

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD FEBRUARY 16, 2010, 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	Marianne Jiménez, City Clerk
Richard Faust, Parks & Recreation Director	Steve Horton, City Attorney
Dan Lueder, Utility Director	Rudy Rodriguez, Finance Director
Casey Rooney, Economic Development Director	Scott Mangarpan, Project Manager
Kyla Allen, Executive Assistant to the City Manager	Shirley Scott, CAT Manger

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Ms. Shirley Scott, CAT Manager. Mayor Joens presented Ms. Scott with a certificate of appreciation for her 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 Mago retreat representatives had decided not to appeal the Planning & Zoning Commission decision and he anticipated they would have the large statue down by February 24. He had also received word that they had been moving the smaller statues out of the area. He also announced he was in Washington, D.C. last week and had received an award from the Community Anti Drug Coalition of America (CADCA) for the work they had done with MATForce which was a great honor not only for the County but for Cottonwood as well.

Council Member Pratt noted that the Mingus High School girls soccer team had won the state championship last weekend.

Vice Mayor Pfeifer announced she, Lana Tolleson, and Richard Dehnert had attended the Chamber's legislative day and met with Andy Tobin and Lucy Mason and talked to the Secretary of State. It was the day after the big blowup between the House and the Senate and they had a House and Senate Representative at the meeting who were not speaking.

Council Member Kirby stated last Wednesday he attended a tri-annual planning session for the Area Agency on Aging. They tried to determine what they could and could not accomplish and met with all the staff. He thought they were going to do a fine job in spite of the fact they were losing money every day.

Mayor Jones stated she had attended a ribbon cutting ceremony for Catholic Charities for the VITA (Volunteer in Tax Assistance) program on Saturday. This program enabled low-income people to receive over \$5,000 in earned income tax credits if they were eligible. Jon Rolph, our VISTA worker, was the very first volunteer and Katelyn Cohen was also there. On Friday at 4:15 the Governor called a meeting of Yavapai County Mayors. Supervisor Springer and our ADOT representative Bill Feldmeir were there. They shared what was important to the Mayors and received the report from the Governor that things were really severe. She attended a ribbon cutting for the Verde Valley Sanctuary which opened a gently used store—The Second Chance. Proceeds would be used to help the Sanctuary and they would have a training program for their clients who had been out of the job market for some time who would work there. She also attended the League of Women Voters' luncheon which also included the Arizona Town Hall where they talked about State revenue. What surprised her most was the show of hands of about 90 percent of the people present who supported the increase of 1 percent in sales tax for the State.

Council Member Kirby stated next Thursday he would be attending the bi-monthly meeting of the NACOG Regional Council, and if anyone had anything they wanted him to present he would be happy to do so.

PROCLAMATION—SUPPORTING THE 2010 U.S. CENSUS

Mayor Joens read a Proclamation confirming the City's support of the U.S. Census Bureau to help ensure a full and accurate count in 2010.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES—Regular Meeting of February 2, 2010

Council Member Kirby moved to approve the minutes as presented. The motion was seconded by Council Member Elinski, and carried unanimously.

OLD BUSINESS

ORDINANCE NUMBER 560—AMENDING SECTION 12.12.020, USE OF PUBLIC PARKS AND RECREATION, SUBSECTION G. DOMESTIC ANIMALS, OF THE COTTONWOOD PARKS AND RECREATION CODE 1993, BY DELETING SUBSECTION G. DOMESTIC ANIMALS, IN ITS ENTIRETY AND ADDING A NEW SUBSECTION G. DOMESTIC ANIMALS AND DOG PARK RULES AND REGULATIONS; SECOND AND FINAL READING

Mr. Faust stated this ordinance was designed to create a safe environment for users of the dog park by setting rules for its use.

Council Member Pratt stated when the proposed ordinance singled out a breed, it was suggested that frequent dog park users had a lot of input into that decision and there were problems with that breed of dog.

Mayor Joens asked if anyone from the public wished to speak. There were no comments from the public.

Council Member Pratt moved to approve Ordinance Number 560 deleting Subsection G. Domestic Animals in its entirety and adding a new Subsection G. Domestic Animals and Dog Park Rules and Regulations. Council Member Kirby seconded the motion, which carried unanimously.

Mayor Joens asked the City Clerk to read the second and final reading of Ordinance Number 560 by title only.

ORDINANCE NUMBER 560

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING SECTION 12.12.020, USE OF PUBLIC PARKS AND RECREATION, SUBSECTION G. DOMESTIC ANIMALS, OF THE COTTONWOOD PARKS AND RECREATION CODE 1993, BY DELETING SUBSECTION G. DOMESTIC ANIMALS, IN ITS ENTIRETY AND ADDING A NEW SUBSECTION G. DOMESTIC ANIMALS AND DOG PARK RULES AND REGULATIONS.

ORDINANCE NUMBER 561—AMENDING SECTION 12.12.010, USE OF PUBLIC PARKS AND RECREATION, SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES, OF THE COTTONWOOD PARKS AND RECREATION CODE 1993, BY DELETING SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES, IN ITS ENTIRETY AND ADDING A NEW SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES; SECOND AND FINAL READING

Mr. Faust stated this was an amendment of the Parks and Recreation Code since State Statute preempted certain elements in the Municipal Code pertaining to firearms by allowing concealed weapons to be carried by those with concealed weapons permits and to make use of parks and recreation areas while doing so.

Council Member Pratt moved to approve Ordinance Number 561 amending the 1993 Parks and Recreation Center Code, Section 12.12.010, Use of Public Parks and Recreation, by deleting the existing Subsection I. Firearms and other Explosive Devices in its entirety and adding a new Subsection I. Firearms and other Explosive Devices. Council Member Elinski seconded the motion.

Council Member Kirby asked if this item could be deferred since it was a state mandate and nothing we wanted in our community. He did not believe we had to allow people with guns into our parks.

Mayor Joens stated she was against it.

Mr. Horton stated this was a conforming change to the ordinance under the state equivalent of the supremacy clause, when state law governed regardless of what local law said. It was appropriate to have local law conform to state law. It was important to make sure that a concealed weapon carried pursuant to a concealed weapon permit was permitted.

Vice Mayor Pfeifer, and Council Members Kirby and Elinski stated their displeasure with the need for such a change.

Mayor Joens stated having the state tell us that we had to allow guns in parks was like telling us that we didn't know enough in Cottonwood, Arizona, to make decisions on behalf of our community.

The motion carried, with Mayor Joens and Council Member Kirby dissenting.

Mayor Joens asked the City Clerk to read the second and final reading of Ordinance Number 561 by title only.

ORDINANCE NUMBER 561

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING SECTION 12.12.010, USE OF PUBLIC PARKS AND RECREATION, SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES, OF THE COTTONWOOD PARKS AND RECREATION CODE 1993 (AS AMENDED), BY DELETING SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES, IN ITS ENTIRETY AND ADDING A NEW SUBSECTION I. FIREARMS AND OTHER EXPLOSIVE DEVICES.

CONSENT AGENDA

GRANTING AN EASEMENT TO APS FOR INSTALLATION OF A NEW ELECTRICAL SERVICE LINE TO THE UTILITY DEPARTMENT COMPLEX LOCATED AT 111 NORTH MAIN STREET

Council Member Kirby moved to approve the consent agenda. Council Member Elinski

seconded the motion, which carried unanimously.

NEW BUSINESS

ORDINANCE NUMBER 558--AMENDING THE "1990 SEWER POLICY OF THE CITY OF COTTONWOOD, ARIZONA," BY DELETING THE DEFINITION UU. "USER CHARGE", UNDER SECTION 13.12.010 DEFINITIONS, AND ADDING A NEW DEFINITION UU. "USER CHARGE"; FIRST READING

Mr. Lueder stated the last time this item was before the Council it was tabled so staff could rework a new definition of "User Charge". The language had since been amended. It now read "UU. USER CHARGE means a charge levied on users of treatment works for the cost of operation, maintenance, capital construction, major repairs, replacement, and enhancements to existing facilities and needs of such works." Added to that was the sentence "User charges will not be utilized for improvements identified under Section 13.20.020 of the Municipal Code unless authorized by the Cottonwood City Council." Section 13.20.020 pertained to impact fees that were system development charges paid by new development in an amount determined to reflect the costs of construction of public facilities required to serve it.

Council Member Smith stated he wanted to protect the 3,647 homeowners on the sewer system from the huge capital cost that could be levied on them in the future. Instead of being funded from sales tax the system users would be burdened. He believed there were funds available for sewer improvements that were being held aside for the purpose of building a new city hall. Staff had recommended \$8 million be set aside for a new city hall instead of being scheduled for wastewater which could be financed through bonds.

Mr. Rodriguez stated the funds for a new city hall were a budgeted capital improvement item. However, being budgeted was no guarantee that a project would be approved by the Council. Those capital expenditures had not been made or approved and no funds had been transferred. The \$8 million was for accounting purposes only at this point.

Mayor Joens stated the Council shared ideas so it could come to a good decision.

Council Member Kirby stated if we were going to take every statement made as gospel that it was going to happen, we were all in trouble here because we'd have to keep our mouths shut. That was not what we sat here for. We went through discussions on projects and we sometimes approved them and sometimes did not. We always had to come back to the City Council. We were the government of the City of Cottonwood, not the hired help, so to speak.

Mr. Rodriguez stated impact fees were intended to fund growth and development that would impact the sewer system. There must be an outside funding source. This was why the Council was being asked to allow staff the option to come before the Council and use user fees for any type of future bonding. The intent was if we had a project, to use the reserves, and as impact fees came in, reimburse it. Not having those fees, staff would like to use any

type of reserves accumulated through user fees to start projects, and in the future as developments started to grow, use those impact fees to reimburse the reserves. Without that it would be nearly impossible to do any type of financing for any type of major project for the sewer. We needed to have the user fees back it up, even if we went out and were reimbursed from impact fees.

Mr. Bob Oliphant, of Cottonwood, stated he did not believe the wastewater policy should be changed because the budgeted funds would be used to build a new city hall. He believed the number of sewer users were too few to adequately support the funding in question and would have an undue burden placed upon them.

Mr. Rodriguez stated this matter was still under discussion. It had never been intended for the sales tax to fund the sewer forever. It expired when all the bonds for the sewer did at which time the intent was to make it a self sufficient enterprise. The only thing being decided now would be the change in the user fee definition. It did not mean anything else would transpire. All it would do was give staff the option to come to the Council in the future in case there was a need to use user fees for any type of bonding for the facilities. It did not mean we were going to go out for bonds. It just provided options.

Vice Mayor Pfeifer stated having these conversations and batting around what might happen she had seen things come to fruition or not depending on the economy and needs of the city. If the Council discussed what they might want, it did not mean something would be put in motion necessarily. The Council needed to have these discussions but should not have its feet held to the fire because somebody might have said at one point that maybe this money would be used for a city hall. She had regarded those statements as comments of possible things that could be done that were just thrown out for consideration. If our feet were held to the fire on every comment someone said, we would have awfully long meetings and things would not happen in a positive manner.

Council Member Smith stated the Council voted and approved \$1.375 million for the study of a sewer plant.

Council Member Kirby stated he had previously been talking about the city hall.

Mr. Lueder stated it should be recognized that many units constituted one multi-unit sewer account. One example of such a multi unit accounts were the apartment complexes on Mingus Avenue which each had one account for sixteen units.

Council Member Elinski stated the discussion was whether the Council wanted to make the sewer system as self sufficient as possible. That was the Council's goal, and had long been the Council's goal. He supported that goal and changing this definition was going to help accomplish that goal. We did not need to get involved in conversations about other possible funding. What we were discussing was whether we wanted this enterprise fund to be as self sufficient as possible.

Council Member Smith said he understood the wastewater fund was paying for itself.

Mr. Bartosh stated when the possibility of using funds for a city hall occurred it was on advice from our bond administrator and other experts, including the former city manager. Since that time it had been determined that the \$8 million in question could only be used for sewer services. It would not be used for a city hall. This would not preclude a request to bond a new Riverfront plant, because it made financial sense to do that.

Mr. Horton stated excess revenues were to go to the sewer system which was how the ballot question on this matter had been worded. It was likely, because of legalities and policy that the Council would decide the funds were only for the sewer.

Mr. Bartosh stated it was likely that at the March 2 meeting staff would recommend that sewer rates should not be raised.

Council Member Kirby stated if he could not, because of the open meeting laws, have discussions here in the open and express individual ideas, there was no place for him on the Council. If he was not free to say what he thought at the time and not have to take it back; if we couldn't do that and were to be bound by something said 18 months ago in an obscure half hour Council meeting, he was through with it. You could not run a town that way.

Dr. Bob Richards, of Cottonwood, stated there did not seem to him to be a need for a new wastewater plant in Riverfront Park nor should user rates be increased.

Mayor Joens asked the City Clerk to read the first reading of Ordinance Number 558.

ORDINANCE NUMBER 558

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE "1990 SEWER POLICY OF THE CITY OF COTTONWOOD, ARIZONA," BY DELETING THE DEFINITION UU. "USER CHARGE", UNDER SECTION 13.12.010 DEFINITIONS, AND ADDING A NEW DEFINITION UU. "USER CHARGE".

AWARDING A JOB ORDER CONTRACTING BID TO ARIZONA NORTHERN EQUIPMENT FOR HORIZONTAL DIRECTIONAL DRILL INSTALLATION OF AN UNDERGROUND PIPING WATERLINE CROSSING AT WILLARD STREET AND HIGHWAY 89A

Mr. Lueder stated the concept of converting the Clemenceau system to a gravity one had been discussed since October 2007. Two other crossings to accomplish this end had been approved previously by the Council. This would be the third and final crossing required to complete the transition to a gravity system. Two of the quote sheets had notations for addenda that their quotes excluded possible ADOT paving requirements of 100 feet either side of their work. Such extensive repaving work was not expected to be necessary or required. Three bids had been received. Staff recommended approving that of Arizona

Northern Equipment for \$92,300.

Council Member Smith asked what would happen to the old Clemenceau wells.

Mr. Lueder stated it was contemplated the Council would be asked to consider swapping those properties for easements on the Mingus project and Candy Lane. Items of value to the city would be removed by the city and the wells would be abandoned, filled and capped.

Council Member Pratt stated the properties could then be sold or traded.

Mr. Lueder stated those possibilities had been discussed and the matter would be presented to the Council for consideration.

Council Member Kirby stated an exchange for easements along the right-of-way was another possibility.

Council Member Smith moved to award the job order contracting bid for horizontal direction drill installation of a waterline crossing under Highway 89A at Willard Street to Arizona Northern Equipment in the amount of \$92,300. The motion was seconded by Council Member Norman and carried unanimously.

AWARD OF BID FOR THE REMODELLING OF THE NEW COURT FACILITY

Mr. Mangarpan stated staff was asking for approval to proceed with the construction contract for the remodeling of the former Carpet One building into the new court facility. A total of 21 bid packets were sent out and 11 general contractors provided bids for the job. The low bid was from Total Building Systems of Cottonwood for \$301,000. While the bid was the lowest there were several other bids close to it so it did not seem unreasonable.

Council Member Pratt asked if background checks were done.

Mr. Mangarpan stated, yes. Additionally, the city had experience with this firm already.

Mr. Lueder stated on such projects the city required a bid bond of ten percent as well as a performance for payment bond.

Council Member Pratt moved to approve the award of bid for renovation of the former Carpet One building into the new Cottonwood Municipal Court facility to Total Building Systems of Cottonwood in the amount of \$301,000 and authorize the Mayor to execute the contract for these services. The motion was seconded by Vice Mayor Pfeifer.

Mayor Joens stated this was an example of what an emergency was. We were using some of our capital reserves. It was a project that was unanticipated even when the last budget was approved. The mold remediation and other projects arose after the last budget was approved. Had we not had the savings we would not have been able to deal with something

that was very important.

The motion carried unanimously.

RESOLUTION NUMBER 2498—AMENDING THE INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY TO PROVIDE COTTONWOOD AREA TRANSPORTATION SERVICES FOR YAVAPAI COUNTY RESIDENTS

Ms. Scott stated the original Intergovernmental Agreement (IGA) had been sent to the County for approval. The County had replied by stating that due to budget cuts all programs they supported would be reduced by seven and one half percent. The effect on Cottonwood Area Transit (CAT) would be \$9,193. Staff believed that increased ridership of the CAT system justified amending the contract with the County to provide service for the reduced amount.

Mayor Joens stated in the letter the County Supervisor sent to CAT it was stated the County's contributions to CAT had increased 336 percent. She asked for an explanation of the increase.

Ms. Scott stated there was increased service to and increased ridership from the County.

Council Member Pratt stated it was suggested that the amount could be made up by fare revenue from increased ridership. He asked if supporting statistics were available.

Ms. Scott stated it was reflected in her reports to the Council.

Mayor Joens asked if the increased ridership from the County would really make up the \$9,193 difference.

Ms. Scott stated she believed the increase in County ridership alone would cover that amount.

Mayor Joens asked if the citizens of Cottonwood didn't really make up the cost because of the city's contributions to staff, buildings, and those sorts of things.

Ms. Scott stated revenue from County ridership was very high.

Mayor Joens asked if the city would have to use HURF funds because of this.

Mr. Rodriguez stated HURF funds could be used for streets and the transit system. Every year some funds were contributed to the transit system. Though we would not get the \$9,193 directly from the County, it would be obtained from residents in the County, Clarkdale, and Cottonwood.

Mayor Joens stated every other governmental entity would have to make up for the County.

The city's HURF fund would cover the difference.

Mr. Rodriguez stated any shortfall at the end of the year would be taken up by HURF. Traditionally it had made such contributions.

A discussion took place about the availability of route maps and the best way to have them made available to interested parties.

Council Member Kirby moved to approve Resolution Number 2498 approving a revised Intergovernmental Agreement with Yavapai County to provide transportation services for Yavapai County residents. The motion was seconded by Council Member Norman and carried unanimously.

Mayor Joens asked the City Clerk to read Resolution Number 2498 by title only.

RESOLUTION NUMBER 2498

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPROVING A REVISED INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY, FOR PUBLIC TRANSPORTATION SERVICES FOR YAVAPAI COUNTY RESIDENTS.

AGREEMENT WITH THE NORTHERN ARIZONA COUNCIL OF GOVERNMENTS (NACOG) FOR A WORK FORCE STUDY

Mr. Rooney stated he wished to request the Council's approval for an Intergovernmental Agreement (IGA) between the City of Cottonwood and the Northern Arizona Council of Governments (NACOG) for a wage and benefits study. The Prescott Economic Development Foundation (PVEDF) conducted such studies and asked if Cottonwood would participate this year. The cost of the study was \$30,000 to be split equally between the Prescott side of the county and Cottonwood. NACOG had been approached to fund half of Cottonwood's \$15,000 cost. The IGA was the mechanism to achieve that end. Funds would come from his approved budget for economic development

Council Members Smith, Kirby, and Pratt expressed their support.

Council Member Kirby moved to approve the agreement with NACOG for participation in a wage and benefit study. The motion was seconded by Council Member Smith, which carried unanimously.

ORDINANCE NUMBER 562--AMENDING SECTION 2.24 OF THE COTTONWOOD MUNICIPAL CODE, CONCERNING THE POWERS AND DUTIES OF THE CITY ATTORNEY AND THE PROCUREMENT OF LEGAL SERVICES BY THE CITY COUNCIL; AND DECLARING AN EMERGENCY

Mr. Horton stated this and the next item had been contingent upon action by the County Board of Supervisors which had not taken place. The Supervisors had met and decided not to approve this Intergovernmental Agreement. This and the next item were moot.

Mayor Joens asked if this ordinance would be needed for future transactions.

Mr. Horton stated it would in large measure but there was no longer an emergency in his opinion.

Mayor Joens asked if it was something that would be brought back to the Council for consideration.

Mr. Horton stated it would be brought back for the Council's consideration.

Council Member Pratt moved to table Ordinance Number 562 and Resolution Number 2499 until a more appropriate time. Council Member Kirby seconded them motion, which carried unanimously.

RESOLUTION NUMBER 2499—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY TO PROVIDE PROSECUTION SERVICES

Item tabled. See above.

CLAIMS & ADJUSTMENTS

Mayor Joens moved to pay the Claims and Adjustments. The motion was seconded by Council Member Kirby, and carried unanimously.

ADJOURNMENT

Council Member Kirby moved to adjourn. The motion was seconded by Council Member Norman, and carried unanimously. The regular meeting adjourned at 7:25 p.m.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk