# City of Bayard

# CITY COUNCIL REGULAR MEETING

**August 09, 2021 at 1:30 PM**

**Bayard City Hall**

## MINUTES

**WORK SESSION**

**CALL TO ORDER:** Mayor Chon S. Fierro

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

PRESENT
Mayor Chon Fierro
Mayor Pro-tem Raul Villanueva
Councilor Charles Kelly
Councilor Eloy Medina

ABSENT
Councilor Adrian Ortiz

Others in attendance were Steve GAbaree, Lori Gavaree, Melissa Rackel, Braxton Heise, Tobie Gabaree, Hannah Dumas, Aaron Burg, Tighe Burg and Kristina Ortiz.

**APPROVAL OF THE AGENDA**

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Medina.
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

**PUBLIC INPUT**

Lori Gabaree spoke about the problems with the area on Railroad St. She would like to see the M&M Auto cleaned up. She knows Bayard needs business but does not need trash.

Melissa Rackel property owner in Bayard stated Bayard may need to contact NMED for review of property and actions. If Bayard would put together a action committee she would be happy to serve.

Dwayne Gray pastor of the church. Concerned about the junk cars parked in front of the church. He would like both the stop signs to be removed. No one is stopping at the stop signs.

Toni Gabaree she is concerned for her parents. Power tools are running till 1 am. People are sleeping in the vehicles. Her parents don't feel safe in there home. She recemented Bayard searches for Federal codes to help with the problems.

Aaron Burg business owner here in Bayard stated there is federal regulations regarding junk yards M&M Auto have a salvage yard not a auto repair shop.

Euphemio Gonzalez stated he relied on the previous Police Chief to take action as code enforcement. Mr. Gonzalez will over see safety violations.

**CONSENT AGENDA**

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

The following items are included in the consent agenda:

1. Approval of the Minutes of Regular Meeting on July 26, 2021

2. Approval of the Accounts Payable Report for August 9, 2021

3. Approval of the Wastewater Report for July 2021

4. Approval of the Fire Report for July 2021

5. Approval of Fire Service Conference on September 23-26, 2021 in Ruidoso as assigned by Chief Gonzales.

**OLD BUSINESS**

6. The City of Bayard awarded the IT contract on May 10, 2021 after award of the initial contract Clerk Ortiz realized that the contract was proposed on a monthly cost and not an annual cost. Both parties have worked together to reestablish the information technology needs of the city, and mutually agreeable terms have been negotiated. Basic services under the agreement are for a total of $27,736 annually; with the balance of $65,000 to be allocated to back-up servers, back-up software, cyber security set-up, and various licensing provisions and network set-up and repair of existing infrastructure.

   Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
   Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

## NEW BUSINESS

7. Shawn Russell has provide a quote of $4,500 to cut down and remove the large oak tree that has caused damage to the water channel on Erie Street. The tree would be cut down to the height requested by the city but he will not provide stump removal due to the drainage infrastructure.

   Motion made by Councilor Kelly, Seconded by Mayor Pro-tem Villanueva. Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

8. Approval to adjust property boundary lines for Coffey Addition; Block 5, Lots 1, 2, 3, & 4. The northwest corner will be moved east; north east corner will be moved east. This adjustment will remove one dwelling unit from encroaching on public property. The property adjustment is of equal size.

   Clerk Treasurer stated that the land swap would align the existing property use and property boundaries.

   Motion made by Councilor Kelly, Seconded by Mayor Pro-tem Villanueva. Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

9. Adoption of Operating Procedures for the Bayard Police Department

   Clerk Treasurer Ortiz presented two Police Policies for adoption: Body Worn Camera and Response to Resistance noting the changes that reflect Grant County Sheriffs Department.

   Motion made by Councilor Kelly, Seconded by Mayor Pro-tem Villanueva. Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

## ORDINANCES/RESOLUTIONS

10. Adoption of Resolution 15-2021 Open Meeting Resolution

    Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly. Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

RESOLUITON 15-2021

OPEN MEETINGS NOTICE

A RESOLUTION CONCERNING GOVERNING BODY MEETINGS AND PUBLIC NOTICE REQUIRED

WHEREAS, Section 10-15-1B, NMSA 1978 provides that all meetings of a quorum of members of any board, commission or other policy-making body of any state agency, or any agency or authority or any county, municipality, district or any political subdivision held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such board, commission or other policy-making body, are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution or the provisions of the Open Meetings Act; and,

WHEREAS, Section 10-15-3A, NMSA 1978 provides that no resolution, rule, regulation, ordinance or action of any board, commission, committee or other policy-making body shall be valid unless taken or made at a meeting held in accordance with the requirements of Section 10-15-1 NMSA 1978"; and,

WHEREAS, Section 10-15-4, NMSA 1978 provides that any person violating any of the provisions of Section 10-15-1 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500) for each offense; and,

WHEREAS, Section 10-15-1D requires that any meeting at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public. The affected body shall determine at least annually in a public meeting what notice for a public meeting shall be reasonable when applied to such body.

NOW, THEREFORE BE IT RESOLVED by the governing body of the municipality of Bayard, New Mexico that:

1. Notice shall be given at least ten days in advance of any regular meeting of a quorum of the members of the governing body or any board, commission, committee, agency, authority or other policy-making body held for the purpose of discussing public business or taking any formal action within the authority of such body.

2. The regularly scheduled meetings of governing body will be held at 2:00 P.M. on the second and fourth Monday of each month in the governing body meeting room of the municipal building, located at 800 Central Avenue in Bayard, New Mexico. Other municipal committees and or boards shall dedicate the location and meeting dates annually. In the event that the regular meeting date falls on a legal holiday, the governing body shall designate an alternate meeting date and/or time at the regular meeting prior to the holiday and shall cause advance notice of the changed meeting date and/or time to be published as provided in this Resolution. In the event that a regular meeting of the governing body is changed to a different location, advance notice of the meeting location shall be published as provided in this Resolution.

3. Work sessions may be held by the governing body at 1:30 P.M. prior to regular monthly meetings or as determined by the governing body. Method of publication for work sessions shall be as required for regular meetings. Work sessions will be held for the purpose of discussing public business and formal action will not be taken at any work session.

4. Notice shall be given at least three days (seventy two hours) in advance of any special meeting of a quorum of the members of the governing body, board, commission, committee, agency,

authority or other policy making body held for the purpose of discussing public business or taking any formal action within the authority of such body.

5. The notice requirements of Section 1, 2, 3 and 4 of this Resolution are complied with if notice of the date, time, place and subject matter of any regular or special meeting are published. Additionally, the notice shall contain information on how the public may obtain a copy of the meeting agenda, said agenda to be available seventy-two hours prior to the meeting. "Publish" means printing in a newspaper which maintains an office in the municipality and is of general circulation within the municipality. If such newspaper is a non-daily paper which will not be circulated to the public in time to meet publication requirements, or, if no such newspaper exists, "publish" shall mean posting in five public places within the municipality, and one of the public places where posting shall be made is the office of the municipal clerk, who shall maintain the posting for public inspection within the time limits specified. The five public places notice shall be posted are:

The Office of the Clerk;
The United States Post Office;
The Bayard Public Library
The First American Bank;
The Bayard Community Center

The clerk may, in addition to posting, publish one or more times in a newspaper of general circulation within the municipality, even though it does not maintain an office within the municipality. In addition, written notice of such meetings shall be mailed or hand delivered to federally licensed broadcast stations and newspapers of general circulation in the municipality which have provided a written request for such notice.

6. In addition to the information specified above, all notices shall include the following language: If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the city clerk at 800 Central Avenue (575-537-3327) at least one week prior to the meeting or as soon as possible.

7. Notwithstanding any other provisions of sections 1 through 5 of this Resolution, the governing authority may establish such additional notice requirements as may be deemed proper and advisable to comply with the provisions of the Open Meetings Act.

8. If any meeting is closed pursuant to exclusions contained in Section 10-15-1, subsection H, NMSA 1978, such closed meeting called by a policy making body shall not be held until public notice, appropriate under the circumstances, and in compliance with Sections 1 through 4 of this Resolution, has been given. In addition, such notice shall state the exclusion or exclusions in Section 10-15-1, Subsection H, NMSA 1978 of the Open Meetings Act, under which such closed meeting is permitted.

9. Notwithstanding any other provision of sections 1 through 8 of this Resolution, the governing authority of the municipality of Bayard, New Mexico may call emergency meetings of the governing body, any board, commission, committee or other policy-making body of the municipality. Emergency meetings will be called only under unforeseen circumstances which demand immediate action to protect the health, safety and property of citizens or to protect the municipality from substantial financial loss. The municipality of Bayard, New Mexico will avoid emergency meetings whenever possible. Emergency meetings may be called upon twenty-four (24) hours notice, unless a threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

10. Public input will generally be permitted and will be limited between three (3) to five (5)

minutes, unless the Mayor (Chairman) deems that additional time is necessary.

PASSED ADOPTED AND APPROVED THIS 9th DAY OF JANUARY, 2021.

//S//_____
Chon S. Fierro
Mayor

ATTEST:

//S//_____
Kristina Ortiz, MMC
Clerk-Treasurer

11. Resolution 16-2021 SAP 21-F2327-STB New Mexico Environment Department, Water Storage Tank Project

    Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
    Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

**Resolution 16-2021**

Whereas, the City Council of the City of Bayard of Grant county of the State of New Mexico shall enter into a Grant Agreement with the State of New Mexico Environment Department, and

Whereas, the Agreement is identified as SAP Project #SAP 21-F2327-STB Grant Agreement.

NOW THEREFORE, BE IT RESOLVED by the named applicant that:

Chon S. Fierro, Mayor, is authorized to sign the agreement for this project, and

Kristina Ortiz, Clerk Treasurer or Marlena Valenzuela, Deputy Clerk or her successor is the GRANTTEE REPRESENTATIVE(s) who is(are) authorized to submit any documents pertaining to the project and act as the point of contact, and

Kristina Ortiz, Clerk Treasurer or Marlena Valenzuela, Deputy Clerk or her successor is the SIGNATORY AUTHORITY who is authorized to sign reimbursement requests and other documents requiring a signature for submittal to the New Mexico Environment Department.

PASSED, APPROVED AND ADOPTED this 9th day of August 2021.

//S//_____
Chon S. Fierro
Mayor

ATTEST:

//S// _____
Kristina Ortiz, MMC
Clerk Treasurer

**CLOSED SESSION**

Pursuant to State Statues 10-15-1(H-7) pertaining to threatened or pending litigation

Pursuant to State Statues 10-15-1(H-7) pertaining to threatened or pending litigation

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, certifying the only discussion held was pertaining to threatened or pending litigation

**MAYOR AND COUNCILORS REPORTS**

Mayor Pro-tem Raul stated the issues we received today we need to move on it soon rather then later. Now with school had started with the Seniors have more time during school. He would like to see if a few students come work for the City.

Mr. Kelly asked when pot holes around Bayard will be repaired and trash around City Hall be picked up. Special council for the issues that were brought up today is a good idea.

**NEXT MEETING DATE:**

**Regular Meeting -** August 24, 2021

**ADJOURNMENT**

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Kelly.
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina

MEETING ADJOURNED AT 3:54 P.M.

Chon Fierro
Mayor

ATTEST:

Kristina Ortiz, MMC
Clerk Treasurer