

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD JUNE 16, 2009, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Vice Mayor Pfeifer called the regular meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Karen Pfeifer, Vice Mayor
Tim Elinski, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member
Darold Smith, Council Member

COUNCIL MEMBERS ABSENT

Diane Joens, Mayor
Duane Kirby, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Rudy Rodriguez, Finance Director
George Gehlert, Comm. Development Director
Scott Mangarpan, Project Manager
Kyla Allen, Exec. Asst. to City Manager

Steve Horton, City Attorney
Tim Costello, City Engineer
Mike Casson, Fire Chief
Shirley Scott, C.A.T. Manager
Richard Smith, Deputy Clerk

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Jessica, Marissa, and Miabella Vocca granddaughter and great granddaughters of Vice Mayor Pfeifer.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER--THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh stated the pavement preservation project would start Monday and encompass the Main and Mingus area and some other streets around Paula Street. Thursday night we would host a dinner for the State Transportation Board. Friday we would meet with them at the Public Safety Building. The Fire Chief believed that the Fourth of July fireworks show would go on as scheduled.

Council Member Pratt stated he had met with the City Engineer to resolve a ditch issue on Verde Heights Drive installed by ADOT.

Council Member Smith stated he attended the two-day conference for newly elected officials in Tempe which had been very informative.

PROCLAMATION—NATIONAL CANCER SURVIVORS DAY

Vice Mayor Pfeifer proclaimed Sunday, June 28, 2009, as National Cancer Survivors Day.

Mr. Fred Piper, of Cottonwood, stated what made a cancer survivor was not always believing what doctors told you and having a good caregiver.

CALL TO THE PUBLIC

Mr. Fred Piper, of Cottonwood, stated the City took over the water department five years ago. Two weeks ago the only fire hydrant in the area of his house was removed. Shortly afterwards there was a fire. He asked when there were going to be hydrants where they should be.

Ms. Gina Harris, representing Cancer Centers of Northern Arizona Healthcare, the hosts of Survivors Day, thanked the Council for its support and accepted the Proclamation.

APPROVAL OF MINUTES—Regular Meeting of June 2, 2009

Council Member Elinski moved to approve the minutes. Council Member Norman seconded the motion, which carried unanimously.

OLD BUSINESS

ORDINANCE NUMBER 546—DELETING SECTION 303. PLAN REVIEW, OF THE CITY'S ZONING ORDINANCE AND ADDING A NEW SECTION 303. ZONING CLEARANCE; SECOND & FINAL READING

Mr. Gehlert stated this would be the second reading of this ordinance. It would delete the plan review section of the Zoning Ordinance and replace it with a new section requiring a zoning clearance process for all land use changes and building permits. Staff recommended approval.

Council Member Pratt moved to approve Ordinance Number 546 deleting Zoning Ordinance Section 303. Plan Review, in its entirety, and replacing it with a new Section 303. Zoning Clearance, pertaining to improved procedures for review of development applications. The motion was seconded by Council member Elinski and carried unanimously.

Vice Mayor Pfeifer asked the deputy clerk to read the second reading of the ordinance.

ORDINANCE NUMBER 546

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE CITY OF

COTTONWOOD ZONING ORDINANCE BY DELETING SECTION 303., PLAN REVIEW, IN ITS ENTIRETY AND ADDING A NEW SECTION 303., ZONING CLEARANCE.

CONSENT AGENDA

RESOLUTION NUMBER 2446—PERTAINING TO THE SUBMISSION OF PROJECTS (UNDERAGE DRINKING ENFORCEMENT) FOR CONSIDERATION IN ARIZONA'S 2009-2010 HIGHWAY SAFETY PLAN

RESOLUTION NUMBER 2447—PERTAINING TO THE SUBMISSION OF PROJECTS (EQUIPMENT FOR THE MOBILE DUI ENFORCEMENT VEHICLE AND DUI DETAIL OVERTIME) FOR CONSIDERATION IN ARIZONA'S 2009-2010 HIGHWAY SAFETY PLAN

RESOLUTION NUMBER 2448—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF CLARKDALE FOR POLICE DISPATCHING SERVICES

RESOLUTION NUMBER 2449—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF JEROME FOR POLICE DISPATCHING SERVICES

SPECIAL EVENT LIQUOR LICENSE FOR THE VERDE VALLEY FAIR ASSOCIATION FOR AN EVENT SCHEDULED FOR JUNE 20, 2009

EXTENSION OF PREMISES PATIO LIQUOR LICENSE PERMIT FOR THE AMERICAN LEGION POST #25 LOCATED AT 480 S. CALVARY WAY IN COTTONWOOD

RESOLUTION NUMBER 2451—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY, EMERGENCY SERVICES DEPARTMENT FOR THE CONTINUATION OF UNIFIED EMERGENCY SERVICES

RESOLUTION NUMBER 2452—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF CLARKDALE, ARIZONA, FOR MECHANIC SERVICES

RESOLUTION NUMBER 2453—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF FIRE, BUILDING, AND LIFE SAFETY OFFICE OF MANUFACTURED HOUSING TO ENFORCE INSTALLATION STANDARDS FOR MANUFACTURED HOMES, FACTORY-BUILT BUILDINGS, AND MOBILE HOMES

Mr. Bartosh stated that several of the intergovernmental agreements were annual renewals of the agreements.

Council Member Pratt moved to approve the consent agenda. Council Member Norman seconded the motion, which carried unanimously.

NEW BUSINESS

RESOLUTION NUMBER 2442--AMENDING THE CITY'S FINANCIAL OPERATIONS GUIDE BY REPEALING EXISTING SECTION IV, PROCUREMENT POLICY IN ITS ENTIRETY, AND ADOPTING A NEW SECTION IV, PROCUREMENT POLICY, AND PROVIDING FOR AN EFFECTIVE DATE

Mr. Rodriguez stated there was a correction on the policy on page 2, Purchasing Officer; the word "charter" should be replaced with "Municipal Code". The big changes were on page 3, number 5, which were meant to consolidate purchases and prevent circumvention of such consolidation. The other big change was an increase in the amounts permitted to be purchased without having to go out to bid; from \$2,500 to \$5,000. The limit for oral quotes had been increased from \$5,000 to \$20,000. From \$20,000 to \$50,000 we would require a written quote via fax or e-mail, while purchases above \$50,000 would require the full bid process. These limits matched those of the State and many surrounding cities and were being changed because of the excessive cost of conducting a bid process. Other changes included adding attorneys and consultants to the category of professional services. On page 7, 4b our policy now required quotes to include a vendor's federal identification number. On page 8, petty cash amounts had been amended.

Council Member Elinski asked what other cities' limits were.

Mr. Rodriguez stated it was all over the board.

Council Member Elinski asked if there was a procedure in place requiring a department wishing to make a purchase to notify other departments in case they might wish to purchase the same thing.

Mr. Rodriguez stated for certain items. I.T. was now coordinating computer purchases. Other items we were looking at were utilizing existing agreements with the State agencies. Bids were not required for such purchases since those had already been done.

Vice Mayor Pfeifer stated these were big jumps from before and the changes were really needed because before we would have items on the agenda that didn't seem to need a Council vote, but really did because their purchase amount exceeded authorized limits. Council Member Norman moved to approve Resolution Number 2442 replacing Section IV of the Financial Operations Guide with a new Section IV, Procurement Policy with the corrections mentioned. Council Member Pratt seconded the motion, which carried unanimously.

RESOLUTION NUMBER 2443--DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES RELATING TO THE "ACQUISITION OF THE SPRING CREEK WATER SYSTEM"

Mr. Rodriguez stated the whole idea of putting in a reimbursement resolution such as this was to ensure if the Council did bond for this water infrastructure, we would be able to

reimburse ourselves. This item would be for \$825,000 and would be combined with others in a package for a Water Infrastructure and Finance Authority (WIFA) loan.

Council Member Smith asked what the interest would be on a WIFA loan.

Mr. Rodriguez stated interest rates now were between five and six percent.

Council Member Smith stated this would actually cost \$1 million.

Mr. Rodriguez stated right now it only cost us \$825,000. It would be the Council's decision whether to combine this with other items and take out a loan for it. One thing being considered was to borrow to be able to complete the split the water system between Clarkdale and ourselves. WIFA would not replace the existing bond with another without additional borrowing being added. This was one of the items being considered to serve that end.

Council Member Elinski asked if our reserves were earning interest, it made more sense to keep reserves in the bank rather than shelling them out on big purchases.

Mr. Rodriguez stated we did not want to deplete our reserves. We were putting out the money now. If we did borrow, this had to be in place within 60 days, to ensure we would be reimbursed.

Council Member Smith asked if he could sit down with Mr. Rodriguez to get a more detailed explanation, and Mr. Rodriguez, stated yes.

Council Member Elinski moved to approve Resolution Number 2443. Council Member Smith seconded the motion, which carried unanimously.

ACCEPTANCE OF AN ARIZONA AUTOMOBILE GRANT FOR THE COTTONWOOD POLICE DEPARTMENT FOR THEFT REDUCTION ACTIVITIES

Mr. Bartosh stated this was an annual grant which the police department requested to help with auto theft prevention and education. They were requesting \$2,223 for prevention activities including etching, steering lock mechanisms, and overtime for performing prevention services.

Council Member Pratt moved to approve the Arizona Automobile Theft Authority Agreement to allow the Cottonwood Police Department to receive \$2,223 in grant funds for automobile theft reduction activities. The motion was seconded by Council Member Smith, and carried unanimously.

RESOLUTION NUMBER 2444—APPOINTING A MEMBER TO THE AIRPORT COMMISSION

RESOLUTION NUMBER 2445—APPOINTING A MEMBER TO THE AIRPORT COMMISSION

Mr. Costello stated two seats would become open on the Airport Commission as a result of the normal staggered terms of the commission expiring. There were four applicants, two of whom, Michael Casebier and Billy Tinnin, were incumbents.

Vice Mayor Pfeifer asked each candidate to state why they wanted to be on the Commission.

After hearing the applicants' responses, Mr. Aleck Gradijan, Chairman of the Airport Commission, stated the incumbents should be reappointed because of their past records and the unique qualities they brought to the commission.

Council Member Pratt stated we should reappoint the incumbents if they were doing a good job.

Council Member Elinski agreed. The commission required stability at this time and it would be better to keep the incumbents on.

Council Member Norman agreed. She then moved Resolution Number 2444, appointing Michael Casebier to the Airport Commission and Resolution Number 2445, appointing Bill Tinnin to the Airport Commission, be approved. Council Member Pratt seconded the motion, which carried unanimously.

RESOLUTION NUMBER 2450—APPOINTING A MEMBER TO THE SENIOR COMMISSION

Mr. Rodriguez stated the current one-year term of Ron Goldman, a Senior Commission member, expired December 18, 2008, and needed to be filled as a three-year term. Mr. Dave Puzas submitted his application and was involved with adult/senior ministry in Immaculate Conception parish, and volunteered for St. Vincent de Paul Feed the Hungry and for the Verde Valley Medical Center.

Mr. Puzas stated his reasons for desiring to serve on the Senior Commission.

Council Member Pratt stated he had the desire and background and was the only applicant for the position.

Council Member Norman stated the Commission was enthusiastic about his application.

Council Member Smith moved to appoint Dave Puzas to fill this position. Council Member Norman seconded the motion, which carried unanimously.

APPROVAL OF A DEVELOPMENT AGREEMENT WITH THE LEDBETTER GROUP FOR JOINT DEVELOPMENT OF A PARKING LOT IN OLD TOWN

Mr. Costello projected a diagram of the parking lot. He stated this was a shared public-private partnership project located at Pinal and First Streets. The Ledbetter Law Firm was the private partner. The City owned two lots, and Ledbetter three. The layout was designed

to maximize the number of parking spaces. There was an alley between the parking lot and the Ledbetter offices which the lot would serve. The expectation was the law firm would use the parking lot during business hours and the City at night and during weekends and holidays when Old Town was busiest and parking at a premium. There would be lighting and landscaping. There was an associated developer agreement allowing such a joint project for a public purpose. This added two handicapped spots on the north end of Old Town where they were most needed. The cost was to be shared except for landscaping which was one hundred percent Ledbetter responsibility, while the lighting and electrical would be the City's responsibility. The budget for the parking lot was \$81,400.

Council Member Smith stated Ledbetter could use the City lot on a first-come-first-serve basis while the Ledbetter lot was available to the public only after normal working hours.

Mr. Costello stated that was correct.

Mr. Bartosh stated the likelihood was Ledbetter employees would likely fill his lot first, early in the day. We needed it mostly at night and weekends.

Council Member Smith asked how many employees Mr. Ledbetter had.

Mr. Ledbetter stated there would normally be thirteen employee vehicles. Clients would park on the street. The lighted parking lot would be an asset to nighttime employees in Old Town. His contribution was three-fifth and he wanted to be able to secure parking for his staff. That would get their cars off the street and open up spots for business customers.

Council Member Smith stated he wanted Mr. Ledbetter's staff and customers to use his lot. If his staff used the City lot that effectively restricted use to both for a solid eight hours a day, even if the Ledbetter lot was only half full.

Mr. Ledbetter stated the only office access was on the north end, nearest his lot. He anticipated as a practical measure staff would use his lot because of its proximity to the locked gate which was the sole access to the office.

Council Member Smith asked about having only two handicapped spaces.

Mr. Costello stated that two handicapped spaces out of 24 was standard practice.

Council Member Pratt stated his support for the project.

Council Member Elinski stated his support. He asked what would happen if Mr. Ledbetter no longer owned the project.

Mr. Ledbetter stated the contract terms were for ten years and open thereafter. Any new owner would assume the same terms.

Council Member Elinski asked, after ten years, if an owner didn't wish to continue the agreement, what would happen to the property line since the parking spaces overlapped it.

Mr. Ledbetter stated it would very difficult for someone to change the terms.

Mr. Bartosh stated work had already commenced on his authority in anticipation of this project's approval by the Council. Mr. Ledbetter had agreed to pay for all the concrete work in the event the Council chose not to approve the project.

Council Member Pratt moved to approve the development agreement with the Ledbetter Group. The motion was seconded by Council Member Norman, and carried unanimously.

AWARD OF BID FOR THE AIRPORT APRON PAVEMENT MAINTENANCE

Mr. Costello recommended the Council table this item. He would re-present it after grant funding was received from the Federal Aviation Authority. It would be easier than making a conditional award.

Mr. Horton stated a funding out clause which made a contract contingent upon receipt of funds was not included in the present contract.

Council consensus was to table the item.

CONSENT OF ASSIGNMENT OF TENANT RIGHTS IN LOT 111 OF THE RE-PLAT OF COTTONWOOD AIRPARK TRACT ONE

Mr. Bartosh stated this was a reassignment of an airport land lease from Backus Family Investments to Willow Bee, L.L.C. (Verde Valley Rentals).

Council Member Pratt asked what the terms of the lease agreement were.

Mr. Bartosh stated, in total, it was a 100 year lease, which worked out at \$125 a year.

Mr. Backus stated the lease amount was a penny a square foot per year on developed property. It was \$125 per acre on anything not developed.

Council Member Smith asked how many people Verde Valley Rentals employed and how it benefited the City.

Mr. Backus stated the benefit was the building there was occupied by a business. Verde Valley Rentals employed 16 people.

Vice Mayor Pfeifer stated one of the things the Council had talked about a lot had been business retention and expansion. That was exactly how this was going to benefit the City. Verde Valley Rentals had no room to expand where they were now. It was an existing

business that was expanding and would be retained within the city limits of Cottonwood.

Council Member Smith stated his great objection was that they acquired the land virtually free until the year 2083.

Mr. Backus stated that was what was agreed to in 1983. The assets were how many people were employed there and that it had not cost the City a single penny to develop.

Council Member Smith stated no taxes were paid.

Mr. Backus stated, not on the property, but taxes were paid on the building and all the improvements to the County. In 75 years it would be a huge asset to the City.

Council Member Norman stated the lease terms ran until December 31, 2033.

Mr. Backus stated that was correct, but there were two additional 25 year options.

Council Member Smith asked if the City would have the option to change terms at those times.

Mr. Backus stated no. The options needed to be applied for, but the terms could not be changed.

Mr. Horton stated he thought he remembered it as being a lessee option.

Mr. Bob Oliphant, of Cottonwood, stated he had technical issues with the Consent Assignment, paragraph A. There was reference to the May 5, 1983, Master Lease which contained very specific language. The language drafted by the lawyers in Paragraph A did not encompass the specific language that was set forth in the 1983 Master Lease. Such things as "the best interest of the City"; the Town of Cottonwood wanted to be sure that whatever was done was done in the best interest of the city. The exact language, not a characterization or summary of it, needed to be precisely quoted. Here it was a summary. He would like to see it contain the exact language of the 1983 Master Lease. The reason for that was through time the original intent of the Master Lease could be lost. Paragraph A should be redrafted so it precisely reflected the language used in the Master Lease. The other technical issue was to see if the L.L.C. had been properly filed with the State. As of yesterday, the Articles of Incorporation had been filed. You should be careful making agreements with an entity that was not totally in existence.

Mr. Horton asked if the Council wished to discuss the matter in executive session or in open session.

The Council consensus was to receive his advice in public.

Mr. Horton stated the concern regarding the recital was a technical one. He did not know

how that would change the legal effect over time of the agreement. The other two concerns could be described as the status and wherewithal of the assignee. The policy question you would ask yourselves was would your answer to that question change your decision tonight. If the answer was yes, you might consider tabling this item.

Mr. Bartosh asked what impact there would be to the City if the assignee was not an L.L.C.

Mr. Horton stated less than the assignee's ability to make the lease payments. If the assignee did not fulfill his duties under the lease, under the consent, the leasehold interest would revert back to the City.

Mr. Willowby, of Verde Valley Rentals, stated the L.L.C. was filed with the state. The delay was due to public notices in newspapers. He had already received a federal ID number.

Council Member Smith stated he was concerned about the language issue mention by Mr. Oliphant. The Council had seen over time these things evolve and language appeared to be changed or left out. He would like to see Paragraph A exactly as it was supposed to be.

Council Member Pratt asked if the language here was different than that originally used in the lease.

Mr. Horton stated the letter paragraphs were characterized as recitals. They provided the foundation and context for the terms of the agreement that followed. As a general matter courts tended to look at recitals less critically than the terms of the agreement, though there had to be consistency.

Mr. Backus stated he would read the original ground lease: "The Town of Cottonwood, 'Landlord', is an Arizona municipality which seeks to serve the public interest by providing opportunities for industrial development and by promoting economic development and the creation of new employment opportunities." It was pretty much what was there now.

Council Member Pratt stated, but without "employment opportunities".

Mr. Backus stated if the Council wanted to change the paragraph to make it say exactly that here would not be much change.

Council Member Elinski stated he agreed the language should be exactly the same. The Council had come across, through history, misunderstandings of what these leases were all about.

Council Member Smith stated these properties were to be developed for the benefit of the City by providing employment. There was the case of the property that had become a parking lot for trailers. There was no benefit to the City and no employment.

Mr. Backus stated the changes would be made.

Mr. Horton stated if the Council so chose, this Consent of Assignment could be approved subject to the correction of Recital A, pursuant to the recommendations of Mr. Oliphant and the discussions here. That could be done.

Council Member Elinski moved to approve the Consent of Assignment of Tenant Rights for Lot 111, Cottonwood Airpark, from Backus Family Investments, L.L.C., to Willow Bee, L.L.C. with the corrections as discussed to Recital A. The motion was seconded by Council Member Pratt and carried unanimously.

PAY APPLICATION NUMBER 5 FOR THE RECREATION CENTER PROJECT

Mr. Mangarpan projected recent photographs of the recreation center construction site and requested Council approval of the pay application for the recreation center. The amount covered work for the month of May including completion of earthworks and underground utilities and block walls.

Council Member Pratt moved to approve Adolfson and Peterson's Pay Application Number 5 for the Recreation Center project in the amount of \$1,191,855. The motion was seconded by Council Member Elinski and carried unanimously.

AMERICAN RECOVERY AND REINVESTMENT ACT FOR CAPITAL EXPENDITURES FOR THE COTTONWOOD AREA TRANSIT SYSTEM

Ms. Scott stated the American Recovery Investment Act (ARIA) was for capital expenditures only. Part of the ARIA was for transit. The Northern Arizona Intergovernmental Public Transit Authority (NAIPTA) signed an intergovernmental agreement with Sedona and Cottonwood to apply for federal funds. These needed no local match and were intended to create jobs and promote clean, efficient projects, but could not be used on projects already receiving federal funds. Working with ADOT, we received \$698,000 for the fuel station, for solar lighting projects there and on the bus shelters, as well as a Park-n-Ride at Bent River Road. For that, we had to wait for the federal government to award a waiver for environmental studies and as such was judged to be a Category B project. Also under Category B status would be transfer sites at the County Building and Paula Street. Construction was ahead of schedule and occupancy was expected to occur in September. A third bus route would start July 6 and Council Members were invited for an early morning kick-off celebration.

CLAIMS & ADJUSTMENTS

Council Member Norman moved to pay the claims and adjustments. Council Member Elinski seconded the motion, which carried unanimously.

ADJOURNMENT

Council Member Pratt moved to adjourn. Vice Mayor Pfeifer seconded the motion, which carried unanimously. The regular meeting concluded at 7:56 p.m.

Karen Pfeifer, Vice Mayor

Richard Smith, Deputy Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on June 16, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Richard Smith, Deputy Clerk

Date