



Sierra Vista
A R I Z O N A

EXTRAORDINARY SKIES.
UNCOMMON GROUND.

CERTIFICATION

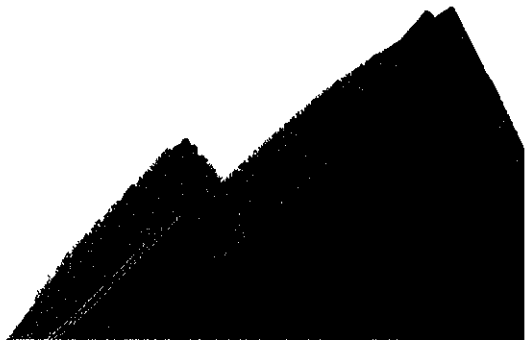
I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of Sierra Vista held on the 28th day of May 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 11th day of June 2020

SEAL

Maria G. Marsh
Deputy City Clerk

Jill Adams
City Clerk



Mayor Mueller called the May 28, 2020 City Council Meeting to order at 5:00 p.m., Council Chambers, City Hall, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Roll Call: due to health concerns related to COVID-19, the meeting was held remotely.

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gwen Calhoun – present (5:06 p.m.)
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
Adam Thrasher, Police Chief
Brian Jones, Fire Chief
Laura Wilson, Leisure and Library Services Director
Sharon Flissar, Public Works Director
Matt McLachlan, Community Development Director
Jeff Pregler, Planner
Nathan Williams, City Attorney
Jill Adams, City Clerk

Invocation- Mayor Mueller conducted the invocation.

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

Item 1 Acceptance of the Agenda

Mayor Pro Tem Gray moved that the Agenda for the Regular City Council Meeting of May 28, 2020 be approved as written. Council Member Benning seconded the motion. The motion passed by a 6/0 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Pacheco, Umphrey and Wolfe. Council Member Calhoun not present.

City Manager's Report: Mr. Potucek explained that the reason why the Council Meeting is through WebEx is largely since an employee is in the testing mode for COVID. As a result of that, it was determined to have all City lobbies closed; however, the outdoor activities will continue. The employees that were coming back to work, will continue to telecommute. As a result of this, the status of future meetings is unknown. There is a work session scheduled for 3:00 p.m. on June 9, 2020 and a Council Meeting for 5:00 p.m. on June 11, 2020. Also scheduled are budget work sessions on June 16, 17 and 18, 2020 at 3:00 p.m. in Council Chambers. He announced that the Governor had a press conference, where he announced that they are still in Phase I and there are no guidelines in terms of going to Phase II. He is pressing

forward in trying to open the schools on time, which will require a lot of work with the various school districts and State Superintendent of Schools.

He also reported that the State received \$2.8 Billion in CARES Act funding. The City has been in contact with the Governor's Office to see how that money is going to be disbursed and at long last, the City was notified that it will receive approximately \$4.9 Million in allocations to assist the City through the challenging time. The City will be able to use that funding to pay for police/fire salaries and burden directly as of March, when the pandemic started and in moving forward. This will help the City with the budget going into next year. The proposal on how these funds will be used will be presented to Council during the budget work sessions. He also reported that he and Ms. Yarbrough met with the School District Board to make the City's proposal regarding the Rothery property, which will be presented to Council during a meeting in June. Lastly, he reported that the City is out for quotes due on June 12, 2020 for the house that has been vacant and gutted at 3064 Quail Run Drive to be demolished.

Mayor Mueller announced that Council Member Calhoun has joined the Council Meeting, 5:06 p.m.

Mayor Pro Tem Gray stated that she has picked up her budget book and announced that if Council call Ms. Mathias, she will set a budget book out for them to pick up. Mayor Mueller noted that due to the recent change of the \$4.9 Million and proposed plan by staff, there are changes in the first section of the budget that will be affected. He added that hopefully the changes can be clarified when meeting with staff during the one on one sessions.

In response to Council Member Benning, Mr. Potucek stated that staff plans to proceed with the one on one meetings with Council Members.

Item 2 Consent Agenda

Item 2.1 Approval of the City Council Special Meeting Minutes of May 12, 2020

Item 2.2 Approval of the City Council Regular Meeting Minutes of May 14, 2020

Council Member Benning moved that the Consent Agenda consisting of the City Council Special Meeting Minutes of May 12, 2020 and Regular Meeting Minutes of May 14, 2020, be approved. Council Member Umphrey 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.

Public Hearing: There was no response.

Item 3 Resolution 2020-025, Request for a Conditional Use Permit, Haven Health of Sierra Vista, 660 S Coronado Drive

Council Member Umphrey moved that Resolution 2020-025, a Conditional Use Permit, Haven Health of Sierra Vista, 660 S Coronado Drive, be approved. Council Member Benning seconded the motion.

Mr. Pregler stated that the City received a request from Haven Health of Sierra Vista to expand their nursing services on the property located at 660 S Coronado Drive, the northwest corner of Coronado and Busby Drive. The expansion includes constructing a 10,000 square foot addition to the existing building, which will include 40 additional beds. Overall, the number of beds on the property will be 131. The property is currently zoned Multi-Family Residence (MFR) and

according to the Development Code, a nursing facility is required to obtain a conditional use permit if located within an MFR Zoning District. The nursing care facility is existing and defined as a legal nonconforming use. However, once a nonconforming use is enlarged as is the case in the situation, the legal nonconforming status is lost and the use at that point needs to conform to the requirements of the current Development Code. This is the reason for the conditional use permit.

Staff analyzed the expansion of the proposed use to determine if it was appropriate for the site and came up with the following findings:

- Parking, the applicant will be providing a total of 81 spaces on the site, which does meet the minimum parking requirements for a nursing care facility per the Development Code requirements.
- Traffic generation, Haven Health provided staff with the proposed traffic generation of the 30 additional beds. According to the analysis, they estimate that each patient typically averages two to three visit per week and with the addition of 40 beds, the increased traffic would be between 11.4 and 17 cars per day. Given the fact that Coronado Drive is an arterial roadway, which is nowhere near capacity, the roadway will have ample capacity to handle the minimum increase in traffic generated by Haven Health.
- Access, there are currently three access points into the site. Two from Coronado and one from Busby Drive. The accesses will allow for appropriate traffic flow entering and exiting the site as well as for emergency access.
- Compatibility with surrounding uses, the Bonita Vista Apartments directly to the north and the Bella Vista Apartments directly to the west. Both, of these apartment complexes will generate more traffic and more intensive than Haven Health. The facility is compatible with the adjacent uses.
- Consistency with the General Plan, the request is consistent with Goal 12.7, which is to increase housing choices that serve all age groups and needs.

Staff notified all property owners within 500 feet of the property and in addition an ad was published in the newspaper along with a sign posted on the property. Staff received a verbal comment from an individual, Angelica Thomas, who had concerns about the increase in traffic generated by Haven Health and an increase in speeding along Coronado Drive. To-date, no other comments have been received.

The Planning and Zoning Commission heard this item on May 19, 2020 and unanimously voted to approve the request by a vote of 6/0.

Tom Coffman and Tanner Nickle, representing the applicant, were introduced. Mr. Coffman stated that they took over the building two years ago and have done everything that they could from a staffing point. Haven's culture is to take niche markets and turn buildings that basically have been selling by other operators and eventually turn them into five-star facilities, a rating by the Department of DHS Office of Long-Term Care. He added that 18 facilities are operated across Arizona with around 2,200 employees. Their goal has always been to reinvest into the community and have been waiting for the right time, but COVID has changed a lot of things for them regarding their operations. The facility in Sierra Vista has created opportunity for them and they are ready to move forward with the physical plan improvements that were put into place long before COVID. They like being the provider of choice in the communities that they serve, and it is time to improve the building. The goal is to add 40 new beds with private baths along with the renovation of a large portion of the facility that is not handicapped accessible. This way the residents will be able to have the ADA accessible bathrooms. They are also creating a

larger gym for therapy, taking the office space out of the main real estate area and moving them to other areas, created away from nursing so that all of the nurses have access to just beds. The showering capabilities are being improved along with nurse call capabilities, fire alarms and electrical services to bring 80 percent of the building under emergency power. This is a major investment into the community and a plan that is close to \$4 Million.

Mayor Mueller thanked Mr. Coffman for his investment in the City, especially upgrading the living quarters for many of the City's seniors who needed the ADA accessible amenities.

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 4 Resolution 2020-026, Accepting a Grant from the Federal Aviation Administration (FAA) for Pavement Sealing and Rehabilitation

Council Member Pacheco moved that Resolution 2020-026, acceptance of a grant from the Federal Aviation Administration (FAA) for pavement sealing and rehabilitation, be approved. Council Member Umphrey seconded the motion.

Ms. Flissar stated that this agenda item will accept a grant from the Federal Aviation Administration (FAA) in the amount of \$100,204 for the design of pavement rehabilitation work at the airport. The work area is along an apron and taxiway, directly adjacent to the terminal. The design will determine the most appropriate repair method for each area given the pavement condition and use characteristics. However, the apron is expected to require some amount of reconstruction whereas the taxiway will likely only need a seal coat. The design is expected to be completed within the current calendar year and construction will then be programmed into the following federal fiscal year. It is anticipated that the construction will qualify for a federal grant as well. The current design grant will be 100 percent federally funded with no required state or local match. Airport grants typically require an approximate 4.5 percent match from the State and local entities with the remaining federal contribution being 91 percent. Due to the CARES Act, all 2020 grants are 100 percent federally funded and no match is required.

Council Member Pacheco asked for clarification for the grant in the budget because it states that the full amount goes towards the noise program implementation for development and zero funds for planning. Ms. Flissar stated that the grant form is a standard document sent by the FAA and that was not generated by the City. The FAA gives the City the grant offer and there are a lot of unusual federal provisions, everything from noise to wildlife and it is what they call their assurances. The bottom line is that this is a design grant for the apron and the taxiway area and that is what the scope of the project will cover.

Council Member Pacheco asked how the City can be assured that the City will get a construction grant after doing the design grant. Ms. Flissar stated that there is not a hard and set guarantee, but it is as close to 100 percent as it can get. The reason for this is that the City submits a five-year Airport Capital Improvements Plan (ACIP) to the FAA every year. This outlines the City's funding priorities for the coming five years. The FAA has a good heads up on which projects the City is going to be submitting on. They have told the City verbally that there are no issues with a construction grant next year, but it is unsure how COVID could potentially change things in the budget and it is hard to determine at this time due to the level of uncertainty. At this point and time, the City is not foreseeing any issues and the design gets the

City through that phase of the project and prepped for construction no matter what the future holds.

Council Member Pacheco thanked Ms. Flissar for reaching out to the Airport's stakeholders and commission members because they appreciate being kept in the loop and that communication between them and the City is important.

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

Item 5 Resolution 2020-027, Authorization to take legal action against Jodi Silva

Council Member Calhoun moved that Resolution 2020-027, Authorizing legal action against Jodi Silva, be approved. Mayor Pro Tem Gray seconded the motion.

Mr. Williams stated that between 2016 and 2018 the City was required to perform several acts of abatement, maintenance-type services at the property located at 140 E Freihage Drive, owned by Jodi Silva. Some of the abatement included the cleanup of overgrowth, removal of litter, trash, debris, the taking care of an abandoned swimming pool and trimming a dying pine tree that threatened to fall over onto powerlines behind the house. The cost of the abatement activity constitutes a lien on the property pursuant Arizona Law and Sierra Vista City Code.

Ordinarily, the City waits until the property sells, or the City works with the property owner to repay the lien in accordance with the City's Code. The City attempted to reach out to Ms. Silva many times through herself, caregivers and money managers or people who might have a role in assisting Ms. Silva with her property and received no response nor assistance. Earlier in the year, the City received notice that Ms. Silva's home was going into tax lien foreclosure and in order to preserve the City's own liens and not have those extinguished by that tax lien foreclosure, made the decision to redeem those taxes and preserve the City's lien. Under the City's Code, if liens are not paid within a certain amount of time, in equal annual installments, the City has the right to foreclose its abatement liens but in order to do that, the Council has to authorize the City Attorney to take that action.

Mr. Williams stated that it is the City's goal to try to resolve these situations short of litigation, a last resort attempt to pursue any kind of further legal action. However, at this point no response has been made by Ms. Silva or anyone having a role in assisting her. This is the logical next step pursuant to the City Code. The approval of Council will authorize the City Attorney to pursue legal action against Ms. Silva, which will include a demand letter and her execution of either a quit claim deed or promissory note for the repayment of the liens up to and including a foreclosure action in the City's right to foreclose the City's liens against the property.

Council Member Wolfe thanked Mr. Williams and noted that this is a much better explanation than what was received during the work session. However, she is unsure of how the City recoups its money. She asked if the City puts it to auction because at this point, instead of the \$4,000, the City must recoup approximately \$12,000. Mr. Williams stated that there are a couple of options that can be pursued. One is to have the County Sheriff auction the property after the City goes through the foreclosure if the City receives the foreclosure judgment through the court. The other option, which is the option that he suggests, is put that control into the City's hands so under the City's Code, the City has the authority to ask the court to grant the City ownership of the property and then the City would turn around and auction it.

Council Member Wolfe asked if the property owner would receive any remaining proceeds after the City subtracts its \$12,000 from the total amount from the sale of the property. Mr. Williams stated that it can be one of the options that can be pursued. This depends on how the City proceeds through the foreclosure action. If the City proceeds as if this were a mortgage, the scenario described is what would take place, but if the City proceeds under its Code, then the City would keep any excess proceeds and place them into the Abatement Fund.

Council Member Wolfe asked what is generally done with the Abatement Fund because she does not feel comfortable keeping proceeds over and above what the City spent. Mr. Williams stated that this is the first time that the City has been faced with a situation where there may be excess proceeds because of the foreclosure action. This is a unique situation because most of the time when these situations occur, the properties are either under water or there are other liens that come before the City's liens.

Council Member Wolfe asked if this issue would come back before Council if there are excess proceeds. She added that she understands the abatement process, but she is concerned over the excess proceeds. Mr. Potucek stated that because is a new precedence setting, the issue would probably need to come before Council to establish a policy or precedence on how these funds would be handled. This case is difficult because the current owner's condition is unknown. This will take a while, but it seems that the appropriate thing to do is to take what is owed to the public and then take the proceeds to the individual, who in this case may need those funds. If this is done, the City could then establish that as a matter of Council policy to address these situations in the future.

Council Member Wolfe stated that her major concern is in what will be done with the excess funds and she will support this if Council is voting on this issue with the understanding that in the future it will come back before Council, and that Council will make a policy at that time.

Mayor Pro Tem Gray asked if there is a mortgage on the property. Mr. Williams stated that he is not aware of a mortgage. Mr. Potucek asked if there are any other liens on the property. Mr. Williams stated that he is not aware of any other liens.

Council Member Benning stated that he shares the same sentiment that Council Member Wolfe has, but he would like to make sure that staff will track the City's expenditures on the property from the beginning to the end so that those fees are deducted from the sale of the house.

Mayor Mueller agreed in that cost recovery is reasonable. The City should get out what was put in and the decision will depend on what the person's position is at a future discussion, but it is apparent that the property owner may need some assistance with the remaining funds, which he believes is the proper thing to do.

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

Item 6 Resolution 2020-028, Dissolution of the City Council Advisory Bodies known as the Airport Commission, Arts & Humanities Commission, Cultural Diversity Commission, Commission on Disability Issues, Environmental Affairs Commission, Library Advisory Commission, Tourism Commission, Youth Commission, and the West End Commission and Re-establishing them as Departmental Commissions of the same names

Council Member Wolfe moved that Resolution 2020-028, dissolution of the City Council Advisory Bodies known as the Airport Commission, Arts & Humanities Commission, Cultural Diversity Commission, Commission on Disability Issues, Environmental Affairs Commission, Library Advisory Commission, Tourism Commission, Youth Commission, and the West End Commission and re-establishing them as Departmental Commissions of the same names, be approved. Council Member Benning seconded the motion.

Ms. Adams stated that over the past year, the Mayor performed an in-depth evaluation of the role of the various City boards and commissions and presented his review and recommendations at a series of work sessions beginning in November 2019 through February 2020. After extensive discussion and input from commissioners, who were allowed to speak at work sessions, the Council appears to have reached consensus on the change of the role of many of the City's commission to nonregulatory presence that is not a Council appointed advisory body. Approval of the resolution would accomplish that.

Ms. Adams pointed out that after discussion at the work session, the Administrative Directive was amended to include the provision that any changes to commission statements of the nonregulatory commissions going forward will be approved by Council.

Mayor Mueller stated that he provided Council with a copy of an email that he received from Mr. Faulkner, Chairman of the Environmental Affairs Commission, along with his response. He further stated that he informed Mr. Faulkner that his statement would be placed on the record.

Mayor Mueller asked Council if they did not object to Mr. Faulkner's email being placed into the record. There was no objection.

Council Member Calhoun stated that she does not understand Mr. Faulkner's statement, but thinks that it should be discussed. Mayor Mueller stated that Mr. Faulkner feels the need to come back before Council and talk about the one commission that he leads, Environmental Affairs Commission. Based on previous discussions on the result of the previous endeavor to try to amend/change the commissions, it was decided to go through the process of evaluating the commission. Since November 2019, he was asked by the Airport Commission to meet with them and talk to them about this, which resulted in some changes. He also met with the West End Commission and Arts and Humanities Commission and explained what was going on. There has been ample time for the Environmental Affairs Commission to come forward and talk to Council to share their concerns. Mr. Faulkner did speak at a couple of Council Meetings and shared his concerns, but he still thinks that there is more to be done on making improvements for his commission. However, he has not offered specifics. Lastly, he explained that he wants to get proper input, but once the Council gets to a point where there is consensus, the time for the input is over and it is time for the Council to make a decision. Mr. Faulkner has not given a solid reason for extending the process.

Council Member Calhoun stated that Mr. Faulkner referred to policy on how the Council is to conduct this and asked if Council followed policy related to the changes being made to the commissions. Mayor Mueller stated that all written policies were followed, and the Council has been more than generous with commission input. If for some reason Mr. Faulkner was a new commission chair or he had people change on the commission that had a different opinion than before, he should have expressed concerns early on. There was a lot of work done on this that resulted in a significant improvement.

Council Member Calhoun asked if it was ascertained as to whether Council will be able to keep up with what is going on with these work groups along with a review on how efficient they are operating. Mayor Mueller noted that Mr. Potucek stated that in his monthly report, there will be reports from each of the commissions that have met and what they are working on and what they are proposing. There will be feedback to Council on their activities through the Executive Report.

Council Member Calhoun stated that her reasons for bringing this up is to provide information to anyone listening and to make sure that Mr. Potucek's statement becomes record for the meeting. She added that on account of Mr. Faulkner's letter, she will be voting against the proposed resolution.

Council Member Wolfe stated that one issue that will be huge and beneficial for the commissions is that membership is being dropped down to five people. She added that a lot of her commissions have had problems getting a quorum and have not been able to meet. There may be more input because the commissions will be able to meet due to the reduction of the number of members. Mayor Mueller added that this removes a huge administrative burden for the staff as well. It is a cleaner process and, in a year, or two, results will indicate as to whether this is a more effective process.

Mr. Potucek stated that he feels that this will be a more productive way to run the commissions and noted that Council Member Wolfe is correct in that quorums have been an issue. It is hoped that the commissions will effectively operate the same way that they are now. This will not change, but it is incumbent on him to present to Council not only the information in terms of what is happening in those meetings and reporting to Council in the Executive Report, but to let Council know if there are other issues that come up. Lastly, he stated that Council Member Wolfe pointed out that there are a couple of commissions that currently do not have memberships. If there are issues on bringing people on board to participate, then those issues will be brought back before Council so that there can be discussion on whether they want to keep that group going at that point.

Mayor Mueller noted that there needs to be recruitment for those commissions because the last point of the discussion was that they were valued, and that Council needs that input. The Youth Commission is also included in this because that piece still needs to get organized.

Council Member Pacheco stated that she was told by a commissioner that they were surprised, but many discussions have taken place with the commissions and Council did take into account some of the desires that they had, i.e. the concern that there would not be a connection between the commission and the Council by making it departmental. Council established a feedback channel for the commissions, which she feels was not there before. Lastly, she voiced her appreciation at the change in the directive for members to be included from the Greater Sierra Vista Metropolitan Area that lifts the City limit boundary requirement for membership. She further stated that the new setup will allow for greater flexibility with regards to the Open Meeting Law, minutes, quorums, and a posted agenda, which can be challenging. This is a change of the operating procedures and not a change of the commission's function to make them more effective.

Mayor Mueller stated that nothing in the document is going to change the ability for a citizen or a member of a commission, to talk to the Mayor and Council Members about issues before a commission or other issues that they may have within the community.

Council Member Calhoun stated that the comments made by Council Members and Mr. Potucek were helpful to her and she hopes that it helps others understand the changes. Although, she is not opposed to change, she still has a gut feeling about this issue and is still having trouble with it.

The motion passed by a 6/1 vote of Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Pacheco, Umphrey and Wolfe. Council Member Calhoun voted no.

Call to the Public – There was no response.

Comments and Requests of the Council

Council Member Calhoun stated that she is saddened in having someone near Council being affected by COVID-19. She wished those affected in the area a quick recovery.

Council Member Wolfe asked everyone to be safe, added that she hopes that everyone had a good Memorial Day and that they were all were thinking about what the holiday is about.

Mayor Mueller wished Council Member Wolfe a Happy Anniversary.

Council Member Benning sent prayers to Minneapolis and anyone affected by the Ash Canyon Fire. He asked everyone to be careful, safe and to listen to authorities as far as COVID goes in having another staff member going through the testing process. He further stated that the pandemic is not over, people must be patient in everything that they do and be respectful for one another.

Council Member Umphrey had nothing to report.

Council Member Pacheco thanked the Southern Arizona Veterans Memorial Cemetery and Fort Huachuca for the great virtual ceremonies during Memorial Day to remember those who have passed fighting for the country. In closing, she asked everyone to stay safe.

Mayor Pro Tem Gray thanked Mayor Mueller for speaking to the Governor about the State Cares Act funding. She added that she is pleased with the way that this was rolled out and happy to see that the cities will get some direct funds to help with costs.

Mayor Mueller stated that he briefly looked at the budget book and noted that there will be changes on the \$4.9 Million. He further stated that he spoke to Fire Chief Jones about the Ash Canyon fire, who told him that Fire Chief Savage had reported that the fire is under control. He added that this is fire season and cautioned everyone since it is going to get hot/dry. He also stated that it is regrettable that the City had a situation where the lobbies had to be closed again. The lobbies will open in the future as this is nothing to worry about because it is more of an overabundance of caution. This is to make sure that the City employees are taken care of as well as anyone that comes into the City to do business. The City is doing exactly what the business community is doing, while doing a great job in taking care of their customers and protecting their workers and providing service - the way that the community will live for several months. Lastly, he stated that he has heard discussions about schools opening, which will be a challenge.

Council Member Pacheco stated that the School Board has put out a survey to all parents of children in Sierra Vista schools regarding the reopening of schools and currently gathering that feedback. She encouraged parents of school children to participate.

Mayor Mueller added that the School Board has started the discussion/education process to make sure that they are successful in protecting the kids, teachers, bus drivers and others. Lastly, he voiced his appreciation at everyone's efforts and noted that when Council meets again at the next work session, the next step on the commissions will be added for discussion along with policy and procedure guidelines for boards/commissions.

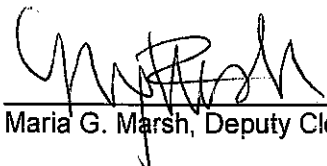
Adjournment

Mayor Mueller adjourned the May 28, 2020 meeting of the Sierra Vista City Council at 6:00 p.m.



Mayor Frederick W. Mueller

MINUTES PREPARED BY:



Maria G. Marsh, Deputy Clerk

ATTEST:



Jill Adams, City Clerk