

VILLAGE OF CLOUDCROFT

Minutes of the Regular Council Meeting of the Governing Body for the Village of Cloudcroft held on Tuesday, February 9, 2021 at 6:00 p.m., in the Village Council Chambers, 201 Burro Avenue, Cloudcroft.

Mayor Denney called the meeting to order at 6:00 p.m. with the following Council members providing a full Quorum:
Present/absent:

- Mayor – William M. Denney – present
- Trustee – Bruce Smaga - present
- Trustee – John Tieman - present
- Trustee – James Maynard – present
- Trustee – George Mitchell – present

The following Village staff were present at the Village Council Chambers: Barbara K. Garcia, Village Clerk/Treasurer, Jini Turri, Administrator; Kevin Summers, Chief of Police; Lisa Wojcik, VOC Library Director; Gabriel Gaytan, SMHA; Matt Willett, self; Dan Hughes, self, Kacie Hughes, self; Christian Whestphal, VOC Library Board; Chuyo Hughes, self; Susan Maynard, AFP, Gilbert Garcia, self; Erich Wuerschling, VOC/Cosmic Adventures; Terri Tatum, self; Mark Tatum; Michael Adams, Ski Cloudcroft, Tom Blessum, Planning & Zoning Commission. (Item #1)

The pledge of allegiance to the US and NM flags was led by Mayor Denney. (Item #2)

APPROVAL OF AGENDA:

Mayor Denney entertained a motion to approve the Agenda for the Regular Council Meeting of February 9, 2021. Trustee Tieman made such much to approve as written. Trustee Maynard requested to amend the motion to move the Library Board up on the agenda to allow them to be heard earlier. Trustee Mitchell seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously. (Item #3)

APPROVAL OF MINUTES:

Mayor Denney entertained a motion to approve the Minutes of the Special Council Meeting of January 28, 2021 and the Special Public Hearing of January 28, 2021. Trustee Maynard made such motion to approve both minutes as written, Trustee Smaga seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously. (Item #4)

ANNOUNCEMENTS/DISCUSSION: Mayor Denney requested to proceed with New Business Item *Discussion/Action: Proposed Ordinance for publication Village Code 7-4-3. E(2) – consecutive meetings missed in term year & 7-4-3.I(2) – Open meetings monthly.* Mayor explained that when viewed E) states that BOARD MEMBER WHO MISSES THREE (3) CONSECUTIVE MEETINGS IN A TERM YEAR MAY BE REMOVED and under I) THE BOARD SHALL MEET AT LEAST MONTHLY. Mayor Denney explained that the board would like to change meetings missed to one (1) time per year and change meetings to quarterly with the addition that they can meet in person, teleconference, or web-based platform. Trustee Smaga made a motion to approve the amendments as recommended by the library board. Trustee Maynard seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously. (Item #5)

MAYOR'S REPORT: Mayor Denney announced that a purchase of a steel building had been made for the Police Department a few months ago after looking at different options due to the purchase price being low. At one point during this process, we have looked at storing the building while pursuing different options, however after the meeting where Trustee Maynard discussed the Recreational Grant Funding and the use of said funds for building a Regulation Ice Rink, the Mayor has determined that we will not be looking to spend any further money at this time in developing land for the Police Department. Mayor Denney made the decision to proceed with the build.

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The Village employees have meet with two (2) separate contractors and architects at this time and though concrete financial numbers are not available at this time, to do the pad and have a turnkey operation would be approximately \$200,000. Trustee Smaga questioned that this amount would include the purchase of the building also, the clerk advised that the \$200,000 does not include the purchase price of the building so we are asking for consideration of the amount of \$200,000 to complete the build. This amount would include utilities and we are still looking up at the maintenance shop for the location. Mayor Denney stated that since this was not on the agenda for this meeting he is requesting of the Governing Body if this should be placed on the agenda for the March Regular Council Meeting. Trustee Smaga voiced concerns that this would be behind a locked gate. He believes that this should have public access for any emergencies and would like to know how this will be addressed. Chief Summers stated that they could work with the Public Works department so that there would be access without going through the gate, however the issue the Police have with this is that if it is an emergency, they should be calling 911 and then have an officer dispatched rather than the individual coming to the station. Chief advised that it would not have a place for vehicles to be parked inside but there is a Conex box at the maintenance yard currently that all evidence is stored in. Trustee Tieman requested to confirm that we are talking about a public safety complex not just for the Village Officers but also a location for Forest Service, Sheriff Department and Game and Fish? This was confirmed. Trustee Maynard remarked on the location and that he advocates a more visible location and that he does not believe that it is an effect use of money to be placed at the maintenance yard. He supports the idea, but not the location. Trustee Mitchell stated that he believes that it is the vehicle that is the deterrent and not the location of the building. Citizens should see the vehicles in and about the community. Trustee Tieman asked if we have the money to do this, clerk advised that the money would come out of the General Fund if proceeding. It was clarified that it would deplete the General Fund, that there is no other funding available at this time, and that currently as of January 1, 2021 the cash balance is sitting at \$744,000. The clerk advised that there are other expenditures that are pledged against that balance that would also deplete the fund. Trustee Mitchell confirmed that we would still come out in the "gray" and not "red". Trustee Smaga requested that the clerk clarify the numbers given. He was advised that the numbers that have been seen by the contractor are \$187,000 and the architect is quoting 10% of the build. She advised that there is also geo technical expenses and that the building on delivery will have a cash amount due to \$5400 due to the stamped drawings and the extra pitch placed on the building. The location was discussed and if it was on fill or virgin soil? It was explained that it was currently sited at being placed on fill and then Chief explained that the architect suggested this morning to move the location back further due to grade of the fill. The clerk stated that this is being done through state purchasing at this time and that we should have completed bids back by the end of week. Trustee Smaga expressed concerns on not being able to see what the finish out included, Mayor Denney advised that approximately half would be completed, and that Chief Summers could show a rough sketch out of the interior. Trustee Smaga requested a workshop be held so that he can be more informed on what we are obligating the money towards. Trustee Maynard requested if we had sewer and water? Mayor Denney advised that it was all accessible due to the maintenance shop. Mayor Denney advised that he schedule a workshop and notify them of the date and time. The Administrator requested what they would like to see Chief and Barbara show them at the workshop? Trustee Smaga requested to see the concept, the building, the footprint, what will be finished. Plans for the building, what is the height of the building, snow load. (Item #6)

REPORTS: Report Ski Cloudcroft – Jeremy & Michael Adams –

The Adams presented a written report along with an oral report on trying to make snow one more time and that they are expecting further weather to come in that may assist. The magic carpet is working well, they are working on about 2.5 acres and running the bunny hill and the tubing. **POLICE:** Trustee Maynard commented on the police report and that domestics are increasing. He stated that this is something that is affecting the whole country due to COVID-19. Trustee Smaga questioned the court case report, that it was quite a few pages. He was advised that it is mostly citations and that court was closed and that now that they are back open the court clerk is finally being able to get through quite a bit of back log and that some of them date back six (6) months. **WATER BILLING:** Trustee Maynard mentioned that he is concerned with the water billing report and the number of delinquent accounts that are

past sixty (60) days due. Why are we not collecting and keeping current? He was advised that there are liens included in there, that nothing can be removed for five (5) years even if it is uncollectible and that we have not been shutting off water to current residents due to COVID-19. He stated that he did not want to write them off he wanted them collected on, he was advised that we try to collect from estates and liens are put on properties that are on the market for sale which should result in being found in a title search and resulting in payment. He was also advised that many accounts were sent to a collection agency years before and are still waiting for the time expiration to be written off. The house may have sold and is now in another owner's name, so you are seeing two accounts, one delinquent and one current and that all delinquent accounts are accruing late charges on the balance at ten (10) percent monthly which escalate the dollars owed but that this is an ordinance issue. Trustee Maynard does not want to open another account for a new owner until the balance is paid by someone. The clerk explained that this was in violation of the Village Code and that it could be reviewed and rewritten but that a new owner of a house could not be held responsible per Village Code for someone else's water use. Attorney Rhodes agreed that Liens were maintained and needed to be renewed every four (4) years but also stated that unless the lien was filed every month there would be some that slip through the title search and then the property is sold. The clerk advised that the liens are refiled every four (4) years at this time if the property is still owned by that individual. Attorney Rhodes stated that they only other option was to foreclose on the property and that he did not believe that we as a village wanted to get in that business. **LODGERS TAX:** Trustee Maynard stated that he just wanted it noted that lodger's tax was only down by twelve (12) percent and that this was during COVID-19, so we are doing well in this area. Trustee Smaga advised a member of the community that had approached him on concerns with a rental property and transgression that have occurred with parties and parking. He was advised that the need to report any breaking of the law to dispatch, such as loud parties and over parking. **WATER:** The clerk advised that Tony Courvoisier brought to her attention that he is concerned with the wells and springs. Clerk was unable to give all details and suggested that the department heads be questioned so that a correct answer for the concern could be communicated to the governing body members. The Administrator requested that the Governing Body consider having the department heads present at the meeting to have questions answered if they recognize an issue that needs to be addressed. Trustee Tieman made a motion to accept the reports as written, Trustee Maynard seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously. (Item #7)

ADMINISTRATORS REPORT: Jini Turri advised that the Senior Center Project is ready to be published for invitation for bid, currently waiting on one wage rate department decision due to needing a State and Federal wage rate. Publishing is anticipated to be at the end of February. Construction should begin the first part of May, with the grant having been extended by six (6) months with an end of October 2021 expiration. Completion date will be set for end of September to allow the full month of October for change orders. The public works department will be removing the cement slab to the west of the building and remove the bulk water station and install the new bulk water station which is anticipated to be around the Chamber of Commerce. Mrs. Turri addressed the Village roads, with a resolution request to follow. The resolution request approval to apply for money through Colonias Funding. Another opportunity through the Governor to Municipalities and Counties for Capital Outlay funding for rural infrastructure that did not have to be on the ICIP. After a detailed review of the roads in the village with Jubal Hall and Stantec engineering, some of the areas that need road rehabilitation. She will be requesting approximately \$1,740,000 with a cash match and loan amount for approximately \$348,000. She is requesting for two projects, Planning and Design and Construction for Maple/Blanca Vista & Woodlands Way/Mapel in the amount of \$525,566. Local Gov Road Fund w/NMDOT has opened grant funding and we are still eligible to apply even with the two (2) that we have open. She is requesting a letter of support from the Governing Body by March 9th for \$295,000 for Hwy. 82 to Chipmunk with a cash match of \$73,750. She will be doing education with the community for road conditions. She requested a maintenance plan, not just to be reactive. (Item #8)

UNFINISHED BUSINESS: Update on Feasibility Study New Ice Rink Facility – Trustee James Maynard
Trustee Maynard reviewed the Recreational Grant Appropriation #E-2648 and the feasibility study committee findings. He explained that the expenditures that have been utilized have now brought the remaining funds to

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\$770,000 and he is asking for support from the Governing Body to go forward with the proposed Ice Rink with the support of the Village committing \$80,000 by resolution to move forward with the project. Trustee Mitchell has trouble with the size being regulation and Trustee Smaga stated to move forward with project review to find out if it can be made refrigerated with this amount of funding. Mayor Denney called for a motion; Trustee Smaga made a motion to go forward within budget of \$770,000 with allocation to draw from General Fund no more than \$80,000 in addition. Trustee Tieman seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously. (Item #9)

NEW BUSINESS: Discussion/Action: *License Agreement – High Canyon Weavers & Spinners Guild – Joan Nussbaum.* The Governing Body discussed the license agreement and performance of such. The Weavers Guild has done a good job and the licensee and governing body are both pleased with the outcome. Mayor Denney called for a motion, Trustee Tieman made a motion to approve the License Agreement as written, Trustee Mitchell seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the motion carried unanimously.

Action: *Variance Request #2020.02 for Mason Locke, 415 Balsam Lane, as recommended by P&Z Commission*
P&Z Commissioner Tom Blessum spoke to the required front yard setback from 25' to 14' to build a 12x20' carport. Findings of Fact and Conclusions of Law were presented. Mailings were sent as required and no opposition was returned. Mr. Blessum reviewed the request and made the recommendation to approve. Trustee Smaga made a motion to approve the variance request, Trustee Maynard seconded the motion and with no further discussion a roll call vote was taken.

- Trustee Smaga - Aye
- Trustee Tieman – Aye
- Trustee Maynard – Aye
- Trustee Mitchell – Aye

The motion carries unanimously.

Action: *Variance Request #2020.03 for Gabriel Gayton, 1309 Victoria, as recommended by P&Z Commission*
P&Z Commissioner Tom Blessum spoke to a request for a rear backyard setback of 13'8" due to being 20% of the depth of the lot and the request is for a 10' variance. Findings of Fact and Conclusions of Law were presented. Mailings were sent as required and no opposition was returned. Mr. Blessum reviewed the request and made the recommendation to approve. Trustee Tieman made a motion to approve the variance, Trustee Mitchell seconded the motion. Trustee Maynard made a statement that he does not have a financial interest in this property, it is no longer his property, but he will abstain from voting if the Governing Body so chooses. Mayor Denney advised that there was no conflict. and with no further discussion a roll call vote was taken.

- Trustee Smaga - Aye
- Trustee Tieman – Aye
- Trustee Maynard – Aye
- Trustee Mitchell – Aye

The motion carries unanimously.

Discussion/Action: *Resolution No. 2021.03 Approving submission of a completed application for Financial Assistance and Project Approval to NMFA for the Colonias Infrastructure Fund.*

The Administrator requested to ask the Governing Body for the amount on which she should base her request for funding. Mayor Denney and council determined that she should request the max amount of funding for \$1,740,000.

Mayor Denney entertained a motion to approve Resolution No. 2021.03 approving submission of a completed application for Financial Assistance and Project Approval to NMFA for the Colonias Infrastructure Fund. Trustee Tieman made such motion, Trustee Smaga seconded the motion and with further discussion it was pointed out that this resolution is tied to road funding. A roll call vote was taken.

- Trustee Smaga - Aye
- Trustee Tieman – Aye
- Trustee Maynard – Aye
- Trustee Mitchell – Aye

The motion carries unanimously.

Discussion/Action: Resolution No. 2021.04 3rd Qtr. Budget Adjustments

The clerk explained that this resolution was for the transfer of funds from Lodgers Tax to Lodgers Tax Promo to expend funds that need to be expended within two (2) years from receipt. Funds have been allocated for Lodgers Tax Promo expenditures during the FY 21 Budget approval. Trustee Smaga made a motion to approve Resolution No. 2021.04, Trustee Maynard seconded and with no further discussion a roll call vote was taken.

- Trustee Smaga - Aye
- Trustee Tieman – Aye
- Trustee Maynard – Aye
- Trustee Mitchell – Aye

The motion carries unanimously.

Discussion/Action: Re-Visit and consideration of water allocation Zenith Park Snow Park – Erich Wuersching

Mr. Wuersching explained that about three (3) years back the council at the time voted unanimously at the time to allow a snow park adjacent to the Ice-Skating Pond in Zenith Park contingent on water supply. The equipment requires snow making so there must be water to do that. Mr. Wuersching was advised to come before the Mayor to see what water was available at the time. The Village has been under water restrictions since that time. He has come to the Mayor each year and this year came to Mayor Denney with the request and was denied due to water restrictions. He did make the decision several years ago to buy the equipment, so he is trying to decide from a business perspective would be if he should just sell the equipment. He has asked for 25,000 gallons per month for Nov, Dec, Jan and Feb of each year. He is not asking for an answer tonight, just requesting that the council keep in mind through the summer that he would like to be considered one of the water users that would like to have a special allocation of water next year. He will come back to the council in October to request.

Discussion/Action: Senate Bill 5 – State law civil rights cause of action without qualified immunity for Police Officers – Chief of Police Kevin Summers

Chief Summers spoke to the council on what the legislators are currently working on during the 55th Legislature regarding House Bill 4 “ An act relating to civil rights/ enacting the New Mexico Civil Rights Act; permitting an individual to bring a claim against a public body or person acting on behalf of or under the authority of a public body for a violation of the individual’s rights, privileges or immunities arising pursuant to the bill of rights of the constitution of New Mexico; prohibiting the use of the defense of qualified immunity; mandating attorney fees/ limiting recovery; providing a three year statute of limitations”(see full act for all information). A handout of 2021 Legislative Talking Points and an email from Anita Tafoya was passed out for review later. Chief Summers explained that one big change that is currently in the additional house bill 5 is that they have now added all Village Employees, not just Police Officers, to the qualified immunity outline. This now means that all employees can be sued individually at this time. The only solution that is available at this time is for the NMML to come up with insurance coverage. Currently, he is asking that council members call the state representatives and speak with police leaders to help formulate appropriate legislation regarding policing. The need for the council to speak out may be to late as this is ready to pass and be put on the Governors desk for signature, but the NM Association of Chiefs of Police are asking for calls and letters to the representative.

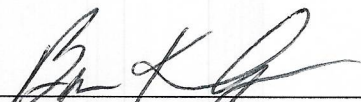
This all started with IPRA and Body Cams and has continued to move forward. They would like to see a panel created to determine the outcome. Chief explained that at this time he is requesting that we find out what type of insurance coverage will be available for officers. Officers are leaving currently at an alarming rate. Examples of loss of State Officers and that Alamogordo Police Department is down 50% of their officers. Officers are choosing to retire or leave service rather than lose their homes and income. One suggestion is to reduce services to limit the liability, going to reactive rather than proactive. The officers for the Village will be back at the March meeting to bring the council up to date on the result of the passing of this bill. Trustee Smaga stated that basically the council were being requested to email or call the governors office to discuss and directly reference the talking points and House Bill 4. Chief reiterated that this is what needs to be done and that they may email the talking points also. (Item #10)

BILLS & TREASURER'S REPORT: *Acknowledgment of January 2021 Bills Paid and Report.* Mayor Denney entertained a motion to acknowledge the bills and treasurers report. Trustee Maynard made such motion to approve, Trustee Mitchell seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard and Mitchell all voting "aye" the motion carried unanimously. (Item #11)

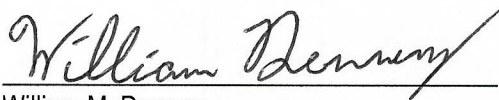
ADJOURNMENT: Mayor Denney called for a motion to adjourn the Regular Council Meeting of February 9, 2021, Trustee Mitchell made such motion to approve, Trustee Tieman seconded the motion and upon vote of Trustees Smaga, Tieman, Maynard, and Mitchell all voting "aye" the meeting was adjourned at 8:46 pm. (Item #12)

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ATTEST



Barbara K. Garcia, CPO
Village Clerk/Treasurer



William M. Denney
Mayor

