

Minutes Town Council Regular Meeting August 27, 2020

Valerie Molina
Mayor

Ricardo Vital
Vice Mayor

Mary Bravo
Councilmember

Anita Cota Soto
Councilmember

Gloria Cota
Councilmember

Elvira Osuna
Councilmember

Joe Sánchez
Councilmember

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Town Council Chambers
9241 S. Avenida del Yaqui
Guadalupe, AZ 85283
Phone: (480) 730-3080
Fax: (480)-505-5368

Minutes of the Guadalupe Town Council Regular Meeting held on Thursday, August 27, 2020, at 6:00 P.M., at Guadalupe Town Hall, 9241 South Avenida del Yaqui, Museum Room, Guadalupe, Arizona.

A. CALL TO ORDER

Vice Mayor Vital called the meeting to order at 6:00 p.m.

B. ROLL CALL

Councilmembers Present: Mayor Valerie Molina. The following councilmembers participated via video conference: Vice Mayor Ricardo Vital, Councilmember Mary Bravo, Councilmember Elvira Osuna, Councilmember Joe Sánchez, and Councilmember Anita Cota Soto

Councilmember Absent: Councilmember Gloria Cota

Staff Present: Jeff Kulaga, Town Manager / Clerk and David Ledyard, Town Attorney

C. INVOCATION/PLEDGE OF ALLEGIANCE

D. APPROVAL OF MINUTES

Motion by Vice Mayor Vital to approve agenda items D1 and D2; second by Councilmember Bravo. Motion passed unanimously on a roll call vote 6-0.

1. Approved the August 6, 2020, Town Council Special Meeting Minutes.
2. Approved the August 13, 2020, Town Council Regular Meeting Minutes.

E. CALL TO THE PUBLIC: No one spoke.

F. MAYOR and COUNCIL PRESENTATIONS:

Mayor Molina read a Proclamation declaring August 27, 2020, as Marcos de Niza High School Day in the Town of Guadalupe to honor its 50th Anniversary.

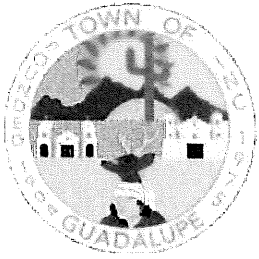
Sarah Tolar, Marcos de Niza High School Principal, thanked the Mayor and Councilmembers for their support.

G. DISCUSSION AND POSSIBLE ACTION ITEMS:

1. COVID-19 ACTION UPDATE:

Jeff Kulaga, Town Manager / Clerk, presented an update on current COVID-19 Response Team actions to safe guard public health and safety and current COVID-19 case rates as reported by the Maricopa County Health Services Department. Mr. Kulaga encouraged everyone to continue to take precautions by wearing a face mask, adhere to social distancing, and to wash hands frequently. This applies to individuals and businesses.

The Town continues to partner with various agencies. Financial assistance is available for residents that qualify. Information is available on the Town's website, and on Facebook. Maricopa County (County) provides updated infection rate data to the Town on a weekly basis. For the past few weeks,



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the Town infection rates have been decreasing; however, Guadalupe's infection rate is approximately twice the infection rate of the County. No new hospitalizations have been reported over the past week. Infection rates for local, county, and the state are trending downwards.

There have been no changes to the services provided by the Town. The Community Action Program distributes food to community members on Tuesdays; and, has increased in volume compared to last year as a result of those in need. Homeless and homebound testing is underway. The Promotora's have made 250 contacts over the past month, including 63 home visits. Over 1,000 face masks have been distributed. Food boxes, cleaning supplies, and resources are being provided to those in need of assistance. Mr. Kulaga thanked the various community partners that are assisting in combatting the spread of COVID-19. Should the economy not improve, staff is preparing for an increase in the need for food distribution.

A Councilmember thanked Mr. Kulaga, community partners, and the Pascua Yaqui Tribe for their efforts, partnership, and support. Everyone was urged to continue practicing social distancing.

2. PUBLIC HEARING – VARIANCE REQUEST FOR MEDICAL MARIJUANA DISPENSARY HOURS OF OPERATION, THE MINT DISPENSARY

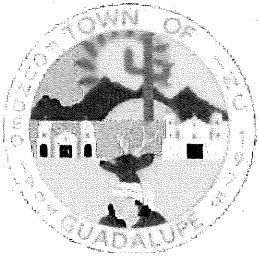
Mayor Molina announced that the public hearing was continued from the August 13, 2020, Regular Council Meeting and that the public hearing is now open. No community members spoke.

Mr. Kulaga introduced Raul Molina, Applicant, and Applicant's attorney, David Cisiewski. Mr. Cisiewski stated that the variance request is to extend hours of operation for The Mint Dispensary (The Mint) to 24 hours a day. The Mint has operated a successful business in Guadalupe for several years. The Town Council has granted several variances to The Mint relating to hours of operation. As recently approved by the Town Council, The Mint hours of operation are currently 8:00 a.m. to 10:00 p.m.. This aligns with the Town's current ordinance regarding hours of operation for medical marijuana dispensaries.

Mr. Cisiewski noted that on two occasions, the Council made findings that there were special circumstances related to the hours of operation. The Arizona Administrative Code (Administrative Code) is the regulatory body that oversees medical marijuana dispensaries. The Administrative Code requires dispensaries to be open a minimum of 30 hours per week, between the hours of 7:00 a.m. and 10:00 p.m. The Administrative Code does not include a maximum number of hours of operation for medical marijuana dispensaries. In addition, Mr. Cisiewski contacted the Arizona Attorney General's Office on this matter, who stated that the Administrative Code sets the minimum number of hours; however, there is no prohibition for operating beyond the 30 hour minimum number of hours. The Arizona Revised Statutes require that the electronic verification systems that dispensaries use to validate the identification cards be operable 24 hours a day, not only for law enforcement purposes, but for the dispensaries themselves.

No material changes have been made to the property, the land, or the surrounding area. The conditions that created the special circumstances previously still exist. Regarding the memorandum from the Town Attorney dated June 15, 2020, the variances granted by Council were focused on providing better patient access to medications. The current variance request is also to provide better patient access to medications. This growing industry is challenging to the jurisdictions that regulate this industry. Continued changes should be considered in order to better serve the patients.

COVID-19 is an ongoing problem that impacts people suffering from chronic health issues. There is a need to accommodate for social distancing, limit crowd sizes, and to provide better access to those that have chronic conditions. Extending the hours of operation will allow for better social distancing, dispersing the crowd, reducing the number of people in line for medication, and reducing traffic.



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The Mint has not had any detrimental impacts to the surrounding area or property values. The business operates in an exemplary manner. The Applicant is seeking a variance based on the same findings that previous variances were granted, warranting extended hours of operation. COVID-19 has also created special conditions. The Mint has a history of how the business has been operating.

In response to a question regarding what fire and police public safety impacts has this business had, Mr. Kulaga stated that the Fire Department responded to one call for service at an adjacent property. The Maricopa County Sheriff's Office received 59 calls, documented ten reports, and responded to five calls for service for alleged crimes; however, nothing notable and no obvious trends. The Sheriff's Office has indicated that extending business hours could result in generating an increase in law enforcement involvement. The Sheriff's Office does not wish to make a recommendation. In terms of code enforcement, no notices of code violations have been issued to The Mint from the Town.

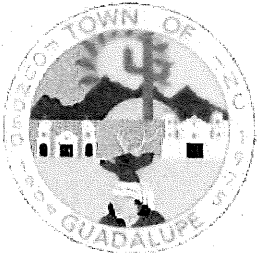
Raul Molina, Applicant, stated that extending the business hours of operation will help The Mint provide accommodations for mitigating COVID-19. The trend has been for The Mint to be the busiest close to closing time. There are various pharmacies that operate 24 hours a day. Mr. Molina discussed police calls for service at an adjacent bus stop. An armed guard will provide security. The Mint has been run in a responsible and responsive manner. The variance request is to extend operating hours to 24 hours a day. The proposed plan of operation is to have the drive through remain open after midnight. Currently, beginning at 2:00 PM, two security guards are on duty. After midnight, a crew of employees will be preparing edible products inside the dispensary. The Mint has taken safety measures to combat COVID-19 for its employees and customers. It is anticipated that an additional 30% - 40% of patients could be served if the hours of operation are extended, which would benefit the community.

In response to questions, Mr. Molina stated that there are 1-2 employees that are residents of Guadalupe. The Mint will be hiring employees and invited Guadalupe residents to apply for positions. There are approximately 90 employees at the Guadalupe location, where packaging of products occurs. The Mint has an additional store in Mesa that has 40 employees.

David Ledyard, Town Attorney, received clarification of current operating hours from Mr. Molina as follows: Sunday – Tuesday, The Mint closes at 9:00 PM, with the remainder of the week closing at 10:00 PM. The intention was to seek a variance to transition to operating 24 hours a day, seven days a week. The store in Mesa operates 8:00 AM – 9:00 PM, as allowed by the City of Mesa. Mesa does not have a variance process for hours of operation.

Mr. Ledyard noted that the Administrative rules provide for a minimum versus a maximum number of hours a dispensary may remain open. When the rules were implemented, each jurisdiction was given authorization to implement zoning regulations as it relates to medical marijuana dispensaries (dispensaries). At the time the previous variances were granted, the Town code allowed dispensaries to remain open until 6:00 PM. The recent Zoning Code text amendment allows dispensaries to remain open until 10:00 PM. Mr. Ledyard cautioned the Council about favoring one property owner over another. Currently there are two dispensaries in Guadalupe, both of which are open until 10:00 PM. The findings for the previous two variances were related to the 6:00 PM business closing time. He is unaware if there are dispensaries that are open 24 hours a day in Arizona. The Code text amendment to extend dispensary operating hours was to dispense with the variance process and allow for a reasonable closing time. It is unknown what the security needs will be past 10:00 PM and how that might impact the surrounding neighborhood and businesses.

A Councilmember discussed security concerns that are occurring at the Arizona Mills Mall, which is located across the street from The Mint. Mr. Molina stated that the security guard will be in a clearly marked car that identifies him/her as a security guard. He noted that The Mint has a good working relationship with the Sheriff's Office.



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Mr. Molina stated that The Mint is open to extending operating hours and amending operations as the Council sees fit. He discussed voter preferences and support regarding recreational marijuana. If voters approve recreational marijuana, that will increase the customer base. Extending the hours of operation will help address serving the increase in the customer base.

In response to a question regarding how 24 hour pharmacies are reducing their hours due to COVID-19, Mr. Molina stated that some of those pharmacies are operating their drive through 24 hours a day, depending upon the demand for medication. There are medical facilities that provide 24 hour drive through service as well. The demand for medicinal products drives the hours of operation.

Motion by Vice Mayor Vital to close the public hearing; second by Councilmember Bravo. Motion passed unanimously on a roll call vote 6-0.

Held a public hearing to receive public input regarding a variance request to allow G.T.L. LLC dba The Mint, Dispensary, 5210 South Avenida del Yaqui, Guadalupe, AZ, authorization to operate 24 hours a day, seven days a week. The Applicant is Raul Molina. *(continued from the June 25, 2020 and July 23, 2020, Regular Council Meetings at the request of the Applicant; related to G3)*

3. VARIANCE REQUEST FOR MEDICAL MARIJUANA DISPENSARY HOURS OF OPERATION, THE MINT DISPENSARY

David Ledyard, Town Attorney, stated that the Council may approve, deny, or approve with modifications, the variance request to extend the hours of operation for The Mint.

Councilmembers discussed how the Applicant has provided evidence that The Mint has been able to provide customers with the products they need within The Mint's current hours of operation; and, with the opening of a second store and having one other dispensary within the Town limits, customers have several options. Town residents have adequate access to needed products within the current hours of operation. Given the number of dispensaries and their current hours of operation, a variance to operate 24 hours a day is not supported.

Motion by Councilmember Soto to deny the variance request for The Mint to operate 24 hours a day; second by Councilmember Bravo. Motion passed unanimously on a roll call vote 6-0.

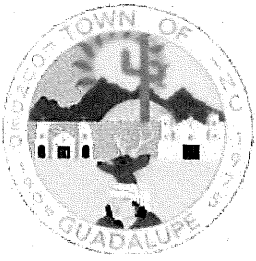
Councilmembers *denied* a variance request to allow G.T.L. LLC dba The Mint, Dispensary, 5210 South Avenida del Yaqui, Guadalupe, AZ to be authorized to operate 24 hours a day, seven days a week. The Applicant is Raul Molina. *(continued from the June 25, 2020 and July 23, 2020, Regular Council Meetings at the request of the Applicant; related to G2)*

4. PUBLIC HEARING – WIRELESS COMMUNICATIONS FACILITIES ON PRIVATE PROPERTY (ORDINANCE NO. O2020.26)

Motion by Councilmember Bravo to open the public hearing; second by Councilmember Osuna. Motion passed unanimously on a roll call vote 6-0.

Mayor Molina opened the public hearing. No community members spoke.

Jeff Kulaga, Town Manager / Clerk, stated that staff has not received any public input or comments related to the proposed Zoning Code text amendment. Per State statutes and the Federal Communications Commission, the Town's telecommunications ordinance is now complete and up to current industry standards. Mr. Kulaga outlined various elements of the ordinance and its telecommunication application processing requirements. Local jurisdictions have been pre-empted, making this legislation essential, per the State Legislature. Staff recommends that Council approve the proposed ordinance.



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Motion by Councilmember Osuna to close the public hearing; second by Councilmember Sánchez. Motion passed unanimously on a roll call vote 6-0.

Held a public hearing to authorize the Town of Guadalupe to adopt an ordinance amending the Town of Guadalupe Zoning Code related to regulations for use of private property by telecommunication companies who install wireless facilities on private property; and, adopting by reference the document "Town Of Guadalupe Zoning Regulations For Wireless Communications Facilities On Private Property Ordinance" dated August 13, 2020 (Exhibit A). *(continued from the August 13, 2020, Regular Council Meeting at the request of staff; related to G5)*

5. WIRELESS COMMUNICATIONS FACILITIES ON PRIVATE PROPERTY (ORDINANCE NO. O2020.26)

Jeff Kulaga, Town Manager / Clerk, stated that the proposed ordinance is one of a series of telecommunication related ordinances needed to bring the Town Code up to current industry standards. This is required by the State Legislature and the Federal Communications Commission. It defines how and where telecommunication facilities may be located. Mr. Kulaga outlined various elements of the ordinance and its telecommunication application processing requirements. Once a telecommunication facility has been permitted, the permit lasts for ten years, or unless the company goes out of business.

Motion by Vice Mayor Vital to approve agenda item G5; second by Councilmember Osuna. Motion passed unanimously on a roll call vote 6-0.

Councilmembers adopted **ORDINANCE NO. O2020.26**, to amend the Town of Guadalupe Zoning Code to regulate the use of private property by telecommunication companies who install wireless facilities on private property; and, adopting by reference the document "Town Of Guadalupe Zoning Regulations For Wireless Communications Facilities On Private Property Ordinance" dated August 13, 2020 (Exhibit A). *(continued from the August 13, 2020, Regular Council Meeting at the request of staff; related to G4)*

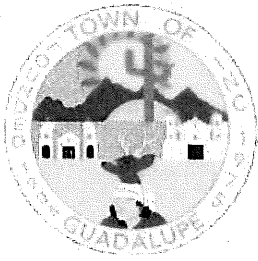
6. LEASE AGREEMENT AMENDMENT – CONRADO F. BILDUCIA AMERICAN POST LEGION 124 (POST)

Jeff Kulaga, Town Manager / Clerk, stated that the Post representatives have submitted a request to extend the construction plan submittal date of April 18, 2020 to April 1, 2021. The original lease agreement was approved by Council in April, 2018. The Post was required to obtain insurance for the building and property during the first year of the lease agreement, which was achieved. Construction plans were required in year two of the agreement, which has not yet occurred. Mr. Kulaga stated that his recommendation is to revise the agreement to include an extension of the plan submittal deadline to April 1, 2021, including the following condition as part of the extension:

Failure to submit approved plans for approval by April 1, 2021, will terminate the lease and require the Post to vacate the Guad Building premises no later than May 1, 2021. This shall include removing any and all properties, goods, fencing, and materials stored and owned by the Post on the property.

In response to a question, Mr. Kulaga clarified that the plans to be submitted should include structural, mechanical, plumbing, and electrical elements. The plans should also be approved by a professional engineer and approved by a building inspector.

Mr. Kulaga amended the condition language as follows:



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Failure to submit *complete construction plans for approval* by April 1, 2021, will terminate the lease and require the Post to vacate the Guad Building premises no later than May 1, 2021. This shall include removing any and all properties, goods, fencing, and materials stored and owned by the Post on the property.

A Councilmember suggested that the Post provide quarterly updates to the Council.

Motion by Councilmember Soto to approve the lease agreement amendment as read into the record, and that the Post provide quarterly updates to the Council; second by Councilmember Bravo. Motion passed unanimously on a roll call vote 6-0.

Councilmember Soto left the meeting at 7:07 p.m.

Councilmembers approved a request to amend the Guad Building, 8419 South Avenida del Yaqui, Guadalupe, Arizona, lease agreement (C2018-09A) with the Conrado F. Bilducia American Legion Post 124 to extend the construction plan submittal deadline to no later than April 1, 2021. The existing lease agreement expiration date for construction plan submittal was April 12, 2020. Failure to submit complete construction plans for approval by April 1, 2021, will terminate the lease and require the Post to vacate the Guad Building premises no later than May 1, 2021. This shall include removing any and all properties, goods, fencing, and materials stored and owned by the Post on the property. Councilmembers also requested that the Post provide quarterly updates to the Council.

7. CITY OF GOODYEAR INTERGOVERNMENTAL AGREEMENT FOR JUDICIAL SERVICES (RESOLUTION NO. R2020.28)

Jeff Kulaga, Town Manager / Clerk, stated that in May, 2019, the Town Council directed staff to seek alternative methods of providing municipal court services. In May, 2020, the Town Council approved an intergovernmental agreement (IGA) with the City of Tempe to administer all court proceedings on behalf of the Town of Guadalupe, beginning July 1, 2020.

The proposed IGA is with the City of Goodyear. This IGA authorizes the Goodyear Municipal Court to accept 610 post adjudicated cases from the Guadalupe Municipal Court. The Goodyear City Council unanimously approved the IGA. Staff recommends approval of the IGA.

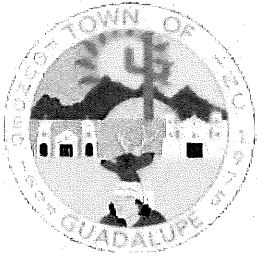
Motion by Vice Mayor Vital to approve agenda item G7; second by Councilmember Bravo. Motion passed unanimously on a roll call vote 5-0.

Councilmembers adopted **RESOLUTION NO. R2020.28** authorizing the Mayor, or designee, to enter into an intergovernmental agreement (C2020-27) with the City of Goodyear Municipal Court to accept jurisdiction of 610 post-adjudicated cases from the Town of Guadalupe Municipal Court, filed prior to July 1, 2020. The transfer of these cases to the City of Goodyear and the transfer of court administration to the City of Tempe Municipal Court will result in a recurring annual savings of approximately \$230,000 to the Town of Guadalupe. Adoption of Resolution No. R2020.28 authorizes the Mayor, or designee, to sign all necessary documents in furtherance of this agreement.

8. TOWN EMPLOYEE PAID HOLIDAYS (RESOLUTION NO. R2020.25)

Jeff Kulaga, Town Manager / Clerk, stated that the proposed resolution is in response to Council direction provided at the August 13, 2020, Regular Council Meeting. Staff recommends approval of the proposed resolution.

Motion by Councilmember Bravo to approve agenda item G8; second by Councilmember Sánchez. Motion passed unanimously on a roll call vote 5-0.



Councilmembers adopted **RESOLUTION NO. R2020.25** to add three paid Town employee holidays to the Town employee work calendar for fiscal year 2020/2021: Thursday, December 24, 2020, (Christmas Eve), Thursday, December 31, 2020, (New Year's Eve) and, Monday, April 5, 2021, (day after Easter).

9. CLAIMS

Motion by Councilmember Bravo to approve agenda item G9; second by Councilmember Osuna. Motion passed unanimously on a roll call vote 5-0.

Valerie Molina
Mayor

Councilmembers approved the check register for July 2020, totaling \$981,380.96.

Ricardo Vital
Vice Mayor

H. TOWN MANAGERS' COMMENTS

Jeff Kulaga, Town Manager / Clerk

- o Staff participated in a Government Finance Officers Association webinar regarding COVID-19 funding and appropriate expenditure of the funds.
- o Staff is in the process of interviewing individuals that have expertise in government funding that will serve as a COVID-19 project manager.
- o One of the Town Hall front doors will be repaired soon.

Mary Bravo
Councilmember

Anita Cota Soto
Councilmember

I. COUNCILMEMBERS' COMMENTS

Councilmember Bravo

- o Thanked staff for their work on COVID-19.

Gloria Cota
Councilmember

Councilmember Osuna

- o Thanked staff for their work on COVID-19.

Elvira Osuna
Councilmember

Joe Sánchez
Councilmember

Vice Mayor Vital

- o Thanked staff for their work.
- o Thanked community members for practicing social distancing.

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Councilmember Sánchez

- o Thanked staff for their work.
- o Stay safe.

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Mayor Molina

- o Thanked staff for their work.
- o Encouraged everyone to social distance and wear a mask; and, to stay healthy.


J. ADJOURNMENT

Motion by Councilmember Bravo to adjourn the Regular Council Meeting; second by Councilmember Osuna. Motion passed unanimously 5-0.

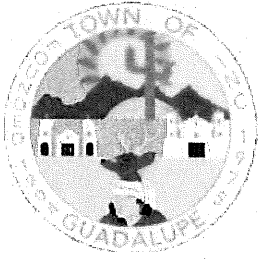
The meeting was adjourned at 7:22 p.m.



Valerie Molina, Mayor

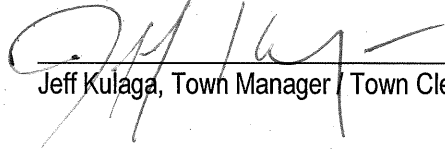
ATTEST:


Jeff Kulaga, Town Manager / Town Clerk



CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the August 27, 2020, Town of Guadalupe, Town Council Regular Meeting. I further certify the meeting was duly called and held, and that a quorum was present.



Jeff Kulaga, Town Manager / Town Clerk

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