



**AGENDA**  
**VILLAGE OF QUESTA**  
**REGULAR COUNCIL MEETING**  
**TUESDAY, JUNE 23, 2020**  
**VILLAGE OF QUESTA COUNCIL**  
**CHAMBERS**  
**2500 Old State Road 3 Questa, NM**  
**6:00 P.M**

~ NOTICE TO THE PUBLIC ~

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Mayor Mark L. Gallegos  
Mayor Pro-Tem Brent P. Jaramillo  
Councilmember Charlie I. Gonzales | Councilmember John A. Ortega | Councilmember Louise T. Gallegos

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**NOTE** This tele-conference meeting will follow the Attorney General's guidelines and observe the Governor and Secretary of Health's public health orders. This format will allow the Village Council to conduct the meeting without all Council members being physically present and in accordance with the NM Open Meetings Act. There will be no live audience present. Members of the public wishing to participate can do so by calling [1-877-309-2073](tel:1-877-309-2073) and entering access code 944-323-437 or from a computer, tablet, or smartphone at <https://www.gotomeet.me/ReneeMartinez1/village-of-questa-council-meeting>. Those wishing to comment before or during the meeting may submit comments or questions to Interim Village Administrator Renee Martinez at [rmartinez@villageofquesta.org](mailto:rmartinez@villageofquesta.org).

- I. **CALL TO ORDER BY MAYOR MARK L. GALLEGOS**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF AGENDA**
- V. **APPROVAL OF MINUTES** – June 09, 2020 – Regular Meeting
- VI. **PUBLIC COMMENTS** - *(It is the policy of the Governing Body to accept public comment. Because your particular issue is not on the agenda the Governing Body cannot respond immediately but may direct staff to address issues at a future Council Meeting. Public comments are limited to a maximum of three minutes.)*
- VII. **PRESENTATIONS**
  - A) Presentation by Dr. Deb Miller regarding Questa Mine reclamation projects
  - B) Presentation regarding Proposed Dollar General Store at NM 522 and NM 38 by 12 Oaks Development
- VIII. **ACTION ITEMS**
  - A) Discussion, Consideration & Decision - Proposed Dollar General Store at NM 522
  - B) Discussion, Consideration & Decision - Waste Management Contract
  - C) Discussion, Consideration & Decision - Questa Public Library Health Advisory Policy
  - D) Discussion, Consideration & Decision - Resolution 2020-11- Revision to Travel & Per Diem Policy
  - E) Discussion, Consideration & Decision - Resolution 2020-12 - CDBG Annual Certifications & Commitments
  - F) Discussion, Consideration & Decision - Proposed Amendment 2 / Robles, Rael & Anaya, Legal Services
  - G) Discussion, Consideration & Decision - Proposed of Amendment 2 / Robles, Rael & Anaya, Legal Oversight
- IX. **DISCUSSION ITEM**
  - A) MOU between the Village of Questa & Taos County, Taos County Sheriff's Department for Police Services
- IX. **MATTERS FROM ATTORNEY**
- XII. **MATTERS FROM ADMINISTRATION**
- XIII. **MATTERS FROM MAYOR & COUNCIL**
- XIV. **ADJOURNMENT**

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid of service to attend or participate in the hearing or meeting, please contact the Village Clerk at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Village Clerk at 575-586-0694 if a summary or other type of accessible format is needed.

**VILLAGE OF QUESTA**  
**REGULAR COUNCIL MEETING MINUTES**  
**TUESDAY, JUNE 23, 2020**  
**VILLAGE OF QUESTA COUNCIL CHAMBERS**  
**6:00PM**

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**NOTE** This tele-conference meeting will follow the Attorney General's guidelines and observe the Governor and Secretary of Health's public health orders. This format will allow the Village Council to conduct the meeting without all Council members being physically present and in accordance with the NM Open Meetings Act. There will be no live audience present. Members of the public wishing to participate can do so by calling [1-877-309-2073](tel:1-877-309-2073) and entering access code 944-323-437 or from a computer, tablet, or smartphone at <https://www.gotomeet.me/ReneeMartinez1/village-of-questa-council-meeting>. Those wishing to comment before or during the meeting may submit comments or questions to Interim Village Administrator Renee Martinez at [rmartinez@villageofquesta.org](mailto:rmartinez@villageofquesta.org).

**I. CALL TO ORDER BY MAYOR MARK L. GALLEGOS**

Mayor Gallegos called the meeting to order at 6:19pm

**II. ROLL CALL**

Village Clerk Renee Martinez called roll where a quorum was present.

Those present virtually were:

Councilman Brent P. Jaramillo

Those present in person were:

Councilman Charlie I. Gonzales

Councilman John Anthony Ortega

Mayor Mark Gallegos

Dr. Deb Miller, Miller Geotech

Attorney Chris DeFillippo

Dan Darnell, Waste Management

Not Present:

Councilwoman Louise T. Gallegos

Also Present virtually were:

Karen Shannon, VOQ Finance Director

Christian Isely, Chevron

Joseph Karnes, Summer, Karnes & Associates

Jerrold Pedigo, 12 Oaks Development

Drew Crosby, 12 Oaks Development

Malaquias Rael, QEDF Chair

Marcus Rael, Village Attorney

**III. PLEDGE OF ALLEGIANCE**

Mr. Dan Darnell led the Pledge of Allegiance.

**IV. APPROVAL OF AGENDA**

Mayor Gallegos requested an Executive Session be added to the agenda.

Motion: Councilman Ortega  
 Second: Councilman Jaramillo

Roll Call:

Councilman John Anthony Ortega	YES
Councilman Brent P. Jaramillo	YES
Councilman Charlie Gonzales	YES

To approve the agenda as amended. All voted yes. Motion carried.

V. **APPROVAL OF MINUTES** –

- June 09, 2020 – Regular Meeting

Motion: Councilman Gonzales  
 Second: Councilman Ortega

Roll Call:

Councilman John Anthony Ortega	YES
Councilman Brent P. Jaramillo	YES
Councilman Charlie Gonzales	YES

To approve the June 9, 2020 Regular Meeting minutes as presented. All voted yes. Motion carried

VI. **PUBLIC COMMENTS** - *(It is the policy of the Governing Body to accept public comment. Because your particular issue is not on the agenda the Governing Body cannot respond immediately but may direct staff to address issues at a future Council Meeting. Public comments are limited to a maximum of three minutes.)*

Ms. Martinez read aloud the public comments that were submitted to her by email regarding the proposed Dollar General. They are part of the record and are referenced as Attachment 'A' to these minutes.

Christian Isely, Chevron – Stated that Chevron has assisted in terms of the Covid 19 pandemic response. They have given \$10,000.00 to the North Central Food Pantry in Questa as well as \$5,000.00 to the Taos Feeds Taos recognizing the significant economic impact during the pandemic. In addition, 125 face shields were provided Holy Cross Hospital as well as to Questa EMS. Mr. Isely stated that he was glad to see that the Village would like to work with grant writer Terry Brunner for the La Cienega project. He recommended that the Village work with Mr. Brunner in obtaining much needed grants that are currently available.

VII. **EXECUTIVE SESSION** – (The Governing Body may convene into Executive Session at this time pursuant to the NM Open Meetings Act NMSA 1978 10-15-1)

A. Pending or Threatening Litigation - (§ 10-15-1(H) (7))

A motion to enter into Executive Session was made by Councilman Ortega. Seconded by Councilman Gonzales.

Roll Call:

Councilman Brent Jaramillo	YES
Councilman John Ortega	YES
Councilman Charlie Gonzales	YES

Mayor Gallegos stated that the Governing Body will go into Executive Session to discuss only the item listed. The Governing Body entered into Executive Session at 6:35pm.

A motion was made to reconvene from Executive Session at 6:57pm by Councilman Gonzales, seconded by Councilman Ortega.

Roll Call:

Councilman John Ortega	YES
Councilman Brent Jaramillo	YES
Councilman Charlie Gonzales	YES

Mayor Gallegos stated that only the Executive Session Item regarding Pending or Threatening Litigation - (§ 10-15-1(H) (7)) was discussed. Attorney DeFillippo concurred.

## VII. PRESENTATIONS

### A. Presentation by Dr. Deb Miller regarding Questa Mine reclamation projects

Dr. Miller was present for this Power Point presentation. A copy of the presentation will be included as part of the record filed with the minutes. They are referenced as Attachment 'B' to these minutes.

Councilwoman Gallegos arrived during this presentation.

Mayor Gallegos thanked Dr. Miller for her presentation.

### B. Presentation regarding Proposed Dollar General Store at NM 522 and NM 38 by 12 Oaks Development

Mr. Joseph Karnes of Summer, Karnes & Associates stated that he is present tonight on behalf of the applicant 12 Oaks Development. He stated that the principals of 12 Oaks are also present – Mr. Jerrold Pedigo and Mr. Drew Crosby. Mr. Karnes expressed his appreciation for the Council's efforts and willingness to set up this meeting remotely as his wife has a disability and he is not in a position where he can travel to attend public meetings. He stated that they appreciate the opportunity to present and look forward to receiving a decision on this application this evening. They are requesting an application for a permitted use as defined by the Village of Questa zoning ordinance that designates this property for retail use. This was a decision that was made by this council in a previous meeting when the zoning ordinance was adopted along with the zoning map designating this property for residential use and critically, the decision was made to allow that use to occur subject to compliance with the development standards set forth in the zoning ordinance. There has been a lot of discussion about whether or not this retail should happen on this property. This use is as of right as defined by your zoning ordinance; it is not a conditional use - if it was, his clients wouldn't have come to the Village of Questa. He stated that they are not here to persuade the Council that they should allow this use to occur; the zoning ordinance has already declared that this is a permitted use and there is no discretion in making this decision. He stated that the Council is not here to exercise their discretion on this application and it's important to keep that in mind because by designating retail use as a permitted use on this property the Village has created a property right that has been recognized by the New Mexico Supreme Court in the case of Albuquerque Commons versus the City of Albuquerque. 12 Oaks has acted in reliance on the representations made in the Village's Zoning Ordinance. He stated that they have already sued the Village of Questa and briefly discussed the reason. He stated that 12 Oaks came to the Village in October and applied for this permitted use; in November the Village came back and requested a permit from the New Mexico Department of Transportation for the permission to go out onto the state highway. Typically, that type of ministerial permit is obtained after the local decision is obtained as a sequential process, it is a ministerial process and NMDOT does not exercise discretion; if you meet their standards, they issue the permit. The zoning ordinance doesn't require this, but his

clients realize they need to get that permit anyway, so they decided to apply for it. It took some time to get that permit. About that time, COVID-19 hit. We understand that that has turned the world upside down for all of us; that is not why we sued the Village. We understand that and appreciate the efforts that have been made to consider this application; however, on April 7th he received a letter from the Village Counsel raising a new issue pointing at state statute having to do with issuance of business licenses and making the representation that indeed the Village does have the discretion to decide whether or not this particular retail use is appropriate for this particular piece of property. He sent a detailed letter in response and the key is that nasty statute was never brought up in the six months between October and April. This was an issue that could have been brought up immediately. It is not in the Zoning Ordinance; after we surmounted the hurdle of the New Mexico Department of Transportation we found ourselves facing yet another hurdle that had not been brought up before. He stated that we are not here to play games and that is why we demanded to be heard and eventually filed suit to compel a decision in this case; a decision that again is non-discretionary. We have met all the standards and the approval is required to be granted.

Mr. Karnes stated that for the record, speaking of economic issues, he understands by reading the Albuquerque Journal and also the Taos News, that Mayor Gallegos is the operator of the El Monte Carlo Lounge and has represented to my clients in the past that this retail use being proposed by 12 Oaks may have a harmful effect on his and other retail businesses in the area. He stated that if we are going to court and continue with the ongoing litigation, this is a factor that I think the judge will be interested in. He stated that in his 25 years of experience, that's called a conflict of interest. This is why we have sued the Village. We have a hearing scheduled for next week before Judge Chavez. He stated that they are asking for a YES decision tonight on the action item; if so, his clients are willing to drop their lawsuit and not pursue any damages and move forward with their project; they did not come to have a fight with the Village; they came here because of what the zoning ordinance says they can do as a matter of right; however if the vote is NO tonight, they will continue on with the litigation. He stated that they would rather build a store that will benefit this community than fight with the Village. If they have to continue litigating, there are some things he needs to point out: This affects both the Village in his client. Whenever litigation takes place it is time consuming, it's in-efficient and it's expensive. Both parties will be spending money on lawyers. The most effective thing to do is to implement and apply the zoning ordinance as it is written. Lawyers will be paid during the length of the litigation however long that it takes. The other issue is risk - when you submit a dispute to a judge neither party knows how it is going to turn out- that's the judge's decision at the end of the process. After all that money is spent on the litigation. We will be pursuing damages against the Village; we'd rather not do this, but we are placed between a rock and a hard place.

Mayor Gallegos stated that this is a really nice presentation of how the Dollar General wants to come into Questa; by telling us about all the legal consequences that we already understand. We have legal counsel. This is not helping how you are trying to propose how great a Dollar General is going to come forth to the Village of Questa, I just wanted to say that for the record. I hope you can wrap up your presentation I do not see how this is showing how much benefit the Dollar General will be to Questa. He stated that he did learn a lot of legal content that will help me down the road.

Mr. Karnes thanked Mayor Gallegos and stated that this is the Village's Zoning Ordinance; we are playing by your rules. Your rules state that retail use on this property is permitted. He stated he will be available to answer any questions and turned it over to Mr. Pedigo.

Mr. Pedigo thanked the Mayor and Council for the opportunity to address them and express once again their desire to be a developer, owner, and neighbor in the Village of Questa. He stated that they began this process by researching your Village and identifying it as a possible location for a new Dollar General store. Dollar General quickly realized it was a community they wanted to be in and a place that they could be successful by providing variety and competition to the benefit of the residents in the Village and the general area. They then, began the process of searching for a site for this new store. He stated that when they go into any town or village

and look for a new site, they make every effort to secure a piece of property that has already been identified as a place that the local leaders have already zone for the intended use that the new Dollar General would require. They do this for a combination of reasons. One reason is that they don't want to try and tell the Village or its residents where they should allow this type of retail; instead they want to go where the Village and the residents have already decided where they want commercial properties located and in particular this type of retail. They secured a piece of property that the Village had already identified in zone for their particular use. He stated that they understand that there seldom will ever be zero opposition to any proposal. There has been opposition to our proposed store. Not everyone supports our plans or Dollar General store in the Village of Questa. All we ask is to be treated fairly and equitably according to your own study through codes, policies, and procedures. Additionally, this lack of proceeding and allowing the project to continue is financially impacting the woman that has been your property neighbor for years and who has owned the property for years, who has paid taxes. Miss Elsie Piper is an elderly lady who has had high hopes to get the property sold and use the proceeds to help her ailing husband, who has died during this process and as a result never was able to use the proceeds for his medical needs. He is asking that the Council follow the rules, policies and zoning codes and administer them fairly. Mr. Pedigo thanked the Mayor and Council for their time and concluded his presentation.

Councilman John Ortega requested a 5-minute break.

Motion: Councilman Ortega  
Second: Councilman Gonzales

Roll Call:

Councilman Charlie Gonzales	YES
Councilman John Anthony Ortega	YES
Councilman Brent P. Jaramillo	YES
Councilwoman Louise Gallegos	YES

At 8:35pm, the motion was approved to take a 5-minute break.

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Motion: Councilman Ortega  
Second: Councilwoman Gallegos

Roll Call:

Councilman Charlie Gonzales	YES
Councilman John Anthony Ortega	YES
Councilman Brent P. Jaramillo	YES
Councilwoman Louise Gallegos	YES

At 8:39pm, the motion was approved to resume the meeting.

#### VIII. ACTION ITEMS

##### A. Discussion, Consideration & Decision - Proposed Dollar General Store at NM 522

Councilman Gonzales stated that he proposes that we deny the proposed Dollar General location by 12 Oaks Development. This motion was then seconded by Councilwoman Gallegos.

Roll Call:

255  
 256 Councilman John Anthony Ortega NO  
 257 Councilman Charlie Gonzales NO  
 258 Councilwoman Louise Gallegos NO  
 259 Councilman Brent P. Jaramillo asked Mayor Gallegos if voting NO is going against the motion made by  
 260 Councilman Gonzales.

261  
 262 Village Attorney Chris DeFillippo stated for clarification purposes, Councilman Gonzales stated in his motion  
 263 a NO vote; as such, any YES vote will be an agreement with Councilman Gonzales and any NO vote would be  
 264 in disagreement with Councilman Gonzales. He suggested a re-vote because of the confusion.

265  
 266 Mayor Gallegos stated that there has been a motion by Councilman Gonzales to deny the application by 12  
 267 Oaks Development for a proposed Dollar General store on Hwy 522 in Questa, NM – Councilman Gonzales  
 268 agreed to that statement. Mayor Gallegos then stated that the motion was then seconded by Councilwoman  
 269 Gallegos supporting that motion to deny – Councilwoman Gallegos agreed. Mayor Gallegos asked the Clerk  
 270 for a roll call vote.

271  
 272 Roll Call:

273  
 274 Councilman John Anthony Ortega NO  
 275 Councilman Brent P. Jaramillo YES  
 276 Councilman Charlie Gonzales YES  
 277 Councilwoman Louise Gallegos YES

278  
 279 To deny the application for the proposed Dollar General Store at NM 522 in Questa, NM - with a 3 to 1 vote.  
 280 Motion carried. Mayor Gallegos stated that a decision was made with three members supporting the denial one  
 281 opposing the denial.

282  
 283 B. Discussion, Consideration & Decision - Waste Management Contract

284  
 285 Mr. Dan Darnell of Waste Management was present. He stated that the contractor refuse collection service  
 286 agreement between the Village and Waste Management expires on June 30th of 2020. The restated agreement  
 287 to extend our contract through June 30, 2024 has been made available and incorporates the original agreement  
 288 and all the terms thereof along with five amendments; We incorporated all of those along with the original  
 289 language in the document.

290  
 291 Motion: Councilman Ortega  
 292 Second: Councilman Gonzales

293  
 294 Roll Call:

295  
 296 Councilman Charlie Gonzales YES  
 297 Councilman John Anthony Ortega YES  
 298 Councilman Brent P. Jaramillo YES  
 299 Councilwoman Louise Gallegos YES

300  
 301 To approve the Waste Management Contract as presented. All voted yes. Motion carried.

302  
 303 C. Discussion, Consideration & Decision - Questa Public Library Health Advisory Policy

304

Ms. Martinez stated that the Library Advisory Board would like the Council to adopt this policy regarding the health emergency and the re-opening of the library.

Motion: Councilman Gonzales

Second: Councilman Ortega

Roll Call:

Councilman Charlie Gonzales YES

Councilman John Anthony Ortega YES

Councilman Brent P. Jaramillo YES

Councilwoman Louise Gallegos YES

To approve the Questa Public Library Health Advisory Policy. All voted yes. Motion carried.

#### D. Discussion, Consideration & Decision - Resolution 2020-11- Revision to Travel & Per Diem Policy

Ms. Shannon stated that we had an audit finding last year because we did not update our policy language in regards to the state statutes regarding meals while traveling. The changes to the document are highlighted.

Motion: Councilman Ortega

Second: Councilwoman Gallegos

Roll Call:

Councilman Charlie Gonzales YES

Councilman John Anthony Ortega YES

Councilman Brent P. Jaramillo YES

Councilwoman Louise Gallegos YES

To approve Resolution 2020-11- Revision to Travel & Per Diem Policy. All voted yes. Motion carried.

#### E. Discussion, Consideration & Decision - Resolution 2020-12 - CDBG Annual Certifications & Commitments

Ms. Martinez stated that this Resolution is an annual requirement by CDBG.

Motion: Councilman Gonzales

Second: Councilman Ortega

Roll Call:

Councilwoman Louise Gallegos YES

Councilman Charlie Gonzales YES

Councilman John Anthony Ortega YES

Councilman Brent P. Jaramillo YES

To approve Resolution 2020-12 - CDBG Annual Certifications & Commitments. All voted yes. Motion carried.



F. Discussion, Consideration & Decision - Proposed Amendment 2 / Robles, Rael & Anaya, Legal Services

Ms. Martinez stated that this amendment to the original contract for general legal services will extend their contract for one more year.

Motion: Councilman Ortega  
Second: Councilman Gonzales

Roll Call:

Councilman Charlie Gonzales	YES
Councilman John Anthony Ortega	YES
Councilwoman Louise Gallegos	YES
Councilman Brent P. Jaramillo	YES

To approve Proposed Amendment 2 / Robles, Rael & Anaya, Legal Services. All voted yes. Motion carried.

G. Discussion, Consideration & Decision - Proposed of Amendment 2 / Robles, Rael & Anaya, Legal Oversight

Ms. Martinez stated that this amendment to the original contract for legal oversight for Chevron Mining Operations and will extend their contract for one more year.

Motion: Councilman Gonzales  
Second: Councilman Jaramillo

Roll Call:

Councilman Charlie Gonzales	YES
Councilman John Anthony Ortega	YES
Councilman Brent P. Jaramillo	YES
Councilwoman Louise Gallegos	YES

To approve the Proposed Amendment 2 / Robles, Rael & Anaya, Legal Oversight. All voted yes. Motion carried.

IX. **DISCUSSION ITEM**

A. MOU between the Village of Questa & Taos County, Taos County Sheriff's Department for Police Services

Ms. Martinez stated that Sheriff Hogrefe was present earlier but had to leave on an emergency. She recommended that we table this item until next meeting. Attorney DeFillippo agreed due to some changes that need to be made. Councilman Ortega stated that he would like to see that animal control is included in this MOU.

Motion: Councilman Gonzales  
Second: Councilman Jaramillo

Roll Call:

406 Councilman Charlie Gonzales YES  
 407 Councilman John Anthony Ortega YES  
 408 Councilman Brent P. Jaramillo YES  
 409 Councilwoman Louise Gallegos YES

411 To approve the Proposed Amendment 2 / Robles, Rael & Anaya, Legal Oversight. All voted yes. Motion  
 412 carried.

414 IX. MATTERS FROM ATTORNEY

416 There were no matters from the Attorney.

418 XII. MATTERS FROM ADMINISTRATION

420 Ms. Martinez informed the Council that the Interim Budget was approved by DFA.

422 XIII. MATTERS FROM MAYOR & COUNCIL

424 None.

426 XIV. ADJOURNMENT

428 Motion: Councilman Ortega

429 Second: Councilman Gonzales

431 Roll Call:

433 Councilman John Anthony Ortega YES  
 434 Councilwoman Louise Gallegos YES  
 435 Councilman Brent P. Jaramillo YES  
 436 Councilman Charlie Gonzales YES

438 There being no further business to discuss, the meeting was adjourned at 8:59pm.

441 ATTEST:



445 Renee Martinez, CMC

APPROVED:

  
 Mark Gallegos, Mayor