

MINUTES
REGULAR
MEETING
12/21/22

**City of Lordsburg
409 W. Wabash
Lordsburg, New Mexico 88045
Minutes of Regular Meeting
December 21, 2022**

Meeting was called to order at 12:00 p.m. Noon

Welcome

Present: Mayor Glenda F. Greene; Martha Salas, Finance Director; Linda S. Farnsworth, City Clerk; Councilor Roxann Randall; Councilor Julie Montenegro; Councilor Martin Neave; and Councilor Manuel D.V. Saucedo.

Absent: Councilor Rodney Plowman and Mayor Pro-tem Alfredo Morelos, Jr.

Attendance: Aaron Salazar, Chief of Police; Eddie Parra, Neomi Parra, Ray Silva, Stephanie Helbig, Eddie Botello, Dave Oschsenbine, Joy Crossman, Abby Reed, Edmund Saucedo, Jennifer Skulstad, Lilli Perrault, Mark Miller, Richard Knox and Robert Schultis.

Approval of Agenda: Councilor Montenegro moved to approve the Agenda as written, 2nd by Councilor Randall. All Council present were polled. Motion passed.

1. Minutes – Regular Meeting November 16, 2022

Councilor Montenegro moved to approve the Minutes of the Regular Meeting of December 21, 2022, 2nd by Councilor Neave. All Council present were polled. Motion passed.

Councilor Plowman – Absent
Councilor Randall – Aye
Councilor Montenegro – Aye
Councilor Neave – Aye
Mayor Pro-tem Morelos – Absent
Councilor Saucedo – Abstain
Mayor Greene (tie breaker) – Aye

Finance Statement for November 2022 and Bank Statement

Martha Salas, Finance Director addressed the Council regarding the Financial Reports for the month of November 2022. Councilor Saucedo suggested that the Finance Director move another \$1,000,000.00 from the Overnight Account at Western Bank into LGIP to earn more interest. Ms. Salas was concerned that by doing that, we may not have enough monies to cover expenses. It will be visited again at the next meeting to see if this investment will be manageable. With there being no more questions or comments for the Finance Director, Councilor Saucedo moved to accept the report, 2nd by Councilor Montenegro. All Council present were polled. Motion passed.

Old Business

1. Homeless Guidelines – Much discussion took place on how the money from Crime Stoppers will be administered to pay for bus tickets for the homeless. It was determined that the fund will pay for a one time one-way ticket for a person who is homeless or is incapable of working to pay for their own ticket to either El Paso or Tucson where more services are available for them than here. The Council has budgeted \$2,000.00 annually for this program to be taken from the previously approved Crime Stoppers line item. The program will be managed by Chief of Police Aaron Salazar who will track all recipients and consult with the Mayor and/or two Councilors before a ticket is purchased. Councilor Montenegro moved to approve the guidelines with approved tracking in place, 2nd by Councilor Randall. All Council present were polled. Motion passed.

Councilor Plowman – Absent

Councilor Randall – Aye

Councilor Montenegro – Aye

Councilor Neave – Aye

Mayor Pro-tem Morelos – Absent

Councilor Saucedo – Abstain

Mayor Greene (tie breaker) – Aye

New Business

1. Miner Statue for Memorial Park – It was discussed to purchase a Miner Statue for Memorial Park as it was the miners who kept our community alive in the older days. It was agreed upon to remit 25% for now and the remainder upon delivery. Councilor Saucedo moved to approve the purchase of a miner statue, 2nd by Councilor Montenegro. All Council present were polled. Motion passed.

2. Award Request for Proposal of Engineering Services for the Airport – Armstrong Engineering bid for the Airport Engineering Services – which was the only bid received. City Procurement Officer recommended Armstrong Engineering Services. A schedule of fees will be negotiated with Armstrong, if selected for the services to be performed under the initial NMDOT – Aviation Division and/or FAA grant. Councilor Saucedo moved to approve Armstrong Engineering Services bid, 2nd by Councilor Neave. All Council present were polled. Motion passed.

3. Overview of all that has been accomplished in 2022 – Mayor Greene gave a quick overview of the many projects and completions that we have accomplished this past year.

Ordinances

1. Ordinance No 2022-04 – Solar Ordinance to establish community solar facilities conforming with NMPRCA rules – Joy Crossman spoke on behalf of Soltage Solar. She stated that 1/31/23 is the deadline for solar companies to move forward with their solar projects. Ms. Crossman also explained that all projects are point based and that projects will be awarded after April 1, 2023. Ms. Crossman also asked that the CUP (Conditional Use Permit for Community Solar) be filled out to allow for 3 years. Councilor Saucedo moved to approve Ordinance No. 2022-04, 2nd by Councilor Randall. All Council present were polled. Motion passed.

Councilor Plowman – Absent

Councilor Randall – Aye

Councilor Montenegro – Aye

Councilor Neave – Abstain

Mayor Pro-tem Morelos – Absent

Councilor Saucedo – Aye

Mayor Greene (tie breaker) – Aye

2. Notice of Intent to Adopt Ordinance No. 2022-05 – An Ordinance regulating Domestic Livestock replacing Ordinance No. 2003-05. Councilor Montenegro was concerned with some of the wording and felt that it was necessary for the wording to be clearer on what the definition of a “pet” is. Councilor Saucedo advised that “may” implies “could” but that they use of the word “shall” denotes that it is mandatory and he stated that he would like to see “may” replaced with the word “shall” in the ordinance. Councilor Neave moved to table the adoption of this Ordinance until the wording is satisfactory for all, 2nd by Councilor Saucedo. All Council present were polled. Motion passed to table this Intent.

3. Notice of Intent to Adopt Ordinance No. 2022-06 to replace Utility Ordinance No. 2020-04 regarding Office Use Water (bulk water) – It was necessary to increase the deposits on the meters for bulk water as the cost of meters have increased. Councilor Saucedo asked if this was retroactive and the Mayor advised that it was not. Councilor Neave asked if this was only for bulk water and the Mayor advised that Councilor was correct. Councilor Saucedo moved to approve the Notice of Intent to Adopt Ordinance No. 2022-06, 2nd by Councilor Montenegro. All Council present were polled. Motion passed.

4. Resolution No. 2022-39 – Resolution to repeal Solar Moratorium Resolution No. 2022-14. Councilor Saucedo moved to approve this Resolution, 2nd by Councilor Randall. All Council present were polled. Motion passed.

Councilor Plowman – Absent
Councilor Randall – Aye
Councilor Montenegro – Aye
Councilor Neave – Abstain
Mayor Pro-tem Morelos – Absent
Councilor Saucedo – Aye
Mayor Greene (tie breaker) – Aye

Executive Session – To discuss limited personnel matters as authorized pursuant to NMSA 1978 Section 10-15-10 (H) (2) Police Department – Councilor Montenegro moved that they go into Executive Session for the purpose of discussing limited personnel matters regarding the Lordsburg Police Department, 2nd by Councilor Randall. City Clerk polled all present Council members. Motion

passed to enter into Executive Session. Mayor Greene announced that the Regular meeting was adjourned to go into Executive Session at 12:42 p.m.

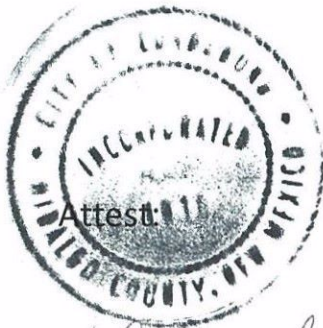
Councilor Plowman – Absent
Councilor Randall – Aye
Councilor Montenegro – Aye
Councilor Neave – Aye
Mayor Pro-tem Morelos – Absent
Councilor Saucedo – Aye

At 1:00 p.m. Councilor Montenegro stated “I move that we return to open session and affirmatively state that only those matters for which the meeting was closed were discussed in Executive Session”, 2nd by Councilor Saucedo. All Council present were polled. Motion passed.

Adjourn

With nothing further to be discussed, a motion was made by Councilor Montenegro to adjourn, 2nd by Councilor Randall. All Council present were polled. Motion passed and meeting was adjourned at 1:01 p.m.

Approved this 18th day of January, 2023



Linda S. Farnsworth

Linda S. Farnsworth, City Clerk

Glenda F. Greene

Glenda F. Greene, Mayor

**ORDINANCE
NO.
2022-04
SOLAR
ORDINANCE**

CITY OF LORDSBURG
ORDINANCE No. 2022-04

IT IS THE INTENT OF THIS ORDINANCE TO PROTECT THE PUBLIC HEALTH AND SAFETY OF THE CITIZENS OF LORDSBURG, NEW MEXICO WHILE CONFORMING CITY OF LORDSBURG POLICIES AND PROCEDURES TO THE NEW MEXICO PUBLIC REGULATION COMMISSION (NMPRC) RULES FOR BUILDING, CONSTRUCTING AND ESTABLISHING COMMUNITY SOLAR FACILITIES.

WHEREAS the Clerk of the City of Lordsburg has published timely notice in the Hidalgo County Herald, a newspaper of weekly circulation in Hidalgo County, and gave timely notice to interested parties in accordance with the provisions of NMSA 1978 Section 3-17-1 (1973); and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LORDSBURG, HIDALGO COUNTY, NEW MEXICO, THAT:

Definitions

Building-mounted Solar	A solar energy system that is structurally mounted to a building or. A Building-mounted SES can be mounted on the roof or façade of a building or structure.
Ground-mounted Solar	A solar energy system that is structurally mounted to the ground. Energy System Ground-mounted SES can be further classified as Small-scale SES and Large-scale SES.
Small-scale Solar Energy	A Ground-mounted SES that is less than or equal to 40,000 square feet System in panel area.
Large-scale Solar Energy	A Ground-mounted SES that is greater than 40,000 square feet System in panel area.
Municipal Utility Solar Energy	A solar energy system constructed in partnership with a municipal System electric utility and located within the corporate limits of the municipality.
Solar Panel	A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy System (SES)

An energy system, and all related solar energy equipment, that uses the power of the sun to capture, store, and transmit energy.

Solar Energy Equipment

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

UTILITIES: SOLAR ENERGY SYSTEMS AND COLLECTION (SES)

INTENT

It is the intent of this Section to protect the public health and safety of The City of Lordsburg while accommodating alternative energy needs by establishing requirements and regulations for the placement, construction, modification, and removal of solar energy systems.

APPLICABILITY

The regulations of this Section shall apply to all lands and land uses and structures in the unincorporated areas of The City of Lordsburg and in incorporated towns and cities.

EXEMPTIONS

Any SES constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing SES whether existing prior to the effective date of this Section that materially alters the SES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

PROHIBITION

No Applicant, person or entity shall construct, operate, or locate within The City of Lordsburg a Solar Energy System (SES) without having fully complied with the provisions of this Ordinance.

COMPLIANCE WITH OTHER LAWS AND ORDINANCES

All SES shall comply with all Federal, State, and local laws and ordinances including, but not limited to building codes, fire codes, placement in floodplains, historic preservation districts, and applicable FAA regulations, including any necessary approvals for installations close to airports.

METHOD OF MEASUREMENT

Solar Energy Systems shall be measured in the following manner:

- A. Area - The area of the SES shall be determined by the total surface area of all the panels located on a parcel.
- B. Height - The height of the SES shall be calculated as the distance from grade or roof to the top of the solar panel at its greatest incline.
- C. Projection - The projection of a facade-mounted SES is measured from the facade to the outside edge of the SES that is perpendicular to the ground.
- D. Setback - Setbacks for Ground-mounted SES shall be measured from the property line to the edge of the nearest SES above ground equipment.

BUILDING-MOUNTED SOLAR ENERGY SYSTEMS REGULATIONS

A Building-Mounted SES are a permitted use in all zoning districts under the following requirements:

1. Building-mounted SES may exceed the maximum allowed building height of the building or structure on which it is located by five (5) feet in residential districts and ten (10) feet in all other districts.
2. Building-mounted SES may project off a building façade up to three (3) feet into the required setback.
3. Building-mounted SES may be installed on legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above.
4. Building-mounted SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, and provide for smoke ventilation opportunities. Building-mounted SES shall be located in accordance with the New Mexico Fire Code.

GROUND-MOUNTED SOLAR ENERGY SYSTEMS REGULATIONS

A Small-scale Solar Energy Systems Small-scale Solar Energy Systems are ground-mounted SES that are less than or equal to 40,000 square feet in panel area. Small-scale SES are a permitted use in all zoning districts under the following requirements:

1. Small-scale SES shall not be taller than twenty (20) feet above grade.
2. Small-scale SES shall meet the required setbacks of the district in which they are located. Setbacks shall be the same as what is required for

accessory buildings. Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment.

3. Small-scale SES shall not be located over a septic field, unless approval is granted from the State of New Mexico Health Department.
4. Small-scale SES shall only be permitted in the rear and side yard, with the following exception:

The Lordsburg City Council, who acts as the Zoning Committee, may authorize the installation of a ground mounted SES in front of the principal building, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively. In such cases the SES must meet the front yard setback of the zoning district in which it is to be located.

5. Small-scale SES shall not be placed within any legal easement or right-of-way location except if permission is granted in writing by the owner of right-of-way or easement. Nor should it be placed within the legal easement of any City of Lordsburg Drain(age) except if permission is granted in writing by the City of Lordsburg
6. Small-scale SES shall be exempt from all required landscaping.
7. Site Plans shall be submitted to the Zoning Committee with the Application for an Improvement Location Permit
8. Small and Large-scale SES shall be installed in such a manner as to ensure that the system does not “mirror” into or onto a neighboring building or home
9. Large-Scale Solar Energy Systems Large-scale Solar Energy systems are ground-mounted SES that are greater than 40,000 square feet in panel area. Site Plans shall be submitted to the Zoning Committee with the Application for an Improvement Location Permit. Plan schematics are to include a wiring diagram, where a separate shut off has been included for fire safety and made available to the appropriate fire department or district. Large-scale SES are a permitted use in all other zoning districts under the following requirements:

1. Height and Setbacks

- a. Large-scale SES shall not be taller than twenty (20) feet above grade.
- b. Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment. Setbacks do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.

- c. Large-scale SES shall be set back a minimum of ninety (90) feet from the center of any adjoining public road.
- d. Large-scale SES shall be setback a minimum of fifty (50) feet from any nonparticipating adjoining parcel.
- e. Participating and non-participating parcel owners may waive setback requirements by filing written consent with the Zoning Administrator.

2. Landscaping and Screening

- a. For security, a Large-scale SES shall be completely enclosed by a six (6) foot high fence with a locking gate.
- b. A sign shall be securely posted on each gate entry point clearly displaying an emergency telephone number(s) and other contact information.
- c. Pollinator-friendly seed mixes and native plants are required around the SES at a rate of two (2) square feet of plantings for every one (1) square foot of solar panels

Large-scale SES may claim that the site provides benefits to pollinators only if the site adheres to guidance set forth by a New Mexico State government agency. If no such standard exists, the applicant can use following best management practices:

- i. Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial native vegetated ground cover to the maximum extent feasible and economical.
 - ii. To the maximum extent feasible and economical, perennial vegetation ground cover shall be based on a diverse seed mix of native species, or in the alternative, based on guidance specific to the local area provided by the National Resources Conservation Service, Soil and Water Conservation District, or Conservation District.
 - iii. The site shall be planted and maintained to be free of all invasive species, as listed by the National Invasive Species Council.
 - iv. No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, or as otherwise may be deemed necessary to protect public health and safety.
- d. Alternate ground cover landscaping plans that encourage the use of the property for agricultural purposes, such as grazing or under panel crops may be submitted for consideration. Such alternate agriculturally based plans must fully detail the estimated yearly schedule for planting or

grazing. The owner or operator of the Large-scale SES must submit and receive approval by the Zoning Committee for any deviations or changes to the originally submitted agricultural based plans.

- e. Landscaping along rights-of-way is not required.
- f. Where a Large-scale SES abuts a nonparticipating adjoining parcel which has a legal dwelling within one hundred (100) feet of the SES parcel's property line, a landscaping buffer shall be installed along the entire length of where the two (2) parcels abut. The buffer must consist of either/or:
 - i. A six (6) foot tall earthen berm planted with grass and/or other appropriate vegetative ground cover.
 - ii. A row of evergreen trees, or native foliage, at least 3 feet tall at the time construction, planted at five (5) foot Intervals with a working irrigation system for hydration.
 - iii. An existing tree line may count as a sufficient barrier if the trees and vegetation are deemed to be of adequate size and health by the Zoning Committee.
 - iv. Opaque fencing is not considered an acceptable landscaping buffer.
 - v. Nonparticipating parcel owners may waive landscaping requirements by filing written consent with the Zoning Committee.
- g. The Zoning Committee may approve any substitute landscape proposal that he/she deems to be equivalent to, or greater than, the options given.
- h. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the SES shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper and orderly appearance free from refuse and debris at all times.
- i. Failure to follow or maintain the approved SES landscaping plan will result in the revoking of the Improvement Location Permit and the SES being deemed abandoned.

3. Drainage, Flood, and Erosion Control

- a. A detailed drainage plan.
- b. In instances where the project is required to comply with IDEM erosion control regulations, proper approvals shall be submitted indicating the plans have been approved.

- c. Any project within a special flood hazard area shall comply with all standards required under the City of Lordsburg Flood Damage Prevention Ordinance.
- d. All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of a Large-scale SES, must be completely repaired to better than original condition, so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time agreed upon by The City of Lordsburg.
- e. Applicant must notify the Zoning Commission of a time-frame of construction, if a permit is issued

4. Abandonment and Removal

- a. A Large-scale SES which has reached the end of its useful life or has been abandoned shall be removed by the owner or operator. The owner or operator shall physically remove the installation no more than 120 days after the date of discontinued operations, or by a timeframe determined by the Zoning Committee for extenuating circumstances. For large-scale SES, decommissioning shall consist of:
 - i. Physical removal of all SES, structures, transmission lines, and equipment above and below ground from the site;
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - iii. The owner shall restore the site to its condition prior to location of the SES (excluding replanting of original vegetation and trees and shall stabilize soils through use of ground cover. All concrete, asphalt, gravel, and rebar must be removed from the soil.
- b. A Large-scale SES shall be considered abandoned when it fails to operate for more than one year without the written consent of the Zoning Committee.
- c. If the owner or operator of the Large-scale SES fails to remove the installation in accordance with the requirements of this section within 90 days of abandonment or the proposed date of decommissioning, the City retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned Ground-mounted SES. As a condition of issuance of an Improvement Location Permit, the applicant and landowner shall agree to allow entry to remove an abandoned, hazardous, or decommissioned installation.

- d. Prior to receiving an Improvement Location Permit, any owner of a Large-scale SES shall establish a cash security fund, bond, irrevocable letter of credit or other means as determined by the Lordsburg City Council. This fund is meant to secure the payment of removing any abandoned SES. The removal shall include the solar panels and associated equipment and buildings that have been determined to be abandoned or found to be in non-compliance with this chapter. The fund shall contain and be maintained at the amount of 125% of the cost of demolition and removal of the SES, up to a maximum of \$250,000, based upon a licensed engineer's estimate of the cost of demolition and removal. The established fund will be used by The City of Lordsburg to deduct fines and penalties for non-compliance with this Chapter or other applicable laws.

Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from The City of Lordsburg of the amount deducted and the deficiency created hereby. Within three months after the SES is removed, any remaining funds on deposit with The City of Lordsburg pursuant to this Chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

C. Municipal Utility Solar Energy Systems

1. Any Municipal Electric Utility is exempt from the regulation in this Section if:

- i. The SES is to be located entirely within the municipal corporate limits,
- ii. The municipal governing body provides a signed resolution to the Planning Commission approving the construction of a SES within their corporate limits, and
- iii. The municipal governing body provides a signed resolution to the Hidalgo County of Commissioners holding the County harmless for any issues or financial responsibilities that may occur from the Municipal Utility SES.

2. Municipal Utility SES are not exempt from obtaining and paying fees for Building and Improvement Location Permits.
3. Municipal residents are still subject to all the requirements of this Section related to Small-scale Solar Energy Systems.

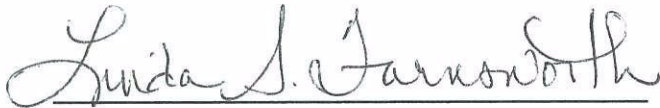
PASSED, ADOPTED, AND APPROVED by vote of the City Council of the City of Lordsburg, Hidalgo County, New Mexico this 21st day of December, 2022.

ATTEST:





Glenda F. Greene, Mayor



Linda S. Farnsworth, City Clerk

**RESOLUTION
No.
2022-39
TO REPEAL
SOLAR
MORATORIUM
RESOLUTION
NO. 2022-14**

Resolution No. 2022-39

A RESOLUTION TO REPEAL SOLAR MORATORIUM RESOLUTION NO. 2022-14

WHEREAS, the Governing Board in and for the City of Lordsburg, State of New Mexico finds that it is necessary to repeal Solar Moratorium Resolution No. 2022-14.

NOW THEREFORE, BE IT HEREBY RESOLVED that the governing body of the City of Lordsburg, State of New Mexico hereby repeals Resolution No. 2022-14.

Resolved in Regular Session this 21st day of December, 2022.

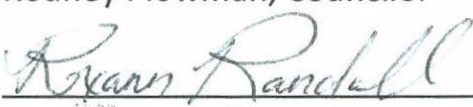
City of Lordsburg Governing Body



Glenda F. Greene, Mayor

Alfredo Morelos, Jr. Mayor Pro-Tem

Rodney Plowman, Councilor



Roxann Randall, Councilor



Julie Montenegro, Councilor



Martin Neave, Councilor



Manuel D.V. Saucedo, Councilor





Linda S. Farnsworth, City Clerk