

TOWN OF EDGEWOOD GOVERNING BODY OPERATING RESOLUTION NO: 2023-033

An Annual Resolution Providing for Rules Governing the Operation and Conduct of Meetings of the Governing Body of the Town of Edgewood

Whereas, Resolution 2023-030 will replace repeal and replace Resolutions 2023-030 and

Whereas, Section 3-14-11 of the NM Statutes provides, in part that "The governing body of a municipality having a Commission/Manager form of government shall hold meetings at least twice a month. Meetings shall be open to the public and the official records of the meetings shall be open to inspection at all times; and,

Whereas, the Governing Body recognizes the need for rules of procedure for the efficient and effective conduct of meetings of the Governing Body of the Town of Edgewood;

NOW THEREFORE, be it resolved that the following rules are established for the transaction of business before the Governing Body this 8th day of August 2023:

A. Definitions For purposes of this Resolution, the terms set forth below shall be defined as follows:

- 1) "Chair" means the Mayor, the Mayor Pro Tem or any other member of the Governing Body lawfully charged with conducting a meeting of the Governing Body. For purposes of cross-training, continuity, and redundancy, any member of the Governing body may chair a meeting if charged with conducting that meeting by motion, second, and two-thirds (2/3rds) vote of the Governing Body,
- 2) "Clerk-Treasurer means the Town employee serving as Clerk and Treasurer for the Town of Edgewood.
- 3) "Deputy Clerk" means the Town employee serving as Deputy Clerk for the Town of Edgewood.
- 4) Deleted
- 5) "Commissioner means any duly elected or appointed member of the Town Commission of Edgewood.
- 6) "Governing Body" includes all Commissioners including the Commissioner appointed as ceremonial Mayor. 7) "Mayor" means the Commissioner elected by the other commissioners to preside over meetings as Chair. The Mayor/Commissioner serves as the ceremonial head of the municipality. The Mayor does not hire, fire, or supervise municipal employees. Per 314-10 NMSA 1978, the Mayor has all powers and duties of a commissioner, including the right to vote upon all questions considered by the commission. The Mayor is the official head of the municipality for all ceremonial purposes, for the purpose of civil process and for military purposes. During their absence or disability, their duties shall be performed by another member of the commission, appointed by a majority of the commission and designated as mayor pro tem.
- 8) "Mayor Pro Tem" means the Commissioner chosen by the Commission to perform duties of the Mayor, in the Mayor's absence.

- 9) "Quasi-Judicial Public Hearing" means any Public Hearing required under State Law to be held by the Governing Body to adjudicate individual rights or responsibilities, including specifically but not limited to, zoning decisions, appeals from zoning decisions, subdivision plat approvals, or personnel matters, provided that this does not include matters related to approval of proposed contracts, agreements, or purchases by the Governing Body. 10) "Speaker" means any person who is recognized by the Chair to speak at a meeting, whether a Commission Member, the Clerk, the Treasurer, the Town Manager, the Town Attorney, an employee, staff member, committee member or other person associated with Town government, or a member of the public.
- 11) "Town Attorney" means the attorney hired by the Commission to provide legal counsel.
- 12) "Appointee(s)" Appointee means The Town Manager, Treasurer, Clerk, Police Chief, and any other person appointed to any position by the Governing Body. Appointees may only be directed by a motion and vote of the Governing Body and not by any single member of the Governing Body whether Mayor or Commissioner. While not supervised by the Town Manager, Appointees should work closely with and alongside the Town Manager to insure the smooth and efficient operation of the Town government.

#### B. Meetings.

As provided for in Section 10-15-1 of the New Mexico Open Meetings Act, all regular, special, and emergency meetings will be held as follows:

- 1) **Regular Meetings** are held on the second and fourth Tuesday of each month, beginning March 14, 2023 at the Town of Edgewood Commission Chambers, Edgewood Town Hall 171A State Road 344 at 6:00 PM and shall adjourn at 9:30 PM or earlier.
- 2) **Special Meetings and Emergency Meetings** may be called by any member of the Commission for a time and date certain at a location fully accessible to the public in the Town of Edgewood.
- 3) **Meeting Notices** of regular and special meetings of the Commission shall specify the date, time, location, and subject matter of the meeting...

- a. Where notice requirements are not otherwise specified by Ordinance, notices of regular meetings are posted a minimum of three (3) calendar days in advance of the meeting date and in accordance with the Open Meetings Act of the New Mexico Statutes.
- b. Where notice requirements are not otherwise specified by Ordinance, notice of special meetings are posted a minimum of three (3) calendar days in advance of the meeting date and in accordance with the Open Meetings Act of the New Mexico Statutes .
- c. Notices for regular and special meetings are posted at the following places within the Town of Edgewood:

- Municipal Offices
- Edgewood Community Library
- Mr. Gas Mart
- Edgewood Community Center
- Mail & Copy Business Center

- Town of Edgewood Website
- Electronic sign at Chili Hills

<http://www.edgewood-nm.gov/>

#### Eastbound 1-40 on-ramp

4. Minutes. Minutes are prepared by the Clerk or Clerk's administrative assistant under the Clerk's supervision using notes, electronic recordings or other media recordings taken at the meetings. The minutes include the following: the date, time and place of the meeting; the names of the Governing Body in attendance and those absent; the names of Town Staff present; the agenda items; a brief synopsis of the substance of matters discussed; names of citizens who address the Governing Body and brief synopsis of their comments; a record of any decisions and votes taken which show how each member voted.

Draft minutes may only be amended or modified during public meetings by a motion and vote of the Commission. Any Commissioner moving to modify or amend the minutes must provide the timestamp of the Facebook video recording of the portion of the meeting where the exact and correct verbiage is spoken. The Clerk will confirm the wording change from the video and make the change. If the Clerk cannot confirm the proposed wording change from the video, no change will be made and the matter will be brought before the Commission for review. The minutes are not intended to be a verbatim transcript of the meeting proceedings. Draft minutes shall be prepared within ten working days after the meeting. Meeting minutes can be found on the Town website under Agendas and Minutes.

C. Conduct of Meetings: Robert's Rules of Order, newly revised, is hereby adopted for the governance of the Governing Body only, in cases not otherwise provided for in these rules.

D. Distribution of Materials to Governing Body: Agenda and other written materials assembled for distribution to the Governing Body shall be provided electronically via Town e-mail and copies placed in the cabinet provided for that purpose outside the Municipal Offices. It is the responsibility of each member of the Governing Body to check their name slot periodically, to remove materials for preparation in advance of meetings.

1) Draft Agendas will be provided to the Commissioners on the previous Wednesday before the Regular Meetings and as soon as possible before a Special or Emergency meeting, to allow for suggestions and changes by the Commissioners before the Agenda is posted within 72 hours of the meetings.

2) All written material needed for preparation for discussion and/or decision-making by the Governing Body shall be distributed by 6:00 PM on the Friday prior to regular meetings, and as soon as practicable before a Special or Emergency Meeting.

E. Electronic Devices: All electronic devices shall be silenced for the duration of public meetings. This information shall be included in all agendas published by the Town of Edgewood. As a courtesy to the public, a reminder will be given at the beginning of all town meetings. 1) Nothing in this section shall prohibit the

arrangements necessary to allow for participation of a Town Official by telephone or electronic device provided that all present at the meeting can hear the Speaker who is participating, and the person on the phone can also hear what is said by the other Speakers. 2) Recording devices used by the public will be required to be turned off if they interfere with the quality of the sound of the meeting.

#### F. Provision of Rules Governing the Conduct of Meetings Generally.

- 1) The provisions of this Resolution shall be applied with common sense in order to affect the purpose of this Resolution. The policy of the Town of Edgewood is that meetings of the Governing Body shall be conducted in a professional and courteous manner without personal attacks.
- 2) Commission Members are expected to be personally present at all meetings of the Governing Body of the Town of Edgewood. In the event it is otherwise difficult or impossible for the Commission Member to attend the meeting in person, Commission Members may participate in meetings of the Governing Body by means of a conference telephone, electronic device, or other similar communications equipment, provided that the requirements of the Open Meetings Act, NMSA (1978), § 10-15-1, et seq. are met.
- 3) The agenda for meetings of the Governing Body shall be set as provided by Resolution No. 2023-022. Each Commissioner has the right to add Agenda items for Discussion and/or Action, provided that each Commissioner shall, supply Agenda-ready language for each item, only add Agenda items for themselves, not for other Commissioners and shall provide any supporting documentation needed for that item for the meeting packet. In order to have an item placed on the Agenda for any regular meeting, it must be submitted to the Clerk by the Wednesday previous to the meeting date by 5:00 PM. If the item is received after the 5:00 PM Wednesday deadline, it will be placed on the next Regular Meeting agenda in the order received.
- 4) The Chair shall have the primary authority and responsibility to determine whether discussion at a meeting of the Governing Body is proceeding properly within the scope of items set forth in the agenda for that meeting.
- 5) Any person wishing to participate as a Speaker at a meeting of the Governing Body shall first ask to be recognized by the Chair.
- 6) The Chair shall have authority to determine the order in which Speakers shall be recognized and determine when discussion on a matter appears to have concluded, subject to the other provisions of this Resolution.
- 7) Should the Chair determine that any Speaker is or will be addressing matters that are not properly within the scope of items set forth in the agenda, or is otherwise in violation of this Resolution, the Chair is authorized to declare the Speaker out of order.
- 8) Should the Chair determine that any discussion addresses matters that are not properly within the scope of items set forth in the agenda, has concluded, or is otherwise in violation of this Resolution, the Chair is authorized to declare further discussion on said subject out of order.
- 9) Any Speaker who is determined to be out of order by the Chair shall cease speaking immediately upon said determination. If any discussion is determined by the Chair to be out of order, said discussion shall immediately cease.
- 10) A Commission Member other than the Chair may seek to allow a Speaker to resume speaking or to reopen a discussion after the Chair has ruled the Speaker or discussion is out of order by making a motion to reopen discussion. The Speaker may resume speaking or discussion may be resumed if said motion is seconded and a majority of the quorum votes in favor of the motion.
- 11) Multiple motions to reopen discussion are not favored. Upon denial of a motion to reopen discussion, discussion may be reopened.

- (a) at a subsequent meeting where the matter at issue is properly included on the agenda, and
  - (b) upon a showing by a Commission Member that additional facts or circumstances exist to justify reopening discussion. After a Commission Member has explained the grounds to reopen discussion under this subsection, the Governing Body shall vote whether to reopen discussion or to table the agenda item. A majority of the quorum present shall determine whether to reopen discussion under this subsection.
- 12) A Commission Member, the Town Manager, the Clerk, Treasurer, or the Town Attorney may seek a determination that a Speaker or discussion is out of order by bringing the matter to the attention of the Chair by raising a Point of Order. The Chair shall then determine whether the Point of Order is well taken or not well taken and shall determine whether a Speaker is out of order.
  - 13) The Chair shall recognize any Commission Member who wishes to speak, unless under the circumstances said Commission Member's speech would be out of order under or otherwise in violation of this Resolution.
  - 14) If the Clerk, Treasurer, the Town Attorney, an employee, staff member, committee member or other person associated with Town government asks to be recognized on a matter involving that individual's area of special knowledge or expertise, or work on behalf of the Town, that person shall be recognized, unless the Chair determines that the proposed Speaker would be out of order under or otherwise in violation of this Resolution.
  - 15) Members of the general public who ask to speak shall be recognized to speak during appropriate portions of a meeting of the Governing Body for specific lengths of time as set out below. This includes specifically
    - (a) individuals who have been invited to present information to the Governing Body with regards to particular agenda items, *five* minutes
    - (b) members of the public during public comment segments of the agenda, two minutes, and
    - (c) members of the public during public comment segments of the agenda may yield their two minutes to another speaker, and
    - (d) members of the public at hearings on a proposed ordinance after a motion is properly made and seconded by the Governing Body to approve said ordinance and prior to the vote on said proposed ordinance, five minutes.
  - 16) Notwithstanding the provisions of subsection 14, the Chair retains authority to determine that a member of the public who wishes to participate as a Speaker is out of order or otherwise in violation of this Resolution. The provisions of Subsection 14 do not apply to Quasi-judicial public hearings, which shall be governed as provided by Section H below. 17) If a member of the Governing Body wishes to hear from a member of the Public seated in the audience, the Chair will ask the remainder of the Governing Body whether they wish to hear from the individual. If there is a majority vote, the member of the Public will be heard from.
  - 18) In any procedural matter not otherwise covered by this Resolution, the most current edition of Robert's Rules of Order shall apply, provided such rules will be interpreted in a commonsense fashion to affect the purpose of this Resolution.

G. Provision of Rules Governing Motions Commission Members.

- 1) When an agenda item contains a provision for action to be taken by the Governing Body, it shall be the prerogative of Commission members to make proper motions for action related to that agenda item. Motions framed in the positive, so that an affirmative vote will serve to approve a proposed action. A motion to deny an action is also considered a positive motion.
- 2) Upon the Chair's determination that reasonable discussion has completed on a pending motion, and in the absence of a proper motion to reopen discussion, the Chair shall call for a vote. A proper motion to reopen discussion shall be decided before any additional discussion or action takes place.. Per Robert's Rules of Order, in a roll call vote, the roll shall be called by the Clerk

- in alphabetical order with the Chair voting last
- 3) A motion on an action item may be withdrawn by the Commission member who made the motion at any time before it is seconded. After it has been seconded a motion may be withdrawn with the consent of a majority of the quorum present. There is no need to obtain the floor to second the motion.
  - 4) During the time that a motion has been made and seconded is pending, no other motion shall be recognized by the Chair, other than a motion to amend the pending motion or a motion to reopen discussion as provided in subsection 2.
  - 5) Friendly amendments to a pending motion shall be allowed upon the consent of the Commission member who made the motion and said consent shall constitute a seconding of the motion as amended thereby.
  - 6) Other amendments to a pending motion shall be allowed if seconded and if a majority of the quorum present affirmatively votes to allow the amendment. Such an affirmative vote shall have no effect other than to amend the motion on the floor and shall not constitute a vote to approve either the original motion or the amended motion.
  - 7) Whenever the Governing Body has voted upon a matter listed in the agenda, it shall be presumed that further discussion by a Speaker regarding that matter is out of order, Provided, however, that this provision shall not limit the prerogative of a Commission member to propose an alternative motion unless upon Motion by the Chair, a majority of the quorum present determine said alternative motion to be out of order.
  - 8) The Chair (Mayor or Mayor Pro Tem) controls access to the floor. It is Out of Order to speak unless granted the floor except for 1) Point of Order and 2) Certain Privileged Motions.
  - 9) Traditionally, the person making the motion initiates discussion/debate on the matter at hand. Debate/discussion must be confined to the Question before the Body. Debate should be addressed to the Chair and not to the members. One member should not interrogate another member or person speaking from the public except through the Chair.
  - 10) The Chair (or the Governing Body) may set reasonable time limits in debate. Time may be extended or limited upon a majority vote of the Body. 11) It is the right of every member who notices a breach of the rules to insist on their enforcement thereby calling upon the Chair for a ruling and enforcement.

#### H. Provision of Rules Governing the Conduct of Quasi-Judicial Public Hearings.

- 1) When a matter comes before the Governing Body for determination that, under State Law, is to be determined by the Governing Body acting in a quasi-judicial capacity, only Commission Members, the Town Attorney, or witnesses who are determined by the Chair to have testimony relevant to the matter under consideration shall be qualified to participate as Speakers in that matter.
- 2) The Rules of Evidence shall not apply to the conduct of such hearings, provided that the Governing Body shall base its decision on evidence that constitutes adequate factual grounds to support its decision under applicable law. Comments by Speakers who are properly determined to be out of order shall not be relied upon as grounds upon which the Governing Body bases its decision.
- 3) All witnesses shall be required to take an oath as provided by law.
- 4) The Chair shall be responsible for the general conduct of proceedings on matters to be heard under this Section, provided that in the Chair's discretion, the Town Attorney may provide advice to the Chair regarding the procedures to be followed.
- 5) If a party to the matter at issue is represented by an attorney at the meeting, the

attorney of that party may conduct a direct examination of any witness presenting testimony in support of the party's position, provided that the Chair retains the authority to exercise reasonable control over the manner, extent, and subject of such questioning and testimony so long as the party is reasonably able to place into evidence the facts necessary to support its position.

- 6) If a party is not represented by an attorney, a witness who wishes to present testimony on behalf of that party shall be allowed to present in narrative form the facts which, to the witness' personal knowledge, support that party's position. Provided, however, that the Chair retains authority to exercise reasonable control over such testimony.
- 7) Following the completion of direct testimony by any witness as provided above, Commission Members or, at the Chair's discretion, the Town Attorney shall be allowed to ask such additional questions as may be reasonably necessary to allow the Governing Body to reach its decision. Provided, however, that the Chair retains authority to exercise reasonable control over such questioning and testimony.
- 8) Following questioning by the Commission members and/or the Town Attorney, any other party who has a legally cognizable interest in the matter shall be allowed to ask questions of the witness. An attorney representing the cross-examining party may conduct such questioning on behalf of the cross-examining party. Provided, however, that the Chair retains authority to exercise reasonable control over such questioning and testimony.
- 9) Following any questioning by the party, the party's attorney, Commission Members, the Town Attorney, and another party or that party's attorney, further questions will be allowed only upon a determination by the Chair that such questions are reasonably necessary to allow for a full and fair determination of the matter at hand.
- 10) In addition to testimony, a party with a legally cognizable interest in a matter to be determined shall be allowed to present other evidence, including maps, plans, photographs, or other physical evidence that may reasonably aid the Governing Body in making a full and fair determination of the matter at hand. Provided, however, that the Chair retains authority to exercise reasonable control over the presentation of such evidence.
- 11) The Chair may require a party wishing to present physical evidence to provide testimony sufficient to establish that the evidence is genuine and relates to the matter to be determined. A Commission Member or the Town Attorney may, by point of order, request the Chair to require the presentation of such foundational evidence.
- 12) After a party with a legally cognizable interest in the matter to be determined has completed the presentation of evidence in support of its position, any other party with a legally cognizable interest in said matter shall be allowed to present its evidence. The Chair shall determine the order of the parties presenting evidence.
- 13) Rebuttal evidence shall be allowed upon request of a party if it is determined by the Chair that said evidence is necessary to a full and fair determination of the matter at issue.
- 14) After the presentation of all evidence to be presented upon the matter to be determined under this Section, any party having a legally cognizable interest in the outcome of the hearing, or that party's attorney, shall be allowed to make a closing statement. At the Chair's discretion, the Town Attorney may also present a summary of the facts and law in evidence before the Governing Body in order to aid it in reaching a full and fair determination of the matter at issue. The Chair retains authority to exercise reasonable control over closing statements.
- 15) Upon the presentation of all evidence and closing statements, the matter shall be decided in a manner consistent with the Open Meetings Act. If the Governing Body engages in further public

discussion prior to voting on the matter at hand, the Chair shall not recognize members of the public as competent Speakers in such discussion.

16) Provisions of Sections F and G above that are not inconsistent with the provisions of Section H shall also apply to quasi-judicial public hearings, including specifically

(a) the obligation of speakers to comply with a determination by the Chair that they are out of order,

(b) the prerogative of Commissioners or the Town Attorney to raise a point of order, and

(c) provisions regarding the making of motions. A Commission Member other than the Chair may seek to override a determination made by the Chair pursuant to Section H of this Resolution.

**I. Site Visits:** Whenever the Governing Body takes up an appeal of a decision by the Planning & Zoning Commission, it may vote to conduct properly noticed meetings for the purpose of site visits. The objective of the site visit is to provide the Governing Body with a geographic orientation. Members of the public may attend; however, no public testimony, substantive discussion of the issues, or exchange of evidence will be allowed. Visual observations by the Governing Body illustrate the evidence introduced by the parties in the hearing but are not evidence themselves. Independent evidence introduced by a party is required to support any finding.

1) A site visit may be placed on the agenda at the request of a member of the Governing Body.

2) Whenever possible, a site visit should be scheduled to take place on the same day as the regular meeting during which the matter appears on the agenda.

3) Prior to the site visit, a regular or special meeting of the Governing Body shall be called to order, at the place and time as advertised on the agenda.

4) If a site visit is approved by vote of the Governing Body, the meeting will be adjourned for that purpose after the Mayor or Mayor Pro Tem reviews the procedure for site visits.

5) The Governing Body will conduct all site visits as a group; no member of the Governing Body acting apart from the entire group shall enter a property in order to conduct a site visit.

6) The merits of the application are not to be discussed while traveling to and from a site visit; ideally each member of the Governing Body will travel to the site individually.

7) Members of the Governing Body shall not engage in conversation with the press, members of the public, the applicant(s), or their representative(s). 8) Upon completion of the site visit, the Governing Body shall return to the location of the meeting and reconvene.

9) The merits of the application are to be discussed only after the Governing Body has reconvened the public meeting in the customary meeting place announced on the agenda.

10) Following a confirmation that no deliberations of the merits of the application took place and no votes were taken, the meeting will continue onto other agenda items or adjourned if the sole reason for the meeting was to conduct the site visit.

#### **J. Conduct of Closed Meetings.**

1) When a meeting is closed pursuant to the Open Meetings Act, no discussion shall take place during the Closed Session other than regarding the matter or matters identified in the motion to go into Closed Session.

2) No vote shall take place during Closed Session unless otherwise authorized by



the Open Meetings Act, except that the Governing Body may take a procedural vote to reopen discussion should the Chair determine that a speaker or discussion in the Closed Session is out of order.

- 3) If a procedural motion takes place in Closed Session, the fact that a motion occurred in Closed Session shall be reported to the public when the Governing Body resumes Open Session and the motion and roll-call vote therein shall be recorded in the minutes of the Governing Body. The obligation to report the occurrence of a procedural motion occurring during Closed Session shall not include an obligation to report details regarding the discussion that, under the Open Meetings Act, were properly allowed to take place in Closed Session.
- 4) Participants in a Closed Session must be physically or electronically present and comprise a quorum of the Governing Body
- 5) In order to enter into a Closed Session at an open meeting, a majority of a quorum of the Governing Body shall approve a motion to enter into a Closed Session, which motion shall identify the authority for closure under the Open Meetings Act and state the subject to be discussed with reasonable specificity; the vote shall take place in an open meeting and the vote of each member of the Governing Body shall be recorded in the minutes.
- 6) Due to the potential for liability and damages to the town, of matters discussed in Closed Session, all discussion is strictly confidential and shall not be disclosed by any participant. Because any recordings of discussions of town matters would constitute Public Records and therefore would be subject to the Inspection of Public Records Act, to protect confidentiality of all discussions, no recordings of any kind are allowed.
- 7) When the Closed Session is completed and upon reconvening of the open meeting, a statement shall be made affirming that the matters discussed in the Closed Session were limited to those stated in the motion to close, which statement shall be approved by the Governing Body as part of the minutes.
- 8) The agenda for a regular, special, or emergency meeting that contains an agenda item where a Closed Session will be called for shall identify the authority for closure under the Open Meetings Act and state the subject to be discussed with reasonable specificity. The agenda item shall be reviewed by the Town Attorney prior to posting the agenda for compliance with the provisions of the Open Meetings Act with respect to the closure.

#### K. Enforcement and Penalties


- 1) Should any Speaker violate the provisions of this Resolution, said Speaker shall be subject to public reprimand upon a majority vote of the Commission. Said reprimand shall be recorded in the minutes of the Governing Body.
- 2) Should a commissioned law enforcement officer be present at a meeting of the Governing Body, the Chair is authorized to request that said officer act as the Sergeant at Arms in cases where it appears to the Chair that assistance is required to restore order. A Sergeant at Arms is authorized to use lawful force to remove a Speaker from a meeting if the Speaker refuses to comply with a lawful directive of the Sergeant at Arms. The Sergeant at Arms must understand and agree the directive is in compliance with the law.
- 3) If a Commission member violates this Resolution in such a manner or with such frequency that

said violation or violations constitute a violation of the Town's Code of Ethics or of State Law, the Governing Body may take appropriate action in addition to or instead of issuing a public reprimand. Such action may include but is not limited to, referring the matter to a Hearing Officer as provided by the Ethics Code.

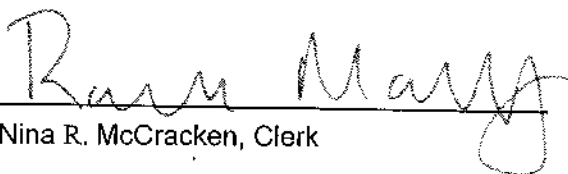
- 4) Nothing herein shall constitute a waiver of any other remedies as may be provided by law for misconduct occurring during a meeting of the Governing Body, including contractual remedies or remedies provided by the Personnel Ordinance.

This Resolution repeals and replaces in its entirety Resolution 2023-030

PASSED, APPROVED and ADOPTED THIS 8<sup>th</sup> DAY of August 2023.

  
\_\_\_\_\_  
Audrey J. Jaramilla, Mayor, CMO  
Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
Nina R. McCracken, Clerk

