

Sierra Vista City Council
Meeting Minutes
[February 25, 2021](#)

Call to Order – Mueller

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

Roll Call:

Mayor Rick Mueller – present
Mayor Pro Tem Rachel Gray – present
Council Member William Benning – present
Council Member Gregory Johnson - present
Council Member Angelica Landry – present
Council Member Sarah Pacheco – present
Council Member Carolyn Umphrey - present

Others Present:

Chuck Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Adam Thrasher, Police Chief
Sharon Flissar, Public Works Director
Matt McLachlan, Community Development Director
Jeff Pregler, Planner
Jill Adams, City Clerk
Nathan J. Williams, City Attorney

Invocation – Reverend Chuck Carlson, Sierra Vista Community Church, conducted the invocation.

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

[Item 1](#) Acceptance of the Agenda

Council Member Johnson moved that the agenda for the Regular City Council Meeting of February 25, 2021, be approved. Council Member Benning seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, Pacheco, and Umphrey voting in favor.

City Manager's Report: Mr. Potucek announced that the next regularly scheduled City Council Work Session is scheduled for March 9, 2021 at 3:00 p.m. in Council Chambers, reported that the annual street maintenance bids are out and due on March 5, 2021, the Community Development Block Grant Solider Creek and James Landwehr Plaza improvements was awarded to KE&G Construction, and the Riverstone Recharge Project was awarded to JE Fuller/Hydrology and Geomorphology.

In response to Mayor Mueller, Mr. Potucek stated that the Riverstone Recharge Project is on behalf of the Cochise Conservation and Recharge District of which the City serves as a fiscal agent.

Public Hearings:

[Item 2](#) Resolution 2021-013, Development Code Text Amendment, Reasonable Modifications, Section 151.02.004 – Definitions and Section 151.06.011 - Reasonable Modification, and Declaring a 30-day Public Record

Council Member Landry moved that Resolution 2021-013, Development Code Text Amendment, Reasonable Modifications, Section 151.02.004, Definitions, Section 151.06.011, Reasonable Modification, and declaring a 30-day public record, be approved. Mayor Pro Tem Gray seconded the motion.

Mr. Pregler stated that every year, Community Development develops an annual work program in coordination with the Planning and Zoning Commission and the Council, which identifies ways to improve efficiencies, clarify requirements, and help citizens move through the development process more easily. This practice is consistent with the Council's initiatives to make codes and processes more efficient and streamlined. The amendments in Resolution 2021-013 reflect these goals, relate to reasonable modifications, and are in response to public comments requesting home modifications to accommodate a disability. A reasonable modification is to be defined as "a means to provide disabled persons flexibility in the application of a structure's dimensional standards and lot coverage area requirements and procedures, when necessary to eliminate barriers to housing opportunities." In other words, to create a process that would allow the reduction of building setbacks, height increases that extend above the zoning height maximums, or increases in lot coverage areas, for the purposes of accommodating a disability. Lot coverage areas limit the amount of area that structures can occupy on a property.

Prior to staff writing the proposed language, a review of other communities was made to determine the type of reasonable modification requests they were receiving. Based on those codes, requests include modification for ramps, handrails, widened driveways, parking areas or walkways, building additions, tree removal, or reduced off-street parking. Many of these requests do not require a building permit or zoning review in the City or they relate to modifications interior to the home, which is why these requests are not included in the proposed language. Staff anticipates that most of the requests will be related to the dimensional standards or yard coverage areas, and that is why the proposed language only allows for modification of these items.

The current process to waive the dimensional standards is through a variance which is a public hearing that is heard by the City's hearing officer. Due to the strict criteria of the variance process, many requests for reasonable modification would be denied. In addition, the Federal and State Fair Housing Acts state that "prohibited discrimination includes a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises."

The process itself will be administrative, rather than a public hearing, with the reviewing authority being the Director of Community Development. The application will be

reviewed and approved based upon proposed findings as stated in the Code. The abutting property owner affected by the request will be notified and can provide comment which will be considered as part of the review process. The intention is not to send notice to all adjacent property owners, only those that will be most affected by the request. Conditions can be placed on the approval to minimize impacts on neighboring properties if necessary. To verify the modification is needed to accommodate a disability, the applicant is required to submit a written certification of need for the requested accommodation from a medical doctor. For privacy purposes the City will not be requesting the applicant to disclose the disability. However, if there was a public hearing, the applicant's disability could potentially be revealed. The Commission on Disability Issues provided unanimous approval at their December 9, 2020 meeting and the Planning and Zoning Commission recommend unanimous approval at their February 16, 2021 meeting.

At the Council Work Session on February 16, 2021, a consensus of the Council directed staff to make minor adjustments to the proposed language:

- Revising the definition of disability

Staff has revised the term to disabled person and the definition of a disabled person comes straight from the Americans with Disability Act; therefore, the language is consistent with federal law.

- Revising the sentence relating to assisting the applicant with the application process.

The sentence has been revised and clarified to read: "the City will provide reasonable assistance to any applicant making the request."

Staff has not received any public comments; however, should the Council approve the resolution, it will open a 30-day public comment period.

Mayor Mueller opened the Public Hearing. There was no response to the call for comments.

Council Member Johnson stated that he is glad that the definition for disabled person in line with Federal Law.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, Pacheco, and Umphrey voting in favor.

[Item 3](#) Resolution 2021-014, Development Code Text Amendment, Public Hearing Process, Article 151.26 - Conditional Use Permits, Article 151.31 - Amendments, and Declaring a 30-day Public Record

Mayor Pro Tem Gray moved that Resolution 2021-014, Development Code Text Amendment, Public Hearing Process, Article 151.26, Conditional Use Permits, Article 151.31, Amendments, and declaring a 30-day Public Record, be approved. Council Member Umphrey seconded the motion.

Mr. Pregler stated that the amendments in Resolution 2021-014 relate to revising the public hearing process for conditional use permits, rezonings, and text amendments.

The current review and approval process for these requests require public hearings before the Planning and Zoning Commission and the Council. Public hearings require public notification to the public of the hearing dates as required by State Law. These requirements include newspapers ads, posting signs on the property, if it is site specific and mailing letters to all owners within 500 feet of the requested property if it is site specific. The process takes approximately 45-60 days. Arizona Revised Statutes provide for an expedited public hearing process for local municipalities. According to the Arizona Revised Statutes, "if the planning commission has held a public hearing, then the governing body may adopt the recommendations of the planning commission without holding a second public hearing if there is no objection or request for public hearing." In other words, following the public hearing from the Planning and Zoning Commission, the Council can approve the recommendations from the Commission without requiring a second public hearing if there are no objections, protests, or requests for a public hearing. The council will still vote on the items, but the notification requirements for a public hearing will not be required and the items can be placed on the next available Council agenda which helps to expedite the process. However, should there be an objection or protest regarding the item or if there is a request to take the item for public hearing, then a second public hearing before the Council will be scheduled. An objection, protest, or request for public hearing needs to be submitted within seven days from the Planning and Zoning Commission's recommendation.

In accordance with Arizona Revised Statutes, staff is including language that requires the City to notify Fort Huachuca of all proposed conditional use permits and rezonings to ensure there are no adverse impacts to their missions. Also, in compliance with State Law, a public hearing will be required before the Council if Fort Huachuca has comments or concerns regarding an item. This language is codifying current practice as the City already sends all requests for development to the Fort Huachuca Encroachment Board for their review.

Additional amendments include the removal of obsolete or duplicative language. The Planning and Zoning Commission recommended unanimous approval of the amendments on February 16, 2021.

At the Council work session on February 23, 2021, consensus of the Council directed staff to make minor adjustments to the proposed language:

Section 151.26.003, remove the term commission and replace it with Council to read, "in permitting a new conditional use or the alteration of an existing conditional use, this Council can impose, in addition to those standards and requirements expressly specified by the Code, additional conditions which it finds necessary to avoid a detrimental environmental impact and to otherwise protect the best interest of the surrounding area or the community as a whole."

Section 151.26.005, revise the first sentence to include the term Council to read, "All applications for Conditional Use Permits shall be considered by the Commission and Council in accordance with this article."

Staff has received one comment regarding the amendments that seems to be favorable of all proposed amendments. This opens a 30-day public comment period if Council approves the resolution.

Mayor Mueller opened the Public Hearing. There was no response to the call for comments.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, Pacheco, and Umphrey voting in favor.

New Business:

[Item 4](#) Approval of the Special City Council Meeting Minutes of February 9, 2021

Council Member Umphrey moved that the Special City Council Meeting Minutes of February 9, 2021, be approved. Council Member Pacheco seconded the motion. The motion carried, 6/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, and Umphrey voting in favor. Council Member Pacheco abstained.

[Item 5](#) Approval of the Regular City Council Meeting Minutes of February 11, 2021

Council Member Umphrey moved that the Regular City Council Meeting Minutes of February 11, 2021, be approved. Council Member Benning seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, Pacheco, and Umphrey voting in favor.

[Item 6](#) Resolution 2021-015, Authorizing the City of Sierra to Submit a Grant Application Through WaterSMART Grants: Small-Scale Water Efficiency Projects with the Department of Interior, Bureau of Reclamation (BOR)

Council Member Pacheco moved that Resolution 2021-015, submittal of a grant application through WaterSMART Grants, Small-Scale Water Efficiency Projects with the Department of Interior, Bureau of Reclamation, be approved. Council Member Umphrey seconded the motion.

Ms. Flissar stated that staff recently became aware of a grant opportunity being offered through the Department of Interior Bureau of Reclamation for small scale water efficiency projects. The grant criteria are a good match for some planned irrigation work on the recently acquired Veterans Memorial Park Sports Complex and could potentially help to partially offset the cost of the irrigation upgrades to that property. The maximum grant award is \$75,000. Grant applications are due on March 18, 2021 and one of the required elements in the application package is a resolution of support from the governing body.

Ms. Flissar noted that the resolution is for the grant application only, funding is not guaranteed and if staff is successful in its application, an additional action will be brought before Council to accept the terms and conditions of the grant.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray and Council Members Benning, Landry, Johnson, Pacheco, and Umphrey voting in favor.

Call to the Public: There was no response.

Comments and Requests of the Council:

Council Member Benning thanked Reverend Chuck Carlson for his blessing, encouraged people to continue to be vigilant, stay the line as we get through COVID because it looks like it is winding down.

Council Member Johnson had nothing to report.

Council Member Umphrey had nothing to report.

Council Member Landry stated that over this past year, it has been difficult and mental health is something that should be addressed, talked about, and normalize talking about it. She added that there is a crisis text line that people can use, 741741 for abuse, anxiety, depression, self-harm, substance abuse, and suicide, where they will be directed to a person. They also provide a lot of different resources, which can be found at crisistextline.org/resources. In closing, she stated that it is important to reach out and ask for help, and it does not mean a person is weak. It is important to overcome the stigma.

Mayor Mueller agreed and asked Council Member Landry to share the information with the Public Relations Department.

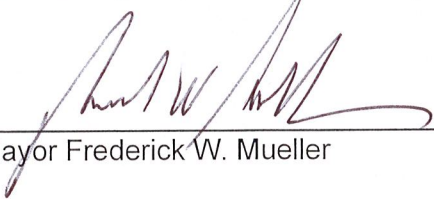
Council Member Pacheco wished well to the schools and teachers as in-person learning will start on March 1, 2021.

Mayor Pro Tem Gray had nothing to report.

Mayor Mueller stated that every year in the fall he cautions people to be aware that there are going to be students, excited about getting back to the classroom and waiting for busses, etc., out on the street. He encouraged people driving to be aware that youngsters will be out on the street, and they do not always think about safety.

Adjournment

Mayor Mueller adjourned the February 25, 2021 meeting of the Sierra Vista City Council at 5:22 p.m.



Mayor Frederick W. Mueller

MINUTES PREPARED BY:



Maria G. Marsh, Deputy Clerk

ATTEST:



Jill Adams, City Clerk