

**MINUTES OF CITY COUNCIL MEETING
ARTESIA, NEW MEXICO
April 12, 2022**

The City Council of the City of Artesia, New Mexico met in the City Council Chambers at City Hall on Tuesday, April 12, 2022 at 5:00 p.m. in regular session with Mayor Henry presiding, and the following present to wit:

Jeff Youtsey	Jarrod Moreau
Sam Hagelstein	Ignacio Mariscal
George Mullen	Wade Nelson
Richard Townley	

Also, present:

Summer Valverde, City Clerk/Treasurer
City Attorney Jay Francis

It was determined that a quorum was present. The invocation was given by Councilor Rodriguez and all joining in the Pledge of Allegiance.

New Requests for City Facilities:

- A. *CASA/CYFD – Permission to use Central Park on Friday, April 29, 2022 from 10 am to 12 noon for a Child Abuse Prevention and Awareness campaign. Contingent upon proof of security

City Clerk/Treasurer Summer Valverde presented CASA/CYFD request for permission to use Central Park on Friday, April 29th, 2022 from 10 am to 12 noon for a Child Abuse Prevention and Awareness campaign contingent upon proof of security.

Councilor Rodriguez made a motion to approve for discussion. Second by Councilor Moreau upon vote, the motion passed 7-0.

Councilor Rodriguez stated it is good for a community to have awareness programs and is glad we are able to accommodate them contingent upon proof of security and appreciates the CASA/CYFD organization.

Councilor Hagelstein asked if there are fees being charged? Summer responded there is not.

Councilor Nelson stated that in the application it states contingent upon Insurance instead of security. Summer responded to Councilor Nelson he is correct and that the proof of Insurance is what is needed.

Councilor Rodriguez made a motion to amend the motion to strike-out the contingency upon proof of security for proof of Insurance. Second by Councilor Hagelstein and upon vote, the motion passed 7-0.

City Departments and Employees

Human Resource Director Sandi Countryman mentioned this would be her last Council meeting; that the new Human Resource Director Jerry Conde would be seated.

Special Reports

None.

Consent Agenda

Councilor Rodriguez made a motion to approve the consent agenda as written. Second by Councilor Moreau and upon vote, the motion carried 7-0.

CONSENT AGENDA April 12, 2022

1. **Approval of Minutes** *March 22, 2022
2. **Consideration of Bids:**
3. **Contracts, Leases and Agreements:**
4. **Appointments:**
 - A. *Council Committee Assignments
 - B. Approval of the appointment of Tommy Bailes to the Artesia Historical Museum Commission (term to expire March 2026)
 - C. Approval of the appointment of Debbie Edwards to the Lodger's Tax Advisory Board (to fulfill term to expire June 2024)
5. **Personnel Resignations, Hirings, Promotions, and Transfers:**
Upon recommendation of the Mayor, subject to successful completion of required pre-employment testing, permission to:
 - A. *Transfer:

<u>Name</u>	<u>Department</u>	<u>Position</u>	<u>Rate of Pay</u>
1. <u>Guillermo Bustamante</u>	Streets/Parks	Equipment Operator I	\$2531 per month CA22
 - B. *Ratification of approval to hire:

<u>Name</u>	<u>Department</u>	<u>Position</u>	<u>Rate of Pay</u>
1. <u>Stephen Devore</u>	Police	Police Corporal/Cert by Waiver	\$4443 per month

CA35

C. *Hire:	<u>Name</u>	<u>Department</u>	<u>Position</u>	<u>Rate of Pay</u>
1.	<u>Melanie Roberts</u>	F&A	Part-time AP Clerk	\$13.76 per hour
2.	<u>David M. Bailey</u>	Police	Detention Officer I	\$2386 per month CA20

- D. Accept the resignation of Rick Bently, Firefighter, effective March 24, 2022
- E. Accept the resignation of Jesse Solano, Firefighter, effective April 12, 2022
- F. Accept the resignation of Drake Giacco, Fire Lieutenant, effective April 25, 2022

6. Dates of Hearing:

7. *Travel and Training:

- A. Police – Permission for one (1) employee to attend the Detective and New Criminal Investigator training in Albuquerque, NM
- B. Police – Permission for one (1) employee to attend the School of Police Staff and Command in Rio Rancho, NM
- C. F&A – Permission for one (1) employee to attend the NM Municipal Clerks & Finance Officers Association meeting in Santa Fe, NM
- D. Police – Permission for one (1) employee to attend the Standard Field Sobriety Test Instructor training in Las Cruces, NM
- E. Police – Permission for one (1) employee to attend the Death and Homicide Investigation training in Littleton, CO
- F. Fire – Permission for nine (9) employees to attend the EMS Committee meetings/Region 3 conference in Ruidoso, NM

8. Routine Requests for City Facilities:

9. Routine Resolutions (to be assigned a number by staff):

- A. *Approval of Budget Adjustment Resolution

10. Budgeted Items:

- A. *Lodger's Tax Board – Approval for the following:
 - 1) Lions Club – \$5,000

11. Quarterly Journal Entries:

12. Non-budgeted Items:

13. *Payment of Bills

Public Hearings – including consideration of final passage of any ordinance as to which proper notice **Recess Regular City Council meeting**

Convene Zoning Board of Appeals [APPEAL WITHDRAWN]

- 1. To hear and decide on an appeal where it is alleged there is an error in the decision or determination of the Community Development Director not allowing a drive-in/drive-through facility and restaurant (take out service of food and beverages for off-site consumption) at 1407 W. Main Street due to safety concerns, inadequate parking, and the lack of a drive-through lane
- 2. Action as a result of appeal

Adjourn Zoning Board of Appeals

Reconvene Regular City Council meeting

City Clerk/Treasurer Summer Valverde stated this appeal has been withdrawn.

A. *Consideration and approval of the Sewer Use and Wastewater Control Ordinance

Infrastructure Director Byron Landfair greeted the Mayor and Council then stated that before them is consideration and approval of the Sewer Use and Wastewater Control Ordinance that they have worked on for about a year, the Infrastructure Committee has approved and has worked with a major industrial user that has been involved. Byron then stated this is for a public hearing and asked if there were any questions.

Councilor Rodriguez made a motion for consideration and approval of the Sewer Use and Wastewater Control Ordinance - 1097. Second by Councilor Youtsey and upon rollcall vote, the motion passed 7-0.

ORDINANCE - 1097

- B. *Consideration and approval of an ordinance for Case No. 22-05: Smith Subdivision, Block 4 Vacation. A vacation plat of the Smith Subdivision, Block 4, including the alley between Roselawn Avenue and 4th Street, and between Logan Avenue and Cannon Avenue; Location: 1105 N. Roselawn Avenue; Legal: Smith Subdivision, Block 4; Owners: Our Lady of Grace Parish, Artesia, Inc., and City of Artesia

Community Development Director Jim McGuire presented Case No. 22-05: Smith Subdivision, Block 4 Vacation, including the alley between Roselawn Avenue and 4th Street and between Logan & Cannon Avenue; Location: 1105 N. Roselawn Avenue, Owners: Our Lady of Grace Parish. Jim stated there are no utilities and the City does not have a need for that alley. Also, that this came about when they were going to build another accessory structure building which would be encroaching into the alley so they decided to consolidate into one lot so they would not be crossing boundary lines. The Planning and Zoning committee reviewed this at the March 16th meeting and unanimously recommended approval and staff is also in approval of this vacation.

Mayor Henry asked if there were any questions from the public.

Councilor Rodriguez made a motion for consideration and approval for Case No. 22-05: Smith Subdivision Ordinance - 1098. Second by Councilor Hagelstein and upon rollcall vote, the motion passed 7-0.

ORDINANCE – 1098

- C. *Consideration and approval of an ordinance for Case No. 22-04: Special Use Permit for Retail Cannabis Dispensary. A special use permit for a retail cannabis dispensary; Location: 501 S. 1st Street; Legal: Blair Addition, Block 9, Lots 1 and 3, North 50' of Lots 2 and 4, Vacated Alley, and South 40' of Vacated Missouri Avenue; Owner: Morton Family Trust

Jim presented Case No. 22-04 for applicant Pecos Valley Production requesting Special Use Permit of a retail cannabis dispensary at 501 S. 1st. St. that is currently Chaos Café. This is following the State of New Mexico passing the Cannabis Regulation Act that legalized adult use retail along with already approved medical cannabis, the City adopted Ordinance -1089 on September 14th, 2021. The Planning & Zoning Commission and staff met on March 16th with some opposition and came to the decision unanimously recommending approval. Since it is a Special Use Permit, conditions can be applied which it is approved only for a retail cannabis dispensary sale of package medical and recreational cannabis products. Any proposal other than retail sales will require an application for a new Special Use Permit. Retail sales of cannabis is only to be held in the exiting building on the site; any expansion to the footprint of the building or any proposed new building for the retail sale of cannabis products require an application for another Special Use Permit. The hours of operation may change in the hours of the operational plan but limited to the hours of operation 8 am to 8 pm. All cannabis products are to remain in their packaging, consumption of cannabis products on site is prohibited, any returned products shall be returned to a separate facility for destruction which will be Roswell. The retail sale of cannabis dispensary shall comply with the State of New Mexico Cannabis Regulations Act and the New Mexico Regulation and Licensing Department and the Cannabis Control Division all of which is included in the Ordinance. Jim then asked if there were any questions.

Councilor Youtsey asked about schools or other prohibited distance facilities if they were to be put in, if it would affect the business. Jim replied that the business would be pre-existing.

Councilor Hagelstein asked in the Ordinance if were able to put a limit on the number of establishments within City limits with distances. Jim replied only by a quarter mile separation, about 4 and a half blocks.

Councilor Mariscal asked where the cannabis would come from. Jim replied that they have a multiuse license with the State and other facilities. Then stating that the applicant is here and can address this question.

Mayor Henry asked if there were any questions for Jim or any questions or comments from the public.

Lenard Salgado greeted everyone, the Director for Business Development and expansion for Pecos Valley Production that is based out of Roswell for seven years. All of the product comes out of Roswell already packaged and labeled based on the specifications that are set forth by the Cannabis Control Division, the product has been tested prior to being packaged and then transported to Artesia to be sold on a retail basis. Lenard then thanked everyone for being able to share who they are because they are bringing a new business to the community and respect the fact that it could be seen as controversial in some circumstances. They operate in ten different counties in the State and are looking to bring their product to Artesia with permission to distribute at this location which would be their 15th location in the State. Then stating they are fully in compliance with the ordinance that is in place for their type of business. In addition, they have been serving the medical patient community for over five years and have two dispensaries in Carlsbad and in Roswell, the medical patients in Eddy County are at 3,700 people and have been serving the medical community for some time and want to come to Artesia; they

are also bringing jobs, economic activity with a portion of tax filtered into the community. Lenard then stated that they operate within the laws of the Cannabis Regulation Act on the adult use side; on the medical side they operate under the Lynn and Erin Compassionate Use Act. They are also under and abide by the Jurisdiction of the NM Department of Health, Licensing Regulation and the newly formed Cannabis Division. Lenard stated he is open to any questions.

Councilor Mullen asked where the testing facility is located; if it was within the manufacturing facility or UL that they have to abide by. Lenard replied that the testing for their industry is very specific and done by an independent testing laboratory either in Albuquerque or Santa Fe, there are only two testing laboratories in the State.

Mayor Henry thanked Lenard for his presentation. Then asked if there was anyone else that would like to speak.

Former Mayor Raye Miller spoke on the P&Z meeting he attended and then stated he believes there is no other option but to approve the Special Use Permit for the Retail Cannabis Dispensary because the State has passed the law that you cannot restrict it out of your community. That allowed us to do an ordinance that was very restrictive and believes they have found a place that meets with the ordinance and all the restrictions, and they comply with all of the regulations. He believes if denied it would be setting the City up for litigation with severe consequences and encourages adoption.

Councilor Rodriguez stated that this is tough but that it is also needed be understood that this is a business and denying anyone the opportunity to do business would set us up for litigation as former Mayor Miller had stated. In addition, stating that whether it is agreed morally, ethically or whatever your stance is we should support them and welcome them into the community.

Councilor Hagelstein stated that he appreciates the efforts the Greathouse's went through to comply and that morally everyone has concerns but also that there are plenty of liquor stores around.

Jim McGuire stated he had asked how many Artesia customers they already have, and they have estimated between 300 and 400 hundred.

Mayor Henry asked if there are rules on their license that give accountability if they are not compliant such as liquor licenses for anybody that had some uneasiness to make sure the laws are held. Lenard replied that under the ROD it is the same as the liquor license with the same accountability.

Councilor Rodriguez made a motion for consideration and approval for Ordinance – 1099 Special Use Permit for Retail Cannabis Dispensary. Second by Councilor Hagelstein and upon rollcall vote, the motion passed 7-0.

ORDINANCE - 1099

Period for Hearing Visitors

Community member stated that he wanted to see where City Council plan is for the recreation of Artesia; JC, Martin Luther King Park with what is the goal or plan.

Councilor Rodriguez stated that when we come to Recreation Department and gives a report, he would address this for him.

Comments from Public Officials and Contracted Services

None.

Committee Reports:

- A. Budget and Finance – They have meet two or three times since the last Council meeting and are working on a lot of things that will be brought to the next Council meeting.
- B. Personnel – None.
- C. Police and Fire – None.
- D. Planning (*Project Management, Code Enforcement, Permits and Inspections*) – None.
- E. Recreation – They have a lot of discussion of recreation, a report from the aquatic center, the Summer programs are starting off and have talked about the Master Plan at JC Park.
- F. Facility Maintenance) – None.
- G. Government – None.

Personnel

- A. Discussion and decision on pre-employment physicals

Sandi stated that the Personnel Committee had recently met and had a discussion on pre-employment physicals. The committee would like to present to Council that we will no longer be doing the pre-employment physical's and will continue to do the drug screenings. Sandi then stated that we were not getting anything that is useful out of the physical's; that they are not complete physical's and that if needed a special physical could be done of fit for duty. Sandi then recommended that we stop doing pre-employment physicals then stood for questions.

Councilor Mullen made a motion to discontinue pre-employment physicals. Second by Councilor Moreau and upon vote, the motion passed 7-0.

- B. Consideration and approval to advertise IT Technician as full-time vs. part-time

Sandi stated that we had advertised on a trial basis a part-time IT position and had one applicant that had not met qualifications that would assist us. Sandi stated that Peter is the only one on IT since Jordan is out on maternity leave and request that we advertise for a full-time IT Tech.

Mayor Henry asked if there were any questions.

Councilor Youtsey made a motion to approve funding for a full-time IT Tech. Second by Councilor Hagelstein and upon vote, the motion passed 7-0.

C. *Safety stats

Sandi stated stats are in the packet and then stood for questions.

Public Safety

Police Department:

Police Chief Roberts greeted everyone and stated that the stats are low for the month then stood for questions.

Fire Department:

Fire Chief Hope greeted everyone, stated he has nothing on the agenda and that the stats show a bit of a decline. Chief Hope then stood for questions.

Community Development

Community Development Director Jim McGuire has the building inspection and code enforcement monthly report before them and asked if there were any questions.

Infrastructure

Infrastructure Director Byron Landfair greeted everyone and had nothing on the agenda. Byron then gave project updates. There has been a couple of broken lights because of wind. The light on 1st and Main is back in service. Hermosa and 1st will hopefully be back in full service within the next few weeks. There will be some work on 20th Street, which they still do not have a delivery date on the pipe. The elevated tank project on 8th Street is scheduled for a repaint and will be coming to Council with choices of logo. The Industrial Park bid is out for opening tomorrow and see when it gets in. Byron then stood for questions.

City Attorney

None.

City Clerk

A. *Approval of a resolution Designating Signatory Agents for the City of Artesia and rescinding resolution 1776

City Clerk/Treasurer Summer Valverde presented Resolution – 1784 Designation Signatory Agents for the City of Artesia and rescinding Resolution - 1776, the former signatory agents.

Councilor Rodriguez made a motion for approval Designation Signatory Agents Resolution – 1784 and rescinding Resolution – 1776. Second by Councilor Hagelstein and upon vote, the motion passed 7-0.

Summer then stood for questions.

Mayor

Mayor Henry presented the Appointive Officers for confirmation by the Artesia City Council. The Mayor then asked if there were any questions.

- A. In accordance with Section 3-11-5 of NMSA 1978 I submit the following names of Appointive Officers for confirmation by the Artesia City Council:
- Byron Landfair – Infrastructure Director
 - Kevin Hope – Fire Chief
 - Kirk Roberts – Police Chief
 - Jim McGuire – Community Development Director
 - Summer Valverde – Clerk/Treasurer
 - Jerry Conde – Human Resources Director
 - Sandi Countryman – Human Resources Director (until retirement on April 29, 2022)

Councilor Hagelstein made a motion to the Appointed Officers by the Council. Second by Councilor Rodriguez and upon vote, the motion passed 7-0.

- B. *In accordance with Section 3-11-5 of NMSA 1978 I submit all current full time and part time regular employees as well as all probationary and as needed employees of the City of Artesia as of April 12, 2022 for confirmation by the Artesia City Council

Mayor Henry in accordance with Section 1-11-5 of NMSA 1978 submitted all current full and part-time regular employees as well as all probationary and as needed employees as of April 12, 2022 for confirmation by the Artesia City Council. Mayor Henry asked if there were any comments.

Councilor Moreau made a motion to approve confirmation of all current full and part-time regular employees as well as all probationary and as needed employees as of April 12, 2022. Second by Councilor Rodriguez and upon vote, the motion passed 7-0.

- C. Election of Mayor Pro tem

Mayor Henry presented the Election of Mayor Pro Tem with nomination.

Councilor Mullen nominated Councilor Jeff Youtsey if he will accept. Councilor Youtsey stated that would accept the nomination. Mayor Henry asked if there were any other nominations and seeing that nominations are closed a vote was taken with Councilor Youtsey being Mayor Pro Tem, all being Aye's, 7-0.

New or other business from Councilors

Councilor Mariscal congratulated and welcomed new members, the Mayor to Council.

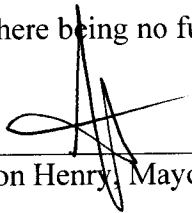
Councilor Hagelstein welcomed the Mayor, new Councilor and HR Director, he also looks forward to the next two years to what it brings, the excitement that is going to happen.

Councilor Moreau stated that he is excited to work with everyone and the new Mayor, then stating that there is a lot of work to be done and to try and make it run as efficiently as possible and good luck to us all.

Councilor Youtsey welcomed the new Councilors and looks forward to working with them; there has been a lot of good ideas and looks forward to working closely with all to make those ideas come about.

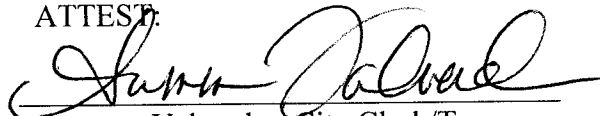
Adjournment

There being no further business, the meeting was adjourned at 6:05 P.M. On April 12, 2022.



Jon Henry, Mayor

ATTEST:



Summer Valverde - City Clerk/Treasurer