



**THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA WILL HOLD A REGULAR MEETING ON MONDAY, AUGUST 24, 2020 AT 6:00 P.M.**

**VIA TELECONFERENCE 1-346-248-7799**

**MEETING ID 983-7900-0389**

**PASSWORD 971704**

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL & DETERMINATION OF A QUORUM**
- 3. CHANGES TO THE AGENDA & APPROVAL**
- 4. PUBLIC INPUT** – The public is invited to address the Board for up to 3 minutes.

**Public input in writing shall be received at [cynthias-h@mesillanm.gov](mailto:cynthias-h@mesillanm.gov) an hour before the meeting begins on the day of the meeting and will be read into the record. You will also be given an opportunity to speak during this time by pressing \*9 while in the teleconference. You will be prompted when to begin speaking.**

**5. \*APPROVAL OF CONSENT AGENDA:**

(The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk \*):

- a) **\*BOT Minutes** – Minutes of a Work Session & Regular Meeting on August 10, 2020.
- b) **\*PZHAC Case 061085** – 2852 Erminda Street, submitted by Eric and Cindy Van Pelt; a request for a zoning permit to allow the construction of a pergola over a patio at the rear of a dwelling at this address. **Zoned: Historical Residential (HR).**

**6. NEW BUSINESS:**

- a) **Resolution 2020-18:** A resolution adopting a policy for the Mesilla Marshal's Department regarding wearable body camera and/or in-car audio/video equipment. – **Edward Lerma, Marshal.**

**7. BOARD OF TRUSTEE COMMITTEE REPORTS**

**8. BOARD OF TRUSTEE/STAFF COMMENTS**

**9. ADJOURNMENT**

**NOTICE:**

If you need an accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us at 524-3262 at least one week prior to the meeting. The Mayor and Trustees request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Board Room to respond to or to conduct a phone conversation. A copy of the agenda packet can be found online at [www.mesillanm.gov](http://www.mesillanm.gov) 08/20/2020.

Physically posted 8/20/2020 at the following locations: Town Clerk's Office 2231 Avenida de Mesilla, Public Safety Building 2670 Calle de Parian, Mesilla Community Center 2251 Calle de Santiago, Shorty's Food Mart 2290 Avenida de Mesilla, Ristramnn Chile Co., 2531 Avenida de Mesilla and the U.S. Post Office 2253 Calle de Parian.



**THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA WILL HOLD A WORK SESSION  
ON MONDAY, AUGUST 10, 2020 AT 5:30 P.M.  
VIA TELECONFERENCE 1-346-248-7799  
MEETING ID 983-7900-0389  
PASSWORD 971704**

**TRUSTEES:** Nora L. Barraza, Mayor  
Carlos Arzabal, Mayor Pro Tem  
Jesus Caro, Trustee  
Veronica Garcia, Trustee  
Stephanie Johnson-Burick, Trustee

**STAFF:** Cynthia Stoechner-Hernandez, Town Clerk/Treasurer  
Kevin Hoban, Fire Chief  
Eddie Lerma, Marshal  
Rod McGillivray, Public Works Director  
Dorothy Sellers, Special Events Coordinator  
Gloria Maya, Recorder

- 1. Discussion on: Resolution 2020-17:** A resolution establishing parameters for approvals of temporary signs for local businesses during Pandemic.

Mayor Barraza stated there are more signs being displayed by the businesses during this pandemic. The board gave her permission to approve the request for tents to expedite the process.

Trustee Caro stated during this time we need to be more open minded and lenient toward the businesses who are trying to survive. He agrees to whatever can be done to help the businesses.

Mayor Pro Tem Arzabal agrees we need to be business friendly, a pro-business governing body. He also agrees to allow the mayor to sign off on these requests. We cannot be nick-picking at this time.

Trustee Johnson-Burick agrees as well. She reviewed the criteria in Exhibit A in current ordinance.

Ms. Stoechner-Hernandez reviewed the size limitations and the timeframe for temporary signs. She asked the board what they would like to do.

Trustee Johnson-Burick responded conditions should be waived under these conditions.

Trustee Caro concurs with the trustees.

Trustee Garcia concurs with the trustees.

Mayor Barraza asked until when were the tents allowed.

Ms. Stoechner-Hernandez responded till the end of October or when Governor Lujan Grisham lifts the ban.

Mayor Barraza stated we need to be consistent in the wording used. She feels any temporary signs or banner should not be larger than the 15 sq. ft. currently allowed.

Mayor Pro Tem Arzabal responded 15 sq. ft. is a good size for a sign or banner.

Mayor Barraza stated she would like the signs and sandwich boards to done with class and asked if they want a limit to the number of signs allowed.

Trustee Johnson-Burick responded signs should be attractive as to call attention to the businesses. She feels there should be a limit as to the number of signs allowed. Too many signs can become a safety issue.

Mayor Pro Tem Arzabal stated businesses need to do what they need to do to attract business.

Mayor Barraza stated ADA which is mandated by law still needs to be observed. La Posta has placed a sign at New Mexico Vintage Wine which is off premises; how many other businesses will begin to do that.

Mayor Pro Tem Arzabal asked if that is illegal.

Fire Chief Hoban responded that would need to be checked out through the Health Department. There would also be licensing issues.

Mayor Pro Tem Arzabal stated he heard people are placing to go orders which are delivered to Vintage Wine.

Mayor Barraza stated orders are delivered to Vintage Wine's patio where people sit down to eat and drink.

Fire Chief Hoban responded it is not La Posta's responsibility if the order is placed to go. Licensing issues could come up if there is an agreement between the two businesses.

Mayor Barraza stated during her meeting with Mr. Hutchinson he told her he was also looking at using the patio across the street which has the fountain to use as well.

Fire Chief Hoban stated the places being used as off-site restaurant will be required to meet the codes for restaurants; that will also change their occupancy of the address. We could find where people are being packed into unallowed areas.

Mayor Barraza responded we will do research on what La Posta is doing.

Mayor Pro Tem Arzabal stated businesses are doing what they need to survive. Fire Chief Hoban is inspecting tents that are going up but at the same time we need to relax a bit.

Mayor Barraza responded we will do the research on these issues.

Trustee Garcia stated we are here to help the businesses, but they will still need to go through the process.

Mayor Barraza stated things need to be done with class and something just not thrown together. She agrees the process needs to be followed. The state has also placed rules which they will be regulating. The Fire Department insures they are following their rules as well. The pro-active approach needs to be done in the right way.

Fire Chief Hoban stated all these issues are being addressed everywhere. Signs or tents cannot hinder emergency accessibility or create safety hazards. Businesses are reaching out to us during this time which will help reduce liability to the town.

Trustee Caro stated we need to stay on top of what is being done by the businesses to ensure things are being done correctly; be more vigilante.

Mayor Barraza understands the board agrees to the number of signs (2) and with being consistent with the timeframe. She reiterated research will be done on food being delivered to other businesses and address accordingly. We are only talking about restaurants.

DRAFT

**THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA WILL HOLD A REGULAR**  
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**TRUSTEES:** Nora L. Barraza, Mayor  
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Kevin Hoban, Fire Chief  
Eddie Lerma, Marshal  
Rod McGillivray, Public Works Director  
Dorothy Sellers, Special Events Coordinator  
Gloria Maya, Recorder

**1. PLEDGE OF ALLEGIANCE**

Mayor Barraza led the Pledge of Alliance.

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

**Roll Call.**

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

Mayor Barraza held a Moment of Silence for Mr. Limon, Mr. Bejarano, Mr. Walsh, Mr. Guerra, and Ms. Fore.

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

**Motion: To approve agenda, Moved by Mayor Pro Tem Arzabal, Seconded by Trustee Garcia.**

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

Mayor Pro Tem Arzabal Yes  
Trustee Caro Yes  
Trustee Garcia Yes  
Trustee Johnson-Burick Yes

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

**Public input in writing shall be received at [cynthias-h@mesillanm.gov](mailto:cynthias-h@mesillanm.gov) an hour before the meeting begins on the day of the meeting and will be read into the record. You will also be given an opportunity to speak during this time by pressing \*9 while in the teleconference. You will be prompted when to begin speaking.**

Ms. Aland stated we are here in support of Mr. Matthew Rivera as SRO for Zia Middle School. Mr. Rivera has great rapport with the students and staff at Zia Middle School. He maintains order, provides data, is concerned for our campus and for the welfare of our students. Since

the school closure Mr. Rivera has done 70% to 80% welfare checks on our students.

Ms. Lea stated Mr. Rivera has a great relationship with the students. Without Mr. Rivera it would be difficult continue the welfare checks.

Mayor Barraza responded the Las Cruces Public Schools who provides the funding for that position has not committed to the MOU. The town submitted a letter of support to the school board. The town does not have the funding for that position. We are aware of the impact Mr. Rivera has made at Mesilla Elementary and Zia Middle School. They need to relay the information they provided to us, to the Las Cruces Public School Board.

Marshal Lerma stated Mr. Rivera is an asset to the schools. The issue comes from the school. He was asked to submit a letter, to the board, describing Mr. Rivera's duties with and with out students on campus. He also asked the ladies to direct their concerns and support to the school board members on Wednesday.

Mayor Barraza stated there are important duties that can be done while students are not on campus. We also do not want to see Mr. Rivera leave. The SRO and SCO positions will not be filled until Las Cruces Public Schools commits to the funding.

**5. CLOSED SESSION** – pursuant to NMSA 1978 Chapter 10-15-1(H)(2): discussion limited to personnel matters in the Marshal's Department. – **Nora L. Barraza, Mayor.**

**All members of the public/staff not included in the closed session will be placed in the waiting room until the closed session is concluded. All members not included in closed session will be allowed back into the regular meeting once it reconvenes.**

**Motion: To closed Regular Meeting and enter Closed Session – pursuant to NMSA 1978 Chapter 10-15-1(H)(2): discussion limited to personnel matters in the Marshal's Department, Moved by Trustee Caro, Seconded by Trustee Garcia.**

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

Mayor Pro Tem Arzabal Yes  
Trustee Caro Yes  
Trustee Garcia Yes  
Trustee Johnson-Burick Yes

Entered Closed Session at 6:08 p.m.

**Motion: To close Closed Session and enter Regular Meeting after limited discussion to personnel matters in the Marshal's Department – pursuant to NMSA 1978 Chapter 10-15-1(H)(2); no action taken, Moved by Mayor Pro Tem Arzabal, Seconded by Trustee Johnson-Burick.**

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

Mayor Pro Tem Arzabal Yes  
Trustee Caro Yes  
Trustee Garcia Yes  
Trustee Johnson-Burick Yes

Entered Regular Meeting at 6:19 p.m.

**6. ACTION ON LIMITED PERSONNEL MATTERS:** following discussion in closed session relating to the Marshal's Department. – **Nora L. Barraza, Mayor.**

Mayor Barraza stated due to funding concerns Mr. Rivera will be released and given a two-week notice.

The SRO position has been vacant since Sergeant Shepan retired.

**Motion: To approve action on limited personnel matters following discussion in closed session relating to the Marshal's Department. Noted that this action may change upon funding received from the Las Cruces Public Schools. Moved by Mayor Pro Tem Arzabal, Seconded by Trustee Garcia.**

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

Mayor Pro Tem Arzabal Yes  
Trustee Caro Yes  
Trustee Garcia Yes  
Trustee Johnson-Burick Yes

#### **7. \*APPROVAL OF CONSENT AGENDA:**

(The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk \*):

Mayor Pro Tem Arzabal requested placing under New Business items 8a and 8b.

**Motion: To approve consent agenda as amended, Moved by Mayor Pro Tem Arzabal, Seconded by Trustee Garcia.**

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

Mayor Pro Tem Arzabal Yes  
Trustee Caro Yes  
Trustee Garcia Yes  
Trustee Johnson-Burick Yes

- a) **\*BOT Minutes** – Minutes of a Regular Meeting on July 27, 2020. *Approved by consent agenda*
- b) **\*PZHAC Case 061086** – 2288 Calle de Arroyo, submitted by Mary A. Madrid; a request for a zoning permit to allow the repainting of a dwelling at this address. **Zoned: Historical Residential (HR).** *Approved by consent agenda*
- c) **\*PZHAC Case 061087** – West side of 2890 Avenida de Mesilla, along Calle de San Albino; submitted by Pena Rentals; a request for a zoning permit to allow the replacement of a deteriorating white wooden fence along the west property line at this address with a similar white wooden fence. **Zoned: Historical Residential (HR).** *Approved by consent agenda*

#### **8. NEW BUSINESS:**

- a) **For approval:** An agreement with Molzen Corbin for professional engineering services for Calle del Norte Multi-use Path Phase II– **Rod McGillivray, Public Works Director.** *Approved by consent agenda*
- b) **For approval:** Recommendation of award of contract to A-Mountain Professional Construction Company as apparent low bidder for the Mesilla Roadway Improvements Project: Calle de Principal, Calle de Santiago, Calle de Parian, and Calle de Oeste. – **Rod McGillivray, Public Works Director.** *Approved by consent agenda*
- c) **For discussion:** amending Chapter 18.55.010 Land Uses regarding Columbarium. – **Nora L. Barraza, Mayor.**

Mayor Barraza stated the San Albino Cemetery is running out of plots, so the Basilica of San Albino is proposing setting up a Columbarium behind the rectory due to the increase in number of cremations. She would like to bring forth an amendment to Chapter 18.55.010 to include Columbarium.

Trustee Garcia asked where they are planning to have it.

Mayor Barraza responded they are looking at the vacant lot, which is owned by the church, behind the Grotto. The cemetery does not have the space for a Columbarium and there is better security behind the rectory.

Trustee Johnson-Burick responded she does not perceive any issues with the area chosen.

Mayor Barraza stated more and more people are being cremated due to cost factors.

Trustee Caro stated he will thing on it.

Mayor Barraza asked the board to meet with Father Christopher if they have any questions and she does it will be done in good taste.

Trustee Garcia asked what the process will be.

Ms. Stoechner-Hernandez responded a public hearing notice is posted for 14 days. After the public hearing is held, the 2<sup>nd</sup> Reading and approval will be on the agenda for the following board meeting. The process takes about a month.

- d) Resolution 2020-17: A resolution establishing parameters for approvals of temporary signs for local businesses during Pandemic. – Nora L. Barraza, Mayor.**

Ms. Stoechner-Hernandez stated she will include the parameters brought forth during the worksession which is only for restaurants. Staff will review the New Mexico Environmental food service regulations.

**Motion: To approve a Resolution 2020-17: A resolution establishing parameters for approvals of temporary signs for local businesses during Pandemic, Moved by Mayor Pro Tem Arzabal, Seconded by Trustee Garcia.**

Trustee Johnson-Burick stated the resolution and ordinance reads local businesses. She asked if it should apply to all businesses.

Mayor Barraza responded this should apply only for restaurants since they are the ones obstructing their entrances with tents. She asked Ms. Stoechner-Hernandez to change the verbiage to address the restaurant businesses only.

Mayor Pro Tem Arzabal stated Galeria Azul's entrance is obstructed by the tent put up by Double Eagle.

Mayor Barraza stated we have given businesses flexibility and feels the plaza businesses are doing well. She has allowed Galeria Azul to place a sandwich sign promoting their business and suggested they meet with Double Eagle to come up with a solution.

Trustee Garcia stated we need to look at helping the retail businesses as well.

Mayor Barraza responded businesses are placing signs without going through the process and we have allowed that. She has also asked the business to come up with ideas keeping in mind ADA regulations and she has not heard anything.

Mayor Pro Tem Arzabal stated if this passes banners will be allowed. He called for the question.

Mayor Barraza stated the verbiage of restaurants only will be added to the resolution.



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

Mayor Pro Tem Arzabal Yes

Trustee Caro Yes

Trustee Garcia Yes

Trustee Johnson-Burick Yes

**9. \*STAFF REPORTS:**

Community Development

Community Programs

Finance Department

Fire Department

Marshal's Department

Public Works Department

**10. BOARD OF TRUSTEE COMMITTEE REPORTS**

Trustee Johnson-Burick: MPO meeting Wednesday at 1:00 p.m. via Zoom

Trustee Garcia: MPO meeting Wednesday at 1:00 p.m.

Mayor Pro Tem Arzabal: CEO meeting in October via Zoom

Mayor Barraza: RTD meeting July 29<sup>th</sup> via Zoom; weekly Mayor updates; OEM updates; MPO meeting; SCCOG meeting; NMML Resolution meeting August 1<sup>st</sup>.

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

Mr. McGillivray stated the 16 to 18 week trail project is going well; he is expecting early completion. Plaza Lighting Project, awarded to Lynco, is looking at an October start date.

Fire Chief Hoban stated 105 people were tested at the COVID-19 testing site here in Mesilla which many Mesilla residents took advantage since the test were done locally.

Marshal Lerma stated they responded to a heroin overdose call on Calle de Arroyo. He commended Fire Chief Hoban for an exemplary job done with the gentleman who was difficult to deal with.

Mayor Barraza responded the Fire and Marshal Department do an outstanding job working hand and hand in protecting our community. Our GRT came in more than expected.

Mayor Pro Tem Arzabal stated he just spoke to Mr. Montoya, Las Cruces Public Schools Associate Superintendent, who indicated job descriptions are being made for SROs and SCOs for when students are not on campus. He is hoping that the school board will act at the Special Meeting that will be held on Wednesday and that we can get Mr. Rivera back.

Mayor Barraza asked Mayor Pro Tem Arzabal to contact Mr. Montoya to see if there is anything the board can do to help the situation.

Trustee Johnson-Burick asked if there is any way this position can be funded even at a part time bases.

There are families who are being impacted and hopes the school board votes favorably.

Trustee Garcia responded the board can provide letter of support to help.

Mayor Pro Tem Arzabal stated it will be a Special Meeting; he will forward information as he receives it.

Trustee Caro stated there was a hole in the road on Calle de Norte and Calle de Picacho. There were no barriers which could be a hazard for bicyclist and walkers.

Mayor Barraza stated Mr. Rivera is an authority figure that students feel comfortable talking to. He is a wonderful asset to the schools and its students. We rely on funding from the Las Cruces Public Schools for these positions. These are trying times for everyone.

## **12. ADJOURNMENT**

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

**MEETING ADJOURNED AT 7:09 P.M.**

**APPROVED THIS 10<sup>th</sup> DAY OF AUGUST, 2020.**

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Nora L. Barraza  
Mayor

**ATTEST:**

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Cynthia Stoechner-Hernandez  
Town Clerk/Treasurer

**BOT ACTION FORM**  
**ZONING PERMIT 061085**  
**[PZHAC REVIEW – 8/17/2020]**

**Items:**

**Case 061085** – 2852 Erminda Street, submitted by Eric and Cindy Van Pelt; a request for a zoning permit to allow the construction of a pergola over a patio at the rear of a dwelling at this address. Zoned: Historical Residential (HR)

**This case was postponed by the PZHAC at the August 3, 2020 PZHAC meeting in order to allow the applicant to address the issue of the rear setbacks. The applicant has since revised his plans for the pergola to allow for the setbacks (see attached site plan). The rear setbacks are no longer an issue in this request.**

**Description of Request:**

The applicant would like to install a 15-foot by 22-foot wood pergola over an existing open patio at the rear of the dwelling. The pergola will be similar in materials, design, and appearance to other pergolas that have been approved in this subdivision in the past. (A photo of a similar pergola is attached.)

Although the required rear setbacks approved by the Homeowner’s Association for the subdivision are five feet (see attached HOA letter of approval), the Town recently amended the setbacks required by Chapter 13.35 (Historical Residential District) to seven feet. The site plan attached shows the rear setbacks of the pergola to be five feet. The purpose of the porch is to provide the patio with protection from the sun and elements. The overall construction will not be out of character with other pergolas that have been approved in the area.

**Estimated Cost: @ \$1300.00**

**Consistency with the Code:**

The PZHAC will need to determine that the proposed pergola, when finished, will be consistent with the following sections of the Code:

**Chapter 18.33 HISTORIC PRESERVATION**

**18.33.060 Development zone.**

A development zone defines the immediate physical vicinity to be used to identify the historic character of a particular area and includes the predominant architectural style and design standards of existing structures together with their setting.

A. Function of the Development Zone. The function of the development zone is to provide for historically appropriate development within an existing historic district by setting standards for both new construction and alterations to existing structures.

**Chapter 18.06 PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION**

**18.06.110 Review of applications within Historical and General Commercial zones – Considerations.**

A. All applications for work in the Historical zones and Commercial zone (not subject to administrative approval) shall be reviewed by the planning, zoning and historical appropriateness commission. The commission shall determine whether the request involved will be appropriate for the purposes of this title. If the request shall be determined to be inappropriate, the board shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the historical district generally, such application may be approved without substantial detriment to the public welfare and without substantial derogation of the intent and purposes of this title.

B. In reviewing an application, the planning, zoning and historical appropriateness commission shall consider in addition to this chapter:

1. The historical and literary value and significance of the site, building, or structure;
2. The general design, arrangement, texture, material and color of the features, sign or billboard involved;
3. The relation of such factors to similar factors or sites, buildings and structures in the immediate surroundings;
4. The appropriateness of the size and shape of the building or structure in relation to:
  - a. The land area upon which the building or structure is situated;
  - b. The landscaping and planting features proposed by the applicant; and
  - c. The neighboring sites, buildings or structures within the historical district.
5. The commission shall also consider the applicable zoning and other laws of the town.

C. In recommending approval of an application the commission may impose conditions which shall be binding upon the property. Prior to approving an application subject to conditions, the commission may notify the applicant of its proposed action to solicit his opinion. The concurring vote of three members of the board shall be necessary to make a determination in favor of the applicant on any application. [Ord. 2009-05 § 2]

**Chapter 18.35 H-R – HISTORICAL RESIDENTIAL ZONE**

D. Yards. For all new buildings, front, side and rear yard must be at least seven feet.

**Findings:**

- The PZHAC has jurisdiction to review and approve this request.
- The proposed consists of covering an open patio at the rear of the dwelling at this address.
- The PZHAC has determined that the proposed work meets all applicable Code requirements but the seven foot rear setbacks.

**PZHAC ACTION:**

*The PZHAC determined that proposed pergola, as designed to meet the seven foot setback of the rear property line (see attached site plan), would not be out of character with the historic requirements of the Code and voted 3 – 0 to recommend APPROVAL of this request to the BOT*

**BOT OPTIONS:**

1. Approve the application as recommended by the PZHAC.
2. Approve the application with conditions.
3. Reject the application.

**BOT ACTION:**

# Doña Ana County, NM

General Reference Maps

2014 Aerial | Addresses | County Address Points

Select Search Type: Account Number Er

Maps

Legend

### Map Themes

Parcels
UDC Zoning
Roads and Transportation
NM House Districts
NM Senate Districts
County Commission Districts
City Council Districts
Median Household Income
General Land Ownership

Account Number: [R0401011](#)  
Parcel Number: 4006137396510  
Owner: VANPELT ERIC P & CINDY E  
Mail Address: 2852 ERMINDA  
Subdivision: MESILLA FARMS  
SUBDIVISION (BK 15 PG 389-390 -  
8822094)  
Property Address: 2852 ERMINDA ST  
Acres: 0





**PHOTO OF THE FRONT OF THE PROPERTY FROM ERMINDA STREET**



**PHOTO OF THE REAR OF THE PROPERTY FROM THE NEIGHBORHOOD POOL**











July 13, 2020

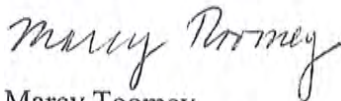
RE: The addition of a patio cover on the west side (rear) of the home at 2852 Erminda Street (Lot 11, Block B, Mesilla Farms Subdivision), Mesilla  
Owners of Record: Eric & Cindy Van Pelt

Dear Board Members and Town of Mesilla,

I have researched the impact of the homeowners' request to add a 15' x ~~21'~~ patio cover/ pergola over an existing patio to be attached to their existing residence. There will be no expansion of the home's footprint and will not extend into the home's existing setbacks.

The plans & description of the work to be done furnished by the owner indicates the addition will fit into the Town of Mesilla's historic residential requirements and it is assumed that the work will be performed in a professional manner. The Mesilla Farms Homeowners Association approves the issuing of a permit for the described work from the Town of Mesilla.

Sincerely,



Marcy Toomey  
Mesilla Farms HOA President

**TOWN OF MESILLA  
ZONING APPROVAL**

OFFICIAL USE ONLY:  
Case # 061085  
Fee \$ 11.40

**PERMISSION TO CONDUCT WORK  
OR  
OBTAIN A COMMERCIAL/RESIDENTIAL BUILDING PERMIT FROM CID**

2231 Avenida de Mesilla, P.O. Box 10, Mesilla, NM 88046 (575) 524-3262 ext. 104

CASE NO. 061085 ZONE: HR CODE: AO APPLICATION DATE: 7/14/20

Name of Property Owner: Eric & Cindy VanKelt Property Owner's Telephone Number: (575) 644-0719

Property Owner's Mailing Address: 2852 Erminola Street City: Mesilla State: NM Zip Code: 88005

Property Owner's E-mail Address: eee-cc-vp@comcast.net

Contractor's Name & Address (If none, indicate Self): none work to be done by homeowner

Contractor's Telephone Number: \_\_\_\_\_ Contractor's Tax ID Number: \_\_\_\_\_ Contractor's License Number: \_\_\_\_\_

Address of Proposed Work: 2852 Erminola St

Description of Proposed Work: patio cover of rough sawn wood, 3 uprights (6"x6") support cross beams with 2x8"x15" hung from house joists 18" on center 22' width more or less

Estimated Cost: \$ 1300 Signature of Applicant: [Signature] Date: 7/14/2020

Signature of property owner: [Signature]

With the exception of administrative approvals, all permit requests must undergo a review process from staff, PZHAC and/or BOT before issuance of a zoning permit. Plan sheets are to be no larger than 11 x 17 inches or shall be submitted electronically.

**FOR OFFICIAL USE ONLY**

PZHAC  Administrative Approval  Approved Date: \_\_\_\_\_  Disapproved Date: \_\_\_\_\_  
 Approved Date: \_\_\_\_\_  Disapproved Date: \_\_\_\_\_  
 Disapproved Date: \_\_\_\_\_  Approved with Conditions  
 Approved with conditions

PZHAC APPROVAL REQUIRED: \_\_\_ YES \_\_\_ NO BOT APPROVAL REQUIRED: \_\_\_ YES \_\_\_ NO

CID PERMIT/INSPECTION REQUIRED: \_\_\_ YES \_\_\_ NO \_\_\_ SEE CONDITIONS

CONDITIONS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

PERMISSION ISSUED/DENIED BY: \_\_\_\_\_ ISSUE DATE: \_\_\_\_\_

- THIS APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:
1. Plot plan with legal description to show existing structures, adjoining streets, driveway(s), improvements & setbacks. Verification shall show that the lot was LEGALLY subdivided through the Town of Mesilla or that the lot has been in existence prior to February 1972.
  2. Site Plan with dimensions and details.
  3. Foundation plan with details.
  4. Floor plan showing rooms, their uses and dimensions.
  5. Cross section of walls
  6. Roof and floor framing plan
  8. Proof of legal access to the property.
  9. Drainage plan.
  10. Details of architectural style and color scheme (checklist included for Historical zones) – diagrams and elevations.
  11. Proof of sewer service or a copy of septic tank permit; proof of water service (well permit or statement from the Public Utility providing water services).
  12. Proof of legal access to the property.
  13. Other information as necessary or required by the City Code or Community Development Department (See other side.)

TOWN OF  
**MESILLA**

**BOARD ACTION FORM**

**ITEM:**

Proposed Wearable Body camera and/or In-car audio/video equipment policy for use pursuant to this past legislative session and approval by the Governor of the State of New Mexico.

**BACKGROUND:**

During the 54<sup>th</sup> Legislature First special session of 2020, Senate Bill 8 was created and signed by the Governor requiring certain law enforcement agencies to wear Body Camera's while on duty. The act also requires rules, policies and procedures outlining the use of the Body Camera and describing the prohibition of not activating a camera and/or deactivation of a body worn camera.

**BOT ACTION:**

Approve

Approve with changes

Deny



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SENATE BILL 8

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS; REQUIRING LAW ENFORCEMENT AGENCIES TO ADOPT CERTAIN POLICIES AND PROCEDURES; REVOKING A POLICE OFFICER'S CERTIFICATION AFTER CONVICTION OR MAKING CERTAIN PLEAS; ADDING A CAUSE OF ACTION FOR SPOILIATION BY A LAW ENFORCEMENT OFFICER IN THE TORT CLAIMS ACT; CLARIFYING APPLICABILITY OF CERTAIN PROVISIONS OF THE TORT CLAIMS ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS WHILE ON DUTY-- ADOPTION OF POLICIES AND PROCEDURES GOVERNING USE.--

A. A law enforcement agency shall require peace officers the agency employs and who routinely interact with the

1 public to wear a body-worn camera while on duty. Each law  
2 enforcement agency subject to the provisions of this section  
3 shall adopt policies and procedures governing the use of  
4 body-worn cameras, including:

5 (1) requiring activation of a body-worn camera  
6 whenever a peace officer is responding to a call for service or  
7 at the initiation of any other law enforcement or investigative  
8 encounter between a peace officer and a member of the public;

9 (2) prohibiting deactivation of a body-worn  
10 camera until the conclusion of a law enforcement or  
11 investigative encounter;

12 (3) prohibiting the recording of general  
13 activity;

14 (4) requiring that any video recorded by a  
15 body-worn camera shall be retained by the law enforcement  
16 agency for not less than one hundred twenty days; and

17 (5) establishing disciplinary rules for peace  
18 officers who:

19 (a) fail to operate a body-worn camera  
20 in accordance with law enforcement agency policies;

21 (b) intentionally manipulate a body-worn  
22 camera recording; or

23 (c) prematurely erase a body-worn camera  
24 recording in violation of law enforcement agency policies.

25 B. Peace officers who fail to comply with the

underscored material = new  
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1 policies and procedures required to be adopted pursuant to  
2 Subsection A of this section shall be deemed liable for the  
3 independent tort of negligent spoliation of evidence or the  
4 independent tort of intentional spoliation of evidence.

5 C. As used in this section:

6 (1) "body-worn camera" means an electronic  
7 device worn on a person's body that records both audio and  
8 video data;

9 (2) "law enforcement agency" means the police  
10 department of a municipality, the sheriff's office of a county,  
11 the New Mexico state police or the department of public safety;  
12 and

13 (3) "peace officer" means any full-time  
14 salaried or certified part-time salaried officer who by virtue  
15 of office or public employment is vested by law with the duty  
16 to maintain the public peace.

17 SECTION 2. A new section of the Law Enforcement Training  
18 Act is enacted to read:

19 "[NEW MATERIAL] REVOKE POLICE OFFICER CERTIFICATION AFTER  
20 CONVICTION OR MAKING CERTAIN PLEAS.--Notwithstanding any other  
21 provision of law, if any police officer is convicted of or  
22 pleads guilty or nolo contendere to a crime involving the  
23 unlawful use or threatened use of physical force or a crime  
24 involving the failure to intervene in the use of unlawful force  
25 or is found to be civilly liable for the use of unlawful

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1 physical force or for failure to intervene in the use of  
2 unlawful force, the board shall permanently revoke the police  
3 officer's certification. The board shall not, under any  
4 circumstance, reinstate the police officer's certification or  
5 grant new certification to the police officer unless the police  
6 officer is exonerated by a court."

7 SECTION 3. Section 41-4-12 NMSA 1978 (being Laws 1976,  
8 Chapter 58, Section 12, as amended) is amended to read:

9 "41-4-12. LIABILITY--LAW ENFORCEMENT OFFICERS--  
10 RETROACTIVE APPLICATION.--

11 A. The immunity granted pursuant to Subsection A of  
12 Section 41-4-4 NMSA 1978 does not apply to liability for  
13 personal injury, bodily injury, wrongful death or property  
14 damage resulting from assault, battery, false imprisonment,  
15 false arrest, malicious prosecution, abuse of process, libel,  
16 slander, defamation of character, violation of property rights,  
17 the independent tort of negligent spoliation of evidence or the  
18 independent tort of intentional spoliation of evidence, failure  
19 to comply with duties established pursuant to statute or law or  
20 any other deprivation of any rights, privileges or immunities  
21 secured by the constitution and laws of the United States or  
22 New Mexico when caused by law enforcement officers while acting  
23 within the scope of their duties. For purposes of this  
24 section, "law enforcement officer" means a public officer or  
25 employee vested by law with the power to maintain order, to

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1 make arrests for crime or to detain persons suspected of or  
2 convicted of committing a crime, whether that duty extends to  
3 all crimes or is limited to specific crimes.

4 B. The provisions of this section apply to all  
5 cases pending or on appeal on or after May 20, 2020."

6 SECTION 4. EMERGENCY.--It is necessary for the public  
7 peace, health and safety that this act take effect immediately.

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**RESOLUTION NO. 2020-18**

**A RESOLUTION ADOPTING A POLICY FOR THE MESILLA MARSHAL'S DEPARTMENT REGARDING WEARABLE BODY CAMERA AND/OR IN-CAR AUDIO/VIDEO EQUIPMENT**

**WHEREAS**, the Board of Trustees of the Town of Mesilla hold the municipal powers conferred by state statute to operate the municipality; and

**WHEREAS**, the Mayor is the presiding officer of the Board of Trustees and is vested with the sovereign power for operating the municipality upon the consent and approval of the Trustees; and

**WHEREAS**, the Board of Trustees desires enact a new policy pertaining to the Marshal's Department;

**WHEREAS**, during the 54<sup>th</sup> Legislative Special Session of 2020, Senate Bill 8 was ratified requiring certain law enforcement agencies to wear body cameras while on duty;

**NOW THEREFORE, BE IT RESOLVED** by the Board of Trustees that the policy attached in Exhibit A will take effect on September 20<sup>th</sup>, 2020.

**PASSED, APPROVED AND ADOPTED** this 24<sup>th</sup> day of August 2020.

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Nora L. Barraza  
Mayor

**ATTEST:**

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Cynthia Stoechner-Hernandez  
Town Clerk-Treasurer



# MESILLA MARSHAL DEPARTMENT

P.O. BOX 10 MESILLA, NM 88046 PHONE 575-526-4138 FAX 575-652-3776

MARSHAL  
EDWARD "EDDIE" LERMA

## Inter-Departmental Memorandum

**TO:** Mesilla Marshal Staff

**From:** Marshal Eddie Lerma

**Subject:** Police Audio Visual Recordings

**DATE:** 08/25/2020

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### PURPOSE

It is the intent of this policy to provide personnel within the Mesilla Marshal's Office guidelines in the operation, use, and maintenance of issued wearable body cameras and in-car audio/video equipment.

### POLICY

Wearable body cameras and in-car audio/video equipment has proven to be an invaluable tool for prosecution of law enforcement related offenses. The use of this equipment can assist agencies in real-time evaluations of officer performance as well as a unique training tool.

### APPLICABILITY

This policy applies to all commissioned police personnel. School resource officer(s), animal control and/or Codes (Environmental Crimes) personnel who may not be certified Law Enforcement Officers who are issued wearable body cameras and/or in-car video equipment will follow this policy for any and all citizen contacts.

### PROGRAM OBJECTIVES

The Mesilla Marshal's has adopted the use of wearable body cameras and/or in-car audio video recording systems in order to accomplish several objectives, including:

- A. Accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents, to enhance officer reports, collection of evidence and testimony in court.
- B. The enhancement of this agency's ability to review probable cause for arrest, arrest procedures, officer and suspect/citizen interaction, and evidence for investigative purposes, as well as for officer evaluation and training.
- C. Documenting criminal and crash scenes or other events that include the confiscation and documentation of evidence or contraband.

## PROCEDURES

### I. OPERATING PROCEDURES

A. Deputy Marshal's and non-certified law enforcement personnel (shall be called "personnel" from here forward) shall adhere to the following procedures when utilizing wearable body cameras and/or in-car audio/video equipment. Officers shall follow the procedures for wearable body cameras and in-car audio/video systems and equipment as set forth in this policy to achieve compliance with the operation and care of this equipment required by New Mexico State law:

1. Prior to the beginning of each shift, officers shall ensure their wearable body cameras and in-car audio/video equipment is properly worn and working. Should any component not be working properly, personnel shall immediately notify a supervisor.
2. Personnel shall record all police related public interaction, to include but not limited to:
  - a. Consensual encounters or field interviews;
  - b. Interviews and interaction with victims, suspects or witnesses;
  - c. Traffic stops;
  - d. Field sobriety tests;
  - e. Any enforcement action;
  - f. Transportation and interaction with arrested persons;
  - g. Transportation of any person, male or female;
3. It is the intent of the Mesilla Marshal's to place a high priority on recording the above stated events, however, nothing in this policy is intended to prevent or delay an officer from acting during a rapidly evolving situation where their immediate action is necessary.
4. Personnel shall also use their wearable body cameras and audio/video equipment to record the circumstances at crime and accident scenes or other events such as the confiscation and documentation of evidence or contraband.
5. Where possible, Personnel should ensure that the in-car and wearable audio/video equipment is operating in order to record public interactions. This will ensure that:
  - a. The audio/video system is positioned and adjust properly to record events;
  - b. The wearable body cameras and/or audio/video system is **NOT** deactivated or stopped until the enforcement action and all accompanying contact is completed;
  - c. The wearable body camera should be activated once an officer receives a call by Central Dispatch. The officer once the wearable body camera is activated provides some narration as to the type of the call responding to. This narration should also include whenever possible an explanation or the reason for their current or planned enforcement action;

- d. They are not required to inform the public that audio and video recording equipment is being used, however, shall promptly advise so if or when asked;
  - e. They refrain from muting the microphone during a contact or incident unless the conversation is between officers and does not actively involve any participant (non-law enforcement) of the call.
  - f. They refrain from powering off **any** assigned recording device while they are on any call or traffic stop until the call or traffic stop is completed and the officer is back in his unit leaving. Whenever possible the officer should provide a brief synopsis of the outcome of the call/stop and attitude of the citizen(s) who the officer(s) dealt with:
6. Personnel are encouraged to inform their supervisor of any recorded sequences that may be of value for training purposes. The Marshal or his/her designee will determine selection of audio/video used for training.
  7. Personnel will note-in incident, arrest, and all related reports when video/audio recordings were made during the incident in question. If there is any break in recordings, officer fails to record, or the event is not recorded due to unforeseen operational malfunction, the officer will annotate the reason for the absence of recordings in a formal Inter-departmental memorandum up the chain of command the day of the incident or immediately after they or the marshal discover that a device had not been activated or properly recorded.
  8. Civilians, including the media, **WILL NOT** be allowed to review any recordings **WHILE ON-SCENE** unless first approved by a supervisor. All wearable body camera recordings and audio/video recordings will be considered evidence and treated as such according to department policy.
  9. All wearable body cameras and in-car audio/video recording systems used by department personnel shall only be that which is issued by the department. **The use of personally owned equipment is not authorized.**
  10. The Mesilla Marshal's reserves the right to limit or restrict an officer from viewing any audio/video files that recorded any suspicious activity from the officer or those files documenting officer-involved shootings.
  11. Any requests for deletion of portions of recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Marshal or his/her designee in accordance with State record retention laws. All requests and final decisions shall be kept on file.
  12. Audio and video recordings shall not be replacements for written reports.

## II. EQUIPMENT INSPECTION AND MAINTENANCE

- A. Department Personnel are responsible for operating wearable body cameras and/or in-car audio/video equipment and shall inspect the equipment prior to use and monitor its performance throughout their tour of duty. Any deviations

in operating condition, appearance, or suitability for its intended use shall be reported immediately to a supervisor.

1. If a problem is found during operation, a deficiency report by way of inter-departmental memorandum shall be completed and forwarded to any supervisor for correction.
2. Department Personnel will not attempt any repair of the wearable body cameras or in-car audio/video equipment.
3. Any and all keys belonging to the in-car video system shall be maintained by a designated supervisor. It is recommended that all supervisors obtain a copy of a key in order to facilitate any emergency removal of audio/video evidence.
4. Field Training Officers (FTO) will be responsible for training new officers in the operation of the wearable body camera and/or in-car audio/video recording equipment and will document that training. FTO's will also be responsible for ensuring their trainee has been inputted into the video equipment system.
5. All audio and video recording equipment installed or portable, and any and all devices associated with the recording equipment is the property of the Mesilla Marshal's Office. All recordings shall remain in the sole custody of the Mesilla Marshal's Office, unless used in court as evidence or obtained legally by lawful order.
6. Only standard issued removeable equipment shall be used to store recorded events on external hard drives, jump drives, flash drives, USB's, etc. These drives shall first be approved by a supervisor.
7. Disabling any wearable body camera and/or in-car audio/video recording equipment and/or altering, duplicating, or destroying any recordings are prohibited, except when done by authorized personnel.
8. Department Personnel will be responsible for monitoring the storage on the equipment's hard drive. Should the hard drive become full and fail to upload, it is the responsibility of the personnel to notify the appropriate designee for correction.

### **III. AUDIO/VIDEO EVIDENCE AND MANAGEMENT**

- A. All wearable body cameras and audio/video will be uploaded **DAILY** to the corresponding server and maintained there for a period of one hundred and eighty (180) days. Department Personnel are responsible for properly labeling each event on the server. These events will be purged from the server after the designated time has elapsed. The events have been identified and maintained as: Any and every contact with any citizen, foreign or national to include all traffic stops, arrests, pursuits, citizen contacts, animal control and codes calls. Audio/video recordings needed for court as evidence will be copied onto a removeable storage device (i.g. USB, CD, etc..) and submitted into evidence and safeguarded in the evidence room. Whenever possible, the department personnel who is responsible for the

case should create a separate folder labeled on the server to safely store all audio/videos needed for court. Only after a case has been completely disposed of (criminal/civil) can an audio/video recording and/or any removeable storage device be deleted and/or destroyed. SEE IV. RESTRICTIONS BELOW FOR EXCEPTIONS.

- B. All recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safeguarded as other forms of evidence. As such, these recordings will:
  - 1. Be subject to the same security restrictions and chain of evidence safeguards as detailed in this agency's evidence control policy;
  - 2. Not be release to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe storage. The original will remain/returned back into evidence;
  - 3. Will not be released to other than bona fide criminal justice agencies, including the District Attorney's office or United States Attorney's office without prior approval of the designated command officer.
- C. Department Personnel will be responsible for copying their own recorded audio/video events for the submission into evidence.
- D. Shift supervisors will continually review audio/video from each member of their shift to verify recording equipment is working properly and to ensure the proper conduct of officers during their encounters with citizens.

#### **IV. RESTRICTIONS**

- A. Wearable Body Cameras and In-car audio/video recording systems shall be used only in conjunction with official law enforcement duties and official business of the Mesilla Marshal's Office to include all department personnel. The wearable body cameras and in-car audio/video recording systems shall not generally be used to record:
  - 1. Communications with other department personnel.
  - 2. Encounters with undercover officers or confidential informants.
  - 3. When on break or otherwise engaged in a personal capacity.
  - 4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
  - 5. In a hospital or medical setting where you must first inform the charge nurse or supervisor that you are required to video/audio record and that your camera is actively running and for hospital staff to take caution about openly discussing other patient diagnosis within hearing range of your device.

V. STORAGE

- A. Portable body cameras and In-car audio/video recordings will be downloaded daily at the end of each shift onto the server. The department personnel the wearable body camera and/or in-car audio/video recording device is assigned to should be the individual tasked with downloading his/her assigned wearable body camera or audio/video recording onto the server.
- B. Files should be securely stored in accordance with State record retention laws and no longer than specified in III (A) or for training purposes.

VI. COMPLIANCE

The wearable body camera and/or in-car audio/video recording device will be used as described above. Only the Deputy Marshals and supervisors of the Mesilla Marshal's Office work 12-hour shifts. The current body camera assigned to the Deputy Marshal's is designed to operate continuously for ten (10) hours. Officers are going to have to remember to:

- 1. Activate the camera before the encounter described above occurs.
- 2. De-activate the camera after the contact concludes.
- 3. Should a Deputy Marshal forget to activate the camera prior to the contact occurring the deputy shall:
  - I. Submit a written Inter-departmental memorandum detailing why the wearable body camera was not activated.
  - II. Accurately describe the events that transpired during this encounter and;
  - III. What the department can do to assist the officer to remember to activate his wearable body camera.
  - IV. Animal Control/Codes/School Resource may not work 12-hour shifts but will follow the same protocols regarding recording.

This policy shall be effective as of September 20, 2020.

**THE ACTIVATION OF THE WEARABLE BODY CAMERA IS A REQUIREMENT PER THIS POLICY AND NEW MEXICO STATE LAW. CONTINUED NON-ACTIVATIONS OF THIS PIECE OF EQUIPMENT WILL RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION FROM EMPLOYMENT.**

**Acknowledgement of Wearable Body Camera and in-car audio/video devices Policy**

The employee whose signature appears below agrees to review and abide by all terms stated in this Inter-Departmental Memo dated \*\*\*\*. The signature below also signifies that the employee has received a copy of this for his/her personal use.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT