



City of Bayard
CITY COUNCIL REGULAR MEETING
August 08, 2022 at 5:30 PM
Bayard City Hall

MINUTES

WORK SESSION

Councilor Diaz asked about the Annual Budget Conference and the NM Economic Development Conference how many employee's are attending.

Clerk- Treasure Kristy stated two and the conference is online. The NM Economic Development Conference just got posed and she does not have all the details.

Councilor Gonzales stated the Sustainable Communities is not only for lobbying activities is it also for grants and a lot of other things. Councilor Gonzales would like for this item to be tabled for the next council meeting. She really would like for the council to consider this guy because she feels he can really help the community.

Mayor Fierro stated in the packet that Ken Hughes gave the council the last meeting the las page states if the town has less the 5,000 people the cost would be free for the first year and after the cost will be \$1,000 per year. He will bring to packet to be reviewed.

Councilor Diaz would like to know the officers on the Bayard Volunteer Fire Department. He also asked about the chain of command and how they get paid.

Councilor Medina stated it is different in fire. Volunteer fire department would be the chief, assistant chief, training officer, and secretary. This is the standard. Councilor Medina asked Fire Chief Gonzalez if the volunteer fire department is following the IFSAC training books from the State Fire Marshal?

Fire Chief Gonzalez stated they go by the Fire 1 training.

Councilor Medina stated the training report that was provided has the activities that the fire department is participating in and not actual training that the department is doing. He would like the report to be two different reports. One for training and one for activities that they participate in. Also if they can be following the IFSAC training book for the safety of everyone.

Councilor Diaz stated one of the council members should attend the meeting for the volunteer fire department. So there may be a inline compunction between the fire department and the council.

Councilor Medina agreed and will be attending.

Clerk/Treasure Kristy stated there is someone inquiring to place a manufactured home in the subdivision and now that she has a copy of the covenants and when there is a request to move in a manufactured home she will have the covenants available.

Joe Ramirez stated there is a covenants that were installed in 1965 for Carney Hight Subdivision. In session B it states only new materials will be used to construct. Session G states no existing building, trailers and be moved on to the property. Session K states the covenants will last until 1995 and renew themselves automatically every 10 years and are attached to the land forever unless the people of the subdivision gets together and makes changes. Mr. Ramirez have submitted a petition on behalf of 20 out of 25 lot owners that lives in the Carney Hight Subdivision.

Councilor Gonzales stated on item 11 she spoke with State Representative Luis Terrazas and he stated it is very important that the city get our plan with the Council of Governments before the legislative session begins. We need to utilize the Council of Governments more than we are now.

Clerk/Treasure Kristy stated she works well with the Council of Government.

Councilor Gonzales stated when our Representatives speaks to the Council of Governments they do not have anything listed for the City of Bayard.

Councilor Diaz stated items 13 and 14 there is a lot of information. Will this be the final approve? Diaz stated these guideline should have been followed from the beginning. The city has employees that have used personal time for covid leave and we have to go back and make things right. We have to give the time back to the employees.

Clerk/Treasure Kristy stated she is going by the CDC guideline to make up this policy. The state goes by this policy and she thinks we should just mimic this policy.

CALL TO ORDER: Mayor Chon S. Fierro

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Mayor Chon Fierro

Mayor Pro-tem Raul Villanueva

Councilor Eloy Medina

Councilor Frances Gonzales

Councilor Jose Diaz

A quorum was present. Others in attendance were Larry Ojinaga, Selina Crespin, Dolores Charon, Marcela Johnson, Jesus Perez, Joan Perez, Jade Wilson, Joe and Darlene Ramirez, George Griffin, Lillian Griffin, Manny Garcia Patricia Stone, Joseph Stone, AC Rodriguez, Maxine Darnell, Joseph Jenkerson, Richard Miller, Adelaide Martinez, Samantha Morales, Devin Corral, Carol Miller, Sonya Dixon, Jason Jaeger, Hector Carrillo, Mikey Paez, Kristy Ortiz, and Tanya Ortiz.

APPROVAL OF THE AGENDA

Motion made by Mayor Pro-tem Villanueva with adding number 9A discussion with Municipal Judge Sandoval, Seconded by Councilor Medina.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

PUBLIC INPUT

Manny Garcia asked about the project on Dayhill.

Clerk/Treasure Kristy stated she is waiting on the cost estimate to come back from Southwest Concrete. She did speak with a representative from Southwest Concrete and she should be receiving that cost the next day. That cost estimate will determine how much work can get done. Kristy has reached out to a representative from NM DOT for funds for this whole project to get done. Also there is a timing issue with the weather.

Selina Crespin is very happy with the new police department. She would like to know why wasn't there a proper investigation done by the proper police chief Lee Aires? She has done her own investigation and no action has been taken.

Clerk Treasure Kristy state this has been sent over to risk management, which has ben handling it. She stated the city does not know where the investigation stands but she knows it is on going.

Councilor Diaz stated weather this is a personnel matter and it is not to be discussed in public input. The prior administration has done it's due diligence. If the individual had still been employed with the city then the council would have more answer for her. He stated this may not be the answer she would like but the induvial is no longer with the city and if that was right or wrong this is why the situation is in litigation and this can not be talked about.

Jade Wilson would like to know if the Municipal Judge Sandoval would be added to the agenda?

CONSENT AGENDA

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Gonzales.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

1. Approval of the Minutes of Regular Meeting on July 25, 2022
Approval of the Public Hearing of July 25, 2022
Approval of Budget Work Sessions on July 18, 2022, April 28, 2022 and July 19, 2022
2. Approval of the Fire Report for July 2022
3. Approval of the Wastewater Report for July 2022
4. Approval of the attendance to the Annual Budget Conference 2022 for available finance staff.

5. Approval of the attendance to the New Mexico Economic Development Conference by finance staff and City Council.

OLD BUSINESS

6. Sustainable Communities - Ken Hughes; Discussion/Action for lobbying activities.

Motion made by Councilor Gonzales to postpone this item for the next meeting to be able to get Kristy more information. Seconded by Councilor Medina.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

7. Approval of the appointment of Gary Arellano as Training Officer for the Bayard Fire Department.

Motion made by Councilor Diaz, Seconded by Councilor Medina.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

8. Approval of the Law Enforcement Sign-on contract.

Clerk/Treasure stated this contract has been reviewed by legal counsel and now ready for approval by the city council.

Motion made by Mayor Pro-tem Villanueva with the new employees be retro paid, Seconded by Councilor Gonzales.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

NEW BUSINESS

Judge Jose Sandoval came before the mayor and council to speak on behalf of the municipal court he stated he can not predict how many tickets will come in every month. The Judge discussed how fix it tickets work and why they get dismissed. If someone dose not have there license, registration or headlight is out and that person beings in proof the ticket will be dismissed.

Councilor Medina stated the city has put \$20,000 in to the court fund to keep it running this passed year.

Clerk Treasure Kristy stated it is \$45,000.

Councilor Medina stated they had to increase utilities rates some what for this reason Judge Sandoval stated he does not like the insinuation that something fishy is going on with in the court. The people that do get a break he dose not see them in his court room again. All cases are treated different. If someone is come back he no longer helps them.

Mayor Fierro stated the city has had to move funds in to the municipal court the last four or five years and now we have had to increase the utilities rate for the residents of Bayard.

Judge Sandoval stated another reason is the city has only had 1 or 2 officers and there has not been as much citations written. He also stated he is not going to micromanage the police or code enforcer and have them find people to give citations. He will not step out of his boundaries and do that. The court clerk has gone from 40 hours to two and a half days. Judge Sandoval state he had gotten a salary increase but he didn't know the court would go downhill. He stated by law you cannot decrease his salary but at the end of his term the council can abolish the position. He will not plead for his job.

Councilor Diaz stated problem did not just state this year it's been a problem for the past 4 or 5 years. The council is not telling you to go talk to the police, code enforcement or animal control, that would be unethical and wrong. The passed administration and passed council has told the police to move everything to the magistrate court because municipal court dismisses every. Now the police force is fully staffed. The council is just making you aware of the councils concerns and the impact it has had on the people of Bayard. We do the budget and know how that is. The council is not telling you how to do you job Councilor Diaz stated.

Councilor Gonzales stated she was a former municipal judge and she knows how the fees go. Her concerns are the amount of dismissals there is. Another thing is when she was a judge the court clerk was only there when she had court and that's the only time the court clerk would be at the court. The dates and times the court is open needs to been clarified. She has received complaints that someone will go to pay a ticket and no one is there.

Judge Sandoval stated the times are clearly written on the door, but he is willing to change. Monday and Tuesday 8-5 and Friday 8-12. The judge is always available if he needs to go in to the court.

Councilor Villanueva stated to the Judge he just wants the Judge to be well aware that there is more officers and the concerns the mayor and council had.

9. Summer Fest complaint by Samantha Morales.

Samantha Morales thanked the council for their time. To provide content she had been walking by the city council tent when she overheard Councilwomen Gonzales stated she was very unhappy that the Republican party tent was so close to her tent. The Democrat tent was about two to three tents down and she didn't know what the problem was. Miss. Morales stated Councilor Gonzales insinuated "Republican are racists and don't like people like us. Miss. Morales responded to her in Spanish: "We Republicans are for the working people." Council Gonzales bantered back she had been chair of the Republican party. Morales decided to let it alone. The event had been for the kids. She said this behavior does not reflect well on the city of Bayard especially when it includes an elected official. She asked that the council investigate the actions of Councilor Gonzales at the event.

Councilor Gonzales stated she need to put another context to this. She stated "Miss Morales is not so innocent. She has a long history of harassing us. Both she and her father have caused problems since I became chair of the Democrats." She said

she had not been talking to her but admitted she should have not said that. She said she had another comment but would not say. She stated it was a comment under her breath.

Miss Morales stated there was not another comment and she would swear on a Bible.

Police Chief Carrillo stated he did get a call from the Mayor. Cobre High Schools Summer Fest Coordinator Annette Acosta asked for him to stand by while she spoke with Councilor Gonzales. He said there seemed to be history between the two. From what he concluded the event didn't amount to anything criminal, just unethical and unprofessional.

Samantha Morales stated the reason she did come to the meeting is get get an apology. Miss. Morales stated she had no idea why Councilor Gonzales brought her father into this and she had never met Councilor Gonzales before.

Councilor Gonzales did apologize for her actions.

Samantha Morales stated Councilor Gonzales is an elected official, and it does not reflect well on Bayard. She commented that it had been wrong to bring up pass history and said if she had known Councilor Gonzales she would have said Hi.

Councilor Diaz stated he is speaking for himself and he is here for the people not a party and he does apologize for the City of Bayard and this is unfortunate this happen.

Samantha Morales thanked the Mayor and the Council and stated maybe attending training would help situations like this.

10. Joe Ramirez - Carney Height Subdivision - concerns with mobile homes in subdivision.

Joe Ramirez representing Carney Height Subdivision requested for the City of Bayard to enforce and protect the covenants. He represents 20 of the 25 residents of the subdivision.

Councilor Villanueva stated if there is any changes if they can let the city known. He is glad they are protecting there lands. He stated is it a beautiful area.

Joe Ramirez stated he's not wanting to keep people out. He would like more neighbors.

Councilor Gonzales asked if a resident were to pass away or move out, do they have to vote to let the new people in?

Joe Ramirez stated the covenants runs with the land.

11. Approval of the annual contract and dues between City of Bayard and Southwest Council of Governments.

Clerk/Treasure Kristy stated she is making a recommendation to continue with contract and dues with the SW Council of Governments.

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

12. Approval of the Credit Card Acceptance and Processing Policy for submission to Department of Finance and Administration for approval.

Clerk/Treasure Kristy stated now the state is wanted to sign off on all local governments policies. This policy has been developed through an other agency and it will be changing but it did have to get done. As changes are made it will come back to council for approval and sent up to the state.

Councilor Diaz asked if we get hacked or if there is fraud is this coved under this plan?

Clerk/Treasure stated if we don't have a plan we can be liable.

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

13. Approval of COVID-19 Mitigation, Self-Screening, and Reporting Policy and Procedure for city employees.

Councilor Gonzales stated she had a question when employee got sick and had to take FMLA but there is noting mentioned about it in this policy.

Clerk/Treasure Kristy stated FMLA is to guarantee the employees job not the pay just their job. The city does not have to have FMLA because there is less the 50 employees but the city still goes by the FMLA Federal Law policy.

Councilor Gonzales stated the money that the city received for covid. How are the employees going to get paid? How are we going to take care of it?

Clerk/Treasure Kristy stated the \$600,000 the city got for the CARES was used to purchase vehicles, care packages for residents, and equipment. That money needed to be spent by the end of the year. The following year the city employees would do split shifts and still got paid. Now the question is are we going to pay employees if they are out with covid? The city dose not have good guidance. Other city's do no pay there employees.

Councilor Diaz stated this conversation should have taken place January, 2021 and we could be avoiding all there issues we have now. We need to go back and see what employees have used 14 days of sick leave and we need to pay them back.

Councilor Medina stated paying back 14 days he thing that is a lot. 50% of there days we reimbursement. If we are going to pay our employees I think they should wear a mask. Unvaccinated should show a negative covid test every week to protect other employees.

Councilor Diaz aske how are we going to mandate it when the Governor dose not have it mandated? It's going to happen if they wear a mask or if they do not wear a mask. They will be wearing a mask at work then go to the store and get it. It will be an injustice to force employees to wear a mask.

Mayor Fierro stated he thinks it should be up to the employees if they want to wear a mask or not.

Councilor Medina asked what are we going to do if we have 9 employees get sick and are out?

Councilor Diaz stated this can happen and that is something that can't be controlled.

Councilor Medina asked why not have that extra layer of protection if the city is going to be paying them 5 days.

14. Approval of Guidance on Administrative Leave for COVID-19 Related Conditions for employees

ORDINANCES/RESOLUTIONS

15. Adoption of Resolution 18-2022 for Southwest Council of Government Contract and Annual Dues

Motion made by Councilor Diaz, Seconded by Mayor Pro-tem Villanueva.
Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz RESOLUTION NO. 18-2022

RESOLUTION OF THE CITY OF BAYARD RATIFYING A CERTAIN AGREEMENT BETWEEN THE CITY OF BAYARDAND THE SOUTHWEST NEW MEXICO COUNCIL OF GOVERNMENTS, FOR THE PERIOD OF JULY 2022 TO JUNE 2023, AND AUTHORIZING THE EXECUTIVE OF SAME BY THE PROPER OFFICIAL OF CITY OF BAYARD.

WHEREAS, the City of Bayard is a member of and desires to have the services of the Southwest New Mexico Council of Governments; and

WHEREAS, it is necessary that an agreement setting forth the services to be performed by the Southwest New Mexico Council of Governments for the City of Bayard be entered into and it is a requirement of the New Mexico State Laws; and

WHEREAS, it is necessary to set forth the sum to be paid by the City of Bayard to the Southwest New Mexico Council of Governments, as annual dues, for said services; and

WHEREAS, it is the desire of the City of Bayard to accomplish these purposes:

NOW THEREFORE BE IT RESOLVED BY THE CITY OF BAYARD THAT:

1. The AGREEMENT referred to in the caption of this Resolution (a copy of which is attached hereto and made a part hereof) expresses the desires and intent of the City of Bayard.
2. The AGREEMENT set above is hereby ratified and approved by the authorized representatives of the City of Bayard and is hereby authorized and instructed to affix their signature thereto.
3. A Certified copy of this Resolution (together with the Agreement) shall be filed at the Southwest New Mexico Council of Governments.

Done this the 8th day of August, 2022 in Regular Session, at Bayard City Hall

Chon S. Fierro

ATTEST: Mayor

Kristina Ortiz, MMC

Clerk Treasurer

16. Adoption of Resolution 19-2022 Employee Compliance with Public Health Requirements

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

RESOLUTION 19-2022

A RESOLUTION REQUIRING CITY EMPLOYEES TO COMPLY WITH CERTAIN PUBLIC HEALTH REQUIREMENTS

WHEREAS, on January 30, 2020, the World Health Organization announced the emergence of a novel Coronavirus Disease 2019 ("COVID-19") that had not previously circulated in humans, but has been found to have adapted to humans such that it is contagious and easily spread from one person to another and one country to another,

WHEREAS, COVID-19 has been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of health confirmed the first cases on individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

WHEREAS, on March 11, 2020, because of the spread of COVID-19, Governor Grisham issued Executive Order 2020-004 declaring that a Public Health Emergency existed in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All-Hazards Emergency Management Act;

WHEREAS, Governor Grisham has renewed the declaration of a Public Health Emergency through May 4, 2022;

WHEREAS, the currently available COVID-19 vaccines are a safe and effective way of preventing serious illness or death;

WHEREAS, regular testing and social-distancing remain some of the most effective ways to minimize the spread of COVID-19.

NOW, THEREFOR, I, Chon Fierro, Mayor of the City of Bayard, hereby adopt the provisions of Executive Order 2022-010 regarding use of masks, vaccinations, and testing requirements; and hereby ORDER and DIRECT as follows:

1. City employees shall comply with the provisions regarding the use of masks contained in the operative Public Health Order issued by the Secretary of the Department of Health during the course and scope of their employment.

2. City employees who (i) are not fully vaccinated against COVID-19, as defined by the Centers for Disease Control and Prevention; (ii) have not received a booster dose of the vaccine, if eligible according to the FDA, by February 17, 2022, or within four weeks of becoming eligible; or (iii) are not willing or able to provide adequate proof of such vaccination shall provide adequate proof that the employee has tested negative for COVID-19 on a weekly basis.

3. Any city employee who is not fully vaccinated or has not receive a booster dose of the vaccine, if eligible, and who tests positive for COVID-19 may return to work following the completion of any mandatory isolation period prescribed by the New Mexico Department of Health. A negative COVID-19 test result is not required to return to work, provided the employee completes the mandatory isolation period. All such employees who test positive for COVID-19 shall be exempt from the testing requirement in Paragraph 2 for a period of 90 days following the date of the employee's positive COVID-19 result.

4. Employees who refuse to abide by the above requirements may be subject to disciplinary action, up to and including termination, in accordance with applicable law.

5. City department heads shall ensure, consistent with law, that any documentation related to vaccination status, healthcare directives, or test results are not disclosed to individuals other than those necessary to ensure compliance with this Order.

6. The City Council shall approve the Guidance on the full implementation and administration of this Order, and COVID-19 mitigation, Self-screening, and Reporting Policy and Procedure, which shall be provided to the department heads.

I, FURTHER ORDER and DIRECT that this Order shall take effect immediately, and shall remain in effect until renewed, modified, or rescinded.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Bayard, New Mexico this 8th day of August 2022.

WITNESS MY HAND THE SEAL

OF THE CITY OF BAYARD

Chon S. Fierro

Mayor

ATTEST

Kristina Ortiz, MMC

Clerk Treasurer

Guidance on Administrative Leave for COVID-19-Related Conditions

Purpose:

In consultation with the City Council, and pursuant to Personnel Ordinance 1-2015 A, Administrative Leave, the purpose of this memorandum is to authorize paid administrative leave for certain employees who meet one or more of the COVID-19-Related Conditions identified below beginning August 1, 2022.

Scope:

Paid Administrative Leave for COVID-19-Related Conditions, as described herein, is not an entitlement under federal law; it is a benefit authorized by the City Council, only for City of Bayard employees who meet the criteria set forth below, including term and temporary appointments.

Background:

On March 11, 2020, Governor Michelle Lujan Grisham issued Executive Order 2020-004, Order Declaring a State of Public Health Emergency and Invoking the Powers Provided by the All Hazard Emergency Management Act and the Emergency Licensing Act, declaring a public health emergency due to the spread of COVID-19 in New Mexico. That Order and the public health emergency have been renewed in subsequent Executive Orders.

COVID-19-Related Conditions:

1. The employee is subject to isolation or quarantine related to COVID-19 pursuant to government order or Agency policy;
2. The employee has been advised by a healthcare provider or the employee's Cabinet Secretary or Agency Head or Agency Human Resources to isolate or quarantine due to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis/ awaiting results of a COVID-19 test;
4. The employee is caring for an individual subject to an isolation or quarantine order related to COVID-19; or
5. The employee is caring for the employee's son or daughter under 18 years of age, if the school or childcare facility for the child has been closed or the caregiver or childcare provider of such son or daughter is unavailable because of a public health emergency.

Paid Administrative Leave for COVID-19-Related Conditions:

Due to the continuing public health emergency, and pursuant to Personnel Ordinance 1-2015 A, Administrative Leave, beginning August 1, 2022, paid administrative leave shall be available for employees who have one or more of the identified COVID-19-Related Conditions, as follows:

- A. For employees who meet COVID-19-Related Conditions 1-4 as described above:
 - i. Mayor/Mayor Pro-tem may authorize administrative leave with pay for up to five (5) consecutive workdays when it is in the best interest of the City to do so. Under this subsection (i):
 - a. Administrative leave shall be granted only for the period of time an employee is unable to work from home or telework as a result of COVID19-Related Conditions 1-4.

b. Administrative leave may be granted intermittently to employees who meet COVID-19-Related Conditions 1-4 and are able to work from home or telework intermittently, but in no event shall extend past five (5) consecutive workdays total.

c. City Council approval is not required.

ii. Mayor/Mayor Pro-tem may authorize, administrative leave with pay in excess of five consecutive workdays and up to ten (10) consecutive workdays when it is in the best interest of the City to do so. Under this subsection (ii):

a. Administrative leave shall be granted only for the period of time an employee is unable to work from home or telework as a result of the COVID-19-Related Conditions 1-4.

b. Administrative leave may be granted intermittently to employees who meet COVID-19-Related Conditions 1-4 and are able to work from home or telework intermittently, but in no event shall extend past ten (10) consecutive workdays total.

B. For employees who meet COVID-19-Related Condition 5 as described above (caring for a son or daughter because school is closed), Mayor/Mayor Pro-tem may authorize up to twenty (20) hours of paid administrative leave per workweek for up to four (4) workweeks per employee request. Under this subsection (B):

i. Administrative leave shall be granted only for the period of time an employee is unable to work from home or telework as a result of COVID-19-Related Condition 5.

ii. Administrative leave may be granted intermittently to employees who meet COVID-19-Related Condition 5 and are able to work from home or telework intermittently, but in no event shall extend past twenty (20) hours per workweek for up to four (4) workweeks.

iii. Employees may work, work at home or telework, use accrued leave, or take leave without pay for the remainder of the workweek.

iv. Employees must have been employed with the City for at least thirty (30) days to be eligible for this paid administrative leave.

Unable to Work from Home or Telework:

An employee is “unable to work from home or telework” if the Agency has work or duties for the employee and one of the COVID-19-Related Conditions set forth in this Memorandum prevents the employee from being able to perform that work at home or by telework. If the City agrees that the employee will work the normal number of hours, but outside of the employee’s normally scheduled hours (for instance early in the morning or late at night), then the employee is able to telework or work from home and leave is not necessary unless a COVID-19-Related Condition prevents the employee from working that schedule or part of that schedule. Agencies should consider all viable options for work from home, telework, and flexible work schedules and collaborate with employees who meet COVID-19-Related Conditions 1-5 to achieve flexibility and meet mutual needs.

Work from Home or Telework:

For purposes of this Memorandum, “telework” means an employee who is working from home doing their normal/regular duties, making use of the Internet, email, or phone. “Work from home” is broader and means that an employee is working from home doing work, including work other than their normal/regular duties, that may not require Internet, email, or phone.

A detailed log of all work completed under the provision of “telework” or “work from home” shall be submitted to the department head upon return to work, or end of pay period. All logs shall be submitted to the payroll clerk for filling.

Part-time employees:

Part-time employees subject to the Personnel Ordinance who are unable to work from home or telework are eligible for Paid Administrative Leave for COVID-19-Related Conditions under the same conditions as stated herein. This includes part-time employees in term and temporary appointments subject to the Personnel Act.

Interaction with Family and Medical Leave Act (FMLA) Leave:

Paid Administrative Leave for COVID-19-Related Conditions will not count toward an employee’s FMLA Leave entitlement.

Calculating Paid Administrative Leave for COVID-19-Related Conditions:

City Human Resources (HR)/or Payroll Clerk will calculate Paid Administrative Leave for COVID-19-Related Conditions 1-4 and enter it into Abila based on the employee’s average number of work hours in a two-week period (the employee’s normal hours scheduled). (For example, if an employee works an average of 76 hours per two-week period, and is otherwise eligible, they may receive 76 hours of Paid Administrative Leave for COVID-19-Related Conditions 1-4.) If an employee’s normal hours scheduled are unknown, or if the employee’s schedule varies, the department or agency may use a six-month average to calculate the average daily hours. If this calculation cannot be made because the employee has not been employed for at least six months, the City may use the number of hours that the employee and the City agreed that the employee would work upon hiring. And if there is no such agreement, the City may calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of their employment.

Additional Procedure:

- Employees may submit a request to the HR for Paid Administrative Leave for COVID19-Related Conditions. The City will provide HR with two (2) forms to request Paid Administrative Leave for COVID-19-Related Conditions, one for Conditions 1-4 as described above and one for Condition 5 as described above (caring for a son or daughter because school is closed). Due to social distancing requirements during this public health emergency, employees may sign and scan the form to HR. If they are unable to do so, they may contact their HR by email or telephone and HR may

submit the form on their behalf. HR should include a copy of the email or specific reference to the telephone call on the form.

- For Conditions 1-4 as described above, once approved by the Mayor/Mayor Pro-tem, HR will notify the employee of Paid Administrative Leave status. The employee will then be required to follow city leave policy and procedures.
- For Condition 5 as described above (caring for a son or daughter), once approved by the Mayor/Mayor Pro-tem, HR will notify the employee of Paid Administrative Leave status. The employee will then be required to follow city leave policy and procedures.
- Paid Administrative Leave pursuant to this Memorandum is in addition to any sick or other leave the employee has accrued.
- Paid Administrative Leave for COVID-19-Related Conditions 1-4 should be coded by HR/Payroll as “PDCVL” in ABILA with the relevant COVID-19-Related Condition(s) indicated in the comment bubble on the timesheet.
- Paid Administrative Leave for COVID-19-Related Condition 5 (caring for a son or daughter because school is closed) should be coded by HR/Payroll as “PFCVL” in ABILA.
- The PDCVL and PFCVL codes are only available to and need to be entered into ABILA by HR/Payroll.
- The City has the authority to audit the use of paid administrative leave for COVID-19-Related Conditions.

CITY OF BAYARD

COVID-19 MITIGATION, SELF-SCREENING, AND REPORTING

POLICY AND PROCEDURE

1. PURPOSE

1.1.1 The CITY’s goal is to return its employees to their designated workplace in municipal buildings and facilities safely while minimizing the risk of its employees contracting COVID-19. This Policy and Procedure provides direction and guidance to employees accordingly.

1.1.2 The CITY is requiring its employees to follow a COVID-19 Symptoms and Exposure Self-Screening Procedure and COVID-19 Safe Practices to reduce the possibility of COVID-19 transmission in our buildings and facilities. The COVID-19 Symptoms and Exposure Self-Screening Procedure and COVID-19 Safe Practices are set out below.

1.1.3 If any provision of this Policy and Procedure is in conflict with an Executive Order or Public Health Order, the Executive Order or Public Health Order shall control.

2. REFERENCES

- New Mexico Department of Health (NMDOH), Policies for the Prevention and Control of COVID-19 in New Mexico (January 13, 2022):

<https://cv.nmhealth.org/wp-content/uploads/2022/01/EPI-COVID19-Containment-Policies-1.13.2022.pdf>

- NMDOH COVID-19 website:

NMDOH - Coronavirus Updates | Coronavirus Updates in New Mexico (nmhealth.org)

- Centers for Disease Control and Prevention (CDC), Ending Isolation and Precautions for People with COVID-19: Interim Guidance (updated December 28, 2021):

Ending Isolation and Precautions for People with COVID-19: Interim Guidance (cdc.gov)

- CDC, Quarantine and Isolation (updated January 4, 2022):

COVID-19 Quarantine and Isolation | CDC

- CDC, How to Protect Yourself & Others (updated November 29, 2021):

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- CDC, Guidance for Wearing Masks (updated April 19, 2021):

COVID-19: Considerations for Wearing Masks | CDC

- CDC, Cleaning and Disinfecting Your Facility (updated November 15, 2021):

Cleaning and Disinfecting Your Facility | CDC

- CDC, Stay Up to Date with Your Vaccines (updated January 5, 2022):

Stay Up to Date with Your Vaccines | CDC

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CDC Expands COVID-19 Booster Recommendations | CDC Online Newsroom | CDC

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CDC Updates and Shortens Recommended Isolation and Quarantine Period for General Population | CDC Online Newsroom | CDC

- CDC, Quarantine & Isolation (updated January 9, 2022)

COVID-19 Quarantine and Isolation | CDC

- Executive Order 2021-062 (November 12, 2021):

Executive-Order-2021-062.pdf (state.nm.us)

- Executive Order 2021-066 (December 2, 2021):

Executive-Order-2021-066-1.pdf (state.nm.us)

- U.S. Equal Employment Opportunity Commission (EEOC), What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws (updated December 16, 2020):

What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission (eeoc.gov)

- EEOC, Pandemic Preparedness In the Workplace and the Americans With Disabilities Act (updated March 21, 2020):

Pandemic Preparedness in the Workplace and the Americans with Disabilities Act | U.S. Equal Employment Opportunity Commission (eeoc.gov)

3. DEFINITIONS

3.1 "Booster Dose": An additional dose of Pfizer-BioNTech or Moderna COVID-19 vaccine for an individual who has completed a primary series of Pfizer-BioNTech, Moderna, or Johnson & Johnson Janssen COVID-19 vaccination.

3.2 "Close Contact": Within six feet for a cumulative total of 15 minutes or more over a 24-hour period. Wearing a mask or cloth face-covering does not affect the definition for Close Contact.

3.3 “Common Areas”: Any areas in State buildings, facilities, or property generally accessible to all occupants and available for use by more than one person, including but not limited to: entrance areas, hallways, conference rooms, auditoriums, multi-occupant offices, kitchens, bathrooms, and State vehicles. Single-occupant offices and cubicles occupied by a single employee are not Common Areas.

3.4 “COVID-19 Infectious Period”: For people who are COVID-19 positive, whether or not they have symptoms, the Infectious Period starts two days before symptoms begin and can extend up to 10 days after symptom onset or testing COVID-positive, whichever is longer. However, the highest period of infectiousness starts two days before symptoms begin and ends 3 days after symptom onset.

3.5 “COVID-19 Symptoms”: Fever (temperature of 100.4 degrees Fahrenheit or more), chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea.

3.6 “Eligible for Booster Dose”: All individuals 18 years of age and older are eligible to receive a Booster Dose five months after an individual’s primary series of vaccination with Pfizer-BioNTech or Moderna COVID-19 vaccines or two months after an individual’s primary series of vaccination with Johnson & Johnson’s Janssen COVID-19 vaccine.

3.7 “Exposure” or “Exposed”: Close Contact with a person with laboratory-confirmed COVID-19 during their COVID-19 Infectious Period, without the employee wearing Personal Protective Equipment.

3.8 “Fully Vaccinated”: Two weeks after an individual has completed the primary series of vaccination with a vaccine approved by the Food and Drug Administration, including on an emergency basis, to prevent COVID-19. An individual will be fully vaccinated two weeks after the second dose of the Pfizer-BioNTech or Moderna COVID-19 vaccines or two weeks after single-dose Johnson & Johnson’s Janssen COVID-19 vaccine.

3.9 “Human Resources”: CITY Human Resources.

3.10 “Isolation” and “Quarantine”: Both Isolation and Quarantine are public health strategies that refer to someone being physically separated from other people to prevent the spread of a communicable disease. For purposes of this Policy and Procedure, “Isolation” separates people who are COVID-positive (with or without symptoms) from others who are not COVID-positive; “Quarantine” separates people who were Exposed to a COVID-positive person from others who are not COVID-positive while they monitor if they develop COVID-19.

3.11 “New Diagnosis of COVID-19”: The first positive COVID-19 test result received during a single COVID-19 infection.

3.12 “Partially Vaccinated”: An individual who has started, but not completed, their primary series of vaccination.

3.13 “Personal Protective Equipment”: At minimum, a mask, eye protection, gloves, and isolation gown. The CITY has discretion to require employees providing direct care to COVID-19 positive persons to wear additional forms of personal protective equipment. The CITY will provide training in the proper use of Personal Protective Equipment it requires its employees to use.

3.14 “Primary Series of Vaccination”: The first and second doses of the Pfizer-BioNTech and Moderna COVID-19 vaccines or the first dose of Johnson & Johnson’s Janssen COVID-19 vaccine.

3.15 “Proof of Vaccination”: Proof of COVID-19 vaccination in the form of a CDC vaccine card or a vaccine record from the New Mexico Statewide Immunization Information System (https://nmsiis.health.state.nm.us/webiznet_nm_public/Application/PublicPortal), which indicates the name of the vaccine recipient, the date(s) the vaccines were received, and which COVID-19 vaccines were received.

3.16 “Social Distancing”: Maintaining a distance of at least six feet between individuals to limit the spread of COVID-19. Wearing a mask or cloth face-covering does not affect the definition for Social Distancing.

3.17 “Telework”: means a work flexibility arrangement under which an employee performs the duties and responsibilities of such employee's position, and other authorized activities, from an approved worksite other than the employee's assigned position location, during any part of regular, paid hours, including from an employee's residence.

3.18 “Up to Date on COVID-19 Vaccinations”: When an individual has received all recommended vaccine doses for which they are eligible. Currently an individual is Up to Date on COVID-19 Vaccinations if they are Eligible for a Booster and have received a Booster Dose or if they are not yet Eligible for a Booster but are Fully Vaccinated. An individual is not Up to Date on COVID-19 Vaccinations if they are not Fully Vaccinated, are Partially Vaccinated, or if they are Eligible for a Booster but have not received a Booster Dose.

4. POLICY

4.1 The CITY will take proactive steps to protect its employees and minimize the spread of COVID-19.

4.2 Completing the COVID-19 Symptoms and Exposure Self-Screening is mandatory for CITY employees each day they plan to enter a CITY or State building or facility.

4.3 Following COVID-19 Safe Practices is mandatory for CITY employees when they are in a CITY or State building or facility.

4.4 Any employee who fails to adhere to the COVID-19 Symptoms and Exposure Self-Screening Procedure, the COVID-19 Safe Practices, or any other provision of this Policy and Procedure set forth herein may be subject to disciplinary action, up to and including dismissal.

4.5 Any employee who harasses or discriminates against another employee due to the employee's mask-wearing or vaccination status in violation of CITY's [ANTI-HARASSMENT AND ANTI-DISCRIMINATION POLICIES] may be subject to disciplinary action, up to and including dismissal.

4.6 CITY shall work toward adopting applicable COVID-19 safe building guidance and procedures as recommended by the New Mexico Environment Department, Occupational Health and Safety Bureau (NMED-OSHA) found here: https://www.env.nm.gov/occupational_health_safety/wp-content/uploads/sites/18/2020/03/OSHA-COVID19-publication.pdf.

CITY shall publish measures that ensure air ventilation standards are maintained.

5. PROCEDURES

5.1 Mandatory COVID-19 Symptoms and Exposure Self-Screening.

Prior to entering any municipal building or facility, all employees shall complete the COVID-19 Symptoms and Exposure Self-Screening ("Self-Screening"). The Self-Screening consists of three questions about an employee's COVID-19 status, COVID-19 Symptoms, and COVID-19 Exposure, which are based on recommendations from the CDC and the NMDOH with the goal of preventing infection in the workplace and minimizing the spread of COVID-19. Employees are required to be accurate and truthful in their self-assessment.

A. Self-Screening Questions.

Question 1: Have you received a New Diagnosis of COVID-19
in the last 5 days?

Question 2: Have you experienced any COVID-19 Symptoms
in the past 24 hours?

Question 3: Have you been Exposed to COVID-19
in the last 10 days?

B. Analysis of Self-Screening Results.

1. Employees may not come to the office or enter any municipal building or facility if they answer yes to Question 1 (have received a New Diagnosis of COVID-19 in the last 5 days), until they have completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below.

2. Employees may not come to the office or enter any municipal building or facility if they answer yes to Question 2 (have experienced COVID-19 Symptoms in the past 24 hours), until they have completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below.

3. Employees may not come to the office or enter any municipal building or facility if they answer yes to Question 3 (have been Exposed to COVID-19 in the last 10 days) and are not Up to Date on COVID-19 Vaccinations, until they have completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below.

4. Employees may come to the office and enter municipal buildings and facilities if they answer no to Questions 1, 2, and 3, i.e.:

- o No New Diagnosis of COVID-19 in the last 5 days,
- o No COVID-19 Symptoms in the past 24? hours, and
- o No COVID-19 Exposure in the last 10 days.

5. Employees may come to the office and enter municipal buildings and facilities if they answer yes to Question 3 (have been Exposed to COVID-19 in the last 10 days), as long as they answer no to Question 2 (have experienced COVID-19 Symptoms in the past 24 hours) and are Up to Date on COVID-19 Vaccinations, i.e.:

- o Yes, COVID-19 Exposure in the last 10 days,
- o No COVID-19 Symptoms in the last 24 hours, and
- o Yes, Up to Date on COVID-19 Vaccinations.

C. When Employee May Not Enter Municipal Building or Facility.

1. When an employee's Self-Screening indicates they may not enter a municipal building or facility:

- The employee shall contact their supervisor immediately to indicate they did not pass their Self-Screening. The employee shall also follow the CITY's established call-in procedure.
- The employee shall follow the Isolation, Quarantine, and Testing Instructions required by Section 6 below.
- The employee should request permission to Telework (unless they are too sick to do so). An employee who is unable to Telework or too ill to Telework may contact Human Resources to ask if they are eligible for COVID-19-Related Conditions Leave.

2. Any employee who enters a Municipal building or facility within 5 days of receiving a New Diagnosis of COVID-19, while experiencing COVID-19 Symptoms, or within 24 hours of experiencing COVID-19 Symptoms without having completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below, shall be sent home immediately and may be subject to discipline, up to and including dismissal.

3. Any employee who is not Up to Date on COVID-19 Vaccinations and enters a municipal building or facility within 10 days of a known COVID-19 Exposure without having completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below shall be sent home immediately and may be subject to discipline, up to and including dismissal.

D. Additional Agency Screening

1. It is within CITY's discretion to require its employees to record and submit their answers to the COVID-19 Symptoms and Exposure Self-Screening questions. If CITY collects employees' COVID-19 Symptoms and Exposure Screening responses and results, the Americans with Disabilities Act (ADA) requires that CITY treat such Screening responses and results as confidential medical information and maintain them separately from the employees' personnel files.

2. CITY is permitted to administer COVID-19 Symptoms and Exposure Screening to clients, customers, and other members of the public who seek to enter CITY's buildings. It is recommended that an agency maintain any Screening responses and results from members of the public for contact-tracing purposes for 60 days. During any period of time CITY maintains Screening responses and results from members of the public, it shall treat those responses and results as confidential medical information. CITY shall not ask clients, customers, or other members of the public seeking to enter CITY's buildings if they are vaccinated.

5.2 COVID-19 Safe Practices.

All employees shall take the following steps to reduce the transmission of COVID-19 in municipal buildings and facilities:

A. New Diagnosis of COVID-19 or COVID-19 Symptoms. DO NOT report to any municipal building or facility if you received a New Diagnosis of COVID-19 in the last 5 days, if you are experiencing COVID-19 Symptoms, or if you have experienced COVID-19 Symptoms in the last 24 hours, regardless of vaccination status, until you have completed the Isolation, Quarantine, and Testing Instructions required by Section 6 below.

B. COVID-19 Exposure. DO NOT report to any municipal building or facility if you have been Exposed to COVID-19 within the last 10 days and are not Up to Date on COVID-19 Vaccinations. Call your supervisor and follow the Isolation, Quarantine, and Testing Instructions required by Section 6 below.

C. Wearing Masks. Employees, regardless of vaccination status, must wear face masks or cloth face-coverings in all Common Areas and when performing field work in indoor settings. Masks must be well-fitted and cover both your mouth and nose. The CITY will provide disposable masks to employees as necessary. Any employee who fails to mask as required herein shall be directed to put on a face mask or cloth face-covering immediately and may be subject to discipline, up to and including dismissal. All employees may remove masks when alone inside a single-occupant office with the door closed in a CITY building or facility.

D. Social Distancing. Employees, regardless of vaccination status, must maintain 6 feet distance from other employees, clients, and customers at all times in Common Areas and when performing field work in indoor settings, except when less distance is required for an employee to perform documented job duties. Any employee who fails to maintain Social Distancing as required herein shall be directed to follow the Social Distancing requirement immediately and may be subject to discipline, up to and including dismissal.

E. Avoid Using Others' Equipment. Employees must avoid using other employees' phones, desks, offices, keyboards, mice, or other work tools and equipment, whenever possible, except when sharing equipment is required for an employee to perform documented job duties. Clean and disinfect hands and the equipment before and after use. The CITY will supply hand sanitizer, soap, and appropriate cleaning materials to employees as necessary.

5.3 COVID-19 Best Practices.

It is strongly recommended that all employees take the following additional steps to reduce the

transmission of COVID-19 in State buildings and facilities:

A. Clean Hands. Employees should wash their hands often with soap and water for at least 20 seconds, especially after they have been in a public place, or after blowing their nose, coughing, or sneezing. If soap and water are not readily available, employees should use a hand sanitizer that contains at least 60% alcohol to cover all surfaces of their hands and rub them together until they feel dry. The CITY will supply hand sanitizer to employees as necessary.

B. Cover Mouth and Nose. Employees should cover their mouth and nose with a tissue when coughing or sneezing or use the inside of their elbow.

C. Avoid Touching Face. Employees should avoid touching their face, nose, mouth, and eyes.

D. Clean and Disinfect. Employees should clean and disinfect frequently touched objects and surfaces in their office or workstation, including phones, keyboards, mice, doorknobs, and handrails. The CITY will supply appropriate cleaning materials to employees as necessary.

6. ISOLATION, QUARANTINE, AND TESTING INSTRUCTIONS

6.1 For Employees Not Up to Date on COVID-19 Vaccinations:

A. If employee does not pass the COVID-19 Symptoms and Exposure Self-Screening, they must follow the Isolation, Quarantine, and Testing Instructions provided in the Chart below.

PLEASE READ EACH QUESTION CAREFULLY.

If employee answers YES, they must follow the instructions in red.

1. HAVE YOU RECEIVED A NEW DIAGNOSIS OF COVID-19 IN THE LAST 5 DAYS?

If you answered YES to Question #1:

- IF NEW DIAGNOSIS OF COVID-19 AND NO COVID-19 SYMPTOMS, ISOLATE 5 days from test date.
- IF NEW DIAGNOSIS OF COVID-19 AND EXPERIENCING COVID-19 SYMPTOMS OR DEVELOP COVID-19 SYMPTOMS AFTER TESTING POSITIVE, ISOLATE at least 5 days from test date or symptom onset, whichever is longer, and until at least one day has passed without a fever and without fever-reducing medications and your symptoms have improved.

2. HAVE YOU EXPERIENCED ANY OF THE FOLLOWING COVID-19 SYMPTOMS IN THE PAST 24 HOURS THAT ARE INCONSISTENT WITH AN EXISTING DIAGNOSIS?

- ☐ Fever (100.4 degrees Fahrenheit or more)
- ☐ Chills
- ☐ Cough
- ☐ Shortness of breath or difficulty breathing
- ☐ Fatigue
- ☐ New loss of taste or smell
- ☐ Congestion or runny nose
- ☐ Muscle or body aches
- ☐ Headache
- ☐ Sore Throat
- ☐ Nausea or vomiting

- ☐ Diarrhea

If you answered YES to Question #2:

- GET TESTED AS SOON AS POSSIBLE.
- QUARANTINE while awaiting test results.
- o IF POSITIVE TEST, follow instructions for Question #1 above.
- o If NEGATIVE TEST AND SYMPTOMS HAVE RESOLVED, continue working as normal.
- o IF NEGATIVE TEST BUT STILL HAVE SYMPTOMS, CONTINUE TO QUARANTINE AND TEST AGAIN IN 1-2 DAYS IF POSSIBLE.
- ☐ IF POSITIVE TEST, follow instructions for Question #1 above.
- ☐ IF NEGATIVE TEST, continue working as normal or take personal leave if too sick to work.
- ☐ IF YOU DO NOT TEST AND STILL HAVE SYMPTOMS, assume you are COVID-positive and follow instructions for Question #1 above.
- IF EXPOSED to someone with COVID-19 in the last 10 days, follow instructions for Question #3 below.

3. HAVE YOU BEEN EXPOSED TO COVID-19 IN THE LAST 10 DAYS?

If you answered YES to Question #3:

- QUARANTINE FOR AT LEAST 5 DAYS AFTER EXPOSURE
- GET TESTED (Ideally on Day 5 after the Exposure, but no earlier, unless symptoms develop.)
- QUARANTINE while awaiting test results.
- o IF POSITIVE TEST, follow instructions for Question #1 above.
- o IF NEGATIVE TEST AND NO COVID-19 SYMPTOMS, you may return to the workplace.
- IF YOU DEVELOP COVID-19 SYMPTOMS, follow instructions for Question #2 above.

6.2 For Employees Up to Date on COVID-19 Vaccinations:

If employee does not pass the COVID-19 Symptoms and Exposure Self-Screening, they must follow the instructions provided below.

A. An employee who receives a New Diagnosis of COVID-19 or develops COVID-19 Symptoms must follow the relevant Isolation, Quarantine, and Testing Instructions in the Chart in Section 6.1 above.

B. An employee who is Exposed to COVID-19 shall get tested (ideally on day 5 after Exposure, but no earlier), but is NOT required to Quarantine if they remain asymptomatic.

6.3 Test Sites.

Test sites can be found at <https://cv.nmhealth.org/public-health-screening-and-testing>. The Vault Health test can be ordered at <https://learn.vaulthealth.com/nm>

6.4 Telework.

Employees who can Telework must Telework while they Isolate or Quarantine. CITY managers and supervisors may authorize a temporary Telework schedule and assign employees temporary Telework duties during any COVID-19-related Isolation or Quarantine period required by this Section 6. Employees unable or too ill to Telework may be eligible for COVID-19-Related Conditions Leave. Please consult with Human Resources to determine eligibility.

7. PROOF OF VACCINATION

7.1 CITY may require an employee to provide Proof of Vaccination if the inquiry is job-related and consistent with business necessity. For example, CITY may require Proof of Vaccination to determine an employee's compliance with an Executive Order or Public Health Order, to determine an employee's appropriate Quarantine practice following a COVID-19 Exposure, to determine whether an employee may travel out-of-State for work, or to determine whether an employee can carpool with other employees in a city vehicle.

7.2 CITY requests for Proof of Vaccination: (1) shall not elicit information about an employee's disability, (2) shall not ask why an employee did not receive a vaccination, and (3) shall warn the employee not to provide any medical information beyond the requested Proof of Vaccination.

7.3 Agencies shall record their employees' COVID-19 vaccination data on the designated employee medical folder. An employee's Proof of Vaccination and any other employee vaccination data shall be treated as confidential medical information and will be maintained by Human Resources separately from the employee's personnel file and/or maintained confidentially in ABILS. An employee's vaccination status (but not the actual Proof of Vaccination) can be shared with the employee's supervisors to determine compliance with this Policy and Procedure.

7.4 Any employee who provides inaccurate information or is untruthful about their vaccination status may be subject to discipline, up to and including dismissal.

7.5 Any employee who refuses to provide vaccination status or Proof of Vaccination shall be treated as not Up to Date on COVID-19 Vaccinations under this policy, shall not be eligible for COVID-19-Related Conditions Leave, and shall be required to utilize accrued annual or sick leave for any required Quarantine period under Section 6.1.

8. COVID-19 - REPORTING INSTRUCTIONS

8.1 If an employee receives a New Diagnosis of COVID-19, they must report the positive test to their supervisor as soon as possible. This includes employees who are Teleworking.

8.2 Within 30 minutes of learning of an employee with a New Diagnosis of COVID-19, the supervisor shall notify the Clerk Treasurer or designee by email at cityclerk@cityofbayadnm.com. This reporting requirement must be met even if the report is made after normal working hours or on a weekend.

8.3 The supervisor shall include the following information in the notification to the Clerk Treasurer or designee:

- Name of employee that tested positive.
- The date the employee took the COVID-19 test.
- The date the employee tested positive.
- The last day the employee reported to the office, and what office or building area(s) the employee occupied or spent time in that day.
- The names of all employees that may have had Close Contact with the COVID-19 positive employee when they last reported to the office.

The information in the notice should be based on conversations with the COVID-19 positive employee.

An employee's COVID-19 positive status is confidential medical information, and the name of any COVID-19 positive employee shall be disclosed to the minimum extent necessary to maintain business operations and comply with reporting requirements.

8.4 The Clerk Treasurer or designee will report the case to the New Mexico Environment Department (NMED) within four hours of notification as described below.

8.5 The Clerk Treasurer or designee will notify employees who may have been Exposed.

The notification will include the following:

- A. A report that the employees may have been Exposed to a COVID-19 positive employee. The report shall not include the name of the COVID-19 positive employee.
- B. A request that employees who occupy exposed office space vacate or remain Teleworking until further notice to allow for cleaning.
- C. A note directing the employees to get a COVID-19 test (ideally 5 days after the potential Exposure, but no earlier) and instructing the employees not to report to the office if they develop COVID-19 Symptoms or test COVID-19 positive.

8.6 Within 48 hours of learning of a COVID-positive employee, CITY shall provide notice of the positive case to CITY employees assigned to the same office or facility where the COVID-positive employee reported if the COVID-positive employee was in the office or facility within 48 hours prior to developing symptoms or, if asymptomatic, within 48 hours prior to the positive test. The notice shall not release the name of the employee, but will indicate that close contacts, if any, have been notified.

8.7 The CITY will coordinate a thorough cleaning of the exposed space before employees are allowed to return to the office, as per CDC guidelines.

8.8 Clerk Treasurer will notify employees when they may return to the office.

8.9 Required NMED Protocol:

On August 5, 2020, NMED filed an emergency amendment requiring employers to report New Diagnoses of COVID-19 cases in the workplace to the NMED Occupational Health and Safety Bureau within four hours of being notified of the case. The initial notification must be sent to NMENV-OSHA@state.nm.us and shall include:

- Establishment name and address,
- Employer representative name and contact information (phone and email),
- Number of people employed at the location,
- Number of employees who tested COVID-19 positive,
- Date each COVID-19 positive employee was tested,
- Date and time employer was notified of the COVID-19 positive test(s),
- Last date each COVID-19 positive employee was in the establishment, and
- Date each COVID-19 positive employee began Quarantine.

8.10 CITY will report any work-related fatalities by mail to Occupational Health and Safety Bureau, New Mexico Environment Department, P.O. Box 5469, Santa Fe,

NM 87502; by email to NMENV-OSA@state.nm.us, by phone to (505) 476-8700; or by fax to (505) 476-8734.

9. ADA REASONABLE ACCOMMODATION RELATED TO COVID-19

If an employee with a disability or medical condition needs a reasonable accommodation related to COVID-19, including, but not limited to, related to COVID-19 risk, COVID-19 Safe Practices required herein, or COVID-19 long-haul syndrome, the employee shall contact their supervisor or Human Resources to initiate the reasonable accommodation process. An employee may request an accommodation verbally or in writing and should indicate that a workplace barrier removal is needed related to a medical condition. A reasonable accommodation can be requested at any time; however, the employee should initiate the reasonable accommodation process as soon as possible so that barrier removal solutions can be explored in a timely manner. (See also Attachment A, Disability Resources.)

10. FAMILY AND MEDICAL LEAVE ACT LEAVE RELATED TO COVID-19

Pursuant to the federal Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. Section 2601 et seq., as amended, and State Personnel Board Rule 1.7.7.12 NMAC, eligible city employees are entitled to a total of 12 weeks of unpaid, job-protected leave for serious health conditions that make the employee unable to perform the essential functions of the employee's job, and to care for the employee's spouse, domestic partner, child, or parent who has a serious health condition. COVID-19-related health conditions may qualify as serious health conditions under the FMLA. Employees with COVID-19-related health conditions should contact Human Resources to determine if FMLA leave may be available.

11. UPDATES

This Policy and Procedure may be updated and supplemented by additional guidance as circumstances require. Clerk Treasurer will provide up-to-date information as it becomes available and encourage all supervisors to communicate regularly with their teams so that information is distributed and that questions are elevated, and can be answered, quickly.

12. ACKNOWLEDGMENTS

All employees shall receive a copy of this Policy and Procedure in paper or electronic form and acknowledge its receipt.

13. ATTACHMENTS

(A) Disability Resources

14. APPROVAL

Approved by:

_____, Date: _____, 2022

Mayor

Attachment A: Disability Resources

COVID-19 and the pandemic has had a unique impact on people with disabilities. To help employers, employees with disabilities, and Human Resources managers understand their rights and obligations, the following State agencies and organizations are available to provide technical assistance, resources, assistive technology, and information.

In addition, the U.S. Equal Employment Opportunity Commission offers answers to frequently asked questions about the workplace, COVID-19, and the rights of people with disabilities. The EEOC's guidance can be found here - <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>.

Southwest ADA Center

Toll-Free: 1-800-949-4232

Fax: 713-520-5785

Email: swdbtac@ilru.org

www.southwestada.org

*The Center is part of the ADA National Network funded by NIDILRR at the U.S. Department of Health & Human Services NM Governor's Commission on Disability

491 Old Santa Fe Trail

Santa Fe, NM 87501-2753

Phone: 505-476-0412

Toll-free (in State only): 877-696-1470

Fax: 505-827-6328

Email: gcd@state.nm.us

<http://gcd.state.nm.us/>

*Serves NM with local offices in Albuquerque, Santa Fe

NM Commission for the Deaf and Hard of Hearing

505 Marquette Ave. NW, Suite 1550

Albuquerque, NM 87102

Direct Phone: 505-228-7710

Video Phone: 505-435-9319

Toll-free: 800-489-8536

Fax: 505-383-6533

<https://www.cdhh.state.nm.us/>

*Serves NM with local office in Albuquerque, Las Cruces

NM Commission for the Blind

2200 Yale Blvd. SE

Albuquerque, NM 87106

Phone: 505-841-8844

Toll-Free: 888-513-7958

<https://www.cfb.state.nm.us/>

*Serves NM with local offices in Alamogordo, Albuquerque, Farmington, Las Cruces, Las Vegas, Roswell, Santa Fe

NM Human Rights Bureau

The Bureau investigates claims of discrimination, including those based on disability, and provides mediation and training.

Toll Free (in NM): 1-800-566-9471

Phone: 505-827-6838

<https://www.dws.state.nm.us/Human-Rights-Information>

NM Developmental Disabilities Planning Council

625 Silver Avenue SW, Suite 100

Albuquerque, New Mexico 87102

Office: 505-841-4519

DDPC Fax: 505-841-4590

OOG Fax: 505-841-4455

<https://www.nmddpc.com/>

U.S. Equal Employment Opportunity Commission

Coronavirus and COVID-19 Information

<https://www.eeoc.gov/coronavirus>

Job Accommodation Network (JAN)

Toll-Free: 800-526-7234

TTY: 877-781-9403

Text: 304-216-8189

www.askjan.org

17. Adoption of Ordinance 3-2022 Personnel Policy Amendments.

Motion made by Councilor Medina, Seconded by Mayor Pro-tem Villanueva.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Diaz

Voting Nay: Councilor Gonzales

CLOSED SESSION

Motion made by Mayor Pro-tem Villanueva, to enter closed session. Seconded by Councilor Medina.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

18. Closed Executive Session - pursuant to 10-15-1 (H-2 and H-7) for limited personnel matters, and pending or threatened litigation

Police Department

Administrative Department - introductory period for Michelle Holguin; action for extension or removal.

Public Works Department - introductory period for Joseph Gomez; action for removal, extension, or termination.

ACTION ITEMS RESULTING FROM CLOSED SESSION

19. Administrative Department - introductory period for Michelle Holguin; action for extension or removal.

Public Works Department - introductory period for Joseph Gomez; action for removal, extension, or termination.

Motion made by Councilor Diaz, to return to open session. Only discussing the items for closed session. Seconded by Councilor Gonzales.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz.

Motion made by Councilor Medina Administrative Department Michelle Holguin introductory period be extended 30 as of today. Public Works Department Joseph Gomez be placed on suspension without pay. With future action at the next council meeting. Seconded by Councilor Villanueva.

Voting Yea: Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz.

MAYOR AND COUNCILORS REPORTS

Councilor Villanueva stated the Beautification Committee Bingo was a real success. He asked if they can have bingo events more often? He also commended everyone that was involved at the Cobre Summer Fest. He also stated the police department is doing a great job and keep up the good work.

Councilor Medina stated we need to get an forum for the city employees to discuss the budget and why they couldn't provide raises and to be careful with the equipment. He also commended the police department.

Councilor Gonzales stated the Beautification Bingo went really well and a lot of people liked it. She also said the Housing Authority Meeting is Wednesday at 4:00 and she invites everyone to attend. She also stated the Library Board Meeting is August 16, 2022 at 5:00 p.m.

Councilor Diaz first he thanked Kristy and her staff, Bayard Police, Fire Department for the booth at the Summerfest. He commended the Police Department for being present at the crosswalks. He thanked the Wastewater Director for the paper work and cost estimate on the project at the wastewater. Mayor Fierro and him spoke with the Lieutenant Governor and in order to receive emergency funds they need to have a meeting and have number to see what the Lieutenant Governor can do for the wastewater treatment plant. Councilor Diaz stated the Bayard Beautification gave out over 800 water at the Summerfest. Also he have a complaint about the tractor that is located in the parking lot of Recreation Works on Central Ave. The tractor is blocking the view of drivers.

Chief Carrillo he is working on a neighborhood watch. It will consist of four districts. He will be looking for voluntaries and he will provide equipment.

Mayor Fierro stated the Beautification Bingo was great and the city employees did a great job helping at Cobre's Summer Fest. He thanked, maintenance, Mr. Paez for stepping

up, wastewater and the police for a great job. Mayor Fierro asked Police Chief Carrillo if they have or need riot shields? He would like for Chief Carrillo to order some shields.

Chief Carrillo said they did not have any but it would be a good idea to have a couple. Chief Carrillo also stated he is planning a active shooter training.

20. Report on needs of public works department.

NEXT MEETING DATE:

Regular Meeting - August 22, 2022

ADJOURNMENT

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Gonzales.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Medina, Councilor Gonzales, Councilor Diaz

ADJOURNMENT 8:55 P.M.

Chon Fierro
Mayor

ATTEST:

Kristina Ortiz, MMC
Clerk Treasurer