

CITY COUNCIL
REGULAR MEETING
TUESDAY, APRIL 13, 2021

1. The meeting was called to order at 7:30 p.m., with the Pledge of Allegiance. The meeting was held with a Hybrid/in-person and through ZOOM format. 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 Recreation Supervisor Rosa Dimon, Water Treatment Plant Superintendent Rich Landreth, City Planner Tracie Hughes, Director of Parks and Recreation Dean Palmquist, and Director of Public Works Phil Johnson. Director of Finance Kelly Koskie, Chief of Police Vernon Knuckles, Director of Human Resources Matt Cashner, IT Support Technician Kyle Kuhn, System Analyst Shay Allred, IT Support Jason Gray, City Clerk Linda Smith, City Manager John Dougherty, and City Attorney Mike Green were present in the Council Chambers. There were five people present in the Council Chambers and 18 people in the auxiliary room at City Hall. Ten people were 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 March 23, 2021.

 - b. Approval of the payment of the Expenditure Vouchers of April 13, 2021.

 - c. Approval of a renewal Hotel and Restaurant Liquor License for Hunan Kitchen Inc., DBA Hunan Chinese Restaurant, located at 2561 East Main Street, Cortez.

 - d. Approval of a renewal Retail Marijuana Store and Retail Marijuana Cultivation Facility License for Mountain Annie's LLC, DBA The Medicine Man of Cortez, located at 310 East Main Street, Cortez.

 - e. Approval of a renewal Medical Marijuana Center/On Site Optional Premises Cultivation License for Mountain Annie's LLC, DBA The Medicine Man of Cortez, located at 310 East Main Street, Cortez.

 - f. Approval of a Modification of Premises for a Fermented Off-Premises Liquor License for Dillon Companies LLC, DBA City Market #8, 508 East Main Street, Cortez.

 - g. Approval of a Car Rental Agreement with Boutique Air Inc. for the Cortez Municipal Airport.

 - h. Approval of renewing the Bureau of Land Management Land Lease at the Cortez Municipal Airport.

Councilmember Lucero moved that the consent agenda be approved as presented. 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. CITIZEN PARTICIPATION

a. Road Plans. Charles Jeter, resides out of town but has membership at Four Corners Rifle and Pistol Club located on County Road 21, stated that he has concerns on the procedures for review of the road plans. He spoke about the public comment period on the plan being reviewed by the Planning and Zoning Department commenting that the City needs to have a better outreach program before moving the plan forward. He spoke about the importance of the road plans as they affect everyone and need to be well thought out.

b. Building Trust. Curtis Nelson, Road N, spoke about building trust and transparency with the public and commented that Council needs to be accessible for an open dialogue. He spoke about Council being elected officials by the people and that all County and City citizens are taxpayers and should be listened to.

c. Propane Prices. Eric Broyles, 2380 East Main, gave Council a handout regarding the rising cost of propane fuel. He spoke about the factors causing the rise in fuel prices and why he cannot change from the provider which services his propane tank. He asked that Council look into the issue which he feels needs emergency action as the costs are excessively higher than local or nationwide pricing.

d. Lack of Transparency. Sherry Simmons, County Road 20, began her comments with a prayer. She spoke about the requirements of the Sunshine Law which she feels Council has violated. She spoke about the respect for each other, and questioned the executive sessions that Council has had and the need for better transparency.

e. Code of Ethics. Lynette Ward, Ashlyn Drive, asked why everyone is separated and commented that everyone is equal. She spoke about the Code of Ethics and commented that Council needs to serve all the people. She stated that everyone has a voice and everyone matters.

f. Civil Rights. Jeff Coulon, Highway 145, spoke about the violations of the US Constitution by requiring a person to wear a mask and to take their temperature. He stated that no emergency regulation or ordinance can violate the constitution and that it is a violation of a citizen's civil rights to not be allowed entry into the Council chambers.

4. PUBLIC HEARINGS

a. QUASI-JUDICIAL ITEM – Review of a New Retail Fermented Malt Beverage Off-Premises Liquor License for Esmeralda's Ranchito Mexican Store. The Quasi-Judicial rules were read for the record. Chief of Police Knuckles was sworn in and presented his report regarding the issuance of a new Retail Fermented Malt Beverage Off-Premises Liquor License for Esmeralda's Ranchito Mexican Store, located at 2501 East Main Street, Cortez. He stated that public notice was posted in the newspaper and on the property as required and the poll of the surrounding neighborhoods and businesses show 45 were in favor of granting the license and zero were against granting the license. He stated that the location complies with the Colorado Liquor Code Rules and Regulations and the

location does not create any known public safety issues or endanger public health. The Police Department report was submitted for the record. Applicant, Esmeralda Estrada, 16464 Road W, Yellow Jacket, presented petitions which she had circulated for the record and thanked Council for the opportunity. Mayor Lavey opened the public hearing; however, no one spoke and the hearing was closed.

Mayor Pro-tem Medina moved that after considering the reasonable requirements of the neighborhood, the desires of the adult inhabitants, the necessity of any restrictions on the license, the good character of the applicant, and compliance with all the provisions of Colorado Revised Statutes 44-3-301, that Council approve a new Retail Fermented Malt Beverage Off-Premises Liquor License for Esmeralda’s Ranchito Mexican Store, located at 2501 East Main Street, Cortez. 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. Ordinance No. 1284, Series 2021. City Attorney Green stated that Ordinance No. 1284, Series 2021, approves regulations for snow removal from sidewalks in the City of Cortez. He spoke about repealing City Code Section 14-20 and replacing the language with new regulations. Discussion was held on the area which would be impacted by Ordinance No. 1284, Series 2021. He spoke about the reasons for changing the requirements for the snow removal adding regulations to apply to the residences on Main Street as well as the properties on Montezuma Avenue. He stated that the ordinance would allow for safe passageway to move people around the community and that the time for removal was changed from 24 hours to 12 hours. Mayor Pro-tem Medina commented that 12 hours is too short and 24 hours is more reasonable. She asked how the enforcement would be handled. He spoke about the City being pro-active in requiring the snow to be removed in certain areas and that the fine motivates people to comply. Councilmember Lucero noted that most of the sidewalks are City property and asked what happens if somebody shoveling slips on the City sidewalk. City Attorney Green stated some of the sidewalks are on City right-of-way and some are not. Councilmember Dobry stated that he has concerns with the fines and that he feels people should be noticed first on the requirement before being fined. Director of Public Works Johnson commented that the new ordinance affects an additional 130 residences and that he is not in favor of the ordinance as he feels more discussion should be held before the ordinance is put in place. Discussion was held on what may be done to help people that are not capable of shoveling their sidewalks and the reason for safe routes. In answer to a question from Councilmember Dobry, Director of Public Works Johnson stated that he could discuss the information with Council at a worksession prior to September and regulations could be finalized before the next snow season.

Mayor Lavey opened the public hearing. Charles Jeter stated that he feels more public outreach is needed and that the City should provide for people to be able to get around even in the winter time. City Manager Dougherty stated that he has worked in the snow belt for 20 years and it is important to have property owners clear their sidewalks of snow and ice just the same as clearing their alleys of weeds. He commented that it is financially impossible for the City to shovel all the sidewalks. No one else spoke and Mayor Lavey closed the public hearing.

Councilmember Dobry moved that Council deny Ordinance No. 1284, Series 2021, regarding snow

removal from sidewalks in the City of Cortez repealing Cortez City Code Section 24-20, removal of snow and ice in its entirety and enacting Cortez City Code Section 24-20, removal of snow and ice creation of safe routes. 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

5. UNFINISHED BUSINESS

a. City of Cortez Source Water Protection Plan. Water Treatment Plant Superintendent Landreth stated that Council was presented information on the Source Water Protection Plan on February 23, 2021, and a 30-day public comment period, as required by the State, has been held. He stated that one comment was received during the comment period time-frame from the Ute Mountain Ute Tribe Environmental Programs Department. He noted that the comment has been added as a potential partner in the “Abandoned Mines” section of potential contaminant sources. He stated that if Council approved the plan it would be submitted to the Colorado Department of Public Health and Environment (CDPHE) for review.

Councilmember Yazzie moved that Council approve the Cortez Source Water Protection Plan as presented and forward the plan to CDPHE for State approval. 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

6. NEW BUSINESS

a. Arbor Day Proclamation. Recreation Supervisor Dimon stated that the City of Cortez has observed Arbor Day for many years and this year Arbor Day is planned for Thursday, April 29, 2021. She commented that the Arbor Day event will be a virtual event for all fourth graders. She stated that the art work from the fourth graders is on display at the Recreation Center should anyone like to view it. The history of Arbor Day was included in the proclamation.

Councilmember Huckins moved that Council proclaim Arbor Day as April 29, 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

b. Commercial Lease Agreement with Interstate Improvement, Inc. Director of Public Works Johnson stated that the Colorado Department of Transportation (CDOT) Region 5 had approached the Public Works Department staff about using City property east of the Service Center as a staging area for their project in Cortez. He noted that CDOT is conducting two projects this summer: resurfacing of asphalt pavement on South Broadway, and micro-grinding the concrete pavement on Main Street, along with restriping the travel lanes and shoulders. He noted that Four Corners Materials is currently working on the asphalt pavement resurfacing portion and also has a lease with

the City for using property near the Service Center. He stated that the request for Interstate Improvement, Inc. is to lease City property for the micro-grinding portion of the project which will improve road conditions on US 160. He stated that the agreement would be for approximately seven months. City Attorney Green commented that he would like the City's real estate lease contract to be used for future lease agreements.

Mayor Pro-tem Medina moved that Council authorize the Mayor to sign the Commercial Lease Agreement with Interstate Improvement, Inc. to lease approximately five acres of City-owned property in the Industrial Park Expansion area for a project office and staging area for necessary support equipment. 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

c. Resolution No. 9, Series 2021. City Attorney Green stated that Resolution No. 9, Series 2021, adopts the Hazard Mitigation Plan dated September 2020. He noted that the mitigation plan is a result of a multi-jurisdictional effort to make all of Montezuma County more disaster restraint and makes a commitment to reduce risks from hazards. He stated that the plan can be used as a tool to help the decision makers direct mitigation activities and resources. He stated that staff recommends approval. Mayor Pro-tem Medina commented that Emergency Manager James Spratlen has regular meetings regarding emergency planning and it is rare to have representation from the City of Cortez. Councilmember Dobry stated that he would attend on the City's behalf.

Councilmember Yazzie moved that Council adopt Resolution No. 9, Series 2021, adopting the Hazard Mitigation Plan dated September 2020. 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

d. Ordinance No. 1287, Series 2021. City Attorney Green stated that Ordinance No. 1287, Series 2021, is being presented on first reading and outlines the multi-year franchise agreement with Atmos Energy. The ordinance was read in full for the record as required by the Public Utilities Commission (PUC). City Attorney Green noted that a public hearing and second reading of the ordinance is scheduled for April 27, 2021.

Councilmember Rainey moved that Council approve on first reading Ordinance No. 1287, Series 2021, granting a franchise by the City of Cortez County of Montezuma, Colorado to Atmos Energy Corporation, its successors and assigns, the right to furnish, sell and distribute gas to the City and to all persons, businesses and industries within the City and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said City all facilities reasonably necessary to furnish, sell and distribute gas to the City and to all persons, businesses and industries within the City and in the territory adjacent thereto and the right to make reasonable use of all streets and other public property as may be necessary, and fixing the terms and conditions thereof, and set for public hearing on April 27, 2021. Councilmember Yazzie seconded the motion, and the vote was as follows:

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

7. DRAFT RESOLUTION/ORDINANCES - None

8. OTHER ITEMS OF BUSINESS

a. Executive Session. Council adjourned to Executive Session at 9:05 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) to discuss an Interim City Manager and settlement of potential claim. Council returned to the regular meeting at 10:05 p.m.

b. Interim City Manager Appointment. Mayor Pro-tem Medina moved that a contract be offered to Chris Burkett to serve as Interim City Manager until a new City Manager is hired. Councilmember Dobry seconded the motion, and the vote was as follows:

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

9. CITIZEN PARTICIPATION

a. Transparency. Tiffany Ghere, 1752 Brook Street, commented that Council is not following the COVID regulations as the Governor has set out in regard to transparency for Council meetings and as outlined in the Sunshine Law. She commented that Councilmembers that are not comfortable to meet in person should resign and let someone else apply.

b. Public Participation. Mindy Nelson, Road N, commented on the recent Council retreat and that Council has changed how the public comment is received during Council meetings. She stated the people want transparency and trust and that Council should let people in the Council chambers.

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 prior to the worksession a demonstration was given by the Police Department on their new body cameras and tasers. Employees who were recently promoted at the Police Department were also introduced. Council thanked the Police Department for their willingness to serve the community and Mayor Lavey commented that the Police deserve the utmost respect. Discussion in the 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, under C.R.S. Section 24-6-402(4)(e), regarding water rights. Also, discussion was held on Empire Electric rates for solar projects and the February Financial Report was given. The Friends of the Bandshell gave an update on the band shell project.

b. Historic Preservation Board Meeting. Councilmember Dobry stated that the Historic Preservation Board meeting was held on April 7, 2021, and it was noted that May is Historic Preservation Month. He stated that information on the downtown historic tours is being distributed.

c. Southwest Colorado Council of Governments (SWCCOG). Mayor Lavey noted that the SWCCOG meeting was held on April 8, 2021, and discussion was held on a regional housing study and the ARPA (American Rescue Plan Act) which will be distributed to local communities. He stated that the One Call/One Click (transportation assistance) was also discussed.

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

Michael J. Lavey, Mayor

ATTEST:

Linda L. Smith, City Clerk