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CORTEZ CITY COUNCIL
WORKSESSION/SPECIAL MEETING
TUESDAY, MAY 24, 2022
6:00 p.m.

CALL TO ORDER

A. 6:00 p.m., Web Site Design Update- Presented by Director of Parks and Recreation Creighton Wright and Director of Community and Economic Development Rachael Marchbanks.

B. 6:15 p.m., Food Truck/Mobile Vendor Review- Presented by Director of Community and Economic Development Rachael Marchbanks and Contract Planner Nancy Dosdall.

C. 6:45 p.m., Discussion of a set of Council protocols for possible future adoption-Presented by City Manager Drew Sanders.

D. 7:00 p.m., Discussion on possible changes in venue (room) and/or set up options for future City Council workshop sessions.

E. 7:10 p.m., Discussion on Request to Change Times of Opening/Closing of Marijuana Establishments-Presented by City Clerk Linda Smith.

F. 7:15 p.m., General Council Discussion

G. For Your Information

a. Minutes from Board of Commissioners, Montezuma County, Colorado for May 3, 2022.

b. Minutes from Board of Commissioners, Montezuma County, Colorado for May 10, 2022

ADJOURNMENT of Worksession at 7:20 p.m.

CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: B.

MEMO TO: Honorable Mayor and City Council

FROM: Rachel Marchbanks, Director of Community/Economic Development

SUBJECT: 6:15 p.m., Food Truck/Mobile Vendor Review- Presented by Director of Community and Economic Development Rachael Marchbanks and Contract Planner Nancy Dosdall.

Attachments

Food Truck/Mobile Vendor Review

MEMO

TO: CITY COUNCIL

FROM: NANCY DOSDALL, CITY PLANNING

SUBJECT: WORKSESSION: Food Truck/Mobile Vender Review

DATE: May 24, 2022

BACKGROUND:

The Cortez Land Use Code allows Mobile Vendors in all zones except the Central Business District subject to the following standards:

Article IX. - Mobile Food Vendors.[1]

Editor's note— Ord. No. 1220 , §§ 1—11, adopted March 28, 2017, amended article IX, in its entirety to read as herein set out. Former article IX, §§ 15-66—15-68.9, pertained to similar material, and derived from Ord. No. 1191 , adopted September 9, 2014.

Sec. 15-66. - Definition.

As used in this article only, "mobile food vendor" shall mean a retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle or trailer attached to a motor vehicle designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public during the hours of operation authorized by this article. The sale and distribution of frozen milk, frozen dairy or ice confection products, candy, gum or other confection products shall be permitted for mobile food vendors.

Temporary buildings for the purpose of mobile vending are not allowed in the City of Cortez.

(Ord. No. 1220 , § 1, 3-28-17)

Sec. 15-67. - Operations.

The operation of a mobile food vendor is allowed provided that such operation is in compliance with all requirements and limitations contained in this article. In the event that a food vender is authorized to operate within the city pursuant to authority granted and limits found elsewhere in the code, this article shall not apply. This program may be expanded to include other types of non-food items at the discretion of city council.

(Ord. No. 1220 , § 2, 3-28-17)

Sec. 15-68. - Licenses.

A Cortez business or sales tax license or transient vendor license, if applicable, proof of inspection by the Montezuma County Health Department are required as well as any land owner written permission required in section 15-68.4 and must be conspicuously displayed at all times during the operation of a

mobile food vendor. Failure to display received licenses shall be a violation and punishable as set forth in section 15-68.8.

(Ord. No. 1220 , § 3, 3-28-17)

Sec. 15-68.1. - Hours of operation.

Mobile food vendors may operate only between the hours of 7:00 a.m. and 9:00 p.m. The mobile food vendor operation and equipment must be removed from the location described in sections 15-68.4 and 15.68.5 when not open for business.

(Ord. No. 1220 , § 4, 3-28-17)

Sec. 15-68.2. - Zone districts.

Mobile food vendors shall not operate in the following zone districts: CBD, central business district.

(Ord. No. 1220 , § 5, 3-28-17)

Sec. 15-68.3. - Operating within public right-of-way.

Mobile food vendors may operate within the public right-of way provided they meet the following requirements:

(a)Mobile food vendor must be parked in a legal parking space and comply with all city and state parking restrictions;(b)When operating within the public right-of-way mobile food vendor may only serve customers from an adjacent sidewalk or from the curbside of the vehicle.

(Ord. No. 1220 , § 6, 3-28-17)

Sec. 15-68.4. - Operating on private property.

Mobile food vendors may operate on private property provided they meet the following requirements:

(a)Mobile food vendor operator must obtain prior written permission from the private property owner and must have available an original copy of such permission for inspection purposes at all times;(b)Mobile food vendor must be parked on a paved surface or weather proof surface outside any designated fire lane and outside the corner visibility triangle, as that term is defined in section 5.02(j)(3) City of Cortez Land Use Code.

(Ord. No. 1220 , § 7, 3-28-17)

Sec. 15-68.5. - City-owned property.

Mobile food vendors shall not operate on city property including city parking lots regardless of the zone district unless such authority to operate is provided for elsewhere in this Code or otherwise authorized by the city manager. This prohibition shall not apply to city-owned public right-of-way as provided for in section 15-68.3 of this article.

(Ord. No. 1220 , § 8, 3-28-17)

Sec. 15-68.6. - Littering and trash removal.

Mobile food vendor operators must keep the sidewalks, roadways and other spaces adjacent to their business site or location clean and free of paper, peelings, trash, debris and other refuse of any kind generated from the operation of their business. All trash or debris accumulating within twenty-five feet of any mobile food vendor shall be collected by the operator and deposited in a trash container maintained by the operator in good condition and constructed of a non-corrodible and watertight material, sufficient to hold the refuse generated by the business. Such container and its contents shall be removed from the site by the operator whenever the mobile food vendor moves to another location or at the close of business.

(Ord. No. 1220 , § 9, 3-28-17)

Sec. 15-68.7. - Noise.

Mobile food vendors must adhere to the provisions of Cortez City Code and Cortez Land Use Code now in effect or as may be amended from time to time regarding noisemaking devices.

(Ord. No. 1220 , § 10, 3-28-17)

Sec. 15-68.8. - Violations.

A violation of this article shall be punishable as set forth in section 17-16A of the Cortez City Code now in effect or as may be amended from time to time.

(Ord. No. 1220 , § 11, 3-28-17)

DISCUSSION:

The existing codes for the City are very permissive, allowing Mobile Food Vendors in most locations with subject to the restrictions above. There has been discussion and requests to expand the code to allow for mobile food vendors to operate in the Central Business District. In the past, downtown restaurant owners have expressed concern with this idea. Allowing Mobile Food Vendors downtown would require both a Land Use and City Code amendment.

Attached is a publication from the National League of Cities that give a comprehensive overview of the issues with mobile vendors and how many, much larger, communities deal with regulating food trucks. Also attached is a brief overview of a few Colorado communities and how they address the zoning issues.

Louisville, Colorado:

Application Form: 637405199802130000 (louisvilleco.gov)

- Fee: Yes (price unknown)
- **Colorado Retail Food Establishment License.**
- All food trucks operating in any other manner are required to obtain a city-issued food truck permit. If a food truck permit is required, provide the following:
    - A site plan of the property illustrating the proposed location
    - Written permission from the property owner, if operating on private property
    - **Written authorization from all restaurants within 150 feet of the location**
    - Certificate of Insurance, if operating on public property such as a street or park
- Location requirements. The use shall be located **at least 150 feet from any existing restaurant unless approved by the city manager, or written consent from all restaurant owners within 150 feet is provided.** Distances shall be measured by the city on the best mapping available as a buffer from the property perimeter in which the mobile retail food establishment, mobile food vehicle, or mobile vending cart is located, or from the closest point of the mobile retail food establishment, mobile food vehicle, or mobile vending cart itself if located in city-owned right of way, to the closest point of the property perimeter of a restaurant.
- Operating requirements. No person who operates any mobile retail food establishment, mobile food vehicle or mobile vending cart shall:
    - i. Sell anything other than food and non-alcoholic beverages, unless a special events liquor license is approved by the local licensing authority;
    - ii. Operate before 7:00 a.m. or after 9:00 p.m.;
    - **iii. Park in city-owned right-of-way or city-owned property overnight.**
    - iv. Set-up within any designated sight triangle/vehicle clear-zone;
    - v. Set-up within any ADA Accessible parking space;
    - vi. Impede safe movement of vehicular and pedestrian traffic, parking lot circulation or access to any public alley or sidewalk;
    - vii. Provide amplified music;
    - viii. Place signs/banners in or alongside the public right-of-way or across roadways. Signs must be permanently affixed to or painted on the mobile food vehicle or mobile vending cart, or in the case of a mobile retail food establishment, attached directly to the table, awning, canopy or similar item upon or under which sales are directly made;
    - **xi. Fail to provide separate and clearly marked receptacles for trash, recycling and compost and properly separate and dispose of all trash, refuse, compost, recycling and garbage that is generated by the use;**
    - xii. Cause any liquid wastes used in the operation to be discharged from the mobile food vehicle;
    - xiii. Fail to provide documentation confirming private property owner's permission upon application or request; or
    - xiv. Operate without a city issued food truck permit, unless operating as a private catered event, or as part of a city-permitted special event, or as part of, and with service limited to a city-permitted block party.

Delta/Paonia, Colorado

Mobile Food Vendor Checklist: Delta-County-Mobile-plan-review (deltacounty.com)

- Fee: $100 application fee
- Brief written description of the scope of work.
- Provide proposed menu
- Provide photos/drawings of mobile unit
- **Where can I set up?**
  - Private property in commercial zones (C-1, C-2) with property owners' permission. **Not allowed in Central Business District.**

Golden, Colorado

Parking Guidelines (Fire Department): PowerPoint Presentation (wildapricot.org)

- Food trucks are welcome in the City of Golden, but must follow certain guidelines. They are not permitted to just park on any city street and sell food to customers, per Golden Municipal Code Section 10.04.340 1210 Parking Regulations –(b)(2): "It shall be unlawful for any person to park a *food truck* and conduct business upon any public right-of-way except as authorized and in compliance with a permit issued by the City's office of special events."
- **Where can I operate my food truck?**
- Food Trucks in residential zones are strictly prohibited.
- On private property in **mixed zone and commercial districts.** For example, a local brewery or tasting room may invite a food truck to serve its patrons and the food truck may park in the parking lot or somewhere else on the business property that is off the city right of way. Research appropriate commercial and mixed use districts on our Zoning Maps page.
- When a neighborhood applies for and receives a block party permit, a food truck may be invited and is permitted to sell to the block party attendees.
- When an event organizer submits and is approved for a special event permit, food trucks are allowed to operate within the defined area of the approved special event location.
-

	CO Retail Food Establishment License (fee)	Proximity to other food services restrictions	County Public Health Certificate	Special events sales tax license	Mobile food vending permit (city fire dist.)	Setback requirements	Operating Hours Restrictions
Louisville	X	X	X	X	X	X	X
Delta/Paonia	X	X	X	X		X	
Golden	X	X	X		X	X	

Conclusion/Summary:

It seems that the general requirements for mobile food vending services follow a relatively uniform trend with regards to the restrictions put in place. The extent to which these restrictions are enforced are subjective to the particular City/County regulations. Regulations such as proximity to other

restaurants or food vending services are enforced in all three areas studied however the distance between vendors was different in each city. Setback requirements were also found in all three city's mobile food vending regulations however the specifics were all catered to the particular needs or concerns of the city.

There is no precise, step-by-step approach to enforcing Mobile Food Vending regulations and it seems that the best way to encourage food trucks is to find methods of regulations that do not inhibit the vendor but rather serve the community.

NATIONAL LEAGUE of CITIES

Helping City Leaders Build better Communities

FOOD ON WHEELS:
Mobile Vending Goes Mainstream

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Executive Summary

Mobile food vending generates approximately $650 million in revenue annually.[1] The industry is projected to account for approximately $2.7 billion in food revenue over the next five years, but unfortunately, most cities are legally ill-equipped to harness this expansion. Many city ordinances were written decades ago, with a different type of mobile food supplier in mind, like ice cream trucks, hot dog carts, sidewalk peddlers, and similar operators. Modern mobile vending is a substantial departure from the vending typically assumed in outdated local regulations. Vendors utilize large vehicles packed with high-tech cooking equipment and sanitation devices to provide sophisticated, safe food usually prepared to order.

Increasingly, city leaders are recognizing that food trucks are here to stay. They also recognize that there is no "one size fits all" prescription for how to most effectively incorporate food trucks into the fabric of a community. With the intent of helping city leaders with this task, this guide examines the following questions: What policy options do local governments have to regulate food trucks? What is the best way to incorporate food trucks into the fabric of a city, taking into account the preferences of all stakeholders?

Thirteen cities of varying size and geographic location were analyzed for this study. Information on vending regulations within each of these cities was collected and analyzed, and supplemented with semi-structured interviews with city staff and food truck vendors.

Based on recurring themes and commonalities, regulations are grouped into four policy areas:

- Economic activity: this policy area provides insight into aspects of food truck regulation that could potentially enhance economic development, and looks at specific processes that can be barriers to market entry. Two areas of regulation that impact economic activity - streamlining and permit costs – are examined, with recommendations provided for each.
- Public space: mobile vending takes place on both public and private property, but public property presents a unique set of challenges. With the rapid expansion of food trucks, there is increased demand for limited space, which increases the likelihood of conflicting interests and encroaches upon the ability of stakeholders to maximize the advantages that public space can offer. Time constraints, proximity rules, and geographic limitations related to density are examined here, with recommendations provided for each.
- Public health: this is one of the most basic concerns regarding mobile vending. All stakeholders realize the need for comprehensive regulations around sanitation and food safety. These issues should be addressed within a regulatory framework that is cost-efficient, thorough, and results in a streamlined process for all stakeholders.
- Public safety: public safety is a key reason why many cities began regulating food trucks. Regulations examined here include private property, vending near schools, and pedestrian safety, with recommendations provided for each.

All of the recommendations in this guide include regulatory best practices that are currently in place in the selected cities. These best practices provide a balance of the concerns and interests of the four stakeholder groups identified in this report: (1) mobile vendors (this term is used interchangeably with 'food truck' throughout the guide) and food truck/industry associations, (2) restaurants and restaurant associations, (3) the community, and (4) city government.

In addition, five overall recommendations for cities looking to update their regulations for mobile vending are also included:

1. **Hold Town Hall Forums and Private Meetings with Core Stakeholders.**
2. **Encourage Dialogue and the Building of Relationships Among Competing Stakeholders.**
3. **Implement Pilot Programs to Determine What Regulations to Adopt.**
4. **Use Targeted Practices as a Way to Address Underserved Areas of the City.**
5. **Identify Private Vacant Lots and Create Partnerships for Mobile Vendors to Gather and Vend in the Same Location.**

The recommendations included here are intended to be flexible enough to accommodate different circumstances, but logical enough to provide useful guidance to local leaders interested in integrating food trucks into city life for the benefit of both their residents and existing businesses.

Introduction

Mobile vending has grown considerably in recent years, generating approximately $650 million in revenue annually.[2] The rapid expansion of mobile vending, or food trucks, is attributed to residents' desire for quality, value, and speed; an appreciation for fresh, local food; and a preference for small and sustainable business. As such, mobile vending is also commonly used as a means to expand economic opportunity, and enrich communities by improving access to goods and produce not otherwise available through area merchants. The recent recession has also made food trucks an appealing option for hopeful restaurateurs, as they are an easier and more cost-friendly alternative to opening a brick and mortar restaurant. Many entrepreneurs have capitalized on the mobile vending industry, creating opportunities for self-sufficiency and upward mobility.[3]

The mobile vending industry is on pace to quadruple its revenue stream over the next five years, but unfortunately, most cities are legally ill-equipped to harness this expansion. Many city ordinances were written decades ago, with a different type of mobile food supplier in mind, like ice cream trucks, hot dog carts, sidewalk peddlers, and similar operators.

Modern mobile vending is a substantial departure from the vending typically assumed in outdated local regulations. Vendors utilize large vehicles packed with high-tech cooking equipment and sanitation devices to provide sophisticated, safe food usually prepared to order. Food trucks also take up a significant amount of space, require more safety and health oversight, cater to a different customer than the aforementioned types of mobile vendors, and have a more challenging relationship with brick and mortar restaurants and other vendors.

Advocates of stricter regulations generally assert that mobile vending congests sidewalks and streets, are unsanitary, and diminish urban quality of life. Regulations that currently impede mobile vending operations in U.S. cities commonly include public property bans, restricted zones, proximity bans, and duration restrictions. Supporters tend to argue that food trucks provide affordable, high quality food, rejuvenate public space, and fairly compete with size and open-air limitations. City officials have to balance these interests by regulating food and traffic safety without impeding the creativity and innovation of this popular market, but because the industry is so new, there are few examples of the best ways to amend existing provisions or adopt new laws.

The purpose of this guide is to offer best practices and recommendations to city leaders about how they can most effectively take advantage of the benefits of food trucks, while balancing the need to regulate growth and account for the concerns of key stakeholders: food trucks, restaurants, residents, and city government. It includes an analysis of food truck policies and regulations, specifically as they relate to four policy areas:

- Economic activity
- Public space
- Public health
- Public safety

The guide also includes recommendations on mobile vending policy and regulatory development for cities of all sizes. Using this guide, local leaders will be able to better understand the policy options local governments have for regulating food trucks, and determine the best way to incorporate food trucks into the fabric of a city while taking into account the preferences of all stakeholders.

Selection of Cities

This guide analyzes mobile vending regulations across 13 cities, based on population density, presence of local food truck industry, and availability of mobile vending regulations. Figure 1 shows the cities that are included in the guide.

Very large cities like New York City and San Francisco were not included on the basis that conclusions drawn from analyzing their regulations would not be generalizable to most other cities.

Stakeholders and Stakeholder Values

Stakeholders are identified as: (1) mobile vendors (this term is used interchangeably with food trucks here) and food truck/industry associations, (2) restaurants and restaurant associations, (3) the community at large, and (4) city government. For food truck vendors, it is assumed they would prefer an approach of looser regulations, clear, narrowly tailored laws, and streamlined procedures. For restaurants, it is assumed they favor stricter regulations that limit competition from food truck vendors. Although values are likely to vary among different community groups, it is assumed that — in general — community members hold quality of life concerns, including fear of negative spillovers (congestion, noise, pollution, etc.) as primary concerns, but also harbor a strong desire for community vibrancy. At the same time, community members generally prefer more food options to fewer. For city government, balancing the interests of stakeholders is a key priority, but so is a desire for economic vibrancy and revitalization, administrative ease, effective enforcement through regulatory clarity, and options that are budget friendly and cost-effective.

Figure 1: Selection of cities

Cities (population density)

LOW POPULATION DENSITY
- Durham, NC
- New Orleans, LA
- Indianapolis, IN
- Atlanta, GA
- Austin, TX

MODERATE POPULATION DENSITY
- Cincinnati, OH
- Denver, CO
- Las Vegas, NV
- Portland, OR
- St. Louis, MO

HIGH POPULATION DENSITY
- Oakland, CA
- Washington, DC
- Boston, MA

Economic Activity

This policy area provides insight into aspects of food truck regulation that could potentially enhance economic development, and specific processes that can be barriers to market entry. This section covers two topics that impact economic activity - streamlining and cost of permits for food trucks - and explores how these issues impact the various stakeholder groups.

Streamlining

Regulations that dictate how centralized the mobile vending permitting process is can greatly impact mobile vendors' level of access to a city's economic activity, as they determine how easy or difficult it is to gain permits and licenses.

Stakeholder Concerns

For food trucks, one of the key objectives is to earn revenue. For brick and mortar restaurants, their goal is the same, and the level of competition food trucks create or are perceived to create can be of concern. For the community and city, creating opportunities for economic development is a key priority because it raises tax revenue, vibrancy, and creates a level of attractiveness for business and residents as well as for the city as a whole.

Having a more centralized process for permitting generally allows vendors greater ease in entering the mobile vending arena by reducing the number of city departments they must interact with and receive

approval from. Centralizing the process also reduces the number of intra-department communications. A streamlined process benefits both the mobile vendors and city staff directly, as it diminishes the amount of work for each. Although to be fair, it increases the level of work for whichever department is tasked with overseeing mobile vending permitting process. For the community, a centralized process is in their best interest as it helps to create more efficiency, a greater potential for economic development and ultimately, raise more revenue for the city.

Regulatory Trends

The majority of the cities included here do not have a centralized permitting process in place; they use multiple city departments to permit and license various aspects of the mobile vending business. For instance, mobile vendors must apply for and receive a health permit that inspects the sanitation and food safety of a mobile vending vehicle, a traditional business license, and at times a zoning license and a safety permit. Although the number of permits and departments involved may vary, there is a trend of three to five departments and three to five permits that are typically involved in the permitting process for mobile vendors. Three cities use three departments, four use four or more. Only three cities have centralized the process into one city department for all city permits. Although these cities have centralized the part of the permitting process they control, there is still a need for a county health permit.

Recommendation

Making the permitting process more streamlined has positive impacts on both mobile vendors and city staff. Austin and Cincinnati's streamlined permitting processes can be used as models by other cities looking to implement a more centralized mobile vending permitting process. Austin's comprehensive set of requirements can be found on the city's official government website, and contains everything the vendor needs, including:

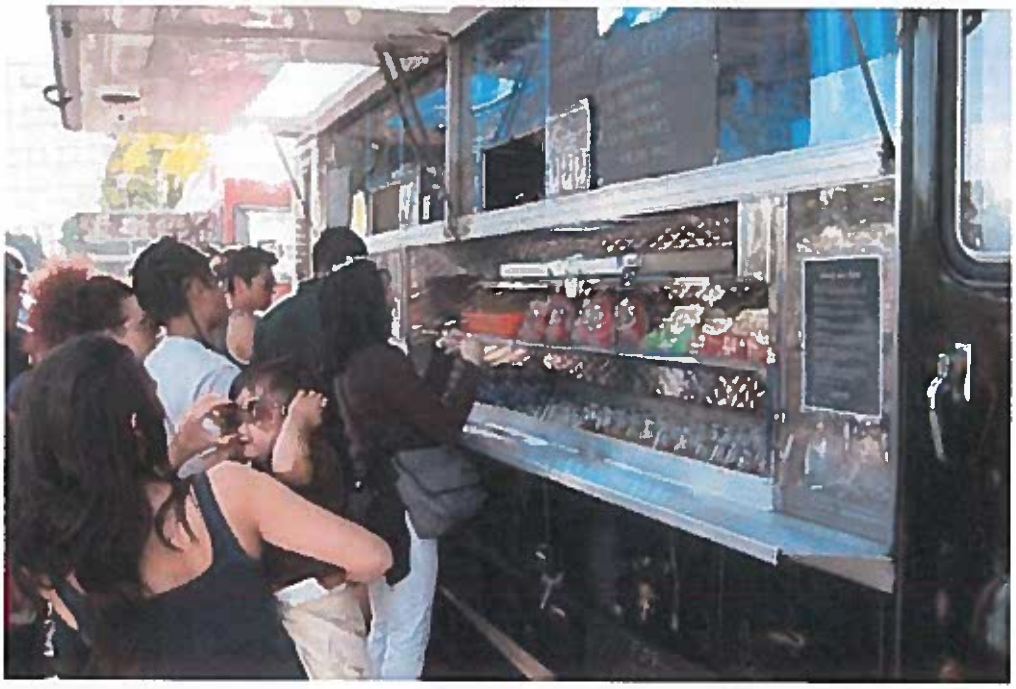
- Mobile Food Vendor Permit form, including the cost of the permit,
- Checklist of additional permit requirements for mobile vendors (with exact descriptions of what is expected and who to contact if there are any questions),
- Mobile Vending Unit Physical Inspection Checklist (includes 14 requirements ranging from a current license plate to the specifications of the sinks),
- List of mobile food vendor responsibilities including the signature of the certified food manager/food handler, the responsibilities of the central preparation facility (the commissary), and the restroom facility agreement. [4]

Austin's webpage is clear and concise. It has detachable forms and blank spots for the necessary signatures, with instructions regarding who to contact to obtain those signatures, specifics about the actual schematics of the truck components required for food preparation and handling safety, and perhaps best of all, nowhere does it suggest to refer to a subsection of some code or statute not included in the document.

As of January 2013, the Cincinnati Department of Health is solely responsible for the city's permitting process, application process, and payments associated with the city's mobile food vending.[5] This change was an effort to streamline the permitting process and give food truck owners a one-stop shop for all their licensing needs.

Cost of Permitting

The actual cost of permitting plays a role in would-be mobile vendors' decision-making process about whether or not to start a business. One of the most basic barriers to entry for many potential entrepreneurs is start-up costs, which include permitting fees.



Stakeholder Concerns

This issue impacts all stakeholder groups. On the vendor side, high permitting costs can serve as a barrier to entry. On the city government and community side, it can mean either an increase in revenue (from the actual permit) or a decrease in revenue (if cost deters some vendors from applying for a permit(s)). For mobile vendors, their self-interest is to keep the costs of permitting low so that there is an ease of entry into the market. For brick and mortar restaurants that believe mobile vendors are their competition, their interests lie in keeping the costs high to keep the number of mobile vendors low. City staff want to keep costs high enough to raise revenue, but low enough to keep the amount of mobile vendors growing. For the community, their interests are much the same as city staff - to find the balance between raising costs enough to maximize fees while not increasing them to the extent that they become a deterrent for mobile vendors.

Regulatory Trends

For the cities included in this guide, the cost of permitting fees ranged from $110 - $1,500 annually. Although the amount of permits required and the cost for each vary depending on city, the majority of cities fall either within either the $150-$400 (five cities) or $1,000+ range (five cities).

Recommendation

Permit fees should be high enough to generate revenue that off-sets at least some of the costs produced by the presence of food trucks, but not so high that they discourage potential business owners from entering the market. The actual amount is contextually determined, as budgets and administrative expenses vary depending on the city.

Below are examples of permitting costs in three cities:

- Durham: $75 for a yearly permit (not including health permit costs).
- New Orleans: Annual mobile vending permit fee - $305.25, Occupational license - $150.00, Mayoralty permit - $100.25, Sales tax deposit - $50.00, and Identification card - $5.00, totaling $610.50.
- St. Louis: $500 mobile vending permit fee to the Director of Streets, a $200 licensing fee (and $20 for each employee) to the License Collector, and $130-$310 (depending on type of food served) for a health permit to the Director of Health.

Public Space

Mobile vending takes place on both public and private property, but public property presents a unique set of challenges. Flexible access can lead to over-utilization, which in turn can produce unwanted congestion, pollution, and conflicts between different stakeholders trying to use the space at the same time.[6]

With the rapid expansion of the food truck scene, there is increased demand for limited space, which increases the likelihood of unwanted externalities and encroaches upon the ability of other stakeholders to maximize the advantages that public space can offer. In most cases, cities are tasked with managing this property, which includes balancing the needs of all interested parties, diminishing negative externalities, and otherwise preserving the integrity of the space. They are also trying to find appropriate ways to address the higher demand.

This section looks at three issues related to public space: time constraints, proximity rules, and geographic limitations related to density. A variety of approaches are recommended for dealing with these issues that balance stakeholder needs and take into account context and other practicalities.

Time Constraints

One set of regulations that impacts the use of public space for mobile vendors is how much time food trucks are allowed to park and vend in one location.

Stakeholder Concerns

Shorter time limits translate to less time for vendors to sell in one spot, which favors competing stakeholders like restaurants, since less time means less competition. Time limitations have both advantages and disadvantages for members of the public - less time means fewer choices for consumers but it also means less congestion and more parking options. For the city, the issue is also a mixed bag. Longer time limits mean vendors are easier to track down, since they are in fewer spots throughout the day. At the same time, longer time limits have the potential to reduce patronage at area restaurants. Moderate time limits, such as four to five hours, are often be the preferred approach for cities, since they usually produce the most balanced results (from a stakeholder perspective).

Regulatory Trends

Most of the cities included in this guide favor moderate or less restrictive parking durations. Five cities have no time limits, while three currently have durations of 45 minutes or less. The rest have provisions of four or five hours. It is worth noting that cities with more restrictive limits often have lax enforcement of these regulations.

Recommendations

Time limits of four hours or longer are recommended. Vendors need approximately one hour to set-up and pack-up once they are done with selling. As a result, anything less than four hours leaves vendors with only one to two hours of actual vending time. Moreover, it is more difficult for city staff to track food trucks for safety or health purposes when they are in several locations throughout the day. However, an unlimited approach may not be feasible in denser regions, where restaurants and other established businesses, pedestrian traffic, and congestion are more significant factors. This four hour or more time limit is included in regulatory amendments and council suggestions of various cities, including Oakland and Durham.

Oakland has a five hour time limit. Originally, the city had a two hour limit for one location. This left little time to actually sell food before having to move again. Vendors complained about the restriction, and were successful in getting it changed to five hours.[7] Originally, Durham had a regulation on the books that required mobile vendors to move 60 feet every 15 minutes. The police did not enforce this provision because the number of trucks was not large enough to create much conflict with other stakeholders. As the number of trucks started to increase around 2010, push back began, particularly among restaurants that insisted the police enforce the 15-minute rule. This prompted the city to consider amending the rules to more effectively address modern vending. The Town Hall meetings on the topic were well attended, not only by key stakeholders but also by members of the public. Durham is a town with strong public support for small businesses, and regulations that would make vending easier were favored. In late 2012, the rules were amended, and included a repeal of the 15-minute provision. No additional time constraints were adopted, and as a result, food trucks can vend in one location for an unlimited amount of time.[8]

Unlike Durham and Oakland, Atlanta's provision of 30 minutes in no more than two locations per day has not been successfully challenged. Since the 2013 NCAA Final Four basketball game, vending on public property is completely prohibited. Before this, vending in public space was very limited, based on history that dates back to the 1996 Summer Olympics in Atlanta and the more recent contracting

out to a private company the responsibility of mobile vendor management.[9] Virtually all mobile vending takes place on private property, where the 30-minute rule does not apply.

Proximity Restrictions

This refers to regulations that designate a certain amount of distance that must be maintained between food trucks and other establishments, people, or infrastructure. This section is primarily concerned with the distance restrictions between food trucks and restaurants that impact the use of public space. The limits that concern distance from pedestrians or infrastructure are addressed in other parts of this guide. The cities included here have adopted a variety of proximity requirements.

Stakeholder Concerns

Greater distance requirements favor restaurants and other established businesses, and are a mixed bag for residents for the same reasons discussed under time constraints. Larger proximity rules disadvantage mobile vendors because it reduces the number of places to sell, particularly where clusters of restaurants exist, which are often denser areas with more pedestrian traffic. Many cities prefer a moderate approach in regards to proximity restrictions, since such regulations usually balance competing stakeholder needs most effectively. Unlike parking, there are no tracking advantages related to distance requirements, but such regulations do impact where vendors conduct their business, which means the city still has to deal with congestion and other spillover concerns, particularly in denser regions.

Regulatory Trends

Similar to time constraints, the cities included here have largely moderate or lenient proximity restrictions. Six or seven have no restrictions, or relatively short distances, and four of the cities occupy the middle ground, with 150-200 foot requirements. Only one, New Orleans, has a restriction of 600 feet. New Orleans has a proposal to shorten the distance to 50 feet, but there has been resistance to this proposal from some city council members and the Louisiana Restaurant Association.[10]

Recommendations

Proximity restrictions should be no more than 200 feet at the high end. Density issues may call for a tiered structure, or for abandoning proximity altogether. One of the problems with adopting an explicit distance rule is that a "one size fits all" approach ignores context. Three hundred feet may make sense in less dense areas of a city, but such a distance is impractical in very dense neighborhoods. A city right-of-way, with multiple restaurants on both sides of the street where the distance between each side may be less than 300 feet, makes the area entirely off limits to mobile vending. As such, cities may want to loosen or abandon proximity rules in dense neighborhoods with a great deal of commercial and residential activity. A tiered model, where the distance requirements are shortened for denser neighborhoods and widened for others is also an option.

As the food truck scene has expanded within the last few years in St. Louis, conflicts between restaurants and food trucks have surfaced. In order to quell the rising tension, the St. Louis Department of Streets enacted a 200 foot rule.[11] Durham has adopted a 50 foot rule.[12]

Geographic Limitations Associated with Density

Another set of regulations relate to whether vending is permitted in particular segments of public space. Unlike proximity restrictions, these provisions concern access to fixed locations.

Stakeholder Concerns

Like the above issues, the more restrictive provisions advantage established businesses like restaurants, while working against the interests of food trucks. Constraints on the number of places open for selling tend to be more prevalent in denser areas of cites due to the much greater number of players utilizing the space at the same time. These are usually core downtowns where a large number and variety of established businesses and residences are located in close proximity to each other within a relatively limited area. Again, for cities, moderate approaches are generally the best at balancing stakeholder interests. Like parking durations, tracking issues come up here as well. Limiting vending to certain locations makes it easier for cities to find vendors, but might hinder economic growth and opportunity.

Regulatory Trends

Of the cities included here, most currently embrace a patchwork approach, wherein vending is limited to certain zones, districts, parking spaces, or limits on operation in the Central Business District (CBD). Three have lenient provisions, where few public spaces are off limits, while another three are on the more restrictive side, with outright bans on public space or CBD vending.

Recommendations

The greater the density of the area, the greater the case for more restrictions, but an outright ban on all mobile vending is not suggested unless the circumstances are exceptional. For a city like Durham, heavy-handed zoning constraints make little sense, as the interests of other stakeholders are only modestly compromised compared to denser areas, there are fewer negative spillover threats, city residents are given more choice without substantively higher safety concerns, and vendors are given more flexibility to choose where to operate. As a result, street right-of-ways and core downtown parks are open for vending.[13] In denser cities, the compromises that other stakeholders must make and the risk of negative externalities are increased, suggesting a more moderate regulatory framework should be implemented that requires all parties to relinquish some freedoms without entirely excluding them from the space. One option is the approach taken by Denver, where only the densest section of downtown is off limits to food trucks. Vendors are barred from selling in a section of the southwestern corner of downtown, which is roughly seven by nine blocks. Vendors must also maintain a 300 foot distance from all public parks, unless a special event is taking place, and then they must obtain permission from the city to participate.

Another approach is a lottery or first-come, first-serve system that allows a restricted number of parking spaces or sections of right-of-way to be set aside for mobile vending. Las Vegas currently has a pilot program that adopts a version of this (three spaces are being set aside downtown for food trucks only).[14] Washington, DC is also in the process of establishing a lottery system to increase efficiency and safety, and to balance the competing needs of residents. There could also be higher permit or parking fees associated with more heavily trafficked areas.

Areas where vending is allowed must be clearly delineated and easy to decipher. Several cities have regulations that make it difficult to easily discern permitted regions from unpermitted ones. The patchwork of restricted and unrestricted space (both public and private) in Denver, for example, has made knowing where to lawfully operate challenging for city vendors. Regulations that clearly define permitted areas are needed. Distinctions between public and private regulations should also be clear and transparent. A map that explicitly labels the areas where vendors are allowed to operate would be a helpful tool for all stakeholders.

If the political climate or density issues make it difficult to relax restrictions on public space, cities could consider making private space in less dense areas easier for vendors to access. Atlanta has a unique history that has produced provisions that greatly restrict vending on public property, and most recently, an outright ban by the Mayor Kasim Reed. To alleviate the impact of this restriction on mobile vending, Councilmember Kwanza Hall and others have worked to make vending on private property easier. A provision that originally required food trucks to maintain a distance of 1,500 feet from restaurants when at least two mobile vendors are selling on private property was amended to shorten the distance to 200 feet.[15] Trucks have adapted to the ban on public property by moving into private space, and this has kept mobile vending alive in Atlanta.

Public Health

One of the most intrinsic and logical concerns regarding food trucks, and one that has been a basic consideration since their inception, is public health. All stakeholders realize the need to address sanitation and food safety. The role of health departments and increasingly, commissaries should be continually reevaluated to address these concerns within a regulatory framework that is cost-efficient, thorough but not onerous, and results in a streamlined process with outcomes that provide for the wellbeing of all stakeholders.

Sanitation

Sanitation refers to food trucks' proper cleaning of preparation utensils and disposal of garbage, wastewater (gray water) and remnants of grease traps. Unlike the variety of procedural approaches taken by cities within the sphere of public space, the guidelines adopted for sanitation tend to be similar across cities.

Atlanta's rules provide a typical example of the sanitation provisions that exist in most cities. Mobile food units must have a trashcan that is at least 30 gallons, and it must be emptied at the commissary. Two sinks are required - a three-compartment equipment sink (for washing dishes, etc.) and another sink for washing hands. A wastewater tank that has a 15 percent larger capacity than the potable water tank is also required. To prevent contamination, the connections for each must be distinguishable, and the wastewater tank must be lower than the potable tank.[16] Atlanta is also typical of many cities in that the health code is state law. As such, cities are unable to craft law; they can only enforce provisions established at the state level.

Recommendation

Cities looking to adopt sanitation regulations for mobile vendors should adhere to the standard requirements in cities with an already established food truck industry. These regulations can be found on almost any city government website; Austin has particularly clear processes.[17] Since many cities are unable to enact their own sanitation laws, they may want to articulate their need and concerns to the state legislature when appropriate.

Food Safety

Not surprisingly, the specifics of food safety do not vary that much from city to city. The guidelines for the cities profiled in this guide are common sense and fairly straightforward.

For example, in Atlanta, mobile vendors are mandated to have a "Certified Food Safety Manager" (CFSM). The CFSM could be the owner or an operator; whoever is selected must complete a food safety-training program and pass a "professionally validated" CFSM exam. The mobile unit must always have a designated Person in Charge (PIC). This will be the CFSM when present. When absent,

the CFSM must designate someone else as the PIC. During Health Authority inspections, the PIC may be asked to demonstrate their "knowledge of foodborne disease prevention," for example. The Food Code lists a variety of ways this can be shown, such as demonstrating knowledge of how to properly handle food, among other things.[18]

Recommendation

State laws often require mobile vendors to adhere to the same food safety regulations that are applied to brick-and-mortar restaurants. This is an effective way to promote proper food handling and accountability. Many vendors report that they actually appreciate the standards because they serve to combat the "roach coach" stereotype. Brian Bottger, a food truck vendor in Durham, is one of these operators. He likes that he can confidently tell patrons that his truck is held to the same health standards as restaurants.[19]

Role of Commissaries

One of the most promising and more diversified aspects of mobile food vending is the commissary, a food truck "home base" of sorts. Commissaries are fixed location kitchens where food must be prepped before being loaded onto the truck for cooking and selling. They often operate as storage for various ingredients as well.

Stakeholder Concerns

All stakeholders can benefit from the appropriate utilization of commissaries. If more than one truck may operate out of a commissary, city employees, whether collecting licensing and permit documents and fees, or performing routine inspections for maintaining sanitation and public health standards, have fewer places to visit and can more easily streamline their permit review and inspection process.

Food truck owners can reap the benefits of the economies of scale that commissaries provide. Compliance with many of the regulatory burdens food trucks face are less expensive when shared by several owners; mobile vendors can also be assured that they are doing their due diligence with regards to regulations, which if not properly followed could mean large fines and even the possibility of being shut down. Commissaries provide new vendors with a central facility to get all the information they need to operate. This can save a significant amount of time and cost, especially when city business codes are difficult to track down. They may also benefit by not having to shoulder the full responsibility for compliance; if they sign a contract with a commissary, it may become the commissary operator's responsibility to see that compliance is achieved.

Commissaries provide brick-and-mortar restaurant owners with the assurance that food trucks are being held to the same standards and inspections as they are. Lastly, the general public can rest easy knowing that commissaries cut down on the number of unregulated mobile vendors and that health concerns are addressed in a thorough and efficient manner (when considering taxpayer monies spent on health departments).

Regulatory Trends

All of the cities included in this guide have a commissary requirement. Boston requires proof that food trucks are serviced by a mobile food vending commissary and that mobile venders keep accurate logs indicating that the food truck is serviced at least twice daily by a mobile food commissary for all food, water and supplies, and for all cleaning and servicing operations. In Washington, D.C., all vendors must maintain access to an approved depot location. A copy of the license for the service support facility and/or a recent inspection report is required to be presented. In St. Louis and Denver, trucks must operate from a commissary and report there once a day to clean all supplies and servicing operations.

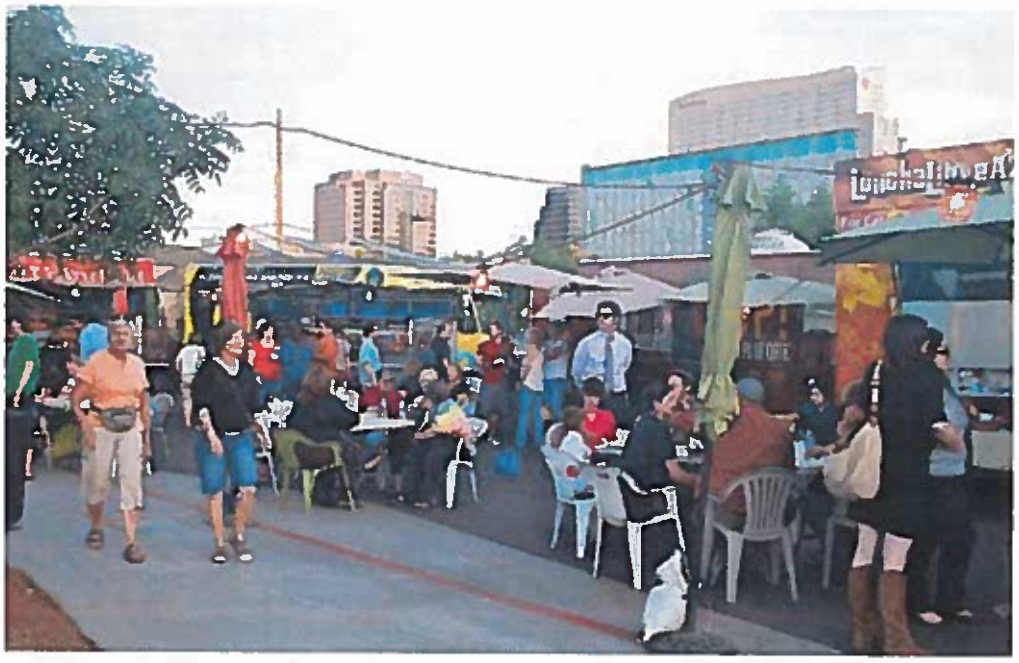
Recommendations

Mobile vendors should embrace the use of commissaries. It is recommended that cities adopt an approach similar to the ones employed in Austin and Durham, where all food trucks must have a contract with a commissary, but more than one food truck may be associated with a single commissary.[20] Food trucks may also negotiate with restaurants to utilize (and pay) them as places to dispose of waste. These contracts foster a sense of community and keep conflicts to a minimum. In Durham, multiple mobile vendors are also able to use a single commissary.

This approach best satisfies the concerns of all stakeholders. The regulation is not terribly onerous to the food truck operators, but still ensures food safety, which the public and the city may be concerned about. It helps give the impression that food trucks are being held to the same standards, which restaurants appreciate; and makes it easier for local food safety enforcement officials to do their job.

Public Safety

Public safety is a key reason why many cities began regulating food trucks. Issues around public safety include private property, vending near schools, and pedestrian safety.



Private Property

Private property options for mobile vendors create opportunities for businesses to extend their market reach, particularly for denser cities or those with very little public space (consider the Atlanta case discussed under public space). The cities included here have adopted a variety of regulatory models to address private space. In some cases, they practice a more informal approach, allowing food truck operators to gain a private space permit and conduct business without further regulatory strings attached. Others restrict mobile vending operations solely to private property. Equally important are existing zoning codes applied to private property that may or may not be zoned for vending.

Stakeholder Concerns

Standard public safety practices used in other city regulatory affairs (within the realm of private property) ought to lead the dialogue and development of relevant rules that empower proprietors to observe

and enforce appropriate safety measures on their property, and communicate those measures with mobile vendors. For cities, responsibility of property maintenance is lessened and is likely to fall on the shoulders of vendors and property owners, who will determine ways to address sanitation, safety, and property upkeep. Mobile vendors generally appreciate the flexibility that private space has to offer, e.g. fewer time restrictions and less government involvement in their daily operations.

Regulatory Trends

When examined through the lens of public safety, the cities selected have adopted a variety of regulatory models to deal with private property. Seven cities had rules regarding private property. Two cities lacked specifics on the issue, perhaps because they do not allow vendors to operate in private space in general. Cities that allow the use of private property for mobile vending have designated specific private zones where food trucks can operate to ensure public safety.

Recommendations

The adoption of more lenient regulatory language is generally the preferred approach for food trucks on private property, with the exception of denser regions. Owners of private property have the power to control what takes place on their land, including the ability to exclude whomever they choose. The issue at stake is not how to best balance the needs of various parties that have access to the land, as it is with public space. Instead, the emphasis shifts to reducing any negative externalities that might spillover onto adjacent or neighboring properties, particularly if an owner grants permission to multiple vendors.

As such, a regulatory framework that is generally less restrictive than for public property is appropriate as long as the owners grant permission for their land to be used by mobile vendors. However, since there is a greater danger of negative externalities when private property is located in denser areas, a modestly more regulated structure may be called for within these regions.

In Indianapolis, few regulations limit mobile vending business on private property. While the time-frame for vending on public space is limited to between 10am and 6pm, a business can get a permit for operating on private property and simply park at parking meters for the same rate as personal vehicles.[21] The majority of Portland s mobile vending occurs on private property, particularly surface parking lots.[22] A zoning permit may be required for development associated with a mobile vending cart, such as changes to an existing parking area, landscaping, and drive-through facilities. Vending carts over 16 feet in length, with or without wheels, are considered Heavy Trucks by the Zoning Code, and are not allowed in certain zones.[23]

Vending Near Schools

Mobile vendors encounter several public safety issues when deciding to operate near schools. Issues of concern include traffic-related safety, increased chances of interaction with predators that may be waiting for children to step off public property, and whether the food offered by mobile vendors meets school food safety standards.[24]

Stakeholders

Mobile vendors are beginning to recognize the potential opportunity to expand the food options available to local secondary schools and simultaneously capture a new, steady stream of customers, but they may be met with opposition from school administrators and parents who see their presence as a threat to safety and may view their menu options as potentially unhealthy. Cities looking to regulate vending near schools must determine the best precautionary measures in terms of distance requirements that mobile vendors must abide by.

Regulatory Trends

Five of the cities included in the guide have regulations around vending near schools. The regulations emphasized specific distances from schools that are intended to keep students from venturing off campus to patronize mobile vendors, and maintain safety standards for neighboring schools and communities. All other cities have no specific rules around this, perhaps indicating that this is not an issue in their jurisdictions.

Recommendations

Restrictions on operating during school hours are recommended, and mobile vendors should be required to maintain farther proximity from schools compared to restaurants, keeping density in mind. The time restriction is mostly a health-related issue, while the proximity suggestion is largely motivated by safety concerns. The framing of regulations surrounding mobile vendors and schools should be focused on protecting children during school operating hours. This approach keeps vendors from selling to students without adult supervision, but still allows them to benefit from afterschool activities

such as games, competitions, and concerts, where adults are more likely to influence food consumption decisions. However, proximity requirements should not handicap vendors in denser areas from selling in viable spaces that happen to be closer to schools.

In Indianapolis, vendors are prohibited from operating within a distance of 1,000 feet (roughly 0.2 miles) of any part of a public or private grade or junior high school grounds while school is in session. In Durham, a special temporary permit can be obtained for mobile vendors to operate at non-profit or civic events held on public property such as a school.

School districts that want to expand their food options, but wish to do so with minimal budgetary impact should work with city officials to create school vending permits for a limited number of vendors. Designated curb-side parking (which is not adjacent to a main road) could reduce many public safety concerns, particularly if students are generally allowed to roam the school parking lot where the trucks would operate. As long as they continue to comply with the city s food safety standards, this could be a viable option for city and school officials.

Pedestrian Safety

Mobile vendors move from location to location, coming in close contact with pedestrians at intersections and street corners every day. While some city ordinances have distance-from-pedestrian/sidewalk requirements (e.g. Durham has a 4-foot rule), the majority of the cities examined here have no such language in their regulations. Pedestrian safety may be part of a broader regulatory approach in many cities, but that focus often lacks emphasis or enforcement for mobile vendors (although it may be taken up in other sections of city ordinances). Pedestrian and intersection safety measures be included in food truck regulations, as they affect all potential food truck patrons.

Additional Recommendations

In addition to the recommendations included under each policy area, there are other, more general recommendations to help cities adopt new vending policies, amend existing policies, build stakeholder collaboration, and harness the potential for economic growth through the mobile food industry. Five of these recommendations are discussed in detail below:

1. **Hold Town Hall Forums and Private Meetings with Core Stakeholders.**

Durham decided to embrace a very inclusive approach to their ordinance restructuring. The city brainstormed initial ideas internally then presented the draft suggestions to the public for feedback. They also had private meetings with individual stakeholders to allow them to speak freely without fear of backlash. This tactic was particularly useful for restaurants in a food truck friendly city like Durham. Any fears they may have been afraid to share in Town Hall meetings could still be articulated to decision-makers. The weight of opinion worked against restaurants in this context, but they were still brought to the table.

2. **Encourage Dialogue and the Building of Relationships Among Competing Stakeholders.**

Cities should look for ways to encourage relationships between the various stakeholders. At the heart of proximity rules are concerns that restaurants (and other established businesses) have about unfair competition. They pay expensive monthly rents and property taxes, but they are also engaged with the community. Because they are stationary, most restaurants see themselves as part of the community fabric. They create employment opportunities and care about neighborhood safety and aesthetics. Some view mobile vendors as profit-driven, fly-by-night operators with few or no ties to the community. Conversely, mobile vendors often feel that restaurateurs are fearful of innovation in food culture.

Collaboration between these stakeholders is something to strive toward, and cities can play an important role in spearheading dialogue between these groups. Conferences, forums, or meetings could be called with stakeholders from both sides invited to the table in a spirit of cooperation, with the intent of encouraging them to see each other as collaborators rather than competitors more often than they currently do. It could also encourage voluntary compromise help craft solutions that balance the needs and concerns of both parties. Cincinnati has achieved this, to some degree. Food Truck Alliance President Matt Kornmeyer explained that food trucks in the city, voluntarily maintain a 100-foot distance from neighboring restaurants as a sign of respect to brick and mortars, and as a preparatory measure. [25]

3. **Implement Pilot Programs to Determine What Regulations to Adopt.**

Pilot programs are flexible, encourage innovation, and can help uncover and address issues unique to particular communities. They are usually implemented on a small scale, so they do not create a sudden, large burden on an already existing network, and they provide insight that can inform the decision-making process before regulations are made into law. Their flexibility and emphasis on experimentation make them an especially useful tool for new industries. Pilot programs are being used in a variety of cities, including Oakland, and are recommended for cities with a relatively new food truck scene or a rapidly expanding one.

In 2001, the Oakland City Council created the Pushcart and Vehicular Food Vending Pilot Programs.[26] The pilot program was created to promote the health, safety, comfort, convenience, prosperity, and general welfare by requiring that new and existing pushcart food vendors provide residents and customers with a minimum level of cleanliness, quality and safety.[27] This program issued 60 permits and required a 10-step validation process, including a complete application, proof of Business Tax Certificate, and a photocopy of a valid driver s license.[28] The program restricted the use of these permits to centralized districts because of the added desire to infuse economic development into the city.[29] This pilot program is still active.

4. Use Targeted Practices as a Way to Address Underserved Areas of the City.

The issue of food accessibility has been linked to poverty, decreased public health, and quality of life.[30] Moreover, in recent years, food deserts have become an issue of public concern. Although the cities included here are not directly using mobile vending to combat food deserts, some are employing a targeted strategy to get food trucks into various areas of their cities, outside of the core downtown districts, some of which are underserved by brick and mortar restaurants.

Initially, the 2012 Cincinnati City Council approved an ordinance that declared a mobile vendor could not sell food on the curbside or right-of-way. Now, seven zones exist in strategic places around the city, up from four in 2011 per the recommendation of the Department of Community Development.[31]

Denver has actively considered several issues that might impact or encourage economic development. These include whether food truck clustering could be used to combat food deserts, the ability of food trucks to activate underutilized space (like surface parking lots), food trucks as restaurant incubators underserved areas. [32]

5. **Identify Private Vacant Lots and Create Partnerships for Mobile Vendors to Gather and Vend in the Same Location.**

The use of private space has been used to create several food truck centers that increase economic activity in various West Coast cities. For example, Portland is known as the food truck capital of the world. This type of clustering can create hot spots for loyal customers, as well as an opportunity for mobile vendors to gain new clients. For city government, it can create an ease of regulation and enforcement by focusing the attention and resources on specific parts of the city.

While Portland has a number of the more traditional mobile food trucks around the city, the majority of their mobile vending occurs on private property, particularly surface parking lots and vacant lots.[33] Portland uses food truck centers to create economic vibrancy within various parts of the city. In 2009, the city proposed the use of vacant lots as pods, or areas for food trucks to cluster. The idea was to use vacant lots as catalysts for economic development, deterring blight and encouraging vibrancy in the process. It is important to note that while many of the food trucks (what they refer to as food carts) are mobile, the city has several stationary mobile units. These units are moveable, but primarily remain on private property.[34] Many of the pods are hosts to more permanent vending units, particularly in downtown. They are still classified as mobile though because as long as the food carts are on wheels, they are considered vehicles in the eyes of the law, and are therefore exempt from the building code.[35]

Atlanta often uses private surface parking lots to encourage mobile selling. Atlanta has also had a very active and successful food truck association, the Atlanta Street Food Coalition, which does an admirable job mobilizing vendors, and keeping public and private partners informed.

Conclusion

Mobile vending is not just a passing fad. However, it is important to recognize that there is no one size fits all prescription for how best to incorporate food trucks into the fabric of a community. Many characteristics contribute to the complexity and vibrancy of a city, including political climate, state laws, demographics, and the existing restaurant industry. With this in mind, the recommendations included here are intended to be flexible enough to accommodate different circumstances, but logical enough to provide useful guidance. They can serve as a road map that will help cities establish a regulatory framework best suited to their unique circumstances and that takes into account the whole spectrum of stakeholder needs and concerns.

About this Publication

Research for this guide and the original draft of the document were completed by graduate students at the George Washington University Trachtenberg School of Public Policy and Public Administration. Contributors include Anju Chopra, Malia Dalesandry, Garrett Jackson, Ana Jara, and Stephen Tu. These students worked in partnership with J. Katie McConnell, Brett Common, and Christiana McFarland at the National League of Cities to conduct an analysis of food truck regulations in cities across the country. The final report was edited by Christiana McFarland and Emily Pickren at NLC.

The National League of Cities is the nation s oldest and largest organization devoted to strengthening and promoting cities as centers of opportunity, leadership and governance. NLC is a resource and advocate for more than 1,600 member cities and the 49 state municipal leagues, representing 19,000 cities and towns and more than 218 million Americans.

NLC provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

Acknowledgements

Special thanks to the George Washington University Trachtenberg School of Public Policy and Public Administration faculty and staff, particularly Elizabeth Rigby and Patrick Besha. Special thanks also go to all the interviewees - city staff, food trucks owners, and city officials for their candid and informative perspectives regarding the regulatory concerns and opportunities for their cities.

Appendix

Selection of Cities

This report analyzes mobile vending regulations across a range of cities. First, cities with existing food truck industries (51 in total) were identified, based on information from the Washington, DC Department of Transportation (DDOT). Each city s context and food truck policy/regulatory environment was reviewed, and data was gathered on each city s region, population density, level of the local food truck industry, and availability of mobile vending regulations. The 51 cities were stratified into three groups based on population density. Specifically, we developed a three-tiered density structure in which cities were classified as:

- Low density (cities as those with a density range of 3,500 persons per square mile (ppsm) and below)
- Moderate density, (cities with 3,501-7000 ppsm)
- High population densities (cities with 7,001 ppsm and above)

Ultimately, the sample of cities drawn ranges in population size from 279,641 (Durham) to 827,609 (Indianapolis), in density from 936 ppsm (Durham) to 12,793 ppsm (Boston). Very large cities like New York City (27,000 ppsm) and San Francisco (17,000 ppsm) were not included on the basis that conclusions drawn from analyzing their regulations would not be generalizable to most other cities.

Between three and five cities from each population density tier were selected for a total of 13 cities, as shown in Figure 1 and highlighted in the map below (Figure 2). The selection process focused on cities with a food truck presence, then cities were divided into geographic regions, and several cities were chosen from those regions. Context and background were also taken into account. That is, cities with mobile vending regulations and histories that insufficiently highlighted particularly noteworthy regulatory conflicts or solutions were ruled out in favor of those that lent themselves better to examination of recurring themes and common pitfalls.

With such an approach, it is possible that a city regulation that was uniquely innovative or informative in was in some way was overlooked. The low, medium and high density methodological structure, paired with the regional breakdown, is an attempt to minimize this risk.

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NATIONAL LEAGUE of CITIES

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CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: C.

MEMO TO: Honorable Mayor and City Council

FROM: Drew Sanders, City Manager

SUBJECT: 6:45 p.m., Discussion of a set of Council protocols for possible future adoption-Presented by City Manager Drew Sanders.

BACKGROUND

The City Manager has prepared a Cortez specific set of Council protocols to be used by individual Council members as a quasi-policy manual and reference document. This particular document is modeled upon similar instruments adopted by other Colorado municipalities. This is proposed as an effort to achieve the following: Help the City Council adhere to open meetings laws; help maintain effective communication and organizational efficiency; provide a convenient reference document for Council members to refer to. The City Manager requests that the Council discuss the material, offer input and/or suggestions, and consider whether to adopt a final version.

Attachments

DRAFT City Council Protocols

City of Cortez
123 Roger Smith Ave.
Cortez, Co. 81321

CITY COUNCIL PROTOCOLS

Approved by City Council on: Last Revision: 4-21-2022

Communication: Agenda Items

1. The agenda packet is shared with all Councilmembers via the AgendaQuick system no later than the Thursday afternoon before scheduled Council meetings. Councilmembers will direct their individual requests for additional materials or information relating to agenda items to the City Manager via e-mail, while copying the request to the Mayor prior to the Council Meeting. If the requested information can be provided from readily available data with no diversion of the staff time, then it will be provided within a reasonable amount of time after the request. Information will be sent at the same time to all Councilmembers to their official City email address.

2. Councilmembers should strive to ask questions of staff for further information in a regular meeting. If this is not possible, in order to honor the time of City staff, Councilmembers will make every attempt to request additional materials or information relating to the Council meeting agenda as soon as possible before the scheduled meeting and will attempt to collect all questions in one request if a question cannot wait until the next regular meeting. The Council as a whole should direct the City Manager to provide this information at a future meeting; or, if more immediate information is needed, by email or hard copy to all Councilmembers.

3. If the requested information is not readily available or requires a special report or a significant investment of time that will divert staff from established priorities, the Manager will notify the requestor and the Mayor prior to the start of the meeting. The requestor has the option of pulling the item from the agenda and/or making a motion to postpone the agenda item for further consideration.

    a. The City Manager will place the request for information or agenda item on the next meeting agenda if the majority of Councilmembers agree the requested information is important for future decision-making.

    b. If the Council agrees that the information is important for future decision-making, then the Manager will direct that a report be developed and provided as requested by the Council and commit to a time frame for providing the information.

Communication: Between Meetings

1. The City Manager may update all Councilmembers on important City issues as necessary, between meetings, but shall always strive to follow open meeting laws. This may include one-way communication via mail or email from the City Manager where information will be sent to all Councilmembers at the same time. In times of emergency requiring immediate notification via phone, the Mayor will be the first contact, then Mayor pro-tem, and then the other members.

2. A). Any mail correspondence a Councilmember may have received at City Hall is promptly delivered to the Councilmember's mailbox in City Hall, located in the City Clerk's Office.
   B). The City Manager will communicate requested information to all Councilmembers in a reasonable time without interfering with the regular conduct of City business.
   C). The City Manager will distribute to all Councilmembers any information requested for the Council by the Mayor or a Councilmember at a regular meeting.

3. Councilmembers may communicate with other individual Councilmembers, the Mayor or the City Manager for the purposes of asking clarifying questions, providing clarifying information or socializing under circumstances that do not conflict with or circumvent the Colorado open meetings law. Councilmembers shall refrain from conducting business requiring deliberation by the entire Council through email and/or between meetings. If three or more members of the Council are participating in a conversation about City business through email or in person, an open meeting is required. Councilmembers will communicate their individual requests for detailed or sensitive non-agenda information to the City Manager while copying the request to the Mayor. If the requested information can be provided from readily available data with no diversion of the staff time, then it will be provided within a reasonable amount of time after the request at a public meeting

4. If a Councilmember has a question requiring the City attorney's response, he/she should refer the question to the City Manager and courtesy copy the Mayor. This is done as a cost-saving measure and to ensure that several Councilmembers are not contacting the attorney with duplicate questions or that one Councilmember is not directing the City Attorney.

5. Councilmembers will not directly contact entities with which the City contracts with or otherwise engages, such as, but not limited to, City Engineers, potential or current vendors, and other service providers for purposes of City business.

Communication: Visiting City Operations

1. Although Councilmembers are encouraged to visit any City facility or operation for informational purposes however, as a courtesy, Councilmembers will inform the City Manager of any visit as much in advance as possible to accommodate for staff's time, unless the Councilmember is attending a function to which he/she has been invited. Obvious exceptions to this are private visits to City parks, recreation center, library, City Hall, etc. The City Manager will set up tours of City operations as Councilmembers request them. Councilmembers must follow proper safety guidelines. All visits are to be escorted or directed by a staff member designated by the City Manager. Councilmembers will not assume a supervisory role with staff or their contractors.

Communication: With the Public

1. Councilmembers are encouraged to participate in community activities as liaisons between the public and the City with respect to its legislative role (not with respect to quasi-judicial matters, i.e. licensing or land use decisions pertaining to a particular property or entity). Councilmembers are expected to:
    a. Listen politely and respectfully.
    b. Accurately relay non-confidential information about the City in a positive and truthful manner.
    c. Refer questions about specific City activities/issues to the City Manager or appropriate staff person or spokesperson (as designated by the City Manager or Mayor) when they do not know the answers.
    d. Clarify Councilmember's limitations, obligations, and responsibilities as a member of the Council. Do not speak on behalf of the entire Council.
    e. Respect Council decisions.

2. If the citizen has a complaint, ask if they have followed the City's procedures and/or chain of command.
   (A) Complaints regarding staff should be directed to the City Manager.
   (B) Complaints regarding the City Manager should be directed to the Mayor.
   (C) Complaints regarding City services or issues should be directed to the City Manager, who may request that the complainant prepare a written statement or complaint. This written request will be kept on file and, per City protocol, will be responded to in writing by the City Manager within three days as time allows. The City Manager will inform the Council of the resolution of any serious issue referred to the City Manager. Multiple complaints or those of a severe or unusual nature with regard to City services or issues will be brought before the Council by the City Manager.
   (D) Complaints regarding Councilors should be directed to the Mayor, who will address the complaint/issue with the Councilmember.

3. The Council should recognize the right of citizens to express themselves regarding policy, finances, or other responsibilities of the Council that are not quasi-judicial in nature should use one or more of these alternatives: contact City Staff, e-mail, telephone, or write Councilmembers, speak at public forums, or participate in the public comment period of a Council Meeting.

4. A Councilmember retains the right to speak to anyone as an individual, except with regard to quasi-judicial matters to be heard by the Council, but must understand that any comment will likely be interpreted by the listener as being an official statement of the Council. In speaking as an individual, the Councilmember should: A) **clarify that he or she is speaking as an individual and not for the Council**; and B) remind community representatives of any position or action that the Council has officially taken related to the issue in question and support the official position taken by the Council.

Communication: With the Media

1. The Mayor or designee will be the official spokesperson for the Council to the media on issues that relate to Council decisions. The City Manager or a designated staff member will be the official spokesperson for the City on issues of media attention that relate to City operations.

2. Press releases issued on behalf of the Council will be approved by the Council prior to release, unless an emergency or public necessity exists. Press releases issued on behalf of the City will be approved by the City Manager prior to release, unless an emergency or public necessity exists.

3. A Councilmember who receives a call from the media requesting information, comments, or an interview regarding City business will direct the caller to the City Manager. The City Manager will notify the Council, periodically, of any media requests. If the matter is urgent, the City Manager will notify each Councilmember via phone or e-mail, whichever is more practical. The City Manager or designee will keep Councilmembers apprised of issues the media may be considering.

4. A Councilmember retains the right to speak to the media as an individual, but must understand that any comment will likely be interpreted by viewers/readers as an official statement of the Council. In speaking as an individual, the Councilmember should: 1) Clarify that he/she is speaking as an individual and not for the Council; 2) Remind the media representative(s) of the position or action of the Council related to the issue in question; and 3) Notify the City Manager and the Mayor about the media request. The Mayor or City Manager will inform the rest of the Council of the media correspondence.

Communication: E-mail, Written, or Verbal

1. Councilmembers may respond to e-mails from constituents, but should bear in mind that any such responses may be subject to Colorado Open Records Act (CORA) requests. A Councilmember retains the right to respond to e-mails as an individual, but must understand that such communication may be interpreted by the reader as being an official statement of the Council. The member should: 1) Clarify that he/she is responding as an individual and not for the Council; and 2) Remind the reader of any position or action the Council has officially taken on the subject.

2. Members will share City business related e-mails they receive with the rest of the Council via the City Manager. The Councilmember should copy the City Manager for dissemination to the rest of the Council. This applies if:

    a. The e-mail is not of a personal or confidential nature.
    b. It is not obvious that the sender has copied the rest of the Councilmembers on the e-mail.
    c. The Council does not engage in any conversation or action which would violate the open meetings Act.

3. E-mail or letters addressed to all Councilmembers are to be answered by the City Manager on behalf of the Council or are to be put in the Council Packet. A copy of such response will be forwarded to all Councilmembers and, depending on severity, reported at the next meeting.

4. Councilmembers will not respond to anonymous e-mails as to City business unless the communication pertains to criminal, health, or safety issues. Any such e-mails will be forwarded to the City Manager for appropriate action. If a Councilmember receives communication which he/she perceives to be of a threatening nature or a criminal act, the Councilmember will immediately call the City Police Department and the City Manager and forward the e-mail to the City Manager for action and the rest of the Council for their situational awareness.

Meetings: Types of Meetings

There are a variety of meetings for Councilmembers. While most meetings occur on a regular basis, dates can change or meetings can be omitted altogether due to other conflicts on the calendar. All public meetings will be posted with 24-hour notice.

1. **Council Meetings** - These open meetings are held on the second and fourth Tuesdays the month at 7:30 p.m. at City Hall, unless a special meeting has been called. They are held to conduct the formal business of the City in public. Action may be taken during this meeting. Council Meetings may be preceded or followed by an executive/closed session.

    a. Members of the public are invited to address the Council during a Council meeting regarding agenda or non-agenda items during either of the two a public comment periods. Anyone wishing to address the Council must sign up at the start of the meeting in accordance with *Resolution 11, Series 2022.*

b. Each speaker has up to three (3) minutes to address the Council. The Mayor will call the speakers forward to the podium to speak at the appropriate time.

c. On occasion, the Mayor (with advice from the Council) may choose to modify the number of minutes assigned to each speaker.

Councilmembers will not conduct an interchange with the speaker if the speaker addresses a non-agenda item. The City Manager or Mayor may provide factual information and/or reference to policy in order to facilitate resolution.

d. The Council meeting is recorded and minutes shall be made available by the City Clerk upon formal adoption by the Council at the following meeting. Adopted minutes shall be available on the City web site.

2. **Executive Sessions -**These meetings are not open to the public and typically include consultation with legal counsel or other matters as allowed by Colorado open meetings laws. Since they are executive/closed meetings, there cannot be any formal action taken or decision made during an executive session. Executive session discussions will be kept confidential. Topics that can be discussed in executive/closed session include:

   a. Personnel matters involving a specific employee including the City Manager's evaluation and/or contract, unless the specific employee requests that the matter be discussed in an open meeting.
   b. Attorney conferences to receive legal advice on a specific legal question.
   c. Discuss purchase, exchange, lease, sale, or value of real property or other property transactions.
   d. Deliberation regarding negotiations to develop a strategy for negotiations or to instruct a negotiator.
   e. Other topics as provided by the Colorado open meetings law such as documents protected under CORA, security arrangements, investigations, or matters deemed confidential under state or federal law.

3. **Workshops** - These open meetings are typically held prior to a stated Council meeting at 6:30 p.m. at City Hall. Start times may vary based upon the needs of the City. The Workshop is a meeting between Councilmembers and staff to discuss items and to receive information. In addition, **no action is taken.** The Council is typically provided more of an update on particular issues and programs that may come to the Council at a later date during a Council meeting.

   a. Members of the public may not address the Council during a Workshop meeting unless invited to do so by the Council. Public input is scheduled at regular Council Meetings only.

   Any Councilmember may make a request for a specific topic to be addressed in a future workshop session by submitting to the Mayor and City Manager a formal request in writing, submitted prior to the work session at which the topic shall be addressed. The Council may

address the issue if a majority wishes to. At the end of each work session, the Mayor will ask Councilmembers if they have a topic to be discussed at a future meeting. Packets and agendas are sent out by Thursday of the previous week, just like the regular Council meetings.

4. **Public Input Sessions** -On issues of broad community interest the Council may decide to conduct public input sessions such as public hearings, at regular meetings, workshops, and presentations. Examples of issues include tax rate setting, general information gathering or sharing sessions, and similar topics. This meeting may be held at City Hall or another location. Members of the public may address the Council on the posted topic at hand. Councilmembers will listen to the comments but will not conduct an interchange with the speaker. However, if the speaker provides incorrect information then the Council or staff may request correct information at the earliest convenience. No action may be taken.

5. **Special Meetings** -A special meeting is a business meeting held on a date other than the regularly scheduled meeting under Article III, Sec. 4 of The Charter (Cortez City Code). Action may be taken. A minimum of 24- hour notice to the public of the meeting is required, and minutes must be kept and made available to the public.

6. **Emergency Meetings** - An emergency meeting is essentially a special meeting for the purpose of addressing a situation which must be handled immediately involving preservation of public peace, health, or property. Actions should be ratified at a subsequent meeting for which full and timely notice has been provided. As much notice as possible, under the circumstances, will be given for an emergency meeting. Ordinances may be passed as an emergency measure after first reading, and then only by two-thirds vote of the Councilmembers present (Article III, Sec. 9).

7. **Retreats** -A retreat is a planning meeting between Councilmembers and staff which could include a training session for Councilmembers. As a best practice, retreats should be held within 10 miles of City limits. Councilmembers may elect to participate via telephone or video conference if unable to attend. No action may be taken.

Meetings: Agenda Setting

1. Agendas are drafted by the City Manager. The City Manager will place the request for information or agenda item on the next meeting agenda if a majority of Councilmembers agree that the suggested information is important for future decision-making and the agenda item is desired at the next meeting. If the City Manager or Mayor receives a written request from a member of the public to include an item on an upcoming agenda, the City Manager shall decide how to present the information to the Council. He/she may elect to put the item on the next agenda, in consultation with the Mayor. A standing agenda item for reports from the advisory committees will be placed on each agenda. A representative from each advisory committee may give a brief report if so desired.

2. No item should be placed on a Council Meeting agenda less than 24 hours in advance of the meeting unless an emergency or urgent public necessity exists. The Colorado open meetings law requires the City to post the agenda in a public location 24 hours prior to the meeting.

3. The Council can pass items through a "consent agenda" and may do so in one motion. During a Council Meeting, any Councilmember may remove an item from the consent agenda for separate consideration. Prior to the meeting, the Councilmember will make every effort to inform the appropriate staff member of his/her intent to remove the item from the consent agenda so that the staff member may be prepared. The Councilmember will also notify the City Manager and the Mayor of his/her need to further discuss the consent agenda item prior to action by the Council. Consent agenda items must still be voted upon by counting the ayes and nays of each Councilmember, but as a whole, and the votes required to pass any specific item on the consent agenda are not altered by placing the item on the consent agenda

Meetings: Councilmember Preparation and Conduct

1. Councilmembers will read and study the packet prior to each meeting. Councilmembers will direct agenda related questions to the City Manager, copying the Mayor, in accordance with the procedure outlined in "Communication: Agenda Items."

2. All Councilmembers are expected to conduct themselves professionally and ethically during all meetings and public forums, as well as away from public meetings. Examples of behavior that will not be tolerated are rude remarks, interruptions, yelling, name calling and disrespectful verbal or body language, making slanderous, threatening, abusive, or disparaging comments. During posted meetings, all members will conduct himself/herself according to this protocol. As a best practice, *Roberts Rules of Order* shall apply and the principles outlined in CIRSA's handbook for elected officials will be followed (Ethics, Liability & Best Practices Handbook for Elected Officials).

   If, during a meeting or public forum, any member conducts themselves in a manner that is intolerable or prevents the accomplishment of goals, the Mayor may adjourn or recess the meeting. Differences of opinion, if respectfully submitted, are not to be construed as unacceptable behavior but rather as alternate views on a subject. The Mayor may request a Councilmember who is unruly or disruptive to be escorted from the room.

   Individual Councilors may point out to the offending Councilor in private the infractions in an effort to resolve the concerns informally. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being challenged, then the matter should be referred to the Mayor Pro-Tem.

   It is the responsibility of the Mayor to initiate action if a Councilor's behavior may warrant sanction. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending sanction to the full Council to consider in a public meeting; or forming a Council ad hoc subcommittee to review the allegation and recommend

sanction options. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full Council in a public meeting. Councilors who intentionally and repeatedly do not follow proper conduct, as set forth in these protocols, the sources referenced in these protocols, or other applicable Colorado law, may be reprimanded or formally censured by the Council.

3. Only Councilmembers who are physically present may participate in regular Council Meetings, with the only exception being emergency meetings. Councilmembers who cannot attend, but would like to listen to a called meeting, may listen via phone, but cannot speak once the meeting begins. The minutes may reflect the following: "[COUNCILMEMBER] was unable to attend the meeting in person. Pursuant to the open meetings act, [COUNCILMEMBER] was not permitted t*o participate in the meeting, but, [COUNCILMEMBER]* did call in and was able to listen to all the discussion on each of the agenda items discussed."

<u>Meetings: Executive Sessions</u>

1. Executive session is a closed meeting and usually precedes or follows a Council Meeting or Work Session. Refer to page 4 of this document for allowable topics.

2. No formal action or decision may be made in executive session. The outcome of the discussion may be voted on by the Council once the executive session is adjourned and the regular meeting has recommenced.

3. All matters discussed in executive session are considered confidential. Councilmembers will not disclose executive session conversations. When it is apparent to the Council that it would be in the best interest of the staff, community or Council to make a statement regarding anything that occurs in or results from an executive session, the Mayor will compose an official public statement that meets with the approval of a majority of the Council. Any such statement will comply with the limitations of the law. If individual Councilmembers are pressed for information regarding executive sessions that Councilmember will state clearly that he/she can give no information other than what is posted on the agenda. If pressed further, the Councilmember will refer the inquiry to the City Manager.

4. Executive sessions must be audio recorded, and recordings must be kept a minimum of 90 days. As a general rule, the City Manager and/or the City Attorney will audio-record the proceedings and will note the time of the session start and close, as well as those in attendance. No formal minutes of the proceedings shall be taken.

5. No persons other than the Council, City Manager, and City Attorney (as appropriate) is entitled to attend or participate in executive sessions. If the Mayor, designee or the City Manager believes that consultation with a person or group would be beneficial to the discussion, that person or group may be invited to participate for a specific purpose. Such consultants must leave the room upon the conclusion of their participation or when the Council no longer believes such participation is productive. A Councilmember will make such a request to the Mayor or designee,

who will work with the City Manager to arrange for participation as requested. The City Manager may be prohibited from participating in executive/closed sessions where the Council may be considering any aspect of his/her employment or job performance. In the event any persons other than the Council and City Manager participate in executive sessions, the City Manager and Council will ensure that the participant(s) are aware of the limitations placed on disclosure of the content of the discussion occurring in executive session. The Council has the option to take action on a matter discussed in an executive session when the public or open session resumes.

Committee and Council Liaisons (Advisory Committees)

1. Councilmembers serve as community liaisons to various groups throughout the community as well as committees within the City. Through consultation and an appointment by the Council of individual Councilors, members may serve on the following committees as a standing liaison:

    - Public Arts
    - Historic Preservation
    - Parks, Recreation, and Forestry
    - Golf
    - Library
    - Mesa Verde Country (as board members)
    - Other Councils and committees, as determined by the Council

2. The Mayor will solicit input from the Councilmembers regarding preferences and the Council of Councilors will assign members to liaison positions. Recommended liaison assignments will be approved by a majority of the Council. Liaisons can be removed from their assigned Council or Committee by a majority vote or as otherwise provided in the Cortez Municipal Code.

3. The Council liaison will: 1) serve as the contact person for Councilmembers with questions in that particular area; 2) be willing to commit the time necessary to be effective; 3) be responsible for communicating to the Council on a periodic basis, subject to Colorado open meetings law limitations; and 4) be responsible for helping staff know how/when/what to communicate to the Council about the area; 5) a representative from each committee may give a brief report to the Council at stated meetings during the standing agenda item for advisory committee reports.

4. The Council liaison will not: 1) give orders, make decisions for the Council or City, or otherwise imply that they are part of the City staff; 2) impede other Councilmembers from learning more about a subject from staff; 3) violate any Colorado open meetings laws; or 4) make decisions on behalf of the Council.

Councilmember Conflict of Interest

1. Elected officials are required to abstain from voting on any proposed or pending matter before the governing body when they have a personal or private interest in the matter. When this situation arises, the official must disclose the interest to the governing body, not vote, and not attempt to

influence the votes of other members of the governing body. Generally, a personal or private interest is treated as a financial stake in the matter at hand. This standard is applied to avoid the appearance of impropriety among government officials.

2. Any Councilmember who may gain financially from any purchase or award of a contract shall recuse himself/herself from discussions and selection process pertaining to the matter. External obligations, financial interests, and activities of each employee and Councilmember of the City of Cortez must be conducted so there is no conflict or interference with the individual's primary obligation and commitment to the City of Cortez. Councilmembers should not acquire or hold an interest, directly or indirectly, in any business or undertaking that may be economically benefited by action over which they have substantial authority. Councilmembers shall comply with applicable state law, concerning conflict of interest and disclosure requirements, including without limitation C.R.S. 24-18-101 et seq., C.R.S. 31-4-404, C.R.S. 24-18-201, C.R.S. 18-4-301, C.R.S. 18-4-401, and C.R.S. 18-8-308.

3. If a Councilmember has questions or concerns about a potential conflict of interest, he or she should consult the City Manager or Mayor (outside of a Council meeting) requesting that the City Manager or Mayor consult with the City Attorney. The opinion of the attorney will be conveyed to the councilmember by either the Mayor or the City Manager.

CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: D.

MEMO TO: Honorable Mayor and City Council

FROM: Drew Sanders, City Manager

SUBJECT: 7:00 p.m., Discussion on possible changes in venue (room) and/or set up options for future City Council workshop sessions.

CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: E.

MEMO TO: Honorable Mayor and City Council

FROM: Linda Smith, City Clerk

SUBJECT: 7:10 p.m., Discussion on Request to Change Times of Opening/Closing of Marijuana Establishments- Presented by City Clerk Linda Smith.

BACKGROUND

A request has been made by two of our retail marijuana establishments to remain open later than the current time of 9:00 p.m. (Ordinance No. 1215, Series 2016). The State of Colorado now allows marijuana establishments to be open 8:00 a.m. to midnight. The request is to extend the time to 10:00 or 11:00 p.m. Council may discuss the changes and, if they would like to extend the time, direct staff to complete an ordinance to address the preferred time limit.

Attachments

Ord 1215

ORDINANCE NO. 1215
SERIES 2016

ORDINANCE ALLOWING THE SALE OF MARIJUANA BETWEEN THE HOURS OF 8AM TO 9PM

WHEREAS, marijuana commercial sales operators in Cortez have requested that the hours of operation for marijuana retail and medical marijuana centers be extended from to 8 a.m. to 9 p.m. instead of 8 a.m. to 7 p.m.; and,

WHEREAS, City staff has examined these requests and recommend the new 9 p.m. closure.

NOW THEREFORE, BE IT ORDAINED BY THE CORTEZ CITY COUNCIL THAT Section 15-419 (b) Cortez City Code which currently reads:

DIVISION 3. GENERAL REQUIREMENTS, Sec. 15-419 (b). Operational Requirements.

b. Retail marijuana stores shall operate only during the hours of 8:00 a.m. to 7:00 p.m.

Shall be amended to read as follows:

DIVISION 3. GENERAL REQUIREMENTS, Sec. 15-419 (b). Operational Requirements.

b. Retail marijuana stores shall operate only during the hours of 8:00 a.m. to 9:00 p.m.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CORTEZ CITY COUNCIL THAT Section 15-311(b) Operational Requirements which currently reads:

DIVISION 2 GENERAL REQUIREMENTS, Section 15-311(b) Operational Requirements

(b) Medical marijuana centers shall operate only during the hours of 8:00 a.m. to 7:00 p.m.

Shall be amended to read as follows:

DIVISION 2 GENERAL REQUIREMENTS, Section 15-311(b) Operational Requirements

(b) Medical marijuana centers shall operate only during the hours of 8:00 a.m. to 9:00 p.m.

REPEALER. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

RECORDING AND AUTHENTICATION. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

EFFECTIVE DATE. This ordinance shall be effective upon publication after final passage.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 12th day of July, 2016, at the hour of 7:30 p.m. in the City Council Chambers in City Hall, Cortez, Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 12th DAY OF JULY, 2016.

CITY OF CORTEZ

Karen W. Sheek

KAREN W. SHEEK, MAYOR

ATTEST:

LINDA L. SMITH, CITY CLERK

PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING THIS 26TH DAY OF JULY, 2016.

CITY OF CORTEZ

TY KEEL, MAYOR PRO-TEM

ATTEST:

LINDA L. SMITH, CITY CLERK

APPROVED AS TO FORM:

MICHAEL F. GREEN, City Attorney

CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: G. a.

MEMO TO: Honorable Mayor and City Council

FROM:

SUBJECT: Minutes from Board of Commissioners, Montezuma County, Colorado for May 3, 2022.

Attachments

BOCC 05032022

PROCEEDINGS OF THE BOARD OF COMMISSIONERS
MONTEZUMA COUNTY, COLORADO
May 3, 2022

STATE OF COLORADO)
) ss.
COUNTY OF MONTEZUMA)

At a regular meeting of the Board of Commissioners, Montezuma County, Colorado, held on Tuesday May 3, 2022 at the Montezuma County Administration building in Cortez, Colorado, there were present:

Jim Candelaria, Chairman
Kent Lindsay, Vice Chairman
Gerald Koppenhafer, Commissioner of Deeds
Shalako Powers, County Administrator
Ian MacLaren, County Attorney (Virtual)
Kim Percell, County Clerk

MINUTES: Commissioner Koppenhafer moved to approve the minutes for Tuesday, April 26, 2022, as presented. Motion was seconded by Commissioner Lindsay and carried.

PLANNING: Planning Director, Don Haley along with **Assistant, S. Jane Duncan** presented for signatures a Mylar for a Variance submitted by **Ruben & Pauline Jasso**, Lot #50 of the Summit Lake West Unit l Major Subdivision, at 14517 Road 35.9, Mancos, CO, consisting of 1.21 acres, more or less, located south of Hwy 184, west of Road 35.9, situated in Section 33, T.37N, R.16W, N.M.P.M.

Director, Haley along with **Assistant, Duncan** presented for signatures of a Mylar for a 2 Lot Moderate Subdivision & Rezoning, submitted by **Douglas & Cindy Coulon**, on property located at 21624 Road S, Cortez, CO, consisting of 17.42 acres, more or less, located west of Hwy 491, south of Road S, situated in Section 30, T.37N, R.16W, N.M.P.M.

Director, Haley along with **Assistant, Duncan** presented for signatures of a Mylar for a Subdivision Amendment Application to the Four Corners Encampment Subdivision, submitted by **Richard & Dixie Simmons** and ASI Communications, Inc., on properties located at 24515 Road 37, consisting of 1.02 acres, more or less and 24516 Hwy 145, Dolores, CO, consisting

3.95 acres, more or less, both located east of Hwy 145, situated in Section 11, T.38N, R.14W, N.M.P.M.

Director, Haley along with **Assistant, Duncan** presented for signatures of a Mylar for a Subdivision Amendment Application to the Mancos Hills Major Subdivision, submitted by **Erik Nordstrom & Shanti Savage**, on properties located at 41952 Road J.75, consisting of 3.39 acres, more or less and TBD Road J.75, consisting 3.03 acres, more or less, Mancos, CO, both located north of Hwy 160, situated in Section 28, T.36N, R.13W, N.M.P.M.

PUBLIC COMMENT: No Public comment.

LODGERS TAX COMMITTEE: Committee Secretary, Brian Bartlett met with the Commissioners to give the recommendations for the 2022 Tax Fund Disbursements. Recommendations included: **Dolores Chamber** $45,000.00, **Mancos Chamber** $50,000.00, **Cortez Cultural Center** $34,000.00, **Galloping Goose Historical and Museum** $10,000.00, **Mesa Verde Country** $100,000.00, **Ute Mountain Roundup Rodeo** $2,500.00, **Administrative Marketing for Grant Application Awareness** $200.00, **Southwest Colorado Canyon Alliance** $5,000.00, **Cortez Chamber** $0.00, **Mancos Common** Press $0.00. **Four Corners Geo Tourism** $2.500.00, the **Colorado Welcome Center** $15,000.00, and **Montezuma County Cares** $0.00. Totaling $264,200.00. Commissioner Lindsay moved to approve the expenditures of the Lodgers Tax funds as presented. Second by Commissioner Koppenhafer and carried. (See attached)

PROCLAMATION: Corey Robinson met with the Commissioners to present a **"RIDE YOUR BIKE TO WORK DAY"** proclamation for May 20, 2022. Commissioner Lindsay moved to sign the proclamation for "Ride Your Bike to Work Day". Second by Commissioner Koppenhafer and carried, (See attached)

ROAD & BRIDGE DEPARTMENT: **Road Superintendent, Rob Englehart** met with the Commissioners to give a monthly report. Superintendent Englehart presented the road and bridge schedule for the dates of May 1, 2022 through June 3, 2022 and gave an overview of the type of work scheduled. Other topics discussed included; safety measures for County road crews, compliance for road closure signs, the Water Shortage Programs, the yearly road blading projects, the purchased generator and a BLM parking area on Road 39.
Administrator Powers presented for approval the **State of Colorado Department of Transportation, #BRO C320-004 (22521)** contract for the **Alkali Bridge Project,** in the amount of $1,825,000.00. Commissioner Lindsay moved to DocuSign, the agreement for project #BR0 C320-004(22521), with the State of Colorado. Second by Commissioner Koppenhafer and carried. (See attached)

FAIRGROUNDS: Fairgrounds Manager, Justin McGuire was not available to give a report.

LANDFILL: Landfill Manager, Mel Jarmon gave his monthly report which included the 2022 Landfill budget spread sheet. Topics discussed with the report included: the annual CDPHE inspection, a deposit into the Post Closure Account, the delivery of the BOMAG machine, clay testing, overburden removal and wind closures. (See attached)

UNFINSHED BUSINESS:

COUNTY ATTORNEY REPORT: County Attorney, Ian MacLaren discussed the development of an access release for the creation of a Social Services / Emergency Management data base and the Weber Canyon / Road 41 lawsuit.

NATURAL RESOURCES, PLANNING & PUBLIC LANDS: Resource Director, James Dietrich, presented for approval, two letters of support addressed to **Colorado Department of Transportation.** One letter of support, in reference to the **SWTPR Funding Request Segment A Preliminary Engineering and ROW's** and the second letter of support, in reference to **SWTPR Funding Request Segment C&D Mancos Side for local match, broad band conduit and concrete surface.** Commissioner Lindsay moved to sign the letter of support to the Colorado Department of Transportation Southwest TPR Funding Request Segment C&D Mancos Side for local match, broad band conduit and concrete surface. Second by Commissioner Koppenhafer and carried. Commissioner Koppenhafer moved to approve the request to the Southwest TPR Board for the Segment A Preliminary Engineering and ROW's. Second by Commissioner Lindsay and carried. (See attached)

NOXIOUS WEED DEPARTMENT: Weed Department Manager, Bonnie Loving met with the Commissioners to give a monthly report. Topics discussed included: Myrtle and Leafy Spurge, Blue Mustard,, Red-stem Filaree, Hoary cress - whitetop, Kochia, Russian Thistle, property visits, the backpack loaner program, cost share applications, treated areas on County property, roadside treatments, education, knapweed treatments, the Phreatophyte Project and future prescribed burns. (See attached)

COUNTY ADMINISTRATOR REPORT: Administrator Shak Powers presented for approval the Public Health Department's, Immunization **Contract #19FHHA108935, Amendment Contract #2022*3197 Amendment #5.** Commissioner Lindsay moved to DocuSign the Contract Amendment #5 with the Colorado Department of Public Health. Second by Commissioner Koppenhafer and carried. Other topics discussed included the Montezuma Roadmap Regional Team Meeting, a Homegrown Talent Initiative, Business Education connections, Potential Strategies and proposed CCI coordination to develop programs to allow a younger work age. (See attached)

COUNTY COMMISSIONER REPORT: Topics discussed within the Commissioners reports included: **Commissioner Lindsay** discussed the attended Cortez City Council meeting, Senate Bill 22-230, constituent discussions, the City of Cortez resurfacing projects and red flag wind warnings. **Commissioner Koppenhafer** discussed the attended Cortez City Council meeting, the attended Mancos Town Board meeting, the attended Native Fish Monitoring & Recommendation Team meeting, the attended NRA banquet and the Zwicker (NRCS) Natural Resources Conservation Service request. **Commissioner Candelaria** discussed the attended Cortez City Council meeting, the Southwest Colorado Regional Broadband Summit, a NACO Transportation meeting, a Health Needs Assessment interview, the Region 9 meeting, a Housing Authority meeting, CCI legislative discussions, Senate Bill 22-230, the attended Lewis Arriola

School's Hoedown event, the attended Dolores Chamber Banquet and the kickoff event for the Community Intervention Program.

CORRESPONDENCE: The following correspondence was read and noted: email form **Ingrid Ward**. (See attached)

MOTION TO ADJOURN: was made by Commissioner Lindsay, seconded by Commissioner Koppenhafer and carried.

MEETING ADJOURNED: 10:50 a.m.

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Clerk May 3, 2022 Chairman

CITY OF CORTEZ
123 ROGER SMITH AVENUE
CORTEZ, CO 81321

05/24/2022 Agenda Item: G. b.

MEMO TO: Honorable Mayor and City Council

FROM: Donna Murphy, Deputy City Clerk

SUBJECT: Minutes from Board of Commissioners, Montezuma County, Colorado for May 10, 2022

Attachments

BOCC Minutes 05102022

PROCEEDINGS OF THE BOARD OF COMMISSIONERS
MONTEZUMA COUNTY, COLORADO
May 10, 2022

STATE OF COLORADO)
) ss.
COUNTY OF MONTEZUMA)

At a regular meeting of the Board of Commissioners, Montezuma County, Colorado, held on Tuesday May 10, 2022 at the Montezuma County Administration building in Cortez, Colorado, there were present:

Jim Candelaria, Chairman
Kent Lindsay, Vice Chairman
Gerald Koppenhafer, Commissioner of Deeds
Shalako Powers, County Administrator
Ian MacLaren, County Attorney
Kim Percell, County Clerk

MINUTES: Commissioner Lindsay moved to approve the minutes of the Proceedings of the Board of Commissioners Montezuma County, Colorado dated May 3, 2022, as presented. Motion was seconded by Commissioner Koppenhafer and carried.

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination of a proposed Single Lot Development and AR3-9 Rezoning Application, submitted by **Gary & Jaclyn Fisher**, on property located at 24537 Road N, Cortez, CO, consisting of 81.65 acres, more or less, located north of Road N, west of Road 25, situated in Section 3, T.36N, R.16W, N.M.P.M. The roll was called, the public notice read, and the proceedings were recorded for the record. Mr. and Mrs. Fisher were present. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Public Comment was made by **Carol Taylor.** Hearing no further public comment that portion of the hearing was closed. After hearing all the evidence presented Commissioner Lindsay moved to approve the proposed single lot development and AR3-9 rezoning application, submitted by Gary and Jaclyn Fisher, on property located at 24537 Road N, Cortez. Second by Commissioner Koppenhafer and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

LETTER OF SUPPORT: Administrator Shak Powers, presented a letter of support addressed to **Holly Conn** regarding the **Mountain Roots 2022 LFPP** application for the **Southwest Colorado Hub-and-Node Connectivity Project.** Commissioner Lindsay moved to approve the letter of support for the Mountain Roots 2022 LFPP application for the Southwest Colorado Hub-and-Node Connectivity Project. Second by Commissioner Koppenhafer and carried. (See attached)

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination of a proposed High Impact Permit Application, submitted by **Snyder Mama Holdings, LLC; agent: Christopher Snyder**, on property located at 1521 N. Mildred Road, Cortez, CO, consisting of 3.48 acres, more or less, located north of Road N, west of Road 25, situated in Section 23, T.36N, R.16W, N.M.P. The roll was called, the public notice read, and the proceedings were recorded for the record. **Mona Snyder** and **Brooke Snyder** were present. **Chris Snyder** joined the meeting virtually. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Public comment was made by **Allen Maez**. Hearing no further public comment that portion of the hearing was closed. After hearing all the evidence presented Commissioner Koppenhafer moved to approve the proposed high impact permit application, submitted by Snyder Mama Holdings, LLC; agent: Christopher Snyder, on property located at 1521 N. Mildred Road, Cortez, CO. Second by Commissioner Lindsay and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

PUBLIC HEARING: It being the time set aside a public hearing is held for review and determination of a proposed High Impact Permit Application and Rezoning Application, submitted by **CBERT Cortez, LLC; agent: Kasey Bell**, on property located at 26757 Road M, Cortez, CO, consisting of 1.50 acres, more or less, located north of Road M, west of Hwy 145, situated in Section 12, T.36N, R.16W, N.M.P.M. The roll was called, the public notice read, and the proceedings were recorded for the record. **Kasey and Taryn Bell** were present. **Planning Director, Don Haley** with **Assistant, S. Jane Duncan** presented the details of the application and the findings of the Planning and Zoning Commission. Commissioner Candelaria opened the hearing to public comment. Public comment was made by **Melanie McDonald, Rich McDonald** and **Tim Lanier**. Hearing no further public comment that portion of the hearing was closed. After hearing the evidence presented Commissioner Lindsay moved to continue this public hearing until 9:10 a.m., Tuesday, May 17, 2022. Second by Commissioner Koppenhafer and carried. Commissioner Candelaria closed the hearing at this time. (See attached)

PUBLIC COMMENT: Melanie McDonald discussed the proposed CBERT, LLC/ Kasey Bell application. **Tim Lanier** discussed the month of May as Foster Care Month.

SPECIAL EVENT LIQUOR LICENSE: Deputy Clerk, Jerri Frizzell along with **County Fair Board Member, Mary Bramwell,** presented a special event liquor license application from the **Montezuma County Fair Board**, for events to be held from July 28th through August 6, 2022, at the Montezuma County Fairgrounds. Commissioner Lindsay moved to approve the special events liquor license for the County Fair, for dates July 28th, through August 6, 2022. Second by Commissioner Koppenhafer and carried. (See attached)

VEHICLE MAINTENANCE: Road & Bridge Equipment Manager, Shane Higman met with the Commissioners to give a monthly report. Topics discussed included; the delivery and set up for the detective vehicles, yearly departmental mileage reports, current market issues with vehicle replacements, a proposed Landfill / Maintenance vehicle swap, the 2023 vehicle purchase plan and the development of a Department vehicle share program.

GROUNDS AND BUILDINGS: Maintenance Supervisor, Dustin Sattler met with the Commissioners to report on the grounds and buildings. Topics discussed included; the semi-annual filter change at the Combined Courts Building, mowing operations, summer set up for irrigation, a fence for the new generator, the generator meter installation, the Social Services interview room door project and a scheduled walk through at the Fairgrounds to review the proposed steer washer project.

IT: IT Director, Jim McClain met with the Commissioners to present his monthly report. Director McClain discussed; the new generator start up, a major power outage event and the backup plan, the attended **Broadband Summit**, a visit from the **State Broadband Liaison,** a June 2nd Regional Broadband meeting, the development of mock emergency internet outage event, coordination with regional County GIS departments for accurate mapping and collaboration with the State Broadband Office for the development of a grant process.

GIS MAPPING: GIS Manager, Doug Roth and **Mapping Specialist, Rachel Medina** met with the Commissioners to give a monthly report. Topics discussed included; the development of an **Interactive Wildfire Mitigatio**n Map, scheduling the public hearing to adopt the 2022 Official Road Map, a budgeted invoice in the amount of $14,736.27 for the **Apollo Mapping LLC**., imagery project and the resignation of Mapping Specialist Rachel Medina. (See attached)

UNFINSHED BUSINESS: Administrator Powers discussed a County Annex, fee waiver request, from **Lynn Soukup,** for the **Spark the Change Colorado, Harvest Pack Project.** Commissioner Lindsay moved to waive the fees for the pre-packaged food, Spark Colorado. Second by Commissioner Koppenhafer and carried.

COUNTY ATTORNEY REPORT: County Attorney, Ian MacLaren discussed the Weber Canyon / Road 41 lawsuit, the Road Y case, an attended tour of a property south of town regarding a Land Use Code violation, a recent law change pertaining to Land Use Code violations and the closure of a child protection case.

NATURAL RESOURCES, PLANNING & PUBLIC LANDS: Resource Director, James Dietrich, presented for approval a letter of support, addressed to the **Colorado Department of Natural Resources. CO Strategic Wildfire Action Program, Landscape Resilience Investment** selection committee**.** Commissioner Koppenhafer moved to sign the letter of support for the Mancos Conservation District's submission, for the Colorado Strategic Wildfire Action Program, Landscape Resilience Investment grant. Second by Commissioner Lindsay and carried. Other topics discussed included; an invite to participate in the Section 106 process for the Yellow Jacket / Flowdine park grazing reissuance and the submitted grant applications for the Path of Mesa Verde. (See attached)

COUNTY ADMINISTRATOR REPORT: **Administrator Shak Powers** discussed an $8,000.00 quote for a Load Study on the proposed Fairground Solar Field Project, the submittal of the 2 year plan for the **Community Intervention Program**, the attended **Recovery and Resiliency Group** meeting, an attended joint **Economic Development / Region 9** meeting and the attended **Young People in Recovery** meeting.

COUNTY COMMISSIONER REPORT: Topics discussed within the Commissioners reports included: **Commissioner Koppenhafer** reported on discussions held regarding the **Zwicker** / (NRCS) Natural Resources Conservation Service request. **Commissioner Lindsay** discussed the scheduled **Cortez City Council** meeting and the **Motocross National Championship** winner **Eli Tomac**. **Commissioner Candelaria** gave a legislative update, reported on a discussion with **Representative, Barbara McLachlan,** a discussion with **Road Superintendent Englehart** regarding constituent road issues, a phone call discussion with **Senator Hickenlooper** regarding housing issues, participation in the **12 Hours of Mesa Verde** event, the funds returned to the community youth programs by the 12 Hours of Mesa Verde event, an overview of the Monday workshop and the attended **Dolores Town Board** meeting.

CORRESPONDENCE: The following correspondence was read and noted:

MOTION TO ADJOURN: was made by Commissioner Lindsay, seconded by Commissioner Koppenhafer and carried.

MEETING ADJOURNED: 11:20 a.m.

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Clerk May 10, 2022 Chairman