



Sierra Vista City Council
Meeting Agenda
January 9, 2020

Call to Order

5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona

Roll Call

Invocation – Reverend Greg Adolf, Saint Andrews Catholic Church

Pledge of Allegiance

Item 1 Acceptance of the Agenda

Awards and Presentations

Environmental Merit Award

City Manager's Report: Upcoming Meetings, Bid Openings and Bid Awards

Item 2 Consent Agenda

Item 2.1 Approval of the City Council Regular Meeting Minutes of December 12, 2019

Item 2.2 Resolution 2020-001, Reappointment of James Howe to the Environmental Affairs Commission, said term to expire December 31, 2021

New Business

Item 3 Resolution 2020-002, Approval of Interagency Governmental Agreement with the Town of Huachuca City for Traffic Signal Repair and Maintenance

Call to the Public

Comments and Requests of the Council

Adjournment



Sierra Vista City Council
Meeting Minutes
December 12, 2019

Mayor Mueller called the December 12, 2019 Regular Meeting to order at 5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona.

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
Council Member Carolyn Umphrey - present
Council Member Kristine Wolfe – present

Others Present:

Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Matt Irlmeier, Battalion Chief
Adam Thrasher, Police Chief
Laura Wilson, Leisure and Library Services Director
Sharon Flissar, Public Works Director
Matt McLachlan, Community Development Director
Nathan J. Williams, City Attorney
Jill Adams, City Clerk
Adam Curtis, Public Information Officer
Tony Boone, Economic Development Manager
Jennifer Osburn, Interim Budget Officer
David Felix, Finance Chief Officer
Abe Rubio – IT Chief Officer

Invocation –Reverend Donna Smith, Graceful Passages for Vets, conducted the invocation.

Pledge of Allegiance – Berean Academy Color Guard 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 December 12, 2019 be approved as written. Council Member Pacheco seconded the motion. The motion passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Awards and Presentations

Certificates of Appreciation were presented by the Mayor and Council to the following outgoing Commissioners:

- Kristen Welch, Arts and Humanities Commission

- George Pohlman, Airport Commission
- Salem Whalen, Commission on Cultural Diversity
- Shaundra L. Sanders, Commission on Cultural Diversity
- Ishmael A. Mama, Commission on Cultural Diversity
- Jeremy K. Palmer, Commission on Cultural Diversity
- Melanie Sanitoa, Commission on Cultural Diversity
- Ryan M. Davis, Commission on Cultural Diversity
- David Allee, Environmental Affairs Commission
- James J. Howe, Environmental Affairs Commission
- Gene Fenstermacher, Environmental Affairs Commission
- Susanne Trimbath, Industrial Development Authority
- Rachel Hansen, Industrial Development Authority
- Dennis Dezelan, Municipal Property Corporation
- Scott B. Weiss, Parks and Recreation Commission
- Robert W. Karp, Planning and Zoning Commission
- Pamela Colabella, Tourism Commission
- Coleen Rodefer, Tourism Commission
- Vera Gates-Williams, Tourism Commission
- Rosie Mackey, West End Commission
- Madison Monbleau, Youth Commission

The Mayor and Council presented the Comprehensive Annual Financial Report (CAFR) Award to Mr. David Felix.

Ms. Kelly Benning, First Lego League Robotics and Ms. Arlene Rich, Buena Robotics NERDS Team had their students present their robotic projects.

City Manager's Report: Mr. Potucek announced that the City's Council Work Session scheduled for December 24, 2019 and the Council Meeting for December 26, 2019 have been cancelled due to the Christmas Holiday. The next regularly scheduled City's Council Work Session will be held on January 7, 2020 and the Council Meeting on January 9, 2020. Refuse pickups during the two holiday weeks are not affected except that there will be no special pickups because the two holidays fall on Wednesday. He reported that the Street Maintenance Chip Seal Project is out to bid, and proposals will be accepted and opened on December 20, 2019. The south gate at Pete Castro Center and the Police Station need to be replaced. The bids will be opened January 16, 2020. The Cove therapy pool re-surfacing bids will be opened on December 18, 2019 and the Rothery Fence Project was awarded to KE&G on November 27, 2019.

Mr. Potucek further reported that Mr. Allen Smith from Chandler, Arizona has been hired as the Communication Center's SEACOM Director, who will start on Monday, December 16, 2019. Mr. Smith retired as a Commander with the Phoenix Police Department and is familiar with the organization and police/public safety operations. Lastly, on behalf of staff, he wished all Sierra Vista a Merry Christmas, Happy Holidays and a prosperous New Year. He added that it has been a privilege to serve Council during the past year and he and staff look forward to doing so again next year.

Item 2 Consent Agenda

Item 2.1 Approval of the City Council Regular Meeting Minutes of November 14, 2019

Item 2.2 Resolution 2019-091, Reappointment of Alvin Slarve to the Sierra Vista Library Advisory Commission, said term to expire December 31, 2021

Item 2.3 Resolution 2019-092, Reappointing Berlynda Schaaf and John Matthew Moreno and Appointing Wesley Hewitt to the Parks and Recreation Commission, said terms to expire December 31, 2021

Item 2.4 Resolution 2019-093, Reappointing George Broxton III to the Tourism Commission, said term to expire December 31, 2021

Item 2.5 Resolution 2019-094, Reappointment of Francisco J. Flores to the Sierra Vista Airport Commission, said term to expire December 31, 2021

Item 2.6 Resolution 2019-095, Reappointment of Ronald Faulkner and Appointment of Mathew Haupt to the Sierra Vista Environmental Affairs Commission, said terms to expire December 31, 2021

Item 2.7 Resolution 2019-096, Reappointment of Patricia Olson, Bradley Snyder, David Thompson and appointment of David Grieshop to the Planning and Zoning Commission, said terms to expire 2021

Item 2.8 Resolution 2019-097, Reappointment of Lori Schectman and Kelly Norris to the Commission on Disability Issues, said terms to expire December 31, 2021

Item 2.9 Resolution 2019-098, Reappointing Cristina Reinert and Jodi Gaston and Appointing JenMarie Zeleznak to the Arts & Humanities Commission, said terms to expire December 31, 2021

Item 2.10 Resolution 2019-099, Renewing the Approval of Off-Track Wagering Facility, for Turf Paradise at P.C.'s Lounge, 4700 East Highway 90, Sierra Vista, Arizona

Council Member Umphrey moved that the Consent Agenda consisting of the City Council Regular Meeting Minutes of November 14, 2019, Resolution 2019-091, reappointment of Alvin Slarve to the Sierra Vista Library Advisory Commission, Resolution 2019-092, reappointing Berlynda Schaaf and John Matthew Moreno and appointing Wesley Hewitt to the Parks and Recreation Commission, Resolution 2019-093, reappointing George Broxton III to the Tourism Commission, Resolution 2019-094, reappointment of Francisco J. Flores to the Sierra Vista Airport Commission, Resolution 2019-095, reappointment of Ronald Faulkner and appointment of Mathew Haupt to the Sierra Vista Environmental Affairs Commission, Resolution 2019-096, reappointment of Patricia Olson, Bradley Snyder, David Thompson and appointment of David Grieshop to the Planning and Zoning Commission, Resolution 2019-097, reappointment of Lori Schectman and Kelly Norris to the Commission on Disability Issues, Resolution 2019-098, reappointing Cristina Reinert and Jodi Gaston and Appointing JenMarie Zeleznak to the Arts & Humanities Commission, all terms to expire December 31, 2021 and Resolution 2019-099, renewing the approval of Off-Track Wagering Facility, for Turf Paradise at P.C.'s Lounge, be approved. Mayor Pro Tem Gray seconded the motion. The motion passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Tabled Item

Item 3 Resolution 2019-075, Approval of the Modifications to Refuse Services and Fee Schedule - Tabled Item

Mayor Mueller asked for a motion to remove Item 3, Resolution 2019-075 from the Table. Council Member Wolfe moved to remove Resolution 2019-075, Modifications to Refuse Services and Fee Schedule from the Table. Council Member Benning seconded the motion. The motion passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Mayor Pro Tem Gray moved to amend Resolution 2019-075, Modifications to Refuse Services and Fee Schedule as noted on proposed Table B. Council Member Calhoun seconded the motion.

Ms. Yarbrough stated that the proposed fee changes in Table B are pull fees that include delivery, rental, pickups and disposal:

- Temporary Residential Dumpster Program would change from five to two options:
 - o Three cubic yard temporary residential dumpster, \$153.25
 - o Six cubic yard temporary residential dumpster, \$181.64
- Rental fee for 30 days:
 - o Three cubic yards, \$10.71
 - o Six cubic yards, \$16.07
- Empty and return fee:
 - o Three cubic yards, \$153.24
 - o Six cubic yards, \$181.64
- Disposal fee would be removed because they would be included in the pull fee.
- Compost fees would be as follows:
 - o Drop off fee for Sierra Vista residents would remain free
 - o Drop off fee for non-Sierra Vista residents would change from \$5 to \$15
 - o Fee for selling compost would change from \$15 to \$25
 - o Fee for mulch would remain the same
- Bulky waste special pickups would increase from \$14.40 to \$50
- Yard was special pickups would remain free

The increased revenue from the fee increases is estimated at \$274,012. All fee and rate changes being proposed by this item and the following two items, if approved, would not make the Fund whole until the Fiscal Year 2021.

Michael DeCarlo voiced his appreciation to City staff and Council for their work on this issue. He stated that he would like to know if the City has a residential service for the citizens of Sierra Vista that is separate with the seal of the City. He noted that if this is a residential service, he would like to know how it is being financed by the corporate side, where all the equipment has been bought to take away the trash because that same type of equipment is used to run a corporate business. He further noted that last year the Fund came up short and citizens of Sierra Vista were tasked with an extra 10 or 15 percent to cover the corporate side. The citizens subsidized the corporation of Sierra Vista last year due to a loss of commercial accounts and recycling.

Mr. DeCarlo presented Council with a graph depicting the refuse system and stated that citizens are at the precipice of unwillingly engaging into a contractual obligation with the City unbeknownst to themselves by entering a refuse system that funds it from the corporate side. He suggested that the financing be broken up to show the real cost of residential services, loss

of the corporation and then decide whether that corporation is needed. Lastly, he stated Go Navy beat Army.

Mayor Pro Tem Gray commented that Council has taken their time and asked a lot of questions regarding this issue. She thanked staff and stated that she is satisfied with what has been presented regarding the fees as the deep dive that needed to be done into refuse was done, which provided lessons for staff and Council.

Council Member Benning also thanked staff and Council. He added that he likes that staff broke it down by what is funding what and who is subsidizing what within the Enterprise Fund. He further added that he did not know whether the City competing with private companies was still turning a profit, helping to subsidize other aspects of the Fund and where the City is hurting regarding residential services. Lastly, he stated that he would rather take months to get something done right rather than getting it wrong the first time due to rushing to judgment.

Mayor Mueller commented that this has been a very thorough process. Council looked at all aspects of the Enterprise Fund, which has several sub accounts that may have caused confusion. Council is focused on providing the best service at the lowest cost possible in all the areas of the Enterprise Fund. He further stated that it was courageous for Council to stand up and state that they were not going to overcharge in one area to subsidize another area. Council wanted all areas to at least break even without having subsidy with the fees. Lastly, he thanked staff for their hard work and Council for taking the time to look at this thoroughly and getting a well-founded understanding of the issue before taking a vote.

The motion to amend Resolution 2019-075 as noted in Table B passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

The motion to approve amended Resolution 2019-075 passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Public Hearing

Item 4 Resolution 2019-100, Modifications to Refuse Rates

Council Member Pacheco moved that Resolution 2019-100, Modifications to Refuse Rates, be approved. Mayor Pro Tem Gray seconded the motion.

Ms. Yarbrough stated that the resolution proposes a 15 percent rate increase for residential refuse with an effective date of March 1, 2020. A 60-day notice of the vote on the proposed rate increase was published on the City's web site as required by Arizona Revised Statutes. The rates would change as follows:

<u>Residential Routes Monthly Fees</u>	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>
45-gallon container (grandfathered)	\$15.63	\$17.19	\$ 1.56
65-gallon container	\$17.23	\$19.81	\$ 2.58
95-gallon container	\$19.67	\$22.62	\$ 2.95

195-gallon container	\$27.73	\$31.89	\$ 4.16
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The proposed rate increase would generate an estimated additional \$361,960 of revenues and there are no proposed increases to current commercial route rates.

Ms. Yarbrough stated that staff has provided historical background on the refuse fund, refuse rate history, a comparison of City residential rates to other cities, a comparison of various landfill rates from around the State and a comparison of Sierra Vista's rates in 2018 with local private hauler customers.

Mayor Mueller stated that Council expressed concern as to whether this item was being opened for a 30-day comment period or if this vote is for final action. Ms. Yarbrough stated that if approved, the resolution would go into effect. Mr. Potucek stated that if Council wants to open it up for a 30-day comment period, Council will need to amend the item to do that.

Mayor Pro Tem Gray asked Ms. Yarbrough to present staff's historical background of the changes to the refuse fund. Ms. Yarbrough stated that changes that have brought the refuse fund to where it currently is are due to:

- State Law changed in 2015 to open commercial refuse business to private haulers.
- City's large commercial customers used to be 1,375 in 2015 and it dropped to 188 in Fiscal Year 2018-2019.
- The Fund lost approximately \$500,000 in revenue.
- Tipping fees have increased approximately two percent every year from 2009 to 2019 except for two years ago where it increased 10 percent, \$47.75 a ton in 2009 to \$64 a ton in 2019.
- New pension requirements that began last year where the City now must account for all the retirement benefits that employees get, an additional expense.
- Collapse of the recycling market in 2018.

Staff went back eleven years for the refuse rate history:

- In 2008 a 65-gallon container was \$14.98, and a 95-gallon container was \$17.10.
- In 2012 a 65-gallon container was \$15.98, and a 95-gallon container was \$18.10.
- In 2014 a 65-gallon container was \$14.98, and a 95-gallon container was \$17.10.
- In 2018 a 65-gallon container was \$17.23, and a 95-gallon container was \$22.62.
- Proposed for a 65-gallon container is \$19.81 and for a 95-gallon container \$22.62.

Staff compared the residential refuse rates with other municipalities in the State, those that own their own landfills, those that are contracted with outside companies, different size containers and some residences in Sierra Vista. Staff also compared landfill rates from 2018 with other municipalities along with a comparison of Sierra Vista rates in 2018 with local private hauler customers, which were all shared with Council last year.

Council Member Calhoun suggested a once a week pickup. Mr. Potucek stated that there is a provision in Administrative State Law that would allow for municipalities to petition to go from the required two pickups per week to one pickup. He added that if the Council would like staff to pursue this, staff could do that; however, he noted that he is hesitant to recommend it because having two pickups helps keep Sierra Vista a clean community as there have been issues with wildcat dumping in the past and having once a week pick up might exacerbate that type of situation. He added that there are families who may not be able to get by with once a week

pickup. He further added that the residential bill would not be cut in half as a result of once a week pickup because there are still the ancillary costs associated with the service.

Mayor Pro Tem Gray stated that there has been great discussion about privatization, and it is something that Council and City leadership have looked at to see if the City is still competitive, but the City is not at that point.

Mayor Mueller shared with Council that he has talked to other mayors where their municipality has gotten rid of their garbage systems. The private haulers provide a good rate for the first couple of years and then it graduates. By the time that citizens complain, there is no recourse for the municipalities.

Mr. Potucek stated that in a lot of cases, he favors privatization as the government should not be involved in certain things. The introduction of privatization creates competition and the competition is what stabilizes and regulates the rates. This works well in a large city environment, i.e., the Valley or Tucson, but in Sierra Vista due to the size of the operation, there is only one potential vendor for residential service. The City provides the competition for that vendor and if the City privatized refuse, then it would be opening a monopoly situation as opposed to a competitive situation due to the size of the system.

Mr. Potucek pointed out that the comparison chart shows rates that are the competition and operate in the County. These vendors have a rate structure that is much higher than the City offers, even with the proposed rate increase. These vendors have the competitive advantage of going to Huachuca City and having a lower tipping fee of about \$9 per ton. He added that even with the disadvantage of being a part of the County's system regarding the tipping fee, the City is still able to keep its rates substantially lower than the private haulers operating in the County.

Council Member Calhoun asked if there is any hope of the City regaining commercial customers that were lost. Mr. Potucek stated that since the Legislature changed the Law to allow for privatization on commercial hauling, which was the business that private haulers wanted to compete against the City, the City has the disadvantage of going through the current process and having to fix and publish the rates. As a result the private haulers are able to undercut the City in order to get business fairly easily and from that point on the City has been steadily losing commercial business and will continue to lose as opposed to picking it up because the City will not be able to match their rates for commercial hauling.

Council Member Calhoun asked if the City has the option to use the Huachuca City landfill versus the County landfill. Mr. Potucek stated that currently the City is engaged in an intergovernmental agreement with the Cochise County and the other municipalities that participate in the Countywide landfill and transfer station system. The agreement expires in 2022. Rates have gone up steadily as a result of operating the landfill at the County. The City is currently in the process of paying back its share of the subsidy in the amount of \$2 million that the County Board of Supervisors were providing to the system. If the City got out and privatized the residential hauling the City would have to require currently until 2022 that the private hauler use the Western Regional Landfill that is serving Sierra Vista and the other municipalities in the County. He added that he does not know if a private hauler would bid based on this because they currently may be using Huachuca City or going to Tucson. It would be difficult for the County to operate the landfill if Sierra Vista's refuse was not going into the Western Regional Landfill. Sierra Vista generates the preponderance of refuse and consequently the revenue to operate the system.

Council Member Benning asked if there is public assistance to individuals that may be on fixed incomes. Mr. Felix stated that if an individual qualifies for the financial aid by the federal government, they can bring their information from the Department of Economic Security to the City for a rate that is half of the current rate. The City does not make the determination. People must be approved by the Department of Economic Security.

Council Member Pacheco asked about Huachuca City's landfill capacity. Mr. Potucek stated that Huachuca City continuously keeps their rates lower in order to retain the Fort's business. The City does the residential refuse for the Fort, but Huachuca City retains the Fort's business and can garner the business in the County as a result of keeping their rates lower than the County landfill system. He added that he does not know about their capacity, but they are building up and that calls that into question. The County is operating a lined premediated and monitored landfill, which ensures environmental safety. The Huachuca City landfill is a grandfathered landfill and does not offer the same environmental protections that the County landfill provides.

Council Member Wolfe voiced her concern about the way that the rates were presented to the public. Staff has done a lot of work and she believes that the 15 percent increase is required, but the notice on the public comment page was linked to a 10 percent rate increase. She suggested putting the item out for a 30-day public comment period as it would not change the effective date of March 1, 2020.

Council Member Wolfe moved to amend Resolution 2019-100 to include a 30-day public comment period. Council Member Benning seconded the motion.

Council Members Pacheco and Benning requested that the information be made available online for the public to view.

The motion to amend Resolution 2019-100 passed by a vote of 5/2. Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe voted in favor. Mayor Mueller and Mayor Pro Tem Gray casted the dissenting votes.

The motion to approve amended Resolution 2019-100 passed by a unanimous vote. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Item 5 Resolution 2019-101, Amendments to Chapter 52 Solid Waste Collection and Disposal, City Code of Ordinances, to allow private recycling collectors, and declaring a public record

Council Member Calhoun moved that Resolution 2019-101, amendments to Chapter 52, Solid Waste Collection and Disposal, City Code of Ordinances, to allow private recycling collectors, and declaring a public record, be approved. Council Member Benning seconded the motion.

Ms. Osburn stated that the resolution contains amendments to the City Code of Ordinance, Chapter 52 as shown in Exhibit A to allow private recycling collectors to collect and remove recyclable materials from residential properties and business establishments. Revisions are as follows:

- Section 52.02, Definitions:
 - o Definition for collector and licensee were revised to include wording for recycling.
- Section 52.03, Solid Waste Collection System established:

- Paragraph A clarifies that private collectors performing residential recycling services shall obtain a City business license as pursuant to Chapter 110 of the City Code.
- Private collectors conducting commercial recycling services shall obtain a commercial solid waste license pursuant to provisions in Section 52.15 through 52.23 of the Chapter.
- Section 52.09, Prohibited Acts
 - Paragraph E, Subsection III to allow for an approved license collector to collect and remove recycling materials.
- Section 52.18, Insurance
 - Paragraph B had language added to clarify insurance coverages for all licensees conducting residential recycling services.

Staff anticipates that allowing privatization of recycling and closing the recycling drop off center will save the City \$140,000. The resolution will also declare the amendments to be a public record for 30 days. Any public comments received during the review period will be considered and an ordinance containing all amendments to Chapter 52 will then be presented to Council on January 16, 2020. The changes will take effect thirty days after if approved on February 15, 2020.

Mayor Pro Tem Gray stated that the \$140,000 savings is calculated into the proposed fee and rate increases to help make the Fund whole.

Mayor Mueller stated that although the City would not be involved in recycling, the public can go recycle at the County drop off point at the transfer station.

Council Member Pacheco asked if the resolution only makes amendments to Chapter 52 to allow for privatization to come in for recycling, but not the closing of the recycling center. Mr. Potucek stated that the ordinance would allow for commercial recyclers to come in and take part in the recycling business in Sierra Vista. It does not necessarily mean that the City must get out of the recycling business.

Mayor Mueller noted that he wants to make it clear that the City is headed towards closing the recycling center, but the timing along with everything else needs to be put out to the citizens so that if the City does close the recycling center, people know what is going on ahead of time.

Council Member Pacheco stated that privatization of recycling could be used as a test to see how privatization goes in the City.

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

New Business

Item 6 Ordinance 2019-008, Development Code Text Amendments to Accessory Dwelling Units, Section 151.02.004 Definition, Section 151.06.010 Accessory Dwelling Units and Section 151.22.006 Matrix of Use Permissions by Zoning District

Mayor Pro Tem Gray moved that Ordinance 2019-008, Development Code Text amendments to Accessory Dwelling Units, Section 151.02.004 Definition, Section 151.06.010 Accessory

Dwelling Units and Section 151.22.006 Matrix of Use Permissions by Zoning District, be approved. Council Member Umphrey seconded the motion.

Mr. McLachlan stated that the proposed ordinance seeks to ease the permitting process for accessory dwelling units in Single Family Residential Zoning Districts. The accessory dwelling unit can be integrated into the main house or located in a detached accessory structure as incidental and subordinate to the principle dwelling, both in size and intensity to minimize impact. Legally the accessory dwelling unit is part of the same property as the main home and cannot be sold separately. It is essentially one and a half family zoning. People build them for many reasons, but the most common goal is gaining income through rent and housing a family member.

The Department's guidance for the proposed amendments come from the City General Plan in supporting strategy to Goal 12.1, Promote Quality of Affordable Rental Housing. This is to encourage new regulations to permit accessory dwelling units. The Department believes this to mean making the process more efficient while ensuring quality compatible construction. The proposed amendments would replace the uncertainty associated with the conditional use permitting process with designed development standards that are commonly associated with accessory dwelling units. The permitting process would entail a compliance review by Planning and Zoning for consistency with Development Code requirements before a building permit is issued by the Building Division and adjacent property owners would be notified of the permit request and have an opportunity to comment. Those comments that relate to the Development Standards will be considered.

The Department has received comments from five individuals on the ordinance. Two residents are against written notice to neighbors, which was important to the Planning and Zoning Commission. Also expressed by two other residents was concern that the accessory dwelling units would be used as short term rentals, but Arizona State Law prohibits towns and cities from regulating short term rentals. The cities and towns retain the authority to regulate against public nuisances that they may cause, which historically has not been a problem in the City.

Discussion took place at the Planning and Zoning Commission about allowing a separate address or utility meter because one member is concerned that allowing this would convey the perception of multifamily and erode single family character. One member of the public favors removing the requirement that any addition or newly detached accessory dwelling unit be designed in a complimentary manner to the main house. Another comment was received expressing concern that the ordinance may conflict with the deed restrictions and HOA neighborhoods.

Mr. McLachlan stated that if the ordinance is approved, the Department will add a notarized affidavit for the property owner to sign with the permit application attesting that they have investigated and found no deed restrictions prohibiting an accessory dwelling unit from being constructed on the property in the manner being proposed. He added that the Department is recommending approval of the ordinance as presented and finding it to be consistent with the City General Plan.

Council Member Pacheco stated that she would like to remove Section 151.06.010, Subsection F of the ordinance providing for an occupant maximum of two persons for an accessory dwelling because it is over regulatory. She shared three examples of individuals who used an accessory dwelling unit to take in family members, i.e., single mothers with multiple children.

Council Member Pacheco moved to amend Ordinance 2019-008 to remove 151.06.010, Subsection F. Council Member Wolfe seconded the motion.

Council Member Calhoun stated that this would be a good tool to have in circumstances that did not involve a mother and her children, but she wonders how the City would regulate/enforce the Code if a person was in an accessory dwelling with three children or if there are more than two adults. Mayor Mueller stated that this is complaint-based, which would then be enforced through the Department for administrative action.

Mayor Pro Tem Gray stated that she understands that there are special exceptions, but her issue is that the reason that this is being standardized and the conditional use permits are being eliminated is to preserve the integrity of the neighborhoods.

Council Member Wolfe stated that she has a problem with complaint-based enforcement. Something is either important or not and it is either enforced or not. If something is put into the Code, that the City cannot enforce, then there is no point in that. She also believes that the square footage allows for only one bedroom and there are other things in the Statute that would limit the number of people living in accessory dwelling.

Council Member Pacheco stated that she also has a problem with complaint-based enforcement.

Mayor Mueller stated that he does not believe that the issue of two people is not enforceable, but it first must be discovered. When they originally apply, they must state in the application that it will be no more than two. He asked what the process would be for an exception to the Code.

Mr. McLachlan stated that there is no provision available in the way that the Code is written. This would have to go through the variance process with the hearing officer. There are strict criteria as it is essentially permission to break the law and it would have to be under unique circumstances attributable to the property relative to similar situation properties in the same zoning district. The Department would be hard pressed to recommend approval of the request. City Council could consider a substantial amendment to the ordinance, which would delay the approval process to perhaps make it a conditional use that would involve a public hearing. He added that accessory dwelling units are designed to accommodate one or two people.

Mayor Mueller noted that Council Member Wolfe made a good point in stating that based on the size, more than two people for a long period of time by itself would restrict the living conditions.

Mr. Potucek stated that the use of the term "adults" might help because then children are not being counted.

Council Member Benning asked that at what point does a single-family resident zoning turn into multi-family residence. Mr. McLachlan stated that it is two dwelling units designed for families on the same parcel. In this case, there is no maximum size of the dwelling units regulated by setbacks and lot coverage. He added that the single-family zoning is being stretched to accommodate an extension of the house/ separate living quarters designed and intended to be subordinate to the principle use as a single-family residence. These are typically used for an extended family member, rental for both ends of the age spectrum, elderly parents with a disability or cash-strapped college graduates moving back in with their parents. This could be for a single mother with children. The accessory dwelling unit must be up to no larger than the

main house with one bedroom to minimize the impact to neighbors. Lastly, he stated that the Department's recommendation is to not blur the line between single and multi-family land uses by imposing the recommended use restrictions.

Mayor Pro Tem Gray stated that if there is not an occupancy rate then potentially, Airbnb's with short-term rentals could change the character of the neighborhoods.

Council Member Pacheco stated that she does not like making regulation based on potentials. Council Member Wolfe stated that it is over regulation for the sake of regulation.

Council Member Umphrey stated that she agreed with Council Members Pacheco and Wolfe, but after further discussion, she believes that people who have purchased homes in single family neighborhoods had the intention of living in a single family neighborhood and it not right for the City to change that by not limiting the number of occupants in an accessory dwelling unit.

Council Member Benning stated that if the makeup of the neighborhood is changed, then the value of those homes is being affected. He added that Council's job is to not just make sure that regulation is there to protect individuals, but to protect everyone so that they have the quality of life for the nature of what they purchased in a zoning district. He further added that he does not believe that this is an issue where people are lining up to have an accessory dwelling, but the City cannot change a neighborhood's makeup for those people that are invested in that area already.

The motion to amend Ordinance 2019-008 to remove Section 151.06.010, Subsection F failed, 5/2 vote. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Calhoun and Umphrey voted in favor. Council Members Pacheco and Wolfe casted the dissenting votes.

Council Member Benning moved to amend Ordinance 2019-008, Section 151.06.010, Subsection F to read, "no more than two adults may reside in an accessory dwelling unit". Council Member Wolfe seconded the motion.

Council Member Wolfe and Pacheco indicated that this is more acceptable. Mayor Pro Tem Gray stated that the issues are the same and the amendment does not change anything.

Council Member Benning explained that this would provide a grace period for those individuals that need temporary assistance and eliminate a waiver process.

The motion passed by a 6/1 vote. Mayor Mueller, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe voted in favor. Mayor Pro Tem Gray casted the dissenting vote.

The motion to approve amended Ordinance 2019-008 passed by a unanimous vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe.

Item 7 Resolution 2019-102, Accepting the Donation of an Animal Rescue Trailer by the Friends of the Animal Shelter

Council Member Umphrey moved that Resolution 2019-102, accepting the donation of an Animal Rescue Trailer by the Friends of the Animal Shelter, be approved. Council Member Benning seconded the motion.

Police Chief Thrasher voiced his pleasure in presenting the proposed resolution to accept the donation of the Animal Rescue Trailer by the Friends of the Animal Shelter. They have worked tirelessly over the years to raise the money for this as a result of the Monument Fire concerning all the evacuations that had to be done. This trailer will be used for checkups, adoption events, rescue and hoarding situations. He encouraged people to go and see the trailer that the Friends of the Animal Shelter donated.

Mayor Mueller stated that the City appreciates the continued support by the Friends of the Animal Shelter in Sierra Vista. He added that the trailer will be on display at the Animal Shelter on Saturday, December 14, 2019.

Council Member Benning congratulated and thanked the Friends of the Animal Shelter and the community. Mayor Pro Tem Gray also congratulated and thanked the Friends of the Animal Shelter, a very passionate group.

Council Member Umphrey thanked the Friends of the Animal Shelter for all their hard work and in making it happen as it will have a great impact on the community. Council Member Pacheco also thanked the Friends of the Animal Shelter and noted that the group worked very hard.

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

Item 8 Resolution 2019-103, Official Intent to be Reimbursed for Certain Capital expenditures

Mayor Pro Tem Gray moved that Resolution 2019-103, official intent to be reimbursed for certain capital expenditures, be approved. Council Member Benning seconded the motion.

Mr. Felix stated that this is done every year. During the budget process there was discussion about the purchase of some items that are planned for financing at the end of the fiscal year. The City saves money by packaging the items at the end of the fiscal year. If the financing were to be done at the beginning of the year, then the City would be paying interest on items that are not in stock and Trustees will not be as interested as they are collecting from the City. Also, this provides the option that if it is decided not to finance something because there is enough cash on hand, revenues are better or there is a better price for it, the City does not have to and is not stuck with the money sitting there. The IRS regulations do require that Council pass its intent to be reimbursed, which is what the proposed resolution does.

Mayor Mueller noted that this item was discussed in detail during the work session and is routine that it is a part of the budget process.

The motion passed by a 6/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Calhoun, Pacheco, Umphrey and Wolfe. Council Member Benning was absent.

Item 9 Resolution 2019-104, Authorizing the City to accept the grant offer from the Arizona State Parks Non-motorized Grant Program

Council Member Benning moved that Resolution 2019-104, Authorizing the City to accept the grant offer from the Arizona State Parks Non-motorized Grant Program, be approved. Council Member Wolfe seconded the motion.

Ms. Flissar stated that this resolution will accept a grant from the Arizona State Parks Non-motorized Grant Program for the Garden Canyon Linear Park. The improvements will take place near the trailhead at Saint Andrews Drive. There is an existing unimproved trailhead at the location and the funding from this grant will add a stable parking surface and an ADA-compliant area. The improvements will provide a base for future Master Plan improvements to the Park. The grant amount is \$80,000 with an in-kind City match of \$12,000.

Mayor Mueller stated that he is aware of preliminary plans for the park and he would like to know if this fits in with that. Ms. Flissar stated that this is fully consistent with those plans.

The motion passed by a 6/1 vote of Mayor Mueller, Council Members Benning, Calhoun, Pacheco, Umphrey and Wolfe. Mayor Pro Tem Gray was absent.

Item 10 Resolution 2019-105, Approving an Intergovernmental Agreement Supporting the Operation of the Cochise County Tourism and Economic Council

Council Member Pacheco moved that Resolution 2019-105, approving an Intergovernmental Agreement supporting the operation of the Cochise County Tourism and Economic Council, be approved. Council Member Umphrey seconded the motion.

Mr. Potucek stated that for the past 20 years, Sierra Vista has participated with Cochise County and other municipalities except for Huachuca City in the Cochise County Tourism Council. Over the past year, there were discussions amongst the group about the marketing focus of the Tourism Council. In the past, there was focus on more of the old west cultural theme in the Countywide marketing efforts, but with the landscape changing with the wine business, outdoor recreational opportunities and other things that Cochise County offers, the group determined that they would like expand the marketing efforts and include economic development as part of the Council's mission. The City of Tombstone determined that they would not want to participate in that type of arrangement and basically provided the catalyst for the City to look at changing the nature of the agreement to form the Cochise County Tourism and Economic Development Council. The proposed agreement takes that into account. Funding in the past was at a \$20,000 level and that remains the same going forward with the agreement.

Council Member Calhoun stated that this is a good neighbor type of activity that the City is doing within the County because the City also benefits from the type of marketing that is happening on the Countywide level. In addition, the City continues to fund its own Economic Development Department and Marketing Department.

Mayor Mueller noted that they can be complimentary. Mr. Potucek stated that it is true that in many countywide agreements, i.e., SEACOM, the City of Sierra Vista does step up and provides fiscal agent services for these type of agreements because of the staff capability and size to be able to do that. This will be rolled into the normal work effort with the City's Marketing and Economic Development staff. This can be an augmentation to what the City is doing as opposed to an extra workload item.

Council Member Calhoun stated that there is no specific way to measure the benefit to the community by participating in this agreement beyond the fact that generally what benefits some will benefit all. Mr. Potucek added that Marketing staff has developed some metrics that will be provided to Council as soon as possible.

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

Call to the Public

Vincent Bright stated that he brought in a lyft business to Sierra Vista and there are currently nine drivers in the City. The drivers have been experiencing complaints/citations by police officers concerning the lyft's signal that sits on the vehicle's dashboard. This signal is important as it lets the customer know that the lyft service is there to pick them up. It cannot be anyone else on the signal and it is registered to the customer's phone for safety reasons.

Matthew Haupt, newly appointed commissioner to the Environmental Affairs Commission, read a statement on terrestrial/marine environment statistics, fossil fuel conflicts occurring worldwide, local level protection of the environment and a community that is involved. In closing, he urged Council to reconsider the disbanding of the Environmental Affairs Commission.

Terry Culp thanked Council and staff for the opportunity to speak about his concern about bicyclists riding on the sidewalk and pedestrian safety. He shared that more than once, he has nearly collided with bicyclists. He urged Council to look at putting something in place that bans bicycle riding on sidewalks.

Comments and Requests of the Council

Council Member Pacheco congratulated Parks and Recreation and PIO for the tree lighting. She thanked and congratulated Mr. Pohlman for serving on the Airport Commission, Madison Monbelau for serving on the Youth Commission and Mr. Felix for the CAFR Award. She stated that she is delighted at seeing all the awesome things that the City's youth is accomplishing. Lastly, she thanked the Friends of the Animal Shelter, wished everyone a Merry Christmas and Happy Holidays.

Council Member Wolfe thanked all the commissioners, who have served or have stepped up to serve, which is great as Council needs their input. She echoed what everyone said about the Friends of the Animal Shelter, wished everyone Happy Holidays and asked that during this time of year that everyone remember to help those in need.

Council Member Benning thanked the commissioners for stepping up to serve, congratulated the Buena NERDS and wished good luck to the First LEGO League from Joyce Clark Middle School. He also thanked the citizens of Sierra Vista and noted that it has been one year since he, Carolyn Umphrey and Sarah Pacheco were elected to represent the amazing community. He also thanked his fellow Council Members, Mayor Mueller and staff. In closing, he wished everyone a Merry Christmas and thanked Mr. DeCarlo for his service, "Go Army beat Navy."

Council Member Umphrey echoed everything said before her, thanked Rosie Mackey for her service on the West End Commission, wished everyone a Merry Christmas, Happy Holidays and a Happy New Year.

Council Member Calhoun stated that she agrees with everything said before her and encouraged everyone to respond to the public hearing items because Council needs to hear from the public on these issues. She thanked Matthew Haupt for his comments concerning the Environmental Affairs Commission and requested a copy of his comments to share during the discussion about the Environmental Affairs Commission at the next Council work session. She

thanked Mr. Culp and Mr. Bright for their comments and encouraged the community to come before Council and address the issues that are important to them. In closing, she wished everyone Happy Holidays.

Mayor Pro Tem Gray thanked Arlene Garcia, her staff and the Friends of the Animal Shelter for all their hard work and noted that Ms. Garcia was instrumental in assisting the Friends of the Animal Shelter in acquiring the new trailer. She thanked her fellow Council Members and stated that she is excited that the new members have gone through their first year. She voiced her pleasure and appreciation at the way that Council dealt with issues, where they did not all agree, the discussions, disagreements and agreement. The Council Members are all doing what is best for the City and in their minds. Lastly, she stated that she looks forward to working together with all Council Members in the future, wished everyone to be safe, a Merry Christmas and Happy New Year.

Mayor Mueller announced that animals will be up for adoption on Saturday, December 14, 2019 at 12:00 p.m. during the Friends of the Animal Shelter's presentation of the new trailer. He congratulated Ms. Melany Edwards-Barton who has been selected to be the permanent chief executive officer of the Sierra Vista Area Chamber of Commerce, congratulated Colonel Carol who was selected by the United Veterans Council to be the Veteran of the Year, who will be recognized on January 18, 2020 and wished everyone safe Happy Holidays. In closing, he cautioned people to watch their alcohol consumption and commented on the bicycle safety issue as he can appreciate almost being run over by a bicyclist on a sidewalk.

Adjournment

Mayor Mueller adjourned the December 12, 2019 meeting of the Sierra Vista City Council at 7:22 p.m.

Mayor Frederick W. Mueller

MINUTES PREPARED BY:

ATTEST:

Maria G. Marsh, Deputy Clerk

Jill Adams, City Clerk

December 19, 2019

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager

FROM: Sharon G. Flissar, P.E., Director of Public Works

SUBJECT: Request for Agenda Item Placement
Resolution 2020-001, Reappointment of James
Howe to the Sierra Vista Environmental Affairs
Commission

Recommendation:

The City Manager recommends approval.
The Public Works Director recommends approval.

Initiated by:

Sierra Vista Environmental Affairs Commission.

Background

There are currently two vacancies on the Environmental Affairs Commission. James Howe submitted an application for reappointment. Mr. Howe recently completed his first partial term on the Environmental Affairs Commission on December 31, 2019 and thus is eligible for reappointment. The Environmental Affairs Commission voted unanimously at their December 18th meeting to recommend the approval of Mr. Howe to the City Council. The term begins thirty days after Council approval and expires December 31, 2021. With the appointment of Mr. Howe, there will be one remaining vacancy on the Environmental Affairs Commission.

Budget Appropriations:

Not applicable.

Attachment

RESOLUTION 2020-001

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAPPOINTING JAMES HOWE TO THE SIERRA VISTA ENVIRONMENTAL AFFAIRS COMMISSION, SAID TERM TO EXPIRE DECEMBER 31, 2021, AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the Mayor and City Council have created an Environmental Affairs Commission for the purpose of advising the Mayor and City Council on matters relating to environmental issues, and assisting the Public Works Director in promoting environmental stewardship to the public; and

WHEREAS, James Howe submitted an application for reappointment to fill a vacancy, and it is in the best interest of the citizens to have a full complement of Environmental Affairs Commission members to address environmental concerns; and

WHEREAS, the Environmental Affairs Commission has recommended to reappoint James Howe to fill a vacancy on the Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the City Council policy on term expirations and appointments to boards and commissions when qualified applicants are available is hereby reaffirmed.

SECTION 2

The City Council hereby reappoints James Howe to the Sierra Vista Environmental Affairs Commission, said term to expire December 31, 2021.

SECTION 3

The City Manager, City Clerk, and City Attorney, or their duly authorized officers and agents, are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY
OF SIERRA VISTA, ARIZONA, THIS 9TH DAY OF JANUARY 2020.

FREDERICK W. MUELLER
Mayor

Approval as to Form:

Attest:

NATHAN J. WILLIAMS
City Attorney

JILL ADAMS
City Clerk

Prepared by:
Sharon G. Flissar, Director of Public Works



City of Sierra Vista

1011 North Coronado Drive, Sierra Vista, Arizona 85635
520/458-3315 - fax 520/458-0584 - www.ci.sierra-vista.az.us

APPLICATION TO CITY BOARD/COMMISSION

DATE: NOVEMBER 22, 2015

BOARD/COMMISSION: E.A.C.

NAME: JAMES HOWE TELEPHONE: [REDACTED] (HOME) [REDACTED] (WORK)

E-MAIL ADDRESS: [REDACTED]

ADDRESS: [REDACTED] CITY: SIERRA VISTA ZIP: 85635

MAILING ADDRESS: [REDACTED]

CITY RESIDENT? XX REGISTERED TO VOTE IN CITY? XX

EDUCATION: 16 YEARS

OCCUPATION: RETIRED - HOUSING CONTRACTOR

PROFESSIONAL/COMMUNITY ACTIVITIES: (IF RETIRED, INDICATE FORMER OCCUPATION) ARIZONA RANGERS-SIERRA VISTA COMPANY #08, CHAMBER OF COMMERCE

EAC COMMISSIONER-VICE CHAIR, LORI'S PLACE VOLUNTEER,

QUALIFICATIONS/INTEREST IN BOARD/COMMISSION: RECYCLING, EOP, WATER ISSUES.

REFERENCES: 1. RON FAUKNER [REDACTED] [REDACTED]
(NAME) (ADDRESS) (PHONE)

2. SHARON FLISSAR DEPT OF PUBLIC WORKS - CITY OF SV
(NAME) (ADDRESS) (PHONE)

THIS APPLICATION WILL BE KEPT ON FILE FOR A PERIOD OF ONE YEAR FROM ABOVE DATE.

AS A CANDIDATE TO A COUNCIL APPOINTED BOARD/COMMISSION/COMMITTEE, YOUR NAME, ADDRESS AND PHONE NUMBER WILL BE AVAILABLE TO THE PRESS AND PUBLIC UPON REQUEST.

[Signature]
(APPLICANT'S SIGNATURE)

Please return completed application to the city clerk's office - 08/22/05

January 3, 2020

MEMORANDUM TO: Honorable Mayor and City Council
THRU: Charles P. Potucek, City Manager
FROM: Victoria Yarbrough, Assistant City Manager
SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT
RESOLUTION 2020-002, Authorization to proceed with
Intergovernmental Agreement between the City of Sierra
Vista and the Town of Huachuca City for traffic signal
maintenance and repair

RECOMMENDATION

The City Manager recommends approval.
The Public Works Director recommends approval.

BACKGROUND

Huachuca City received funding through the Sierra Vista Metropolitan Planning Organization to install two emergency traffic signals on Hwy 90 to allow emergency vehicles to safely enter the highway. One traffic signal will be placed in Huachuca City, and one in Whetstone. Huachuca City does not employ any certified traffic signal technicians, and asked for Sierra Vista's assistance with maintenance and repairs of the signals as needed.

Huachuca City will be billed at the technician's full salary plus burden rate and for the cost of the equipment used, and will reimburse the City for any parts needed.

The term for this agreement would extend through June 30, 2020, with three automatic one-year extensions. The signals should be in place by summer 2020; a vendor has been selected and a contract is in process.

BUDGET APPROPRIATION

None.

RESOLUTION 2020-002

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF HUACHUCA CITY TO PROVIDE TRAFFIC SIGNAL MAINTENANCE AND REPAIR TO HUACHUCA CITY; AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, Huachuca City received funding and plans to construct two emergency traffic signals on Highway 90 to allow for safe access for emergency vehicles; and

WHEREAS, Huachuca City is responsible for the maintenance and repair of the traffic signals, but does not employ qualified staff to maintain or repair the signals; and

WHEREAS, the City of Sierra Vista is willing and able to provide to Huachuca City traffic signal maintenance and repair at a reasonable cost, and

WHEREAS, the City of Sierra Vista and the Town of Huachuca City, are both authorized to enter into intergovernmental agreements and contracts pursuant to A.R.S. § 11-952 for services or joint exercise of powers common to their respective jurisdictions and desire to enter into an Intergovernmental Agreement for the City of Sierra Vista to provide traffic signal maintenance and repair to Huachuca City;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy of the Mayor and City Council entering into Intergovernmental Agreements for partnerships benefitting the greater Sierra Vista community be, and hereby is, reaffirmed.

SECTION 2

The Mayor and City Council of the City of Sierra Vista hereby adopt the Intergovernmental Agreement between the City of Sierra Vista and the Town of Huachuca City for the purpose of providing traffic signal maintenance and repair to Huachuca City.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 9TH DAY OF JANUARY, 2020.

FREDERICK W. MUELLER
Mayor

Approval as to Form:

Attest:

NATHAN J. WILLIAMS
City Attorney

JILL ADAMS
City Clerk

Prepared by:
Victoria Yarbrough, Assistant City Manager

INTERAGENCY GOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF SIERRA VISTA

AND

THE TOWN OF HUACHUCA CITY

FOR

TRAFFIC SIGNAL REPAIR AND MAINTENANCE

This Interagency Governmental Agreement (hereinafter referred to as AGREEMENT) is entered into, in accordance with Arizona Revised Statutes, Section 11-952, on this ____ day of _____, 20____, by and between the City of Sierra Vista (hereinafter referred to as Sierra Vista), a municipal corporation, organized under the laws of the State of Arizona and the Town of Huachuca City (hereinafter referred to as Huachuca City).

BACKGROUND AND INTENT

WHEREAS, Huachuca City intends to install two emergency traffic signals on State Highway 90 to allow for safe access for emergency vehicles onto the highway and is responsible for maintenance; and

WHEREAS, Huachuca City does not employ staff qualified to maintain the emergency signals, but Sierra Vista is willing and able to provide Huachuca City with repair and maintenance services performed by a certified Traffic Signal Technician for its emergency signals.

WHEREAS, pursuant to Arizona Revised Statutes, Section 11-952, which allows contracts/agreements between public agencies for cooperative actions, Sierra Vista and Huachuca City desire to enter into an Interagency Governmental Agreement for Sierra Vista to provide traffic signal repair and maintenance to Huachuca City.

THEREFORE, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result there from, parties agree as follows:

SCOPE

Upon request by Huachuca City, Sierra Vista will provide repair and maintenance services to Huachuca City on its emergency traffic signals as listed in Exhibit A. All routine and regular maintenance will be scheduled at least two weeks in advance.

Sierra Vista will keep accurate and complete records as to the date, man-hours expended, equipment, and traffic signal parts used by Sierra Vista to resolve maintenance or repair requests pursuant to this Agreement.

Sierra Vista will invoice Huachuca City for labor at the technician's hourly plus burdened rate; equipment; and parts required for providing repair or maintenance services at the rates listed in Exhibit B. The rates in Exhibit B shall remain in effect during each fiscal year unless adjusted by Sierra Vista in writing to Huachuca City by June 30 of each year.

Sierra Vista agrees to provide Huachuca City with the contact information necessary to allow Huachuca City to request repairs and maintenance.

TERM

The initial term of this AGREEMENT shall be from January 1, 2020 through June 30, 2020. Thereafter, it shall automatically renew for successive one-year terms as of July 1 of each year, for up to three additional terms, unless either party notifies the other of its intent to not renew the AGREEMENT by written notice provided by June 1 prior to any renewal term. Otherwise, the AGREEMENT may be terminated as provided immediately below.

TERMINATION, DEFAULT, AND REMEDIES

Either party may terminate this AGREEMENT by giving the other party a 60-day prior written notice of its intent to terminate.

If Huachuca City fails to pay any of the sums required to be paid or fails to do any other things required to be done by Huachuca City under this AGREEMENT, Huachuca City shall be deemed to be in default. If Sierra Vista fails to perform the services required to be performed, fails to pay any of the sums required to be

paid or fails to do any other thing required to be done by Sierra Vista under this AGREEMENT, Sierra Vista shall be deemed to be in default.

If Huachuca City, after written notice, fails to remedy any default within 30 days, or if the remedy requires more than 30 days or fails to begin and diligently pursue remedy of the default within 30 days, Sierra Vista may, at its option, terminate this AGREEMENT by giving written notice of such termination to Huachuca City. Sierra Vista may also pursue any other remedies available to it under applicable law by reason of Huachuca City's default.

If Sierra Vista, after written notice, fails to remedy any default within 30 days, or if the remedy requires more than 30 days or fails to begin and diligently pursue remedy of the default within 30 days, Huachuca City may, at its option, terminate this AGREEMENT by giving written notice of such termination to Sierra Vista. Huachuca City may also pursue any other remedies available to it under applicable law by reason of Sierra Vista's default.

INSURANCE

It is understood that Huachuca City and Sierra Vista are both public bodies in the State of Arizona. Each party shall maintain worker's compensation insurance as required by state and/or federal laws, general commercial liability insurance, property damage insurance and automobile liability insurance with respect to its activities under this AGREEMENT.

Except as may be required by statute, the liability insurance referred to above shall provide, as a minimum, liability coverage for not less than \$1,000,000 combined single limit.

The limits of the required insurance shall be adjusted in accordance with the maximum limit of liability imposed on political subdivisions of the State of Arizona during the term of this AGREEMENT.

The insurance shall stipulate that the coverage shall not terminate or be canceled without thirty days written notice first being given to the Insured Party's risk manager. If the insurance is canceled or terminated prior to termination of the AGREEMENT, the Insuring Party shall provide a new policy with the same or greater limits. The Insuring Party agrees to maintain continuous, uninterrupted coverage for the duration of the AGREEMENT and to provide the Insured Party with evidence thereof.

INDEMNIFICATION

To the fullest extent permitted by law, Huachuca City shall defend, indemnify, and hold harmless Sierra Vista, its agents officers, officials and employees from and against all tortuous claims, damages, losses and expenses, including but not limited to attorney fees, court costs and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of Huachuca City, its agents or employees. Huachuca City's duty to defend, hold harmless and indemnify Sierra Vista, its agents, officers, officials and employees shall arise in connection with any tortuous claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment or destruction of property including loss of use resulting there from caused by any of Huachuca City's acts, errors, mistakes, omissions, work or services in the performance or failure to perform under this AGREEMENT, including any employee of Huachuca City or any other person for whose acts, errors, mistakes, omissions, work or services Huachuca City may be legally liable. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

To the fullest extent permitted by law, Sierra Vista shall defend, indemnify, and hold harmless Huachuca City, its agents officers, officials and employees from and against all tortuous claims, damages, losses and expenses, including but not limited to attorney fees, court costs and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of Sierra Vista, its agents or employees. Sierra Vista's duty to defend, hold harmless and indemnify Huachuca City, its agents, officers, officials and employees shall arise in connection with any tortuous claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment or destruction of property including loss of use resulting there from caused by any of Sierra Vista's acts, errors, mistakes, omissions, work or services in the performance or failure to perform under this AGREEMENT, including any employee of Sierra Vista or any other person for whose acts, errors, mistakes, omissions, work or services Sierra Vista may be legally liable. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

ADMINISTRATION OF AGREEMENT

Each party shall designate a representative or representatives, notice of the same to be provided to the other party, who shall be jointly responsible for

developing procedures to be utilized in fulfilling this AGREEMENT and providing other administrative services as necessary. Any disputes arising under this AGREEMENT which cannot be resolved by the above-mentioned representatives, shall be referred to the City Managers for joint resolution. Disputes not resolved at this level shall be referred to binding arbitration to be conducted by a panel of three arbitrators, one selected by each party, and the third selected by the two arbitrators.

NOTICES

Unless otherwise specified herein, any notice or communication required or permitted under this AGREEMENT shall be in writing and sent to the address given below for the party to be notified.

HUACHUCA CITY

Town Manager
500 Gonzales Blvd
Huachuca City, AZ 85616

SIERRA VISTA

City Manager
1011 N. Coronado Drive
Sierra Vista, AZ 85635

ASSIGNMENT

Neither party shall assign the rights or duties under this AGREEMENT to any third party without the written consent of the other party. Any such assignment in violation of this AGREEMENT will be grounds for termination of the AGREEMENT.

NON-DISCRIMINATION

To the extent applicable, the parties shall comply with all laws and regulations, including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act and State Executive Order 75-5 which mandated all persons, regardless of race, religion, handicap, color, age, sex, political affiliation or national origin shall have equal access to employment opportunities. All parties shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, with all federal regulations regarding equal employment opportunity, with relevant orders issued by the U.S. Secretary of Labor and with all applicable provisions of the Americans with Disabilities Act, Public Act 101-336, 42 U.S.C. Sections 12101-12213 and all applicable Federal Regulations under the Act, including 28 C.F.R. Parts 35 & 36.

RIGHTS OF PARTIES

The provisions of this AGREEMENT are intended only to define the respective rights and obligations of the parties. Nothing expressed herein shall create any rights or duties of any nature or kind in favor of any third party.

SEVERABILITY

The provisions of this AGREEMENT are severable to the extent any provision or application held to be invalid shall not affect any other provision or application of the contract, which may remain in effect without the invalid provision, or application.

OTHER TERMS

1. **WORKER'S COMPENSATION:** For purposes of workers' compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of another Party pursuant to this intergovernmental agreement, is deemed to be an employee of both the Party who is her primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries she is then working, as provided in A.R.S. §23-1022(D). The primary employer of such employee shall be solely liable for payment of workers' compensation benefits for the purposes of this section. Each Party herein shall comply with the provisions of A.R.S. §23-1022(E) by posting the notice required.

2. **CONFLICT OF INTEREST.** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.

3. **NO BOYCOTT OF ISRAEL.** In accordance with A.R.S. § 35-393.01, the parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel, and will not adopt a procurement, investment, or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

4. **COMPLIANCE WITH IMMIGRATION LAWS.** The parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to the parties' employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The parties shall further ensure that each sub-consultant who performs any work for the party under this Agreement likewise complies with the State and Federal Immigration Laws.

5. INSPECTION AND AUDIT. The parties agree to retain and dispose of all books, accounts, reports, files, and other records pursuant to the provisions of the Arizona State Library, Archives & Public Records General Records Retention Schedule for All State and Local Agencies. The parties further agree that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.

6. PUBLIC RECORDS LAW. Notwithstanding any other provision of the agreement, the parties understand that all of the other parties are public entities and, as such, are each subject to Arizona's public records law, A.R.S. § 39-121 et. seq.

7. JURISDICTION AND APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Arizona. Jurisdiction and venue for any action under this Agreement shall be in Cochise County, Arizona.

IN WITNESS WHEREOF, two identical counterparts of this AGREEMENT, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named on the date and year first above written.

APPROVED BY:
TOWN OF HUACHUCA CITY

By _____
Johann Wallace, Mayor

DATED: _____

ATTEST:

By _____
Janine Collins, City Clerk
Town of Huachuca City

APPROVED BY:
CITY OF SIERRA VISTA

By _____
Frederick W. Mueller, Mayor

DATED: _____

ATTEST:

By _____
Jill Adams, City Clerk
City of Sierra Vista

Pursuant to A.R.S. §11-952, this AGREEMENT has been reviewed by legal counsel for each party to determine it is in proper form and is within the power and authority granted under the laws of the State of Arizona to the respective client agency.

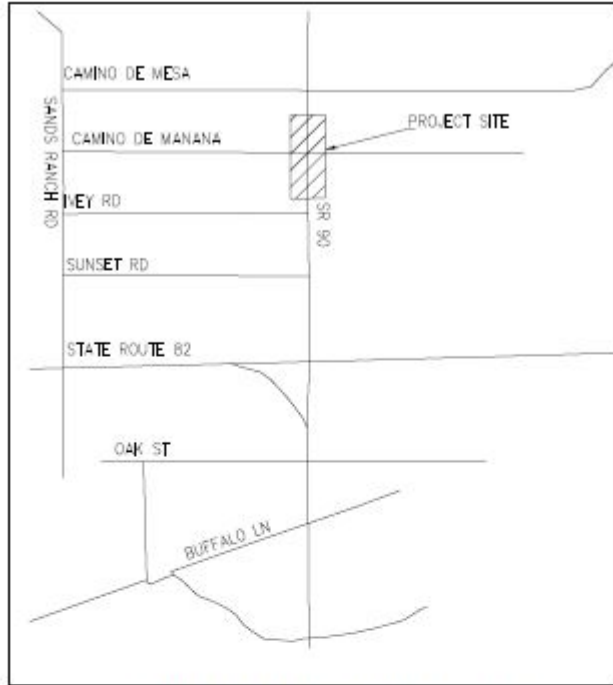
APPROVED AS TO FORM:

Thomas Benavidez, City Attorney
Town of Huachuca City

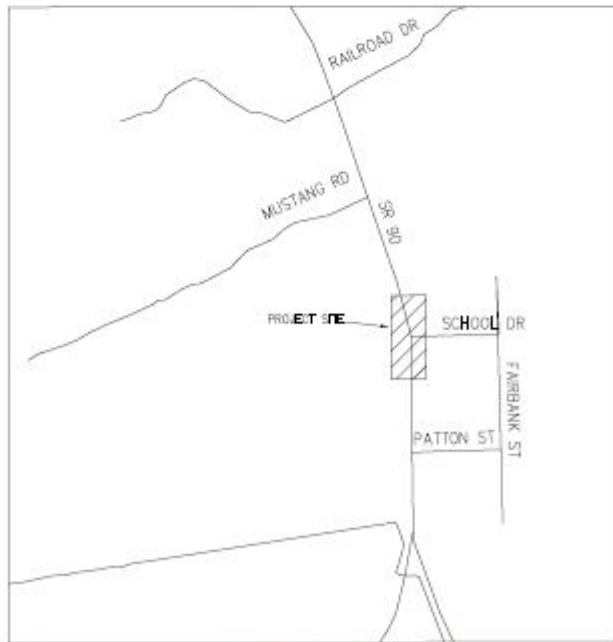
APPROVED AS TO FORM:

Nathan Williams, City Attorney
City of Sierra Vista

Exhibit A



CAMINO DE MANANA RD PROJECT SITE



SCHOOL DRIVE PROJECT SITE

Exhibit B

A. Hourly rates of staff

Last Name	First Name	TOTAL PER HOUR
MEINZER	BRADLEY	\$ 32.39
MUNSEY	RONALD	\$ 26.11
PETTY	JAMES	\$ 31.81
ROBITAILLE	JAMES	\$ 21.64
TAYLOR	JARED	\$ 22.00
WILSON	DENNIS	\$ 23.96
WRIGHT	FRANK	\$ 25.61

B. Equipment rate

Boom truck and equipment \$20/hr

C. Parts shall be charged at the cost of the part used.