yazzie moved that Council add to the agenda item 8b to allow for Council discussion following the Executive Session. 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

Councilmember Yazzie moved that Council approve the consent agenda. 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

3. PRESENTATIONS – None.
4. PUBLIC HEARINGS – None.

5. UNFINISHED BUSINESS

a. Signature on 2016 Audit Report. City Manager Dougherty stated that the auditing firm of Mayberry and Company is requesting that the City sign off on the Audit Report exonerating them of any wrong doing in the performance of the 2016 audit. He stated that the auditors requested that the City Manager sign off on the representation letter; however, he noted that he was not the City Manager in 2016 and only became aware of the issues with the audit well after the 2016 books were being compiled. He stated that after talking with the City Attorney, it was suggested that the item be reviewed by Council and, if Council concurs, have the Mayor sign off on the report. Discussion was held on having the report signed so the audit can be completed and released to the State of Colorado. City Attorney Green stated that he would recommend that the report be signed and the City move forward. Councilmember Dobry questioned 14, 15, and 16 in the report in reference to fraud questions and disclosure and City Attorney Green stated that the auditors did not have knowledge of the fraud at the time of December 31, 2016, as the fraud was confirmed after that date. In answer to a question from Mayor Lavey, City Attorney Green stated that he does not know of past audits having a letter such as this, but the City has not been behind before. Councilmember Dobry noted that most of the current City Council was not on Council at that time and that his concern was the different dates in the letter.

Councilmember Rainey moved that Council table the request for the Mayor to sign off on the representation letter from Mayberry and Company to allow for more information to be received. Councilmember Lucero seconded the motion, and the vote was as follows:

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

Councilmember Huckins moved that Council authorize the Mayor to sign the representation letter from Mayberry and Company so the 2016 Audit can be filed with the State and other creditors. Mayor Pro-tem Medina seconded the motion, and the vote was as follows:

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

6. NEW BUSINESS

a. Phase 1: Fiber to Airport – Fiber Optic Cable Bid Results. Director of General Services Smith stated that the City of Cortez and Montezuma County have entered into a Memorandum of Understanding (MOU) to partner together to construct broadband down to the intersection of County Road G and Highway 491. He stated that the City authorized a budget of \$300,000 to match the County budget of \$300,000 and the timeline for completion of the project is planned for July 1, 2021. He stated that there is a long lead time for fiber optic cable in the marketplace, so to insure the availability to meet the project completion timeline, a bid was drawn up with six responses received. He stated that Graybar was the low bidder at \$229,260 and they have committed to a May 1, 2021, delivery. He stated that the City’s portion of the project will be for the cable and some of the commodity items and the County will be handling the construction part. In answer to question from Councilmember Dobry, Director of General Services Smith stated that

the numbers are unknown for the construction portion but the City should be on target with their contribution of \$300,000. Discussion was held on the need to order more fiber if necessary and Director of General Services Smith stated that this order should be enough cable for the first phase. It was noted that the cable is planned to be underground. In answer to a question from Councilmember Lucero, Director of General Services Smith stated that the fiber project for the Ute Tribe and the Southwest Colorado Council of Governments (SWCCOG) is attached to a Federal Grant which is in process at this time. He stated that the City is trying to be proactive to prepare and allocate the needs for the Ute Tribe and SWCCOG for future connectivity. He noted that the collaboration between the City and the County has been great.

Councilmember Huckins moved that Council award Phase 1: Fiber to the Airport - Fiber Optic Cable Bid to the low bidder – Graybar in the amount of \$229,260.00. 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. Addendum to the Independent Contract Agreement with Burkett Company, LLC. City Manager Dougherty stated that Chris Burkett has been the grant writer for the City of Cortez for many years and has been quite successful at getting numerous grants every year. He stated that the City only pays for the grant work when it is completed and the per hour amount is the same as last year. City Manager Dougherty stated that Mr. Burkett has not been working much this year due to the issues with the audits, but he continues to watch for grants for the future. City Attorney Green asked that an amendment be added to the addendum noting that the agreement is for the calendar year 2021.

Councilmember Dobry moved that Council approve the addendum to the Independent Contract Agreement between the City of Cortez and Burkett Company, LLC, to continue the contract for General City Grant Administrative Services with the addition that the agreement is for the year 2021. Mayor Pro-tem Medina seconded the motion, and the vote was as follows:

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

c. Airport Security Camera Upgrade. Airport Manager Patton stated that the security camera system at the Airport is comprised of piecemeal, antiquated cameras and video recorders and the system is vulnerable and unreliable. He stated that a break-in occurred that resulted in several thousands of dollars in theft in two hangars; therefore, a Request for Proposal (RFP) was completed for upgrading the camera system and seven proposals were received. He spoke about the \$10,000 amount that was budgeted for the upgrade noting that the amount is too low for what is needed to be completed. He stated that staff chose the second lowest bid due to the type of cameras that were bid as well as the compatibility with the existing internet system with some upgrades. He spoke about the difference in the cameras that were bid and the upgrade that would be done with Visionary Broadband. City Attorney Green stated that the low bidder has challenged the recommendation and in follow up with the bid it was determined that a specific type of camera was not requested in the bid and therefore the bids would need to be rejected. He stated that a new bid would need to be completed with the specifications noting what would be accepted for the cameras.

Discussion was held on the type of cameras that would be acceptable to meet FAA requirements.

Councilmember Yazzie moved that Council reject all the bids received for the Airport Security Camera Upgrade and that specifications be completed and the project rebid. 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

7. DRAFT RESOLUTION/ORDINANCES

a. Draft Ordinance for Special Election. City Attorney Green stated that a proposed ordinance is being presented for Council’s review to prepare for a final ordinance that will be presented to the voters of Cortez to re-establish the right of the City to provide advanced services (internet broadband services) telecommunications or cable television services. He commented that CRS 29-27-101 (SB 05-152) prohibits municipal governments from providing advance services, telecommunications and cable television services; however, the City may hold an election and, if approved by the voters, the City can provide advanced internet broadband services to City residents. He stated that the City would like to take the question forward for a Special Election tentatively scheduled for June 8, 2021. He stated that the ordinance would need to be changed a bit but would be presented for first reading on February 9, 2021. Councilmember Huckins noted that there are over 140 municipalities in Colorado that have already opted out of SB 05-152. City Attorney Green stated that the legal opinion that the City has from 2007 is no longer valid and the City of Cortez now needs to opt out of the Senate Bill if the City is to move forward with telecommunications in the community.

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). It was noted that discussion would be held on the replacement of the City Manager. Council adjourned from Executive Session to the regular meeting at 9:08 p.m.

b. Councilmember Dobry moved that Council direct a Special Meeting to be held on February 2, 2021, at 5:30 p.m., to interview executive search companies to complete the process of receiving applications for a new City Manager. 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

9. CITIZEN PARTICIPATION

a. Concern with Airport Security Camera Upgrade Bid. Alan Klein commented that he agrees with

the decision to reject all the bids on the Airport Security Camera Upgrade to allow for a bid process rather than a Request for Proposal (RFP) process. He commented that a bid process allows for a fair process as an RFP can be biased. He questioned the relationship the City has with Visionary Broadband and how they can be serving private customers from the beacon tower at the Airport. He also questioned why the Airport isn't using the CARES funding for upgrades to the bathrooms at the Airport to address COVID concerns.

b. Snow Removal. Lydia DeHaven thanked Council for their service. She stated that she is concerned for the lack of snow removal that is being done by the citizens in the community and asked if Council would review and update the City ordinance in regard to snow removal on all properties in the City. She stated that it is a safety hazard as the snow turns to ice and doesn't allow for people to be able to get around the community in the winter. Mayor Pro-tem Medina asked that Council discuss this item at the first available Council worksession. Councilmember Dobry asked that citizens be neighborly and help shovel people's sidewalks. It was noted that the City would get the word out to the community to shovel their sidewalks and encourage everyone to help their neighbors if they can.

c. Audit Report. Jason Dunlap spoke to Council about the audit report that was discussed early in the meeting noting that a Qualified Opinion is required from an auditor when an audit is completed. He spoke about the City having an indemnifying statement in the Opinion Letter, but noted this may already be covered under the City's insurance. He spoke about the new auditor and how that would be handled with transfer of information from previous audits.

d. Set the Record Straight. Gail Lavey stated that she would like to make a statement on a comment that was made at the last Council meeting (January 12, 2021) by Tiffany Ghre. She stated that she was personally and wrongly accused of actions that she did not commit. She stated that she has never had any encounters with Ms. Ghre and has not even met her. She stated that she was not the individual that marched up to the Patriot Group carrying a sign challenging patriotism and carrying wasp spray. She stated that she would like to touch on a priceless and worthy message, 'as individuals who live in Cortez and Montezuma County, we absolutely have the freedom to have different opinions, disagree on many ideas, what we value and what matters to us – that is truly the American way – but without a single doubt I believe there is space and place for all of us to live here, work here, have our families here, and to care in our many different ways about our community'. She stated that it is her desire, and believes it is possible, to live alongside one another, have civil discourse and courageous conversations, hear each other, and work out our many differences with dignity and respect. She thanked Council for the hard work they do for the community.

10. CITY ATTORNEY'S REPORT – None.

11. CITY MANAGER'S REPORT

a. Council Retreat and County Commissioner/City Council Joint Meeting. City Manager Dougherty stated that he has heard from a couple Councilmembers about his suggestion to move the Council retreat that will be held on February 20, 2021, to the golf course property. It was agreed that the golf course location would work well. City Manager Dougherty spoke about the

joint County Commissioner/City Council worksession that has been suggested and Council agreed that a different day, other than a regular City Council worksession night, would work better. A doodle poll will be sent out so a date could be chosen.

12. CITY COUNCIL COMMITTEE REPORTS

a. Mayor's Report on Workshop. Mayor Lavey stated that Patrick Rondinelli, Regional Manager with the Department of Local Affairs (DOLA) made a presentation on 'Council 101' training and is available should Council wish to reach out to him on any questions they may have regarding their role as Councilmember.

b. Mesa Verde Country Board Meeting. Councilmember Huckins noted that Kelly Kirkpatrick presented the 2021 Budget and discussion was held on how to do things differently due to the loss of revenue in Lodger's Tax. She stated that visitation at the Welcome Center in 2020 was 13,482 and in 2019 the visitation was 25,772. She stated that Cortez Retail Enhancement Association (CREA) and Mesa Verde Country are partners on the awarded \$25,000 matching grant that will continue to promote mountain biking in Montezuma County. Mayor Pro-tem Medina stated that the travel planner will continue with a few changes from the 2020 version. Councilmember Huckins noted that the deal that was offered in 2020 for anyone staying in the Cortez hotels two nights will receive a \$50 Cortez Cash Card, will continue in 2021.

c. Board of County Commissioners Attend Town/City Meetings. Mayor Pro-tem Medina stated that the County Commissioners have decided they will attend the Town/City meetings that they represent and Kent Lindsay will start attending the City of Cortez meetings and report back to the Commissioners on the happenings in Cortez.

d. Arts Committee/Cortez Cultural Center. Councilmember Rainey stated that the Arts Committee is planning to meet sometime in February and the Cortez Cultural Center has approved their 2021 Budget.

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

ATTEST:

Linda L. Smith, City Clerk

Michael J. Lavey, Mayor