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7 **BOARD OF TRUSTEES**  
8 **TOWN OF MESILLA**  
9 **REGULAR MEETING**  
10 **MONDAY, AUGUST 12, 2019**  
11 **6:00 P.M.**  
12

13  
14 **TRUSTEES:** Nora L. Barraza, Mayor  
15 Stephanie Johnson-Burick, Mayor Pro Tem  
16 Carlos Arzabal, Trustee  
17 Jesus Caro, Trustee  
18 Veronica Garcia, Trustee  
19

20 **STAFF:** Cynthia Stoechner-Hernandez, Town Clerk/Treasurer  
21 K.C. Alberg, Marshal  
22 Ron McGillivray, Public Works Director  
23 Enrique Salas, Lieutenant  
24 Gloria Maya, Recorder  
25

26 **PUBLIC:** Heidi Frohn Apfel Susan Krueger  
27 Stephan Schaefer  
28

29 **1. PLEDGE OF ALLEGIANCE**

30 Mayor Barraza led the Pledge of Allegiance.  
31

32 **2. ROLL CALL & DETERMINATION OF A QUORUM**

33 **Roll Call.**

34 **Present:** Mayor Barraza, Mayor Pro Tem Johnson-Burick, Trustee Arzabal, Trustee Caro, Trustee  
35 Garcia.  
36

37 **3. CHANGES TO THE AGENDA & APPROVAL**

38 **Motion:** To approve agenda, **Moved by Trustee Arzabal, Seconded by Trustee Garcia.**  
39

40 **Roll Call Vote:** Motion passed (summary: Yes =4).

41 Mayor Pro Tem Johnson-Burick Yes

42 Trustee Arzabal Yes

43 Trustee Caro Yes

44 Trustee Garcia Yes  
45

1           **4. PUBLIC INPUT** – The public is invited to address the Board for up to 3 minutes.

2 Detective Cortez stated he is also the union president; requested there be an item on the Board of Trustees  
3 next agenda to discuss officer safety issues, equipment, personnel issues and active shooter training.

4  
5 Mayor Barraza asked Detective Cortez to submit the request in writing.

6  
7 Ms. Krueger shared tips on being a good listener and a good speaker; listen to understand and not to reply,  
8 talk to explain not to win.

9  
10           **5. CLOSED SESSION** – pursuant to NMSA 1978 Chapter 10-15-1(H)(7): meetings  
11 subject to the attorney-client privilege pertaining to threatened or pending litigation in which the  
12 public body is or may become a participant; Alberg v. Town of Mesilla, EEOC# 39B-2019-  
13 00819, – **Nora L. Barraza, Mayor.**

14 **Motion:** To enter Closed Session – pursuant to NMSA 1978 Chapter 10-15-1(H)(7): meetings subject to  
15 the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or  
16 may become a participant; Alberg v. Town of Mesilla, EEOC# 39B-2019-00819, **Moved by Trustee**  
17 **Arzabal, Seconded by Trustee Garcia.**

18  
19 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

20 Mayor Pro Tem Johnson-Burick Yes  
21 Trustee Arzabal Yes  
22 Trustee Caro Yes  
23 Trustee Garcia Yes

24  
25 Entered Closed Session at 6:15 p.m.

26  
27 **Motion:** To enter Regular Session after limited discussion pursuant to NMSA 1978 Chapter 10-15-  
28 1(H)(7): meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in  
29 which the public body is or may become a participant; Alberg v. Town of Mesilla, EEOC# 39B-2019-  
30 00819; no action taken, **Moved by Trustee Arzabal, Seconded by Trustee Garcia.**

31  
32 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

33 Mayor Pro Tem Johnson-Burick Yes  
34 Trustee Arzabal Yes  
35 Trustee Caro Yes  
36 Trustee Garcia Yes

37  
38 Entered Regular Meeting at 7:35 PM

39  
40           **6. \*APPROVAL OF CONSENT AGENDA** – (The Board will be asked to approve by one  
41 motion the following items of recurring or routine business. The Consent Agenda is  
42 marked with an asterisk \*):

43 **Motion:** To approve consent agenda, **Moved by Mayor Pro Tem Johnson-Burick, Seconded by**  
44 **Trustee Arzabal.**

45  
46 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

47 Mayor Pro Tem Johnson-Burick Yes  
48 Trustee Arzabal Yes

1 Trustee Caro Yes  
2 Trustee Garcia Yes

3

4 A. **\*BOT Minutes** – Minutes of a Regular Meeting on July 22, 2019. *Approved by consent*  
5 *agenda*

6 B. **\*PZHAC Case 060936** – 2461 Calle de Principal, submitted by Joseph W. Foster; a request  
7 for a zoning permit to construct a pergola over an outdoor commercial patio to shield  
8 customers from the sun at this address. **Zoned: Historical Commercial (HC).** *With a*  
9 *condition: a licensed contractor shall be required to pull the necessary permits from CID*  
10 *and be the one to construct the pergola.* *Approved by consent agenda*

11 C. **\*PZHAC Case 060938** – 2424 Calle de Parian, submitted by Cecilia Quintana and Page  
12 Coleman; a request for a zoning permit to construct a wall on two sides of a residential  
13 property at this address. **Zoned: Historical Residential (HR).** *Approved by consent*  
14 *agenda*

15 D. **\*PZHAC Case 060942** – 2290 Calle de Parian (Suite D), submitted by Felix Armijo; a  
16 request for a zoning permit to construct an addition to a restaurant structure (Café Don  
17 Felix) at this address. **Zoned: Historical Commercial (HC).** *Approved by consent agenda*

18

19

20

#### 7. APPEAL FROM A BOARD OF ADJUSTMENT DECISION:

21 A. **A Public Hearing must be held:** on Case V19-002; an appeal, by Susan Krueger, of the  
22 Board of Adjustment’s decision on an application submitted by Chris Schaefer for Paul  
23 Miller; a request for variance to chapter 18.65 (Signs) of the Mesilla Town Code to allow  
24 for an off premise directory sign on a commercial property at the SE corner of Calle de  
25 Alvarez and Avenida de Mesilla. **Zoned: General Commercial (C).**

26 **Motion:** To open Public Hearing on Case V19-002; an appeal, by Susan Krueger, of the Board of  
27 Adjustment’s decision on an application submitted by Chris Schaefer for Paull Miller; a request for  
28 variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow for an off premise directory sign on  
29 a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla, **Moved by Trustee**  
30 **Arzabal, Seconded by Mayor Pro-Tem Johnson-Burick.**

31

32 **Roll Call Vote:** Motion passed (summary: Yes =4).

33 Mayor Pro Tem Johnson-Burick Yes

34 Trustee Arzabal Yes

35 Trustee Caro Yes

36 Trustee Garcia Yes

37

38 Opened Public Hearing at 7:40 P.M.

39

40 Mr. Shannon gave a brief summary on Case V19-002.

41

42 Ms. Frohnafel stated the sign makes sense to help economic development. This would help the town  
43 and the businesses. Dona Ana Arts Council could get on the directory as well.

44

45 Ms. Krueger stated the appeal is not based on the merit of the case; the appeal is on process. It is not  
46 clear on how much information or familiarity there was by the Board of Adjustments and the Board of  
47 Trustees. The board is set up as an administrative board and variances are administrative acts. The Board  
48 of Adjustments work is to make modifications or adjustments to regulations; Chapter 18.85. The Board

1 of Adjustments is not authorized to approve a variance for use; Chapter 18. She reviewed definitions and  
2 gave an overview of the Board of Adjustments duties. The Board of Adjustments are appointed. The  
3 Board of Trustees can amend the ordinance where needed. This will be done for the future development  
4 for the Mercado. A directory sign is not legible to a driver; recommends having an area where people can  
5 stop and get down from their vehicles to read the directory sign. It is important not to use a variance to  
6 change a regulation in the code.  
7

8 Dr. Schaefer read Chapter 18.85. We argued that the ordinance, as it stands, deprives property owners the  
9 right of visibility. We are not asking for a change in the use of land. Ms. Krueger defines use – purpose  
10 for which the land is intended and is or may be occupied. We are not talking about occupancy; we are  
11 talking about use of the land. The words on the sign are historically appropriate but for the words on the  
12 sign which raises freedom of speech. Read article. We are getting into an ordinance that is not content  
13 neutral. The boards have an interest to protect a static purpose within the town, the wellbeing of the  
14 residents and not hinder people's rights. The Planning and Zoning Commission voted unanimously in  
15 favor; the Board of Trustees voted unanimously for the variance since property owners rights in the  
16 Mercado area were being infringed upon due to lack of visibility. The Board of Adjustments intent was  
17 to make modifications. The decision made was that governmental interest did not outweigh those of the  
18 property rights of Mr. Miller to erect a sign.  
19

20 **Motion:** To open Regular Meeting after Public Hearing on Case V19-002; an appeal, by Susan Krueger,  
21 of the Board of Adjustment's decision on an application submitted by Chris Schaefer for Paul Miller; a  
22 request for variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow for an off premise  
23 directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla,  
24 **Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee Garcia.**  
25

26 **Roll Call Vote:** Motion passed (summary: Yes =4).

27 Mayor Pro Tem Johnson-Burick Yes

28 Trustee Arzabal Yes

29 Trustee Caro Yes

30 Trustee Garcia Yes  
31

32 Opened Regular Meeting at 7:58 p.m.  
33

34 **B. For Approval/Disapproval:** an appeal, by Susan Krueger, of the Board of Adjustment's  
35 decision on an application submitted by Chris Schaefer for Paul Miller; a request for  
36 variance to chapter 18.65 (Signs) of the Mesilla Town Code to allow for an off premise  
37 directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida  
38 de Mesilla. **Zoned: General Commercial (C).**

39 **Motion:** To disapprove an appeal, by Susan Krueger, of the Board of Adjustment's decision on an  
40 application submitted by Chris Schaefer for Paul Miller; a request for variance to Chapter 18.65 (Signs)  
41 of the Mesilla Town Code to allow for an off premise directory sign on a commercial property at the SE  
42 corner of Calle de Alvarez and Avenida de Mesilla, **Moved by Trustee Caro, Seconded by Trustee**  
43 **Arzabal.**  
44

45 Mayor Pro Tem Johnson-Burick asked what voting yes would be for.

46  
47 Mayor Barraza responded by voting yes, the Board of Trustees will bring forth, at the next meeting, a  
48 resolution for approval of the sign.  
49

50 Trustee Caro stated we want to be business friendly and he does not see a problem in the variance which

1 will benefit the town.

2

3 Trustee Arzabal stated during the Board of Adjustments meeting he stated it needed final approval from  
4 the Board of Trustees. This item has not been on any Board of Trustees agenda and it has never been  
5 voted on until today.

6

7 Trustee Arzabal Called for the Question, Seconded by Trustee Caro.

8 Vote:

9 Ayes – 4; Nays - 0

10

11 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

12 Mayor Pro Tem Johnson-Burick Yes

13 Trustee Arzabal Yes

14 Trustee Caro Yes

15 Trustee Garcia Yes

16

17 Mayor Barraza stated a resolution will be voted upon at the next Board of Trustee meeting. If approved  
18 the applicant will need to go through the process. She asked if the sign will include the other businesses  
19 in the area.

20

21 Dr. Schaefer responded the details have not been worked out. It will be available for the business at a  
22 cost.

23

24 Mayor Barraza recommended that Mr. Miller put all the information together for the next meeting so it  
25 can be included in the resolution.

26

27 Dr. Schaefer responded we have submitted visuals.

28

29 **8. NEW BUSINESS:**

30 **A. Resolution 2019-15:** A resolution declaring surplus property to be nonessential for  
31 government functions to be sold pursuant to NMSA. - *Cynthia Stoechner-Hernandez,*  
32 *Clerk-Treasurer.*

33 Ms. Stoechner-Hernandez stated this resolution will allow us to auction off the Public Works vehicles.

34

35 **Motion:** To approve Resolution 2019-15: A resolution declaring surplus property to be nonessential for  
36 government functions to be sold pursuant to NMSA, **Moved by Trustee Arzabal, Seconded by Mayor**  
37 **Pro-Tem Johnson-Burick.**

38

39 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

40 Mayor Pro Tem Johnson-Burick Yes

41 Trustee Arzabal Yes

42 Trustee Caro Yes

43 Trustee Garcia Yes

44

45 **B. For approval:** selection of 2019 New Mexico Municipal League Annual Conference  
46 Voting Delegates. – *Cynthia Stoechner-Hernandez, Clerk-Treasurer.*

1 Mayor Barraza will be the voting delegate; Trustee Garcia will be the alternate voting delegate.

2  
3 **Motion:** To approve selection of 2019 New Mexico Municipal League Annual Conference Voting  
4 Delegates, **Moved by Trustee Arzabal, Seconded by Mayor Pro-Tem Johnson-Burick.**

5  
6 **Roll Call Vote:** Motion passed (**summary:** Yes =4).

7 Mayor Pro Tem Johnson-Burick Yes

8 Trustee Arzabal Yes

9 Trustee Caro Yes

10 Trustee Garcia Yes

11  
12  
13 **9. \*STAFF REPORTS:**

14 Community Development

15 Community Programs

16 Finance Department

17 Fire Department

18 Marshal's Department

19 Public Works Department

20  
21 **10. BOARD OF TRUSTEE COMMITTEE REPORTS**

22 Ms. Garcia stated she will not be attending the MPO meeting on Wednesday.

23 Mayor Pro Tem Johnson-Burick stated she will be attending the MPO Meeting on Wednesday at 1:00  
24 p.m. at the City Council Chambers.

25  
26 **11. BOARD OF TRUSTEE/STAFF COMMENTS**

27 Trustee Caro addressed the mosquito problem.

28 Mayor Pro Tem Johnson-Burick received call regarding mosquitos in the Calle de Cura area.

29 Trustee Arzabal stated the parks are looking good. We need to look at the sign ordinance. He feels bad  
30 that Dr. Schaefer must wait more 2 weeks.

31 Trustee Garcia asked if we have received a response from Capital Outlay.

33 Ms. Stoechner-Hernandez responded that we have received agreements for McDowell and Calle Parian;  
34 the others are in process.

35 Trustee Caro stated he agreed the parks are looking good.

36 Mayor Barraza stated Ms. Stoechner-Hernandez and herself have been working on the Sign Ordinance.  
37 She feels it needs to be separated - Historical Commercial and General Commercial as to avoid missing  
38 something. If anyone would like to sit down with us, call Ms. Stoechner-Hernandez.

39 Mayor Barraza held a Moment of Silence for Mr. John Parra and the victims of the El Paso shooting.

40 **12. ADJOURNMENT**

41 **The Town of Mesilla Trustees unanimously agreed to adjourn the meeting. (Summary: Yes-4)**

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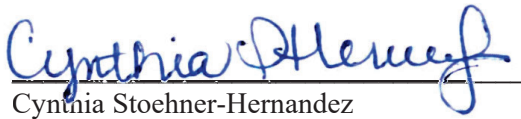
MEETING ADJOURNED AT 8:20 P.M.

APPROVED THIS 26th DAY OF AUGUST, 2019.



Nora L. Barraza  
Mayor

ATTEST:



Cynthia Stoechner-Hernandez  
Town Clerk/Treasurer

