

MINUTES OF THE WORK SESSION OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD AUGUST 11, 2009, IMMEDIATELY FOLLOWING THE SPECIAL MEETING SCHEDULED AT 4 P.M., HELD AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the work session to order at 4:51 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Tim Elinski, Council Member
Duane Kirby, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member
Darold Smith, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Kyla Allen, Executive Assistant to the City Manager
Marianne Jiménez, City Clerk
Tim Costello, City Engineer

Mr. Costello asked if the order of the two items to be discussed could be switched. There were no objections to doing so.

DIRECTION TO STAFF REGARDING THE METHOD BY WHICH ATTORNEY SERVICES SHOULD BE PROVIDED TO THE CITY

Mr. Bartosh stated, as notified to the Council through the Management Report, the primary attorney for Mangum, Wall, Stoops and Warden, P.L.L.C. (MWSW), Steve Horton, would be leaving that firm and looking for other employment opportunities. This was thought to be an opportunity to discuss whether the City should again have an in-house attorney, continue our contract with MWSW, or rebid the whole thing.

Council Member Elinski stated simply hiring an attorney was not sufficient. If one were to be hired, there would be the added expenses of staff, an office, and supplies. It was important that there be someone in the city to represent us. We needed to be realistic about the total cost involved and not focus just on the wage paid.

Council Member Smith stated it was a wonderful idea to have an in-house attorney, particularly like Mr. Horton, who knew the city pretty intimately. We had budgeted \$450,000 for legal services, which sounded like a lot of money. The last year there was an in-house attorney the budget was \$393,000. The knowledge Mr. Horton has acquired about the city over the past 20 years was unequalled.

Council Member Pratt stated it was a question of affordability and service. He asked if we could afford to hire an in-house attorney for the amount we had budgeted and would we get equal or better service than we did now. It seemed we would get excellent service from someone who knew the city. The idea was a good one if the budget were not exceeded.

Council Member Kirby stated we should advertise for an attorney as we did for the city manager. We can't just hire Mr. Horton. He would have to agree to a pay range set by the Council and the Council would have to know in advance all the additional costs involved in setting up his office. It was not just a matter of the wage.

Council Member Smith suggested setting up a panel as was done at the time of the selection for a magistrate.

Council Member Elinski stated he preferred that an attorney lived out of town, because it was small and to avoid conflicts of interest. A pay range should be established and the position advertised. As for a selection panel, the Council should review the applicants.

Mayor Joens agreed.

Council Member Pratt also agreed and stated Mr. Horton had indicated his interest in the position which should be advertised with applicants scored in the manner used in the past.

Council Member Norman stated if we went out to bid for an in-house attorney and Mr. Horton did not apply, and we did not find anybody to fill the bill, we could leave things as they are. Also, if an in-house attorney was hired, they could have an office in the new building we've purchased.

Vice Mayor Pfeifer stated some of the expense with the other in-house attorney was setting him up with certain equipment and books that he did not take with him. So, some of that start-up expense was still in house, including the expensive software. Most attorneys would have their own equipment and references. We should look at that with applicants to see what they would bring to the table with them.

Council Member Pratt stated we spent \$57,000 less when we last had an in-house attorney. It would be good if we could expect that same amount of savings. If municipal experience would be a criterion for the job, those applicants who did not have any would be excluded.

Mayor Joens stated that was so important. We experienced what happened when there was no municipal experience. The applicant had to have it to do that job.

Council Member Pratt stated minimum qualifications had to be specified for the job. Number one had to be municipal experience.

Council Member Smith asked if 15 attorneys applied would all be interviewed. The magistrate's panel did that and then sent their recommendation to the Council.

Mayor Joens stated someone could be appointed to deal with the necessary clerical work, and she would be willing to undertake that task.

Council Member Elinski stated he would like to hear from applicants their assessment of staffing needs and the reasons for that instead of the Council making a predetermination of those needs.

Mr. Bartosh stated that would be possible. His research has shown that the Council had the discretion to do this.

Mayor Joens asked if this was a matter the Council wished to explore. Council consensus was assent to this suggestion.

Council Member Kirby stated during their interview candidates could be asked what their demands of the City would be for staff, office space, books, computers, etc. Their responses would be put into the equation of affordability.

Mayor Joens stated the prosecutor could help the municipal attorney. She asked if we would have the municipal attorney supervising the prosecutor, if the Council chose that arrangement.

Mr. Bartosh stated that was the model in every other jurisdiction.

Mayor Joens asked what was needed now.

Mr. Bartosh stated the Council had indicated the position of city attorney should go out to bid and the Council wished to serve as the evaluation committee of applicants. He would be willing to work with the Mayor to determine a process.

Council Member Pratt stated there should be minimum qualifications and real, specific requirements.

Mayor Joens stated the results of her meetings with the City Manager would first be brought before the Council prior to advertising.

Council Member Kirby stated the requirements had to attract a number of candidates.

Mr. Bartosh agreed and stated municipal experience would also be a requirement. Time and money would be saved by having an in-house attorney with whom department heads could consult easily and promptly when issues or questions first arose.

Mayor Joens asked Mr. Bartosh to share his thoughts regarding office space for an in-house attorney if the Council chose to have one.

Mr. Bartosh stated if Planning and Zoning were to move into the Utility Building as proposed,

their old building would be freed for office space and Council meeting rooms.

Council Member Kirby asked how well used the Old Town police substation was.

Mr. Bartosh stated it was well used, primarily now by Civilians on Patrol.

Council Member Smith asked if it would not be ideal to have a city attorney's office at the new court building.

Mr. Bartosh stated that might work for a prosecutor but it would not be best for the City Attorney since the City Manager and City Clerk worked extensively with the attorney.

Mayor Joens asked if there were any comments from the public.

Mr. Bob Oliphant, of Cottonwood, stated he wished to emphasize the criteria. What you were asking a city attorney in Cottonwood to do was to possess essentially the same knowledge as a city attorney in the City of Phoenix. Even though this was a small town, it faced most of the same difficult issues. The criteria to be created were very important. They should be thoroughly vetted without any bias toward anyone. The amount paid for prosecutorial services was far, far too much. It was possible to get better service for less money.

PRELIMINARY DESIGN CONCEPT FOR THE SOUTH 12TH STREET IMPROVEMENTS FROM SR89A TO FIR STREET

Mr. Costello stated Pender Engineering was designing the 4,000 foot project on Twelfth Street. A public neighborhood meeting regarding the project was held in February and had been well attended. Generally, they were very supportive. They expressed concerns about traffic volume and speed on such a collector street and how it would affect their individual properties with regard to mailboxes and landscaping. These issues had been anticipated. Since the design had reached the 30 percent stage, it was an appropriate time to determine if there were any comments or suggestions that might substantially affect the design direction before it went any further.

Mr. Tom Pender, of Pender Engineering displayed a PowerPoint program and stated to this point topographic information had been gathered and compiled, utilities identified, and soil samples taken to determine sub-grade work necessary. The City had already conducted traffic counts and those results were taken into consideration for purposes of determining a recommended pavement. The road would have a 20 year lifespan with proper maintenance, including crack sealing and chip sealing. The project extended from the intersection with Highway 89A at AutoZone to Fir Street. The planned road was not typically flat. The design speed would be 25 mph. There were five major drainage crossings, one of which would require significant upgrading. One section would require a wall in addition to the one already existing. Some properties would require temporary construction easements. There were also significant utility impacts on this project. They were all underground, and the road

was being widened. Most of the existing APS transformers and telephone control boxes were located where a sidewalk was proposed. They would have to be relocated at a significance expense. Work on the north end had been done so as to eliminate the need for a guardrail. There would be bike lanes. The road would still conform to the hilly nature of the terrain. It would consist of 29 feet of asphalt with vertical curb and gutter on both sides with the sidewalk affixed to the vertical curb and gutter. At this time direction was requested.

Council Member Elinski stated he was pleased that the existing contours were being retained and the street was not going to be made into a boulevard.

Mr. Bartosh asked what the amount of fill was in the deepest ravines.

Mr. Pender stated it was between 4-5 feet.

Council Member Kirby asked if some kind of traffic control was planned at Fir and Twelfth Streets. It had become a very dangerous intersection.

Mr. Costello stated no changes were contemplated with this project. The intersection was currently a 4-way stop which was adequate for the current traffic volume. Any changes would require a signal or roundabout which would require significant construction and/or expense. The bad sight distances were on the county side.

Council Member Pratt stated the accident level at that intersection was very low, an indication of the safe nature of the intersection.

Council Member Norman asked how wide the road would be and how it compared to Willard Street.

Mr. Costello stated this would be the same 32 foot width.

Council Member Kirby asked how much right-of-way would have to be acquired.

Mr. Pender stated that had not yet been determined because it depended on the prior rights of the utilities. Now, they were working within the existing 50-foot right-of-way. They were planning temporary construction easements and slope easements to minimize taking additional rights-of-way. There was a geometric issue with the intersection at Fir because of a horizontal curve on Fir Street. Not much could be done nor was much necessary because there were so few accidents. The utility department had asked for an extension across the road to better serve that section of Verde Village.

Council Member Smith asked for an approximate timeframe for completion.

Mr. Pender stated construction would be dictated by the acquisition of rights-of way. Once that had been accomplished, construction would probably be able to occur next summer.

Council Member Pratt stated he was pleased the slopes would be retained.

Council Member Kirby asked if the jog at the 12th and Fir Streets intersection could be eliminated or anything done to improve the sight distance there.

Mr. Costello stated he could approach the county about it. As far as the jog was concerned, there was little that could be done because of limited right-of-way. Regarding the sight line, that may require homeowner approval.

Mayor Joens requested that the design be taken to Supervisor Davis to help alleviate this problem since it would benefit the county as much as the City. Perhaps they would have funds that could be contributed.

Council Member Kirby asked if all the APS facilities could be put underground.

Mr. Pender stated they were already underground except for some significant facilities near AutoZone which would require considerable work and expense to place underground.

Council Member Kirby asked if those portions that were underground would have to be moved.

Mr. Pender stated most of the above ground transformers and junction boxes would have to be moved and street lights would have to be relocated in the area of the Five Star subdivision.

Mayor Joens asked if the City had to pay for all the relocations.

Mr. Costello stated franchise agreements set forth the rules to be followed. If we forced APS to move from their easement, it would be at our cost. If they were in the right-of-way, costs were determined by the franchise agreement.

Mayor Joens asked if the project was still on budget at \$2.2 million.

Mr. Costello stated, yes.

Mayor Joens opened the floor for public discussion. No one from the public chose to speak.

ADJOURNMENT

Council Member Pratt moved to adjourn. Council Member Norman seconded the motion, which carried unanimously. The work session adjourned at 6:02 p.m.

Diane Joens, Mayor

Marianne Jiménez, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a work session of the City Council of the City of Cottonwood held on August 11, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date