CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minute summary of the regular meeting of the City Council of Sierra Vista held on the 23 day of July, 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 13th day of August 2020

SEAL

Maria G. Marsh
Deputy City Clerk

Jill Adams
City Clerk
Sierra Vista City Council
Meeting Minutes
July 23, 2020

Mayor Mueller called the July 23, 2020 City Council Meeting to order at 5:00 p.m., Council Chambers, City Hall, 1011 N. Coronado Drive, Sierra Vista, AZ

Roll Call:
Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gwen Calhoun – present
Council Member Sarah Pacheco – present (5:02 p.m.)
Council Member Carolyn Umphrey - present
Council Member Kristine Wolfe – present

Others Present:
Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Adam Thrasher, Police Chief
Brian Jones, Fire Chief
Jeff Pregler, Planner
Blake Fisher, Planner
Nathan Williams, City Attorney
Jill Adams, City Clerk
David Felix, Finance Chief Officer
Jen Osburn, Interim Budget Officer

Invocation – Sabra Albritton, President, Sierra Vista Women’s Club, conducted the invocation by reading the Women’s Club Collect.

Pledge of Allegiance – Council Member Umphrey led the Pledge of Allegiance.

Item 1 Acceptance of the Agenda

Council Member Benning moved that the Agenda for the Regular City Council Meeting of July 23, 2020, be approved as written. Council Member Umphrey seconded the motion. The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.

City Manager’s Report: Mr. Potucek announced that the next regularly scheduled City Council Work Session will be held on August 11, 2020 at 3:00 p.m. in Council Chambers and the next regularly scheduled Council Meeting will be held on August 13, 2020 at 5:00 p.m. also in Council Chambers. He reported that the Ft. Huachuca Joint Resource Utilization Study (JRUS) Grant is out on the street as well as the National Environmental Policy Act (NEPA)
Environmental Clearance for the Emergency Medical Services (EMS) Substation, which is to be located across Seventh Street from Tompkins Park. He also reported on the sales tax numbers for the month May that were up $205,000, 12 percent, over last year putting the City at 4.4 percent for Fiscal Year 2020 over Fiscal Year 2019 with a 6.6 percent over budget for that period. The local economy has responded well and that is a credit to all the people and businesses in Sierra Vista. Lastly, he stated that the Governor reported positive results from his recent Order over the past two weeks. The numbers seem to be dropping at a rapid rate, but there is a lot of work to do. Cochise County’s numbers were down by 361 active cases, and the 85635-zip code is down to 66 active cases, and the 85650-zip code is down to 21 active cases.

Public Hearing

**Item 2 Resolution 2020-045, Application for a Series 7 liquor license for Kevin Arnold Kramber on behalf of Delect Foods of Arizona LLC dba Pizza Hut #036994, 900 E Fry Boulevard, Sierra Vista, Arizona**

Mayor Pro Tem Gray moved that Resolution 2020-045, an application for a Series 7 liquor license for Kevin Arnold Kramber on behalf of Delect Foods of Arizona LLC dba Pizza Hut #036994, 900 E Fry Boulevard, Sierra Vista, Arizona, be approved. Council Member Benning seconded the motion.

Ms. Adams stated that this application is for an ownership transfer of a Series 7 liquor license, a beer and wine, for the Pizza Hut Bistro on the west side of town. The notice of the public hearing was posted on the premises more than the required 20-days and no comments from the public have been received, pro or con. The background check performed by the Police Department found nothing to prohibit the application going forward. If the item is approved, the application will be returned to the State for final action.

Ms. Adams thanked Council Member Umphrey in pointing out an error in the application. Mr. Kramber had indicated that there was no drive through but has submitted the appropriate amendment to the State indicating that there is a drive through.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.

**Item 3 Resolution 2020-046, Application for a Series 6 liquor license for Kevin Arnold Kramber on behalf of 1949 Investments dba Rookies, 2239 E Fry Boulevard, Sierra Vista, Arizona**

Council Member Calhoun moved that Resolution 2020-046, an application for a Series 6 liquor license for Kevin Arnold Kramber on behalf of 1949 Investments dba Rookies, 2239 E Fry Boulevard, Sierra Vista, Arizona, be approved. Council Member Umphrey seconded the motion.

Ms. Adams stated that this application is for a Series 6 full bar liquor license as well as an ownership transfer. She noted that Mr. Kramber is the agent for this liquor license as well as that is his occupation, a professional liquor license manager. The notice of the public hearing was posted on the facility and no comments have been received, pro or con. The Police Department did their background check and have no objection to the application moving forward. If the application is approved, it will be returned to the State for final action.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.
Item 4 Ordinance 2020-004, Proposed Development Code Text Amendments Section 151.22.011(E)(2), Property Development Standards for Manufactured Home Parks

Council Member Wolfe moved that Ordinance 2020-004, proposed Development Code Text Amendments to Section 151.22.011(E)(2), Property Development Standards for Manufactured Home Parks, be approved. Council Member Umphrey seconded the motion.

Mr. Pregler stated that there has been a recent trend with installing larger size manufactured homes within existing manufactured home parks, and some of the manufactured homes have exceeded building setbacks on the park spaces. The Council approved a development agreement on January 23, 2020 to reduce the setbacks with the Mountain View Mobile Home Park because the homes exceeded the setbacks. Rather than continuing with development agreements for every individual park, staff is recommending an amendment to reduce the setbacks for manufactured home parks. The specific amendment would reduce the front and rear yard setbacks from 10 feet to five feet. The side yard setbacks for the parks is already five feet. The setbacks will provide flexibility for the park owner.

The Development Code requires that each space provide parking for two vehicles. To ensure that there is flexibility, the language will not dictate the location of the parking, but only ensure that there is ample space available for the parking. The Building Code requires a minimum of 10-foot separation between buildings and this number would meet that requirement. The Fire Marshall has indicated approval of the amendment provided additional site mitigation, if necessary, is included with the issuance of the building permit, i.e., trimming some of the overhead trees so that fire would not spread from space to space.

The Planning and Zoning Commission recommended unanimous approval at the July 17, 2020 meeting and the Code Amendments have been posted on the City’s web page since June, 2020 along with a link to the amendments, which was printed in the public notice published in the newspaper on June 21, 2020. To-date the City has not received any public comments.

Council Member Calhoun asked about foreseeable issues with parking spaces. Mr. Pregler stated that staff contacted the new owners of the Mountain View Mobile Home Park, who are in the process of purchasing Sierra Grande Mobile Home Park, and found that they have their own policy that they would provide enough space for two vehicles. He added that he does not foresee a problem, but if they cannot provide two vehicle spaces, they must provide a smaller manufactured home in that space.

Mr. Pregler was informed by the City Clerk of a public comment, which stated that the reduction of the setbacks will reduce green space that will push wildlife, i.e., hummingbirds out of town, and that the cost of the average house in the City would increase due to the increased size of the dwellings.

Council Member Calhoun asked if there is public space in the mobile home park. Mr. Pregler stated that Mountain View Mobile Home Park will be adding landscaping/green space, a community pool, and a recreation center.

Council Member Calhoun voiced her concern in that the whole landscape will be changed for the park. Council Member Pacheco stated that she was thinking back to the conversations with the park owners when the agreement first came up in January, 2020, and noted that the owner
at that time had mentioned that it is more common for manufactured homes to be larger. Mayor Mueller stated that he remembers that as well.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.

**Item 5 Resolution 2020-047, Adoption of the Final Budget for FY 2020-2021**

Council Member Umphrey moved that Resolution 2020-047, Final Budget for FY 2020-2021, be approved. Council Member Wolfe seconded the motion.

Ms. Osburn stated that the resolution before Council is for the adoption of the FY 2020-2021 operating budget for the City in the final amount is $86,748,629. The Tentative Budget as well as all State forms have been posted on the City's web site. In accordance with the State Statute, Council will meet on August 13, 2020 at 5:00 p.m. to vote on the primary property tax levy, which will conclude the budget process for FY 2021. Lastly, she stated that she will be completing the budget book that will be available to Council and the public at the end of September or early October.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.

**New Business**

**Item 6 Approval of the City Council Regular Meeting Minutes of July 9, 2020**

Council Member Pacheco moved that the City Council Regular Meeting Minutes of July 9, 2020, be approved as written. Council Member Calhoun seconded the motion. The motion passed by a 6/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, and Calhoun. Council Member Pacheco abstained.

**Item 7 Ordinance 2020-005, Acceptance of Big O Tires Annexation**

Council Member Benning moved that Ordinance 2020-005, Big O Tires Annexation, be approved. Council Member Calhoun seconded the motion.

Mr. Fisher stated that this is the final required Council action for the Big O Tires Annexation and acceptance into Ordinance. He further stated that on September 12, 2019, the City agreed to construct and finance a driveway access located within the Avenida Cochise right-of-way for Big O Tires. The driveway was to provide access for the subject property to Avenida Cochise and in return, the owner, Cochise Roadworks, LLC agreed to sign a pre-annexation agreement for the property. This decision was in line with ongoing annexation policy, which targets County enclaves like Big O Tires.

Noting the completion of Big O Tires, staff proceeded with the filing of a blank petition with the County Recorder on June 12, 2020, and the decision to proceed with the signing of the blank petition was approved by Council on July 9, 2020. Utilizing the signature ascertained from the pre-annexation agreement, the blank petition is now technically signed and ready for acceptance into Ordinance. If the annexation is accepted and recorded at the Cochise County Recorder, a 30-day challenge period will begin. Following the challenge period, the annexation will officially take effect. Upon that the zoning of the property would change from its current
designation as General Business to the equivalent City zone of General Commercial. The property will add property tax, sales tax, and license revenue to the City, and service cost should be minimal as this is a single parcel already surrounded by City right-of-way and there are no more proposed infrastructure improvements.

The motion passed by a 7/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Umphrey, Wolfe, Pacheco, and Calhoun.

Item 8 Resolution 2020-048, Court Consolidation Agreement with Cochise County

Mayor Pro Tem Gray moved that Resolution 2020-048, Court Consolidation Agreement with Cochise County, be approved. Council Member Umphrey seconded the motion.

Ms. Yarbrough stated the agreement will extend the partnership with Cochise County to provide for consolidated court services. Judge Conlogue had reviewed the previous agreement and proposed changes to streamline it, which would state that the municipal court is merged into and consolidated with the Sierra Vista Justice Court Precinct Five that would then provide the services of a municipal court. Therefore, references to the Sierra Vista Magistrate Court and City Magistrate are thereby removed as redundant.

There are additional terms added in Section Three, Subsection D that requires reporting from the County. The requirements are more vague than discussed with the Council previously primarily because work is still taking place on determining exactly what reports the City can get; although, the City has been able to receive a significant amount of information in the past few weeks from County staff.

Ms. Yarbrough shared that the Court reported that the reports are difficult to produce in a timely manner due to the limited ability within the County to run specific reports. The reports must be requested from the State Administrative Office of the Court. Once that data is pulled, the State Court Analyst prepares the report and sends it to the County, which it then passed on to the City. The State holds the official record/data and handles all information technology and therefore, they control the permissions of the County to the information.

Section Four, Subsection D was added to the agreement that states that the City’s payment to the County is dependent upon receiving data. This will be an ongoing process as the agreement is extended for one year. Staff will come back to Council much earlier than one year with the information requested by Council. Staff will also continue the work on determining a formula on the money that the City spends on court services.

The financial impact is $161,000, which is included in the Fiscal Year 2021 budget, for $100,000 for court costs and $61,000 for a part time magistrate pro tem.

Council Member Benning suggested tabling item 8, Resolution 2020-048, Court Consolidation Agreement with Cochise County because judges are holding a meeting on July 24, 2020 for the ethical process of the Justice of the Peace Five taking on the magistrate for the cities. Mayor Mueller noted that the meeting is about all the other courts and not Sierra Vista.

Council Member Benning stated that he is uncomfortable voting on a blank agreement rather than a permanent agreement that will not solve anything. Council Member Benning made a motion to table the item 8, Resolution 2020-048, Court Consolidation Agreement with Cochise County. Council Member Pacheco seconded the item.
Council Member Benning explained that the agreement with modifications, due to Ms. Yarbrough’s meetings with the County and hard work, concerns him because the Council needs more information so that an informed decision may be made, not just for the City but for the City’s constituents, and the courts as there are new judges coming in. He added that Council passed its annual budget and would not have approved it if City staff had not provided proper information; therefore, he finds it hard to approve an agreement with another entity that does not have all information needed to make a decision.

Mayor Mueller asked Council Member Benning about the type of information he needs to be able to decide. Council Member Benning stated that currently the figures from the County lack net profits for the Justice of the Peace. Mayor Mueller stated that it is not accurate and asked Mr. Potucek to elaborate.

Mr. Potucek stated that based on the budget report from the County, the fine revenue received from the court with all jurisdictions reporting is about $300,000 per year. The City estimates based on the number of cases going into the court, of which the City is about 60 percent, about $250,000 in fine revenue for next year.

Council Member Calhoun asked Council Member Benning what he meant about signing a blank agreement. Council Member Benning stated that the City does not know nor has the numbers that were asked for. Ms. Yarbrough stated that the number of data points requested by Council were the number of cases cited into the court by the Sierra Vista Police Department, which the City can get. The City also wants the total fines collected for Sierra Vista cases and the fines in arrears, which is the information that is still being worked on. She added that she is able to get information that shows the total amount of fines received by the courts, the report which she has in her possession, but she does not have a breakdown of Sierra Vista and it is unknown if that information can be provided to the City. However, she has been reassured by the Court staff that they can provide the City with an estimate based on the number of cases that Sierra Vista cites into the court; although she may not be able to get that report. The annual cost breakdown, budget report, can be provided to the City and she can share that with Council.

Council Member Calhoun stated that it sounds like that is the information that would be needed.

The motion failed by a 3/4 vote. Mayor Mueller, Mayor Pro Tem Gray, Council Members Umphrey and Calhoun casted the dissenting votes.

Council Member Calhoun stated that she would prefer that the agreement be for six months rather than a full year. Mayor Mueller stated that normally the agreement would be for a year as a standard practice, but if the proper data is received, the agreement can be for more than one year because that would lock the City at a lower rate. It may cost more to approve it for six months and then for another six months because the rate can be adjusted every six months rather than every year. If the agreement is approved for two years, it would be to the City’s advantage because the County would not adjust the rate unless they came back to the City and requested an amendment to the contract.

Council Member Calhoun stated that she understands that the City is requesting quarterly reports. Mayor Mueller stated that she is correct, and the City can also delay payment until the quarterly reports are provided, which was not in the previous agreement.
Council Member Pacheco stated that she thought of the six month period as a trial period to see if the County would hold up their end of the bargain because this was approved last year with the understanding that the County would provide the information requested, and they did not. Mayor Mueller stated that it was not for lack of trying, but if the contract is for less than a year, then the City would have to immediately come up with a way to establish its own court.

Mayor Mueller used Fire Station III as an example because it is a continuous service like court services. He explained that the City was able to build Fire Station III, with its meager tax funds, by building a reserve, group of fire fighters for personnel specialized just like court staff, and by buying the equipment to get up to the level of service needed. Fire Station III was built over several years, which was over $3 Million. To set up a court for the City would be much like the build out of Fire Station III. The City must continuously provide the service and not stop to build a court. Therefore, he suggested approving the agreement for a year to see what happens during the first couple of quarters, and then strategically discuss how the court issue will be dealt with in the future, if it is still an issue.

Council Member Pacheco asked if Council can be assured that they will get a report. Mayor Mueller stated that if the City does not receive a report, the County will not get the money. He added that he is also concerned, but the Council needs to be practical.

Mayor Pro Tem Gray stated that during the meeting earlier in the week, Council was provided with information by staff on the proposed budget and number of cases that the City is citing in. She further stated that she does not see a discrepancy and is ok with those numbers and in knowing that the City can get these going forward. Lastly, she added that she does not see any issues going forward due to the amendments requiring the reporting, and no payment without reporting, which is typical in a contract.

The motion passed by a 5/2 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members, Umphrey, Pacheco, and Calhoun. Council Members Wolfe and Benning casted the dissenting votes.

Call to the Public

Mathew Haupt talked about the police training brief on the use of force and what justifies use of force, but he believes that it dehumanizes and builds a barrier when referring to people as subjects. He suggested a policy on de-escalation and the two recommendations by NAAP to prohibit choke holds and initiate civil review boards.

Donna O’Daniel reported on the Garret Lewis Talk Show on KNST Radio Tucson, where she heard statistics regarding the transmission rates of COVID-19 and the wearing of masks. She also reported on the Centers for Disease Control and Prevention’s July 15, 2020 report that states that people are likely to suffer from a higher infection rate of COVID in their homes than from outside the home, and Steve Spain’s, Candidate for Pima County Board of Supervisors, citations on several papers about the use of masks. Lastly, she stated that Arizona Revised Statute Title 36, Section 787, which allows the Governor and his agencies to limit and even remove the constitutional rights under the guise of a state of emergency, should have been nullified or removed long ago by State Representatives and Senators.

Dr. Ira Jaffrey talked about COVID-19 and stressed the importance of wearing masks.
Comments and Requests of the Council

Council Member Umphrey thanked everyone that came before Council to speak.

Council Member Benning thanked Sabra Albritton for the invocation, everyone that came before Council to speak, Mr. McLachlan for his briefing on the issue with homelessness as well as Alicia Fanning, intern, who gathered information. He stated that it is nice to see the City being able to host people from the College.

Council Member Calhoun thanked Sabra Albritton for the invocation and Mr. Haupt for his comments, especially his praise for Police Chief Thrasher. She also announced that there is a drop box at City Hall in the atrium for people to drop off their mail-in ballots in a secured box.

Council Member Wolfe had nothing to report.

Council Member Pacheco reported that she met with Eric Homes, Superintendent of Schools, and noted that the schools are facing tough choices in trying to adapt to ever-changing situations. She shared that as a mother of four children in school, she understands what parents are going through because there is a lot of discussion going on Facebook, but at the end of the day, each parent must make the best decision for their family. Lastly, she asked that everyone be kind to each other, and get their responses to the School District by next week on what option is best for their children. In closing, she noted that the School District is doing the best that they can to adapt to the circumstances, which she appreciates.

Mayor Mueller reported that during the Governor’s briefing, he had the State School Superintendent present. This is continuing to evolve, change and taking into consideration concerns of parents on other things that have come up. There are options that will be talked about next week and the following week as well.

Mayor Pro Tem Gray thanked Sabra Albritton for the invocation and sharing the Women’s Club Collect. She thanked Alicia Fanning, intern, for her poise, knowledge and dedication demonstrated during the meeting on homelessness. She stated that while she was pleased to see the numbers on COVID-19 cases trending downward as well as the City’s numbers headed in the right direction, she cautioned everyone and shared that her father, a pastor, had to preach a funeral for his closest friend who died due to COVID, and who will be preaching next week for a childhood friend of his, with two sons not expecting to live. In closing, she stated that this is not the time to let up diligence and get careless. The City needs to continue what it is doing because it is working.

Mayor Mueller thanked Mayor Pro Tem Gray for attending the Women’s Club meeting on his behalf, and announced that there is a Primary Election taking place on August 4, 2020, with polls being opened from 6:00 a.m. until 7:00 p.m. He noted that one of the issues that was experienced during the last election cycle was that there were a lot of folks going to vote. If people do not have their absentee ballot, which people should have already received, they can go vote at the following voting stations:

- Saint Andrews Church in Sierra Vista
- Shiloh Christian Ministries, east side of Sierra Vista
- United Methodist Church, south side of Sierra Vista
- Near Huachuca City Hall
- Mountain Baptist Church, Moson Road
- Palominas Fire District, south Kings Ranch Road

In closing, he encouraged people to participate in the Census, which has been extended because of COVID-19. The numbers in Sierra Vista are good, ahead of the percentage wise than where the City was last time, but there is still an opportunity to get counted. People will be going door to door and it is important to be counted because it has to do with the federal tax dollars that the City can qualify for – getting back the tax dollars from the federal government and into the community to use them the way that is important for the City. He asked people to stay healthy, stay home when possible, to wash their hands, social distance and wear a mask.

Adjournment

Mayor Mueller adjourned the July 23, 2020 meeting of the Sierra Vista City Council at 6:04 p.m.

[Signature]

Frederick W. Mueller, Mayor

Minutes prepared by:

[Signature]

Maria G. Marsh, Deputy Clerk

Attest:

[Signature]

Jill Adams, City Clerk