

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD DECEMBER 1, 2009, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the regular meeting to order at 6:00 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
Gary Eisenga, Police Commander
Richard Faust, Parks & Recreation Director
Steve Horton, City Attorney
Richard Smith, Deputy Clerk

Douglas A. LaSota, Magistrate
Tim Costello, City Engineer
Scott Mangarpan, Project Manager
Mike Casson, Fire Chief

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Mr. Dave Puzas, a member of the Senior Commission. Mayor Joens presented Mr. Puzas with a certificate of appreciation for his participation.

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 annual Christmas Parade was to be held this weekend and the Mayor and several Council Members would be riding in it. The Chocolate Walk would be held on Saturday night. There was a pedestrian fatality at Highway 89A and Sixth Street when a pedestrian walked against the red signal into traffic. There will be a Verde Front meeting on Monday, December 7, at 7 p.m. at the Public Safety Building. Human Resources will hold an Education Fair on December 3 from 11 a.m. at the Public Safety Building to advise staff of educational resources available locally.

Vice Mayor Pfeifer stated she, Council Member Norman, and Mr. Bartosh attended the police promotion ceremony earlier in the day.

Council Member Elinski stated an initial historic preservation meeting had been held with staff and interested members of the public. A formal presentation on historic preservation would be made to the Council on December 8.

Council Member Kirby stated he and Council Member Norman had attended the Senior Commission meeting on November 19 at which several decisions were made which would be discussed with the Council at next week's meeting.

Mayor Joens stated she, Vice Mayor Pfeifer, and Council Member Norman attended the open house of the new county court facility in Camp Verde.

Mr. Bartosh stated as part of the City's agreement with Yavapai Broadcasting, they would present two programs a month on Channel 20. Two had been completed. In one, the Mayor discussed the annexation issue. In the other, the Utility Director discussed the reclamation plant in Riverfront Park. The programs would be rebroadcast several times each month.

Mayor Joens stated members of the public who had topics of interest could call the City Manager's office at City Hall: 634-5526 and ask to speak with Ms. Kyla Allen.

CALL TO THE PUBLIC

There were no comments from the public.

OLD BUSINESS

RESOLUTION NUMBER 2483—DECLARING TITLE 10, VEHICLES AND TRAFFIC, PERTAINING TO THE COTTONWOOD MUNICIPAL CODE A PUBLIC RECORD

Commander Eisenga stated this item had been discussed at the last meeting and the previous work session. It was tabled last week because covered loads had been added. The fine schedule was drafted exclusive of additional surcharges and court costs. The cost of any fine would have added to it an additional 84 percent surcharge as well as any applicable court costs levied. The reason for changing Title 10 was because it was outdated and enforcement was difficult because of the way it had been written previously.

Council Member Kirby moved to approve Resolution Number 2483 declaring the changes to Title 10, Vehicles and Traffic, a public record. Council Member Pratt seconded the motion, which carried unanimously.

Mayor Joens asked the Deputy Clerk to read the resolution by title only.

RESOLUTION NUMBER 2483

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DECLARING THAT CERTAIN DOCUMENT KNOWN AS,

TITLE 10 VEHICLES AND TRAFFIC, PERTAINING TO THE COTTONWOOD MUNICIPAL CODE, A PUBLIC RECORD.

ORDINANCE NUMBER 555—AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, ARIZONA, BY DELETING THE EXISTING TITLE 10, VEHICLES AND TRAFFIC AND REPLACING IT WITH A NEW TITLE 10, VEHICLES AND TRAFFIC; FIRST READING

Mayor Joens asked the Deputy Clerk to read the first reading of Ordinance Number 555 by title only.

ORDINANCE NUMBER 555

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, ARIZONA, BY DELETING THE EXISTING TITLE 10, VEHICLES AND TRAFFIC AND REPLACING IT WITH A NEW TITLE 10, VEHICLES AND TRAFFIC.

ORDINANCE NUMBER 556—AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.40 MUNICIPAL COURT, OF THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD; BY ADDING A NEW SECTION 2.40.130 DIVERSION/DEFERRED PROSECUTION FEE; SECOND & FINAL READING

Judge LaSota stated staff requested passage of a new city ordinance which would create a new court diversion/deferred prosecution fee to read as follows: “The Municipal Court shall assess defendants for criminal cases involving deferred prosecution or diversion programs, a Diversion/Deferred Prosecution Fee in the amount of \$1- \$500, to be set in an amount in the court’s discretion. Said fee must be paid before the case may be dismissed pursuant to a Diversion Agreement or Deferred Prosecution Agreement with the City of Cottonwood Prosecutor. The Municipal Court may waive all or part of the fee when it would be in the interests of justice pursuant to Municipal Code Section 2.40.120. Such fees shall be in addition to any other fees required by state law or by the City of Cottonwood Municipal Code.”

This was something that was essential because the prosecution wanted to do deferred prosecution fees, and right now there was no vehicle for doing so. These fees would all go to the city, and there would not be any surcharges tacked on. There were a lot of types of offenses, such as a first offense, minor consumption, and some of those charges where it would be a hardship to put a dent on someone’s record, especially when they were trying to get employment or trying to get into universities. This would allow them to have that option and at least give the prosecutor a way to assess some punishment for what they had done through the use of the diversion fee. As with other codes, it gave the court discretion as to when to waive it, such as with cases where there would be undue hardship, or when someone was on disability income and they would not have sufficient money for food or medical needs if that fee was assessed. It granted a lot of discretion in that area.

Mayor Joens asked if there were any comments from the public, and there were none.

Council Member Pratt moved to approve Ordinance Number 556 implementing a new municipal court diversion/deferred prosecution fee. Council Member Kirby seconded the motion, which carried unanimously.

Mayor Joens asked the Deputy Clerk to read the second and final reading of Ordinance Number 556 by title only.

ORDINANCE NUMBER 556

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.40 MUNICIPAL COURT, OF THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD; BY ADDING A NEW SECTION 2.40.130 DIVERSION/DEFERRED PROSECUTION FEE.

CONSENT AGENDA

AGREEMENT WITH YAVAPAI COUNTY TO CONDUCT VOTE-BY-MAIL ELECTIONS FOR THE CITY

Mayor Joens asked if any Council Member or any member of the public wished to pull this item for discussion. There was no request to do so.

Council Member Elinski moved to approve the consent agenda. The motion was seconded by Council Member Smith, and carried unanimously.

NEW BUSINESS

FEE STRUCTURE PROGRAM FOR THE COTTONWOOD RECREATION CENTER

Mr. Faust stated the process for determining fees has been split out over two work sessions. During that of September 8, the Council had been presented with benchmark information of the study of other recreation centers throughout Arizona and Colorado, regarding public use rates and membership fees. These included daily rates, 10-visit passes, and memberships of one month, three months, six months, and one year. This was broken down into categories for youth, adults, seniors, couples, and families plus additional family members. The current resident discount fee structure was brought forward which had previously been implemented by the Council in 1998 for all recreation sport programs, the gym, weight room, and pool.

At the November 10 meeting a fee structure for facility use was presented. This covered rental of the banquet rooms, the gymnasium, movement studio, game room, teen room, party rooms, pool, and climbing wall. The goal was to try to achieve a 60-70 percent cost recovery to mitigate the costs of operation.

Council Member Pratt he was satisfied the fee structure was appropriate when compared to other communities and that it was affordable and competitive.

Council Member Kirby stated he had always been in opposition to this facility. There was no accommodation for senior couples.

Council Member Pratt stated senior couples could purchase two individual memberships and achieve a savings of \$100 per year, and that this should be integrated into the pricing structure.

Council Member Smith asked what was being done with the SilverSneakers program.

Mr. Faust stated they had not been contacted yet. The price structure needed to be set in place first, since it would be of interest to them.

Council Member Smith asked how they would be charged.

Mr. Faust stated they paid according to the number of their members using our facilities.

Council Member Kirby asked what additional bookkeeping would be involved with that.

Mr. Faust stated it would probably entail an add-on software program which they would provide, and it would be a little bit of extra work.

Council Member Elinski asked about scholarship opportunities for families that might have a hard time affording the rates.

Mr. Faust stated the existing financial assistance program would not be done away with. We currently offered between \$18,000 and \$22,000 of assistance annually. It has been based on an old DES curve from 1988 which would probably be updated to that of 2005 to keep rates up-to-date.

Vice Mayor Pfeifer asked for the definition of family and how many members it included.

Mr. Faust stated five family members were included who all must reside at the same address. There was a form for requests for assistance which asked for monthly income. This was matched to the DES on a sliding scale.

Mr. Doug Hulse, Chair of the Parks & Recreation Commission, stated the Commission was in complete agreement with the fee schedules and urged the Council to approve them.

Council Member Pratt moved to approve the recommended fee structure program for the new Cottonwood Recreation Center. Vice Mayor Pfeifer seconded the motion.

Council Member Kirby stated he believed anyone with a Cottonwood address ought to be

considered “local”, including Cornville, Verde Village, and the areas right near Cottonwood.

Mayor Joens stated although we did receive sales tax from people who lived outside of the city, there were other monies their governments got that the city did not receive based on their residency. Non-resident fees were still very low and reasonable.

Council Member Norman asked for clarification of “resident”.

Mr. Faust stated it referred to those who lived within the city limits.

A vote was taken on the motion which passed with a dissenting vote by Council Member Kirby.

SETTLEMENT AGREEMENT TO RESOLVE CLAIMS FOR ADDITIONAL COMPENSATION ON THE LIBRARY EXPANSION PROJECT BROUGHT BY LEA ARCHITECTS

Mr. Horton stated this item was related to efforts to close out the library expansion project. Design began five years ago, and LEA was engaged to do the design and administer the contract that was awarded to Flagstaff Design & Construction to construct the addition. The project was scheduled to last 6-8 months but ran into significant delays with roofing and window issues, some of which were still unresolved. The building was occupied in September last year which constituted substantial completion. The project took about 18 months. The architects had invested substantially more time administering the contract than was originally intended, and they had asked for an additional \$39,000 in compensation. Three-way negotiations between LEA, the contractor, and the city did not result in any resolution, as the contractor and architect blamed each other for the delays. Staff believed the contractor was primarily responsible. Addressing the architect’s claim, we engaged a forensic architect who looked at LEA’s documents and offered an opinion. Our subsequent negotiations with LEA led to our offering them \$27,000, which was the amount in the agreement before the Council. Staff believed this represented an appropriate resolution of LEA’s claims. The agreement contemplated needing their services to finish the project and to test the remedy applied to the windows. We may still need the architect to reach a determination on the quality of the work performed. The agreement covered claims up to October 31. LEA would be compensated for any additional services. We would next turn our attention to resolving issues with Flagstaff Design who had about \$40,000 in contract balances due them.

Council Member Elinski asked if there was any validity to the contractor’s claim that it was the architect’s fault.

Mr. Horton stated, not much, if any. Our consultant and staff believed the architects delivered on their promises. Any issues with the architect would fall outside the scope of this agreement and would go to the design of the windows which had not yet been investigated. Those claims were not being waived nor dealt with here. Staff was confident it could successfully conclude negotiations with the contractor and get the water tight facility

contracted for.

Council Member Kirby expressed concern about future costs to the architect.

Mr. Horton stated that additional services would be negotiated on an as needed basis.

Mr. Bartosh stated the money had already been allocated to the project. It was just a question of how it was divided up between the architect and contractor. The city had no liability in this process and was the one trying to mediate a settlement between two parties with whom the city maintained good relations.

Council Member Kirby stated the money could be recouped if it was not spent on architects and contractors. He was concerned there would be continuing claims.

Mr. Mangarpan stated the money that would go to LEA would come out of the money we were holding as retention against Flagstaff Design. It did not represent money we could keep; it was owed to Flagstaff Design. Each payment to them had had five percent deducted as retention, which now amounted to a little over \$41,000 and was meant to ensure complete performance of their contract. After completion it would be released to them. The money for LEA would come from this retention. The contract specifically stated that if the architect had to expend extra effort strictly due to the fault of the contractor, the contractor would be responsible for that amount of money. The claim for damages was easy to prove. There would be no additional payments to the architects unless we decided we wanted their assistance with window testing or we requested other services.

Mr. Horton stated there was no guarantee that negotiations with the contractor would not result in the need for additional money, but it was hoped that negotiations would proceed amicably and result in a satisfactory settlement for what was essentially a modest claim.

Mayor Joens asked for comments from the public, and there were none.

Council Member Smith moved to approve the settlement of LEA's claim for additional compensation on the Library Expansion Project (COR's 1, 2 and 3), and to authorize the Mayor to execute the settlement agreement. Council Member Norman seconded the motion, which carried unanimously.

UPDATE ON THE SAFE ROUTES TO SCHOOL PLANNING EFFORT

Mr. Costello stated a year ago we applied for and received a planning grant for Safe Routes to School. A planning team consisted of representatives from the school district, Yavapai County Health, Cottonwood Police, Public Works, and Community Development. An ADOT approved consultant proposed a School Travel Plan for the Cottonwood Middle School with the goal of increasing the number of pupils who walk or ride bicycles to school thereby reducing congestion. Currently only ten percent of pupils arrive at the school on foot or bicycle. Fifty percent ride the bus and 33 percent arrive by car. The area within a mile

radius of the school was the prime area conducive to pedestrian and bicycle journeys to school, although areas such as Verde Heights had no direct route to the school.

The school drop-off area currently was disorganized and the approach sidewalks narrow. The intersection of Willard Street and Mingus Avenue was to be converted to a roundabout with safety islands for pedestrians which would make the intersection more attractive and safer for pupils on foot. A proposal to that end would be presented at the next Council meeting. The planner and engineer believed such a design would improve both pedestrian and automobile flows at the intersection.

Council Member Smith asked what pedestrian solutions were available for crossing Highway 89A.

Mr. Costello stated one suggestion had been the installation of pedestrian islands, but it was something that would have to be resolved by ADOT. We could have count-down pedestrian lights such as are installed at Mingus Avenue and Main Street.

Council Member Kirby stated there would have to be adult control at the roundabout at all times for safety's sake.

Mr. Costello stated there currently was a crossing guard there and we expected that would continue with the roundabout since the elementary school was in close proximity to the intersection. This plan focused on the middle school. An education plan would be required for guards, pupils and drivers.

A discussion ensued as to the best means to assure safety at an intersection. Council Member Kirby expressed skepticism of roundabouts while Council Member Pratt preferred having one instead of the existing four-way stop which he considered more dangerous.

Council Member Smith stated the report showed how congestion on Mingus Avenue would be reduced.

Mr. Costello stated there were grants for infrastructure projects and non-infrastructure projects. The city had already implemented a Bicycle Plan. The number one project was to fill in the gaps of the sidewalks on Mingus Avenue, particularly in the vicinity of the school. The city had another grant that could be applied to widening the sidewalk in front of the school and improving general road access. The plan thought best was to improve the school parking lot with proper signage and striping and to separate motor and pedestrian traffic at the drop-off area. Because it was on school property, the school would be the grant sponsor, not the city. The school would also apply for a non-infrastructure grant and implement a Bike Club with an educational element.

Council Mayor Joens and Council Members Pratt and Smith stated their support for the plan and the roundabout.

Mayor Joens stated the letter of support for the school's grant request which Mr. Costello had asked her to write had been given to the City Clerk's office for processing.

REVIEW AND APPROVAL OF THE CITY COUNCIL VISION, MISSION STATEMENT AND STRATEGIC INITIATIVES

Mr. Bartosh stated this statement was the product of the Council retreat held on October 29. He had added items of interest to the Council to the Strategic Initiatives which were:

To Initiative Number 3--Build and Retain a Strong Diversified Economy, he included the fact we were working on the creation of an instrument approach to the airport and were currently trying to put together a contract for an airport fixed base operator. Participation in the 2010 census was considered very important and had also been added.

To Initiative Number 4--Develop Water Adequacy, he added refinancing our water bonds and separating that financing with Clarkdale.

Initiative Number 5.2--Develop Initiatives that Protect the Environment of the Verde Valley for Future Generations, referred to forest land annexation which should be removed since it had become a non-issue. A Slopes Ordinance was included because it was currently being developed and had been discussed earlier by the Council.

To Initiative Number 9--Quality of Life, was another project which would remodel the Aspen Shadow flood control wall on which work should begin next spring. Also added was organization of the city's 50th anniversary celebration next September.

To Initiative Number 13--Old Town Revitalization, he added exploring options to improve the Sun Dial Motel. It was a key impediment to economic development of the north end of Main Street. The development of a historic preservation commission and potential funding that could go along with that made the Sun Dial an attractive building for tax credits for revitalization.

Council Member Smith expressed concern that airport lease work completion dates should be closely monitored to ensure compliance with lease contracts.

Mr. Bartosh stated that could be looked at for the area west of the airport.

Council Member Kirby asked about the cost of creating an instrument approach to the airport.

Mr. Costello stated it would be a GPS approach, and all instrumentation would be on aircraft, not on the ground. We would have to put together a very detailed survey and submit a request to the FAA to design and create an approach, which was part of our 5-year aviation plan and it would be eligible for a grant.

Vice Mayor Pfeifer stated she would like to see stricter enforcement of public health and safety at the Sun Dial.

Mr. Bartosh stated that was a matter that had been discussed today in a meeting with Code Enforcement and the City Attorney.

Mayor Joens asked that this report be posted on the city's website, and Mr. Bartosh stated it would be.

A discussion ensued about the importance of recycling.

Council Member Pratt stated it was also important to solicit public opinion regarding trash pick up because there are so many companies doing pick ups.

Mr. Bartosh stated a lot of input would be necessary, starting with the refuse companies. He had added under Number 3, "Review airport land leases to ensure lease requirements are followed" and asked if that was acceptable to the Council.

There were no objections from the Council.

Council member Pratt moved to approve the City Council's 2009 Vision/Mission Statement and Strategic Initiatives. The motion was seconded by Mayor Joens, and carried unanimously.

CLAIMS & ADJUSTMENTS

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

ADJOURNMENT

Council Member Smith moved to adjourn. Council Member Elinski seconded the motion, which carried unanimously. The regular meeting ended at 7:32 p.m.

Diane Joens, 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 special meeting of the City Council of the City of Cottonwood held on December 1, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Richard Smith, Deputy Clerk

Date