

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MARCH 1, 2011, 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
Linda Norman, Council Member
Terence Pratt, Council Member
Darold Smith, Council Member

COUNCIL MEMBERS ABSENT

Tim Elinski, Council Member
Duane Kirby, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Steve Horton, City Attorney
Matthew McLean, Deputy Clerk
Jesus Rodriguez, Administrative Services General Manager
Charlie Scully, Long Range Planner
Chief Jody Fanning, Chief of Police
Commander Eisenga, Police Department
Judge Douglas LaSorta, Magistrate Judge
Morgan Scott, Staff Engineer
George Gehlert, Community Development Director

PLEDGE OF ALLEGIANCE TO THE FLAG

Mary Liggitt of the Verde Valley Weavers and Spinners Guild led the Pledge of Allegiance. Mayor Joens thanked her for service and presented her with a certificate.

PRESENTATION BY THE VERDE VALLEY WEAVERS AND SPINNERS GUILD REGARDING ITS "TRIBUTE TO THE VERDE VALLEY" TAPESTRY

Lynda Pierce, Mary Liggitt, and Betty Gaudy presented a "Tribute to the Verde Valley" tapestry to the Council. Mrs. Legite informed the Council that they created the tapestry during weaver's week. They used all of their old materials for the tapestry. Their intent is to sell the tapestry. Until it is sold, they have loaned it to the Council for display.

Mayor Joens stated that the tapestry will be hung in the Council Chambers away from direct light and thanked them and stated she was honored to have it displayed in the Council Chambers.

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

Doug Bartosh announced the following:

- Officer Cory Shilling has been recognized for the second year in a row by the Mothers Against Drunk Driving as the DUI officer of the year.
- Former Police Chief Pat Spence passed away

Council Member Pratt stated last Friday he attended a task force organized by Lana Tolleson from the Chamber of Commerce promoting a shop local program. He also stated by switching to the electronic age, we have saved over 1500 pages from being printed for the packets.

Mayor Joens announced the following:

- She attended a Greater Arizona Mayors Association meeting in Bullhead City where they discussed a lot of the legislation that may be detrimental to cities and towns.
- She attended the Ice Bowl for the Disc Golf Association which was a fundraiser for the Old Town Mission.

Mayor Joens informed the Council that Jason Ferris, Manager of Wal-Mart, was in attendance tonight. She wanted to recognize Wal-Mart for all of the work they do for the community with Shop with a Cop; Kiwanis Club's Clothe a Child; the Fall Harvest Festival; and giving dog food to the Verde Valley Humane Society. She then presented him with a Certificate of Appreciation for all the work that Wal-Mart does in the Community.

CALL TO THE PUBLIC

Dr. Bob Richards of the Kiwanis Club announced Saturday, March 19 was the Mayor's March for Meals, a fund raiser for the senior citizens center. Kiwanis served pancakes at the event and participation was \$25.

Carol Lucas of the Friends of Cottonwood addressed the Council regarding the Easter egg hunt which would be funded by the Friends of Cottonwood along with their partners, the Clarkdale Kiwanis Club, H&R Block of Cottonwood, and Bob Hunt Bail Bonds.

Steve Anderson addressed the Council regarding the proposed sewer-wastewater plant. He has read through the preliminary information regarding the new wastewater plant. He brought a few pictures of the 1993 flood taken from his backyard and other parts of town. These pictures showed a comparison between a flash flood and the flood of 1993. There is a reasonable belief that since the new wastewater plant is in the 100-year flood plain there could be a flood, which there have been three within the last 20 years. He is concerned that the wastewater could pollute the water down river and hopes the city will review the plan and potential problems of pumping the wastewater into Riverfront Park. He was also

concerned about the potential odors and cited the current pig ordinance in Yavapai County in effect because of the odor.

APPROVAL OF MINUTES—REGULAR MEETING OF 12/7/10 & WORK SESSION OF 12/14/10

Council Member Pratt moved to approve the minutes of 12/7/10 and 12/14/10 as presented. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

UNFINISHED BUSINESS

ORDINANCE NUMBER 570—AMENDING SECTION 11. LEAVE, OF THE CITY OF COTTONWOOD EMPLOYEE MANUAL 2007 EDITION, REVISION NUMBER I., BY DELETING SECTION 11. b. 5. LEAVE OF ABSENCE WITH PAY, AND ADDING A NEW SECTION 11. 14., LEAVE SHARING PROGRAM; SECOND & FINAL READING

Mr. Rodriguez presented the new leave sharing ordinance for second and final reading. The program will assist employees that have extended personal or family catastrophic illnesses. The way the program works is if an employee has a catastrophic event and has exhausted their paid leave, staff would ask other employees to contribute their leave hours to the injured employee. There are no direct costs involved, and the city would only be converting hours between employees. It should not be a big burden on the finance staff.

Mayor Joens stated we have discussed this at length at the previous Council meeting. She asked for comments from the public, and there were none.

Vice Mayor Pfeifer moved to approve Ordinance Number 570. The motion was seconded by Council Member Norman, and carried unanimously.

Mayor Joens requested the City Clerk read Ordinance Number 570 by title only:

ORDINANCE NUMBER 570

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING SECTION 11 LEAVE, OF THE CITY OF COTTONWOOD EMPLOYEE MANUAL 2007 EDITION, REVISION NUMBER I., BY DELETING SECTION 11. b. 5. LEAVE OF ABSENCE WITH PAY, AND ADDING A NEW SECTION 11. 14., LEAVE SHARING PROGRAM.

ORDINANCE NUMBER 571—AMENDING THE ZONING MAP OF THE CITY FOR A PARCEL OF LAND TOTALING APPROXIMATELY 1.19 ACRES, LOCATED ALONG THE WEST SIDE OF QUAIL TRAIL, 200 FEET NORTH OF EAST MINGUS AVENUE, APN 406-42-012B; SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF C-1 (LIGHT COMMERCIAL) TO PAD (PLANNED AREA DEVELOPMENT); SECOND & FINAL READING

Mr. Gehlert stated this item needs to be tabled until the next regular council meeting due to a wrong notification being sent out. The applicant is aware of that, and is okay with that.

Mayor Joens asked if they will let the neighborhood know about the new ordinance, and Mr. Gehlert stated yes.

Council Member Norman moved to table this item. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

CONSENT AGENDA

LOCATION TRANSFER LIQUOR LICENSE APPLICATION SUBMITTED BY PETER K. NIEDERER FOR TOPSHELF LIQUORS TO BE LOCATED AT 580 EAST HIGHWAY 89A

SPECIAL EVENT LIQUOR LICENSE APPLICATIONS SUBMITTED BY LANA TOLLESON, APPLICANT FOR THE COTTONWOOD CHAMBER OF COMMERCE, FOR EVENTS TO BE HELD ON MARCH 17, APRIL 21, MAY 19, SEPTEMBER 15, OCTOBER 20, NOVEMBER 17, AND DECEMBER 8, 2011

EXTENSION OF PREMISES/PATIO LIQUOR LICENSE PERMIT FOR AN EVENT SCHEDULED FOR APRIL 9, 2011, SUBMITTED BY KATHERINE WOODS FOR KACTUS KATE'S LOCATED AT 929 NORTH MAIN STREET

APPROVAL TO ENTER INTO AN AGREEMENT WITH WELLS FARGO BANK FOR ALL BANKING AND FINANCIAL SERVICES FOR THE CITY

Council Member Smith requested that item four on the consent agenda be removed for discussion.

Council Member Pratt moved to approve consent agenda items 1, 2 and 3 as presented. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

APPROVAL TO ENTER INTO AN AGREEMENT WITH WELLS FARGO BANK FOR ALL BANKING AND FINANCIAL SERVICES FOR THE CITY

Council Member Smith asked if any of the other banks were involved in supplying banking services for the city.

Mr. Rodriguez stated they have not gone out for bid, since it would need a quite a bit of time. Staff used the inter-local government contracts and the Strategic Volume Expenditures contract assisted with the Wells Fargo deal. Staff expects to receive \$12,000 a year worth of savings by changing from JP Morgan Chase to Wells Fargo.

Council Member Smith asked if the bank will address the lag between someone mailing

their water bill till it is finally being credited to their account.

Mr. Rodriguez stated that they can start looking at the lag time.

Bob Oliphant addressed the Council and stated he is aware a bidding process takes a long time and that Clarkdale completed a bidding process for their banking services. He is aware that by changing banks, it will be a \$1,000 a month savings for the community. He is also aware of the amount of money they estimate that is being handled is about \$40 million. Other banks in our community may be interested in bidding on the banking services or at least a part of it. It might be beneficial to help our local banks. \$40 million is a huge amount of tax-payer money. In his judgment the open bidding process is essential in handling that amount of money. He requested the council consider an open bidding process for handling \$40 million taxpayers' money.

Mr. Rodriguez stated that most of the banking is done electronically. The city hardly does any actual local banking service. He would rather not have two or three banks since he would not recommend the fees required for maintaining all the different accounts. We do other business with other banks and do a lot of electronic transfers to local banks for payroll. It would be hard for staff to manage multiple banks. He could not think of any cities that have more than one bank.

Council Member Smith moved to approve item 4 of the consent agenda. The motion was seconded by Mayor Joens, and carried unanimously.

NEW BUSINESS

PUBLIC HEARING REGARDING THE POTENTIAL DESIGNATION OF THE 10TH STREET AREA (BOUNDED ON THE NORTH BY NORTH MAIN STREET, BOUNDED ON THE EAST BY NORTH 12TH STREET, BOUNDED ON THE SOUTH BY MINGUS AVENUE, AND BOUNDED ON THE WEST BY A LINE DEFINED BY THE REAR PROPERTY LINES OF PROPERTIES GENERALLY TO THE WEST OF NORTH 10TH STREET) AS A REDEVELOPMENT AREA TO APPLY FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS TO BE USED FOR THE COMPLETION OF SIDEWALKS, REPAVING A PORTION OF 10TH STREET, AND REPAIRING UTILITY LINES AND DRAINAGE FEATURES WITHIN THE ROADWAY

Mr. Scully stated the next four items on the agenda are all related to CDBG block grant funds. Last year we had several meetings with the public and the Council regarding what the program was and to look at potential eligible projects. The Council would select the project to move forward with for 2011. CDBG funding is every four years. The total amount is about \$371,000, but with issues in Washington, D.C. regarding budget issues, some of the amount could be changed. Under the grant programs, one of the guidelines to be met is a low-moderate income category, slum blight category, or the urgent need category. Some the projects that were discussed previously, such as the Boys and Girls Club and Civic Center remodel were not eligible for CBDG funds. Part of the selection process included meeting certain criteria including addressing a major community goal; a project that is ready

to go; and if using other funds they must be secured at that time. Based on what staff had reviewed on this project, staff selected the improvements along 10th Street by adding sidewalks, curbs and gutters and the request from Catholic Charities to provide funding for their proposed homeless assistance service.

For the 10th street improvement project, the area needed to be declared a slum-blight area. It is simply a title that would allow the funding from CDBG and meet the criteria guidelines. One of the requirements is that staff notifies the property owners within the area that they will be declaring it a slum-blight area by mail. Staff also did a display ad in the newspaper for two weeks in a row. The final thing is for the City Council to adopt a resolution declaring the area for redevelopment. Mr. Scully showed some pictures of the area to the Council.

Mr. Scott addressed the Council regarding the area that will be redeveloped. The street along 10th Street is not in the best condition and there are many missing sidewalks. The Safe Routes to School team have identified north 10th Street as their top priority right after Mingus Avenue. There is also a lot of old and inadequate water lines in the area that do not provide enough flow for firefighting suppression systems. And finally there are flood plain concerns. To reconstruct all 1627 feet with three inches of asphalt, curb, gutter, and five-foot wide sidewalk on both sides, the cost estimate would be about \$215,000. Regarding the waterlines: currently there are two waterlines in the area, one on the east side of the road and one on the west side of the road. One is a two inch line and the other is four inch line. Both of those lines are part of the old Cottonwood Water Works system. They are about 40 years old and are in need of repair. The water department has repaired those lines several times. Staff would like to install a new eight inch waterline that would replace both of those lines and install fire hydrants. The cost of the water line would be \$122,000. Regarding the flood plain concerns: staff is suggesting replacing the culvert with a larger concrete box culvert, similar to the ones upstream along Mingus Avenue. Staff would conduct a drainage study to see what size they would need to convey the flow. It would cost about \$55,000 and a good portion of Cochise Street would have to be ripped up to construct the new box culvert. The council might want to consider reconstructing that street as well. It would cost about \$46,000 to reconstruct 260 feet of Cochise Street. It is important to note that some of these things don't have to be built with the grant money. If the Council would like to move forward with just 10th street and the waterline, that is possible. The total cost of the estimate would be \$439,000. The CBDG funds are about \$370,000, but there is the NACOG administration fee and environment studies that could cost about as much as 18 percent or about \$66,000, which would leave about \$330,000 for the project. The water department has volunteered to take on the new water line, so the cost of the project would be down to \$317,000. The cost out of the general fund would then be \$13,600.

Council Member Smith asked if we didn't do the flood plain project right now, wouldn't it just end up costing more in the future, and Mr. Scott stated yes.

Council Member Pratt stated there is lot traffic along 10th street and a lot of walking and this will benefit the community.

Mayor Joens stated is important to note that this is a number one priority for Safe Routes to School, and we have put a lot time and energy into those studies.

Mr. Scully stated there is an option to look at the Catholic Charities homeless drop-in shelter. All the street improvements and sidewalks will fit within that city right-of-way. There are some issues about how people park along there now. The city will not be taking any property away from the property owners.

Mr. Scully presented the resolutions for approval by the Council to declare that a redevelopment area exists.

Mayor Joens opened the item for public discussion.

Max Castillo, from Cochise Street in Cottonwood, thanked the Council for looking at his neighborhood and he is a member of the Main and Mingus block watch. His concern with the project is the sidewalks will take away the parking for the neighborhood. His suggestion would be to only have a sidewalk on one side of the street.

Mayor Joens asked Mr. Castillo his thoughts regarding children walking on sidewalks or the street and whether or not he agreed that children should be walking on sidewalks to school.

Mr. Castillo stated children should be walking on the sidewalk, but one side should be sufficient. He cited the same problem occurred with the 12th Street project and the people not having enough parking.

Council Member Smith stated he agrees with Mr. Castillo that there is not enough parking along 12th street and it would be better to have sidewalks on only one side of the street.

Vice Mayor Pfeifer stated when we started discussing the 12th Street remodel it was for traffic control. By making 12th street narrower, it has made people go slower.

Mr. Scott stated the improvements being proposed for the 10th street will be the same as 12th street. During the design staff will look at all these problems, just as they did on 12th street and try to address everything that Council and residents want for the project. Most of the residents on 12th Street like parking on the street, since it appears to slow traffic.

Mayor Joens stated we are talking about if we want to do the street improvement with CBDG funds, but the actual design would come later with public input.

Mr. Scott stated he believed that staff is required to have at least two or three public meetings during design phase.

Bob Oliphant addressed the Council and stated this is one of the streets they clean on an annual basis and believes this is a good candidate for the project. He stated that he cannot

remember ever having seen a car parked on the street during a Saturday cleanup. The street is different from 12th street in his judgment. The major concerns are the children that use the street to walk the neighborhood. He requested that the Council consider putting in sidewalks on both sides of the street.

Council Member Pratt stated the Council is not voting on those details, but it is a popular street for children. Those details will come up at another venue and another discussion.

Alan Montgomery, a 10th Street resident, addressed the Council and stated he has seen many speeders on the street. He has also seen kids riding bikes and skateboards down the middle of the street. He has witnessed kids throwing rocks at cars. He would like to see the improvements done to increase safety awareness. It is a possible liability to the city if the city doesn't address this.

Janice Montgomery addressed the Council, and stated she shared the same concerns with her son, Alan Montgomery. It is terrifying to see the children in that area. Her other concern is the flooding. The grade has not been done properly. The water flows down Mingus and does not flow into the wash. It comes right across her property. She has had problems with landscaping on her property during flooding.

Mayor Joens closed the floor to the public regarding this item.

RESOLUTION NUMBER 2574--FINDING, PURSUANT TO THE REQUIREMENTS OF A.R.S. § 36-1473, THAT A REDEVELOPMENT AREA EXISTS IN THE MUNICIPALITY

Council Member Pratt moved to approve Resolution Number 2574, finding, that pursuant to requirements of Arizona Revised Statutes §36-1473, that a Redevelopment Area exists in the City of Cottonwood, described as the North 10th Street Redevelopment Area. The motion was seconded by Council Member Norman, and carried unanimously.

Mayor Joens requested the City Clerk read Resolution Number 2574 by title only:

RESOLUTION NUMBER 2574

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, FINDING, PURSUANT TO THE REQUIREMENTS OF A.R.S. § 36-1473, THAT A REDEVELOPMENT AREA EXISTS IN THE MUNICIPALITY.

RESOLUTION NUMBER 2575--AUTHORIZING THE SUBMISSION OF AN APPLICATION(S) FOR FISCAL YEAR 2011 STATE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS, CERTIFYING THAT SAID APPLICATION MEETS THE COMMUNITY'S PREVIOUSLY IDENTIFIED HOUSING AND COMMUNITY DEVELOPMENT NEEDS AND THE REQUIREMENTS OF THE STATE CDBG PROGRAM, AND AUTHORIZING ALL ACTIONS NECESSARY TO IMPLEMENT AND COMPLETE THE ACTIVITIES OUTLINED IN SAID APPLICATION

Mr. Scully stated the resolution has two options for approval. One is for the 10th street improvements only, and the second includes the Catholic Charities Homeless drop-in shelter.

Council Member Smith stated he does not understand the homeless drop-in shelter and the \$45,000 needed for it. His understanding was this project was simply for the homeless so they could come in for the day, get a shower and leave. They would not be able to stay there for any length of time. He requested some more information.

Mr. Scully stated Catholic Charities would be taking some of the grant money available to the city as a sub-recipient. Catholic Charities would be administrating the program. They do receive grants from a variety of sources and this is not their only source for this year. This is something they could develop as a committed use through another funding source. The Council is not approving the use of the funds, the Council would be approving the portion of the funding the city would be receiving and passing it through to Catholic Charities. They already do counseling for a wide-range of people in need.

Mayor Joens stated we have given them a quite a bit of funding for the transitional housing a few years back. And we have done air-conditioning on some of their housing, so we have contributed funds for their benefit.

Mr. Scully stated he believed that the City of Prescott had some funding available for Catholic Charities. They have a variety of funding sources available to them.

Council Member Pratt stated his choice would be to approve option A to committing the grant to north 10th Street only.

Mayor Joens stated she wanted to do that as well, since it benefits the most people in the community. It would benefit children also, and it's on the way to our park. The other project is really good, but staff time with the application process is also something you have to consider. But her main reason for supporting option A is because we will still have to put funding into it and we don't have enough grant funding to complete the project.

Council Member Pratt moved to approve Resolution Number 2575 authorizing the City to submit the FY 2011 CDBG Application for the N. 10th Street Redevelopment Project only. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

Mayor Joens requested City Clerk to read Resolution Number 2575 by title only:

RESOLUTION NUMBER 2575

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD AUTHORIZING THE SUBMISSION OF AN APPLICATION(S) FOR FISCAL YEAR 2011 STATE COMMUNITY DEVELOPMENT BLOCK GRANT

FUNDS, CERTIFYING THAT SAID APPLICATION MEETS THE COMMUNITY'S PREVIOUSLY IDENTIFIED HOUSING AND COMMUNITY DEVELOPMENT NEEDS AND THE REQUIREMENTS OF THE STATE CDBG PROGRAM, AND AUTHORIZING ALL ACTIONS NECESSARY TO IMPLEMENT AND COMPLETE THE ACTIVITIES OUTLINED IN SAID APPLICATION.

RESOLUTION NUMBER 2576—ADOPTING A RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN FOR FISCAL YEAR 2011, AS REQUIRED UNDER SECTION 104(d) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AS AMENDED

Mr. Scully presented the resolution to the Council for approval. The resolution is needed for the CBDG grant funding and other federal grant housing programs. There was a similar resolution approved in 2007. In regards to the improvement project, staff does not foresee any displacement of any of the residents.

Council Member Pratt stated this seems pretty simple, since it is already an extension of a resolution that has already been approved and keeps the city in compliance.

Council Member Norman moved to approve Resolution Number 2576, adopting an updated residential anti-displacement and relocation assistance plan. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

Mayor Joens requested the City Clerk to read Resolution Number 2576 by title only:

RESOLUTION NUMBER 2576

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA ADOPTING A RESIDENTIAL ANTIDISPLACEMENT AND RELOCATION ASSISTANCE PLAN FOR FISCAL YEAR 2011, AS REQUIRED UNDER SECTION 104(d) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AS AMENDED.

RESOLUTION NUMBER 2578—APPOINTING MARY E. HAMM AS AN ASSOCIATE CITY MAGISTRATE AND ESTABLISHING HER TERM OF OFFICE

Judge LaSota introduced Mary E. Hamm. She has over 10 years of courtroom experience and assisted the Cottonwood Municipal Court for Jail Court cases when the presiding judge was unavailable.

Ms. Hamm stated she looked forward to the opportunity to assist the community.

Mayor Joens stated her resume was very good and Judge LaSota is recommending her.

Council Member Pratt moved to approve Resolution Number 2578 appointing the Honorable Mary E. Hamm as an Associate Magistrate at the standard rate of \$50 per hour. The motion

was seconded by Vice Mayor Pfeifer, and carried unanimously.

Mayor Joens requested the City Clerk read Resolution Number 2578 by title only:

RESOLUTION NUMBER 2578

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING MARY E. HAMM AS AN ASSOCIATE CITY MAGISTRATE AND ESTABLISHING HER TERM OF OFFICE.

RESOLUTION NUMBER 2577—DECLARING THAT CERTAIN DOCUMENT ENTITLED SECTION 308. MEDICAL MARIJUANA FACILITIES, PERTAINING TO THE COTTONWOOD ZONING ORDINANCE, A PUBLIC RECORD

ORDINANCE NUMBER 572—AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SECTION 308. MEDICAL MARIJUANA FACILITIES; FIRST READING

Mr. Scully stated the voters of Arizona approved Proposition 203, “The Arizona Medical Marijuana Act,” in November of 2010. The new ordinance is an update for the zoning ordinance. The proposition that was approved allows a patient with specific debilitating conditions to obtain certification from the Arizona Department of Health Services (ADHS) for the use of medical marijuana. ADHS administers the rules and licensing requirements for medical marijuana dispensaries. For the new ordinance, we are looking at where the dispensaries, cultivation facilities, and infusion (manufacturing) facilities will be located. The dispensaries are a non-profit operation and are required to acquire the product from other sources or cultivate it themselves. One of the requirements of the location of the dispensaries is that it cannot be located anywhere within 500 feet of a school. ADHS may not issue more than one dispensary certificate for every 10 pharmacies in Arizona and they anticipate no more than 124 dispensaries state-wide. At least one dispensary will be allowed in each county. ADHS has indicated it does not want dispensaries clustered in the major cities and to ensure opportunities exist in rural areas. This will ensure the rural areas are not disproportionately subjected to the 25-mile exception which allows patient and caregivers to home grow medical marijuana. Home grown medical marijuana cannot be approved by ADHS if the patient is within a 25-mile radius of a dispensary. Staff prefers there be a dispensary that is well regulated and will take away the home grown operations. Cultivation operations should be located within an industrial location.

Mayor Joens stated she didn’t believe that the 500 feet was far enough away from schools.

Council Member Pratt stated we should have a distance away from schools, similar to the requirement that bars and liquor stores are not near schools. He also suggested that they should not be near a place where children congregate.

Council Member Smith asked if the state makes the decision about who will be a licensed dispensary. Mr. Scully stated that is correct.

Council Member Smith stated the one dispensary per 25 mile radius has nothing to do with Cottonwood. Council Member Smith asked if Sedona has a dispensary, could Cottonwood receive a dispensary too.

Mr. Scully stated the 25 mile radius is between Village of Oak Creek and the other side of the Prescott Valley.

Council Member Pratt stated that all we are doing right now is declaring that Section 308 be made a public record and then have the first reading.

Mr. Scully stated part of the ordinance deals with the conditions of the dispensary. For example, staff had looked at what the law was authorizing, and the dispensary was meant to provide a product to people with illnesses, and nothing in that law is suggesting that a dispensary can become something it is not. Staff are concerned it may become something of a larger scope. Staff can live with this law. These dispensaries are going to be well managed and staff will know where dispensaries are located.

Ed Kiyler of the Planning and Zoning Commission stated that they had discussed this issue with the Planning and Zoning Commission meeting and received input from people that wanted to have a dispensary and their fear was that Cottonwood would stick them in a back alley. Two members of the Planning and Zoning Commission felt that the distance from a school should be 1000 feet. The Planning and Zoning Commission dissented to the Council with no recommended changes, because they determined that the time frame that this had to be taken care of was short. However, once it is place, we can address it in the future for suggested amendments, such as the distance from a school. The other thing they might want to consider is the potential litigation. The dispensaries are afraid they will be treated as adult bookstores.

Robert Williams of the Planning and Zoning Commission addressed the Council. They had a lengthily discussion on this issue at a Planning and Zoning Commission meeting. He had one issue with this in that it appears that there is a limitation on the number of dispensaries, but not on the cultivation or infusion facilities. How do we limit the number of cultivation facilities? The other problem is security. One of the things the Council might consider is the distance between cultivation facilities. The staff did a wonderful job in preparing this ordinance.

Council Member Pratt stated we do want a dispensary within the 25 mile radius because we don't want a lot of homegrown operations. It also makes sense to have the cultivation near the dispensary, because of security issues.

Mr. Williams stated that our industrial areas are very convenient and not like other cities.

Council Member Smith stated his understanding of the law is that you can't home grow within 25 miles of a dispensary.

Mr. Williams stated his concern with having several cultivation facilities within Cottonwood. We could have 1000 in Arizona as opposed to 125. We have to keep that in mind with this ordinance.

Mr. Horton stated the law only allows for one cultivation facility per dispensary. So the problem is will it be attached to the dispensary or detached from the dispensary. There is a possibility of a cultivation facility being located within Cottonwood and the dispensary being located elsewhere. Because of security requirements, it might be in the best interests to have the cultivation facility at or near the dispensary.

Mr. Bartosh stated he wanted to recognize Mr. Scully for his hard work on this issue. The other thing to mention is staff would have liked to wait to see what the final rules are, but that is not going to be possible. Staff anticipated that there is a chance they would come back to the council with changes, once they knew what the final rules are. Marijuana is still illegal in Arizona, but there is now a small exception in the law to allow people to use it for what the voters intended to be used for and that's for medical purposes only and not recreational. Staff has tried to keep those initiatives in mind when trying to put this together.

Mayor Joens opened the floor to the public.

Brenda Whittaker addressed the Council and stated she is working for a company in Phoenix who intends to create a franchise for dispensaries and the company wants to manage the smaller dispensaries around the state. She wanted to address the security fear and the distance to school. She read from the company's business plan and emphasizes the security and professionalism that the company would have. The staff will verify the patient's fingerprint against their file. There are cameras positioned over the staff, entrances, cash machine, and product, as well as a two way mirror from the office overlooking the area. Her point is further restricting this is making it fairly difficult to open a dispensary. The company's main concern is with the patients, who will benefit from this.

Vice Mayor Pfeifer commented on Ms. Whittaker's comments--the word fear was brought up and that Ms. Whittaker doesn't understand the word fear and the reason for having it that far from school. Multiple precautions being taken by the dispensaries prove that right there, there could be a potential problem. So if there weren't a problem with dispensaries and growing and cultivating we wouldn't have to consider all of those stipulations that are going to be put on those dispensaries, so that is the fear right there.

Ed Kiyler addressed the Council, and stated he has done some research into this item. One of the things he found was that start up costs could be anywhere from \$300,000-\$500,000, which might limit to what is going to happen here.

Mr. Scully presented Resolution 2577 for approval declaring the proposed section 308 be a public record.

Council Member Pratt moved to declare section 308, Medical Marijuana Facilities, to be a

public record. The motion was seconded by Mayor Joens, and carried unanimously.

Mayor Joens requested the City Clerk to read Resolution Number 2577 by title only:

RESOLUTION NUMBER 2577

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DECLARING THAT CERTAIN DOCUMENT ENTITLED SECTION 308. MEDICAL MARIJUANA FACILITIES, PERTAINING TO THE COTTONWOOD ZONING ORDINANCE, A PUBLIC RECORD.

Mr. Scully stated he has been in contact with a few dozen people within the last month. At least three had a strong interest in building a dispensary within Cottonwood. These were people that were hiring real estate professionals and attorneys. He also was contacted by an attorney representing a group of people. These people have been looking at the industrial areas and vacant store fronts. The rules have extensive requirements on security, security cameras and being linked in with the police department. What we are looking at is the location of the dispensaries. One of the comments from the Planning and Zoning Commission was a question about we only allow one cultivation facility and one dispensary.

Mr. Horton stated the statute states the operation can only have one cultivation operation associated with it. And that's the only reasonable reading of the statute. The city's ability to constrain the location needs to be reasonable.

Ms. Whittaker addressed the Council again, about the use of the word fear. She is under the opinion that their business plan is overkill. She doesn't believe that all that stuff is necessary. She doesn't think all that security necessarily needs to be in place.

Mayor Joens stated we don't know how this will pan out.

Mayor Joens requested the City Clerk read Ordinance Number 572 by title only:

ORDINANCE NUMBER 572

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING A NEW SECTION 308. MEDICAL MARIJUANA FACILITIES.

APPROVING AN AGREEMENT WITH ROBERT COMBS, THROUGH SMARTWORKS PLUS, TO DEVELOP A PROCUREMENT DIVISION UNDER THE ADMINISTRATIVE SERVICES GENERAL MANAGER

Mr. Rodriguez requested an approval to contract with Robert Combs to assist in the establishment of a procurement department. He will prepare staffing requirements, acquire

the staff and develop guidelines and procedures for the department. A buyer position has been included in the budget for the past five years. Staff is looking to start Mr. Combs after March 14, 2011. His term will be 90 days and should have staff, guidelines and software in place. Some of the purposes of the creation of a procurement department is staff wants to consolidate all the procurement in one division instead of scattered throughout the city. Staff has also heard about staff time being consumed with large requests for proposals. There will be savings related to the city in an increase in buying power. The department will be paying for itself once it is established and gets going full bore. The cost to bring Robert Comb on board, was \$9,000 for 90 days, hotel stays for two nights a week and mileage from Chandler to Cottonwood. He did exclude meals. Total cost would be approximately \$13,200. The new department would include a Procurement Manger (\$66,300), Buyer (\$56,750), supplies and contractual services (\$42,000) and equipment (\$2,000) for estimated cost of \$167,050. For the current fiscal year, it will cost about \$57,200 to have the department up and running this year, until the end of the year.

Bob Oliphant addressed the Council and stated he was opposed to the establishment of this new division within the City of Cottonwood. This is growing the government and the City of Cottonwood is too small to add another layer or agency to it. He also has not seen any specific examples of how it would save \$167,050 as a division and pay for itself and then bring additional savings. He has not seen anything concrete. During the budget discussion of May, 2010: regarding belt tightening, dire consequences, employee's not receiving merit increases. Budget discussion in June, 2010: belt-tightening, layoffs, not filling positions, dire circumstances and a promise made on the merit increases. A fund was created and set aside of a \$450,000 and that in December, depending on circumstances, it would be revisited and if things were okay, employees would receive a merit increase. It has not been visited. Recall a letter to you, Mayor, from the Finance Director in January in which he once again outlined the dire circumstances of the city staff, the inability of the city to address the merit increases once again. He can see no justification for this division. If the city wants to establish this division, set it up as a profit center and make it prove to the government that it is really going to save what it says.

Mr. Rodriguez stated the savings is not only in dollars and cents, but it is also in time of staff to do their jobs. Currently we have a lot of projects in the strategic plan that are being held up because staff is unavailable to work on them. The city has not done any layoffs and has not proposed to do any layoffs. This was discussed at an employee meeting about a year ago and the employees would rather take a merit freeze rather than layoffs. Not to mention that the legal department is burdened and the new department will establish a lot of boiler plate language and review once, and not every time we put together an RFP.

Mr. Bartosh stated we are going to be spending \$13,000 only for this fiscal year. Whether or not we permanently bring in a procurement officer or manager is a decision based on our revenue picture at that time. What Mr. Rodriguez is proposing is bringing someone in and setup a good up-to-date procurement process. This is a good investment for this year. Creating the full-time positions will be something that staff can bring up during the budget process. The employee merit increase has been recently addressed by the City Council this

year and has been addressed by the employees.

Mayor Joens stated it has been addressed with the citizens.

Mr. Rodriguez stated that part of the request is to have Mr. Combs hire someone so he can train them. He wanted to get it done this year during the 90 days and create an operation in place to take it over. He would be hiring someone before July 1, 2011.

Mr. Bartosh stated it would be sufficient for the Council to approve the \$13,000 for the contract and look at the budget to assess the new positions.

Council Member Pratt stated the motion would only be to contract with Robert Combs.

Council Member Smith moved to approve a contract with Robert Combs, through SmartWorks Plus, to establish a Procurement Division under the Administrative Services General Manager and prepare staffing requirements, and develop guidelines and operating procedures for the new division not to exceed \$13,200. Council Member Norman seconded the motion, and it carried unanimously.

ORDINANCE NUMBER 573--AMENDING CHAPTER 10.20.040 RESTRICTED PARKING AREAS RESERVED FOR THE PHYSICALLY DISABLED, SUBSECTIONS A. AND C., OF TITLE 10, VEHICLES AND TRAFFIC, OF THE MUNICIPAL CODE; FIRST READING

Commander Eisenga presented a new ordinance to Council for first reading. This is a revision to Title 10 in regards to the handicap parking space. The new ordinance will expand the handicap parking space to restrict the blocking of handicap parking spaces and adding the space outside a handicap parking space. He cited the example of Wal-Mart's parking lot that includes a hash mark area around the handicap parking. That area is for unloading and loading that is required sometimes for handicap vehicles. The police department can issue citations for blocking or parking within the hash-marked areas.

Council Member Pratt stated this is a no-brainer. He didn't realize the police department couldn't issue a citation for parking in the hash-marks.

Chief Fanning stated that Wal-Mart is the main place where this new ordinance will apply. They have spoken to Wal-Mart, and they cannot go on record to support this item. Wal-Mart already believed that the police department was enforcing this item.

Mary Eichman addressed the Council, and stated that she has taken a lot of people to Wal-Mart and was told that she could park within the hash marks. Some of the employees at Wal-Mart are advocating parking within the hash marks.

Mayor Joens requested City Clerk read Ordinance 573 by title only for the first reading.

ORDINANCE NUMBER 573

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING CHAPTER 10.20.040 RESTRICTED PARKING AREAS RESERVED FOR THE PHYSICALLY DISABLED, SUBSECTIONS A. AND C., OF TITLE 10, VEHICLES AND TRAFFIC, OF THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, ARIZONA.

CLAIMS & ADJUSTMENTS

Mayor Joens moved to pay the claims and adjustments as presented. The motion was seconded by Council Member Norman, and carried unanimously.

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Council Member Norman, and carried unanimously. The regular meeting adjourned at 9:05 p.m.

Karen Pfeifer, Vice Mayor

ATTEST:

Marianne Jiménez, City 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 March 1, 2011. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date