

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MARCH 2, 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	Rudy Rodriguez, Finance Director
Marianne Jiménez, City Clerk	Dan Lueder, Utility Director
George Gehlert, Community Development Director	A. Douglas LaSota, City Magistrate
Steve Horton, City Attorney	Tim Costello, Public Works Director
Janie Randall, Court Administrator	Belinda Guay, Court Clerk
Kyla Allen, Exec. Assistant to the City Manager	Morgan Scott, Staff Engineer

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Rachel Olsen, a junior at Mingus Union High School. Mayor Joens presented Ms. Olsen 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 there had been an apparent arson fire at the Masonic Lodge last week. Planning would begin tomorrow for the second annual Brian Mickelsen Half Marathon, scheduled for April 17. A meeting of the historic preservation committee would be held in two weeks. This month's Council work session had been moved from March 9 to March 11 and would be dedicated to addressing the budget process.

Council Member Kirby stated he had attended the NAGOC regional council meeting last Thursday.

Vice Mayor Pfeifer stated she, Mayor Joens, and Mr. Bartosh attended the intergovernmental meeting last Thursday. Today she had attended her granddaughter's third grade class Doctor Seuss Day event as well as the one for her great granddaughter in kindergarten.

Mayor Joens stated she had attended a ribbon cutting for the Arizona Dermatology Group on Monday. Ms. Jiménez and VISTA worker Katelyn Cohen had planned free art classes for teens taught by local artists at the Cottonwood Boys and Girls Club on Thursdays from 4 p.m. to 6 p.m. which were open to the public.

Ms. Jiménez stated members of El Valle Artists' Association had volunteered their time to teach interested teens. There was someone who would teach watercolor, acrylic, and jewelry making, who were willing to donate their time and teach their craft. Teens were invited to join and the group was looking for more members.

Mayor Joens stated the Saint Patrick's Day Parade in Sedona would be on March 6 at 10 a.m. As a reminder, Council meetings could be viewed on verdevalleytv.com as could the *Inside the City* program hosted by the City Manager. Recent broadcasts had Parks & Recreation Director Richard Faust on to discuss the new Recreation Center and rates, and Police Chief Jody Fanning discussing community policing. Utility Director Dan Lueder had been on to discuss water rates. The program was educational and the public should watch it to learn about the city.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES— Regular Meeting of February 16, 2010

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

UNFINISHED 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”; SECOND AND FINAL READING

Mr. Lueder stated staff recommended the Sewer Policy be changed relating to Definition UU. “User Charge”. Currently it meant a charge levied on users of treatment works for the cost of operation and maintenance of such works. User charges did include construction costs. Staff recommended changing this to mean 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 need of such works. User charges would 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 defined Impact fees as system development charges paid by new construction in an amount determined to reflect the costs of construction of public facilities required to serve it.

Council Member Smith asked why it was being changed since it had worked fine for years.

Mr. Lueder stated it gave the Council an option to apply user fees to capital construction costs if it so authorized.

Council Member Smith stated he objected that the user charge was only paid by about 3,200 accounts.

Mr. Lueder stated there were about 3,600 residential customers and about 1,300 multi-residential and commercial users. Multi-residential accounts accounted for between 16 and 20 users each. The equivalent residential number would be well over 7,000. Multi-residential and commercial users paid a majority of the costs.

Council Member Smith stated he was concerned about laying it on the residential users. Before, sewer fees could not be used for new construction. He was afraid this change was going to result in new bonding and a new sewer plant.

Mr. Lueder stated any expense greater than \$50,000 had to come before the Council for approval and any capital construction project would definitely be presented for Council its consideration.

Council Member Smith stated he couldn't see why there couldn't be an alternative or why this had to be changed.

Council Member Kirby asked why it shouldn't be changed. The sewer system should support whatever was necessary to keep it fully operating. If some construction and repairs were necessary to do that, there needed to be money in the bank.

Council Member Pratt stated this would be for the maintenance, operation, and some new construction, but not new construction or a sewer plant. It would allow the system to operate using its finances for that purpose.

Vice Mayor Pfeifer stated the new definition was more restrictive as to what the fees could be used for.

Council Member Elinski stated the new definition was in line with the current and past Council's direction to keep wastewater as an enterprise fund. Any capital construction costs would come before the Council for its decision. It was important to change the definition so that the enterprise fund could fund itself.

Mayor Joens stated some new construction was beneficial to the system such as the new lines under Highway 89A. Council Member Smith seemed to be concerned that the current fee payers would have to pay for construction for new homes.

Council Member Smith stated that was exactly correct.

Mayor Joens stated she did not see this change accommodating that.

Council Member Elinski asked, for the public record, if Bella Montaña were to build out how the existing wastewater customers would not be bearing the burden of having to put in a new facility.

Mr. Lueder stated for new housing construction, the designated impact fees totaled approximately \$5,380 per house to be received at the time a building permit was issued. The funds were placed in a fund which Mr. Rodriguez, as Finance Director, would explain.

Mr. Rodriguez stated there appeared to be a concern about the intermixing of water and wastewater. They were two separate entities. There was no intermingling between the funds. If it was decided that a wastewater plant was needed at Bella Montaña, pledging impact fees to bond for it would be insufficient. The more stable source of user fees would have to be pledged. Impact fees collected would go to pay the bonds. If reserves have to be used, impact fees collected would then go back into the reserve funds.

Council Member Elinski asked if there was any way existing customers would be paying for new facilities in a new subdivision.

Mr. Rodriguez stated current reserves would probably prevent that from happening. All that was being asked for now was the ability to use customer fees as leverage when and if the city went out for bonding. The intent was any new subdivisions that required any type of facility would have infrastructure costs covered from impact fees.

Council Member Kirby stated he was satisfied because the changes specifically stated improvement would not be used for improvements identified under Section 13.20.020, the impact fees section of the Municipal Code, unless authorized by the City Council.

Council Member Norman stated the new definition made things more understandable for future Councils.

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

Council Member Kirby moved to approve Ordinance number 558 to amend the definition of "user charge" under Section 13.12.020 of the Cottonwood Sewer Policy. The motion was seconded by Council Member Pratt. The motion carried with Council Member Smith dissenting.

Mayor Joens asked the City Clerk to read the second and final reading of Ordinance Number 558 by title only.

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".

CONSENT AGENDA—No items.

NEW BUSINESS

APPOINTMENT OF A CITY PROSECUTOR

Mayor Joens stated she wished to move the final item on the agenda, the appointment of a city prosecutor to the first item because the candidate had driven from Phoenix to attend and the item was not expected to take a great deal of time. There were no objections to doing so. Mr. Horton recused himself.

Mr. Bartosh stated the city had been attempting to determine how it could get the best quality of prosecution services at a reasonable cost. A proposed agreement with the County had been turned down by the County Supervisors. Other options were being looked into. In the meantime it was thought savings could be achieved by hiring Mr. Robert Gaffney to provide his services. He was formerly with Mangum, Wall, Stoops and Warden, P.L.L.C., which provided prosecution services for the city. He was familiar with the city and its operations. The cost was thought reasonable for his services. Staff recommended the Council approve accepting Mr. Gaffney on a month-to-month basis until a final decision was reached regarding how the city wished to deal with prosecution services.

Mr. Gaffney stated he had handled contacts with the city from March to August 2009 and he had experience working with Judge LaSota. He was a prosecutor in Pinal County for four years and worked all levels of criminal cases. He had been a defense attorney for three years. The court schedule and travel time would not present him with any problems.

Council Member Kirby asked if his contract would be exclusively with Cottonwood and if not, would that interfere with his duties here.

Mr. Gaffney stated he had private clients. His priority would be to attend to matters in Cottonwood.

Mayor Joens asked if anyone from the public wished to address this subject. There were no comments from the public.

Judge LaSota stated Mr. Gaffney's work was always professional and he had an excellent rapport with staff at the court.

Mr. Bartosh stated current bills for prosecution services were about \$14,000-\$15,000 per month. Mr. Gaffney had agreed to accept an offer of a flat fee of \$7,000 per month as opposed to the current fee of \$150 per hour.

Mr. Shiloh Hoggard, of Cottonwood, stated there were qualified local attorneys who could perform the services required. He hoped there would be opportunities for them as the city looked to finalize how it wished to provide the services it required.

Council Member Elinski stated Mr. Hoggard's point was well taken.

Mr. Bartosh stated several options were still being looked into including working with the County, with Sedona, or having a Request for Proposal (RFP) process. Mr. Gaffney was selected on a temporary basis because of his known ability and experience in order to reduce spiraling expenses immediately and allow time to determine how service would ultimately be provided.

Council Member Pratt expressed his support for such an easy transition and such immediate savings. He moved to appoint Robert Gaffney as City Prosecutor on an interim, at-will basis for a fixed fee of \$7,000 per month. The motion was seconded by Council Member Norman, and carried unanimously.

PRESENTATION BY GRANT HAMMILL OF STONE & YOUNGBERG, REGARDING THE CITY'S BOND RATING ISSUED BY STANDARD & POOR'S

Mr. Rodriguez stated Standard & Poor's had recently upgraded the city's bond rating. Mr. Hamill had been the city's bond advisor for over a decade, and was here to explain what the change meant to the city.

Mr. Grant Hamill, Managing Director of Stone & Youngberg, stated a national bond credit rating agency recently reviewed the city's utility system and elected to upgrade the credit rating assigned to those bonds which had been in place since the bonds were issued approximately five years ago. He wanted to discuss how the credit rating was derived and, more importantly, what the future implications were for the city.

In 2004 and 2006 the city issued Senior Lien Water System Revenue Bonds in the amount of approximately \$37.5 million to acquire four private water companies, to make substantial system improvements, and to create a debt service reserve fund held by a bank for the benefit of bond investors. At the time, Standard & Poor's, one of three national bond rating companies, assigned a rating of BBB, primarily due to the uncertainty of the start-up nature of the water company which at the time had no operating history. While not the lowest possible rating, the bonds were ranked in the lower tier. The bonds were being serviced by revenues and the outstanding amount now was about \$35.5 million. When the bonds were

issued, investors relied on certain legal covenants assigned to the bonds as security in support of their repayment. Typically for most utility bonds, the bonds were secured by the net operating revenues of the water company. Net revenues were gross revenues less operations and maintenance expenses necessary to keep the system operating and available to customers.

The city's obligation to make its debt service payments was absolute and unconditional. It represented an on-going contract which must be met. It was not like a renewable lease the Council had discretion over. The legal requirements were for the city to establish and maintain water system rates and other charges sufficient to generate net revenues in each fiscal year equal to at least 135 percent of the principal and interest requirements of the bonds. Furthermore, those provisions required that if the city were to issue any additional Senior Lien Water System Revenue Bonds, whether for system expansion, improvement, or things of that nature, it had to demonstrate historical net system revenues would provide coverage at least 1.35 times debt service on existing bonds and on any additional bonds to be issued. This was a safety provision for investors in case revenues turned out to be less than projected. These were standard provisions in most city revenue bonds.

Ratings represented an independent evaluation of the credit quality of a bond. Investors based their decisions to buy bonds on such ratings and many relied on such agencies before making investments. Higher ratings meant lower borrowing costs and directly affected the value of bonds trading in the secondary market. Because of the current credit crisis, the importance of bond credit ratings was intensified. Investors now paid more attention to the legal provisions and ratings than they used to.

The rating upgrade was a three-step upgrade and occurred because financial history had been established, there was less uncertainty regarding the city's ability to run the system, there was good financial performance, and strong liquidity. Other credit strengths included modest growth and having a diverse residential community not dependent on a few major water customers. There was good demonstrated coverage on the bonds above the minimum required. The water supply was plentiful and the city had done much to develop its water resources. Rating agencies also provided an outlook on systems and Cottonwood's was rated as stable.

The borrowing difference between a rating of BBB and A was about 1.25 percent per year. This represented approximately \$8,400 per year in debt service for each \$1 million borrowed, which would total \$168,000 over 20 years. This represented potential future cost savings if the city were to issue more debt. It was realistic to have a goal of achieving an A+ rating with additional staff effort.

Council Member Smith asked why there needed to be any rate increase to achieve 1.35 times coverage when that had already been achieved and whether there would be any problems so long as payments were kept up.

Mr. Hamill stated rating agencies were looking at historical information but wished to be

assured that such coverage would be maintained in the future. Making payments was not enough. They wanted to see things taken a step further and see revenues in excess of minimal requirements.

Council Member Smith stated he was confused since the Council had been told the city needed to get up to a 1.35 times revenues or bond holders could possibly come in, take us to court, and take over.

Mr. Rodriguez stated that issue would be discussed in a few minutes.

Mr. Hamill stated from an investor's point of view the value of these bonds had increased from the time they had been acquired and reflected positively on the city and on any future bond issues.

PUBLIC HEARING REGARDING WATER AND WASTEWATER UTILITY RATES

Mr. Lueder stated in August 2008 the Council authorized Coe & Van Loo, in conjunction with Economist.com, to perform a rate study analysis of the existing water and wastewater structure. It was presented to the Council at its July 2009 work session. An original Notice of Intent was issued by the Council in August 2009. A discrepancy in the wastewater policy discussed earlier caused the Council to postpone any rate increases until 2010. In January 2010 the Council approved a Notice of Intent to adjust water and sewer rates and set today as the date of the public hearing.

One major change since the Notice of Intent had been adopted was a legal opinion of the City Attorney which determined the fund balance remaining from the one cent sales tax imposed to fund the initial construction of the city's centralized sewage treatment might be restricted to use for wastewater related capital and operational expenses. This was different from a previous opinion received from bond counsel. Because of it, staff now felt the wastewater fund had sufficient reserves to forestall a wastewater rate increase at this time although the Council could do so if it chose.

The timetable for any rate increases was determined by the Notice of Intent which had been issued January 19, 2010, at a regular Council meeting. The public hearing being held tonight was not less than 30 days from that time, as required by law. If approved tonight, the soonest any adjusted rate could come into effect would be April 2, 2010.

Mr. Lueder displayed PowerPoint slides and stated average utility rates around the country were increasing at a rate of five to six percent a year, largely because of inflation and system replacement which were reasons beyond the control of any utility. About 30-40 percent of utilities charged rates that did not cover costs. The Council had indicated that our utility enterprise funds should be self-supporting. As a rule, a utility could have low rates or high quality service, but not both.

Water consumption had been reduced by 145 million gallons of water per year (GPY) from

890 million GPY to 745 million GPY. This had been achieved partly through conservation but mostly because of the implementation of the city's drought/water shortage plan. Residents were making better use of water. Also staff had made a concerted effort to fix leaks. The intent was to take out of the ground only what needed to be used.

The proposed rates included an increase from \$4.98 per month to \$5.38 for resource development which were funds of restricted use. The minimum use fee would be increased from \$17.00 per month to \$18.36 a month. Volume charges would be increased from \$2.90 per thousand gallons for use of 1,001 gallons to 10,000 gallons to \$3.48; from \$4.06 per thousand gallons for use of 10,001 gallons to 20,000 gallons to \$4.87; and from \$5.68 per thousand gallons for use of 20,000 gallons or more to \$6.82.

In 2004 when rates were initially established it was projected that in 2007 there would be increases greater than those now being proposed. In comparison to other cities the average household use of 7,500 gallons per month now cost \$54.48 in Clarkdale and \$48.88 in Camp Verde. The proposed new rate in Cottonwood would be \$44.09, an increase of just a few dollars a month.

Another of the major reasons for acquiring the water system was for fire protection. At the time of the purchase of the Cordes Lakes Water System, the Verde Village had no live fire hydrants. They had only drafting hydrants connected to a reservoir that a pump could be put on to draw water. Thirteen new hydrants had been installed at a total cost of about \$91,000. Willard Street had 1,500 feet of new line installed. The Willard Street extension added 2,800 feet of 10 inch line and tied together two of the largest sites, allowing water to be shifted between zones. Twelfth Street had 2,000 feet of new 8 inch main installed strictly for fire protection which significantly increased flows in the Main & Mingus area. New reservoirs were planned to significantly increase storage capacity. If funds were insufficient, one of the first things to suffer would be fire protection since the utility's primary duty was to supply water to residents. Eighteen of 26 wells had been replaced creating a stable supply that did not deplete the aquifer. Funds are being used to replace mains, install fire hydrants, and replace standpipes.

Mayor Joens stated a reuse of wastewater as a supply source for future generations was very likely. She asked if it was responsible to keep sewer rates so low now or should we think about the costs to ensure that we could invest in the technology needed in the future.

Mr. Lueder stated it would become more important in the future. There was not now a sufficiently large distribution system for such a service.

Council Member Elinski asked when wastewater rates would be considered again because he did not want to see a large increase imposed all at once.

Mr. Lueder stated it would be reviewed annually.

Council Member Kirby asked what the impact would be if the minimum use volume was

raised from 1,000 gallons to 2,000 gallons.

Mr. Rodriguez stated if the minimum was raised to 2,000 gallons, keeping the current rates, revenue would decrease \$317,000 per year. If the minimum was 2,500 gallons, the loss would be \$478,000 per year. The proposed new rates, without any increase in minimum use, would give annual revenues of \$5.2 million. If the minimum were increased to 2,000 gallons, revenues would decline to \$4.8 million, only \$40,000 more than current revenues. Increasing the minimum to 2,500 gallons would result in revenues being less than were currently collected.

Council Member Kirby stated the people most at need used the least amount of water and should have their minimum amount increased to 2,000 gallons before volume charges were imposed.

Mayor Joens asked what the customer savings would be.

Mr. Rodriguez stated they wouldn't save anything, but would receive double the amount of water for their money. No costs would be recouped for the extra 1,000 gallons pumped through the system.

Council Member Pratt stated there had been a suggestion by Mr. Rothrock that people using less than 5,000 gallons of water a month should receive a rate decrease for their conservation efforts. He would like to see those people rewarded. While he could not be accused of being a fiscal conservative, he was fiscally compassionate. It was difficult for him to talk about any rate increase in this economy despite the statements of staff and the evidence presented.

Council Member Kirby stated he was trying to find a way to alleviate the costs for people at the lower end of the usage scale. If there was to be a rate increase, which would be needed at some point, alleviating the costs of these people by allowing them to have more water would make them better off.

Council Member Elinski asked how much of the money given to Catholic Charities was used to help with water charges.

Mr. Rodriguez stated in the last six months, they had used \$3,200 of the \$15,000 authorized. It was preferable for assistance to be given through that route for hardship cases. Other utilities had similar programs. He was not sure that increasing the minimal use volume would really help people having a hardship. If Catholic Charities had sufficient need, additional funding could be obtained for the program.

Council Member Elinski stated he wanted to see how low income was related to low water usage. He asked how people were encouraged to utilize Catholic Charities' services.

Mr. Rodriguez stated discussions could be held to see how better promotion might be

conducted.

Mr. Lueder stated one thing about increasing the minimum volume was that all users, including high volume users would benefit. Increasing assistance through Catholic Charities directed assistance to the truly needy. They could be benefited more by increasing the allowances to become eligible for the program.

Mayor Joens and Council Member Kirby stated notices of available assistance could be sent out with the water bills.

Council Member Smith asked what water reserves were at the start of the year and how much now remained.

Mr. Rodriguez stated approximately \$10 million to start and \$5.5 million remaining.

Council Member Smith stated he was not against a rate increase, just against it at this time.

Mr. Lueder stated in addition to other costs the operating and maintenance costs of arsenic remediation systems would cost about \$600,000 a year. Costs until now had been borne from capital funds, but would now be part of standard operations and maintenance.

Mayor Joens stated she would quote from a 2005 article by Mr. Garrison at the time the city was acquiring Cottonwood Water Works:

This year we would have had no choice but to apply for a substantial rate increase. Additionally, with the demand for increased fire protection, and greater demand in general, we were looking at the replacement of a considerable amount of older pipe in the ground, and most likely would have had to file for an additional rate increase in a couple of years. I share this because I believe the public has a right to know what the economic realities would be if we did not elect to sell to the municipalities. I remember the discussion about the private water companies wanting absolutely nothing to do with the arsenic remediation. They were anxious to get out of the business because they could see the regulations coming down the pike and realized it would have been very difficult to meet those demands and regulations.

Vice Mayor Pfeifer stated when the theater burned down there were fire departments here from all around the valley because there was no water pressure to fight it. Water quality and reliability had improved in her neighborhood and she was willing to pay the increase even though she was unemployed. Fire protection was worth it.

Mr. Ruth Kiesel, of Cottonwood stated people should be willing to pay for government provided services. However, she did not support a rate increase at this time. The economy should get better first. The proposal confused long term needs with a short term solution. A rate increase would take away money from struggling families and businesses, and reduce

sales taxes. It was better not to put people in a position where they needed the assistance of Catholic Charities. Rate increases should be postponed until the economy improved.

Ms. Nancy Burnett, of Cottonwood, stated a \$3 increase didn't sound like a lot but when added to all the other things thrown on the average person it was a lot. People didn't have the money. These were people who had paid a lot of taxes to the city. People in the community were upset about staff salary increases. Rate increases should not be asked of people who didn't have the money to pay for them.

Mr. Curtis Lindner, of Jerome, stated he had a local business and he and his tenants were concerned about the rate increases. It was a bad time to try to justify a rate increase. It should be postponed until there could be more public input. The increase was 8 percent and substantial. He opposed it. The old water company kept their rates low and thought about their customers.

Council Member Pratt stated he supported what Mr. Lindner said. In good conscience he could not support a rate increase at this time.

Ms. Lee Cali, of Verde Village, stated she agreed with Council Member Smith that since we were doing better than the 1.35 times revenue required there was no need to increase rates.

Dr. Bob Richards, of Cottonwood, stated proper justification had not been presented to justify a rate increase. Rates should not be increased.

Ms. Terri Gage, of Cottonwood, stated she was speaking on behalf of the Main & Mingus Neighborhood Block Watch. It was a lower income area. Rate increases should be put off because many people in this area were on disability, fixed incomes, or were poor renters. There was a \$4 water resource development change on bills. About \$20,000 of that went to water conservation. Part of why revenues didn't come in at the expected amount was there had been lower water usage. Increased rates would result in further decreased use and further decrease revenue. The \$20,000 should be put to use to take a new, forward thinking look at this situation. The book *Rainwater Harvesting for Dry Lands and Beyond* by Brad Lancaster could be a guide to utilize a natural resource to offset money being asked to be used for water treatment and water pumping from out of the ground.

Mr. Al Gradijan, of Cottonwood, stated without the city there would not be water in the city. The times were bad and the rate increase has been forestalled already for several years. No one knew when or if times would get better. We had good managers and they should be allowed to do what they were hired to do.

Mayor Joens closed the floor to the public.

Mr. Lueder stated rain water harvesting was a good idea. This alternative had been discussed and would be considered further. There was a fine line between conservation

and obtaining the revenue needed to operate the system. Conservation money was for applications of how to use water wisely and could be put to that purpose.

Mr. Rodriguez stated our bonding was obtained on the basis of anticipated rate increases. Supply costs to the city had increased for operational supplies despite the economy. The 8 percent increase was not sufficient to cover the 1.35 times coverage for this next year. In 2009 we came in at 0.78 times coverage, well below where we should be. These were actual figures rather than the estimates that had been discussed tonight.

Vice Mayor Pfeifer stated imposing small annual increases would increase revenues but would not be felt so much by rate payers. She asked if four successive 2 percent increases would satisfy bondholders instead of a single 8 percent increase. She preferred small annual increases to avoid big impacts.

Mr. Rodriguez stated recently repair and maintenance costs had been higher than anticipated which had reduced revenues. Since we had fallen short, an 8 percent increase now, followed by 2 percent increases would satisfy bondholders more than just having 2 percent increases starting now because there would be two successive years we would not meet our bond obligations which we were obliged to do.

Council Member Elinski stated if you asked anyone if they want a rate increase they would say no. It was a bad time to do so. Like the Vice Mayor, he favored small annual increases. The needed increases had been put off for so long there was now no other choice. It was the responsible thing to do now.

Mayor Joens stated she had been attending various water meetings for ten years. The rates we paid did not cover water itself. It was a free resource. Looking into the future, we would be paying for that resource. The rates we paid today were the cheapest they would ever be. What we did pay for now was the delivery system. The Council was showing responsibility and foresight by making decisions not just for tomorrow but for the future and for future generations. Firefighting supply capability was a major improvement over what private companies were required to do. She was prepared to postpone any increase until July. Water was the Council's responsibility. She would also be willing to increase donations to Catholic Charities.

Mr. Bartosh stated any rate changes would have to be prepared as a resolution or ordinance and brought back before the Council for approval.

Mr. Horton stated, Statute said after the hearing, and it did not need to be immediately after. Any rate increase would be adopted by ordinance or resolution.

Mr. Bartosh asked if the Council chose to enact a rate increase July 1, 2010, would it be necessary to hold another public hearing.

Mr. Horton stated there was no stated time limit, and he would want to look into it.

Mr. Lueder stated even after an ordinance or resolution was adopted there would be a 30 day waiting period before rate increases could go into effect. If the Council wished an increase to become effective on July 1, staff could prepare such a resolution or ordinance for the Council's approval at a meeting in March or April and it could be specified then when the increase would become effective.

Mayor Joens stated that would be about a year from the time a rate increase had been recommended.

Council Members Kirby and Smith stated they would probably support such a measure.

Mr. Bartosh asked if the direction of the Council was for staff to prepare and bring back for consideration an ordinance to consider enacting the recommended rate increases on July 1, 2010.

Mayor Joens stated, right. It would also give the public another opportunity to provide its input.

Mayor Joens then closed the public hearing.

Mayor Joens stated there were people from out of town attending. She asked if their items could be moved forward on the agenda. There were no objections to doing so from the Council.

RESOLUTION NUMBER 2500—APPOINTING ANNA YOUNG AS AN ASSOCIATE MAGISTRATE FOR THE MUNICIPAL COURT AND ESTABLISHING HER TERM OF OFFICE

Judge LaSota stated Ms. Young's background established her as a rising star in the community. There was a need for an additional Associate Magistrate which used to be called a Judge Pro Tem. It was a part-time position for occasions when he was unavailable. She was also a Civil Traffic Hearing Officer and would be an asset to the court.

Ms. Young stated she was a Judge Pro Tem in Prescott and stated her willingness to so serve in Cottonwood.

Council Member Pratt moved to approve Resolution Number 2500 appointing Ms. Anna Young to a two-year term as an Associate Magistrate for the Municipal Court, effective March 3, 2010 and ending March 3, 2012. Council Member Smith seconded the motion, which carried. Council Member Kirby was absent for the vote.

Judge LaSota asked if Ms. Young was to receive mileage to and from Prescott and if that could be added to her contract.

Mayor Joens stated the previous motion was stricken.

Council Member Pratt moved to approve Resolution Number 2500 appointing Ms. Anna Young to a two-year term as an Associate Magistrate for the Municipal Court, effective March 3, 2010 and ending March 3, 2012 with the stipulation that she be paid mileage to and from Prescott as per the employee policy. Council Member Smith seconded the motion, which carried unanimously.

RESOLUTION NUMBER 2501—APPOINTING C. KENNETH RAY II AS AN ASSOCIATE MAGISTRATE FOR THE MUNICIPAL COURT AND ESTABLISHING HIS TERM OF OFFICE

Judge LaSota stated Mr. Ray had intensive experience in multiple courts and came highly recommended.

Mr. Ray stated he had acted as a Judge Pro Tem for three years and would be honored to serve the city.

Council Member Smith moved to appoint Mr. C. Kenneth Ray II to a two-year term as an Associate Magistrate for the Municipal Court, effective March 3, 2010 and ending March 3, 2012. Council Member Kirby seconded the motion, which carried unanimously.

Mayor Joens asked the City Clerk to read Resolution Number 2500 and Resolution Number 2501 by titles only.

RESOLUTION NUMBER 2500

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

RESOLUTION NUMBER 2501

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING C. KENNETH RAY II AS AN ASSOCIATE CITY MAGISTRATE AND ESTABLISHING HIS TERM OF OFFICE.

RESOLUTION NUMBER 2502—APPOINTING JANIE B. RANDALL AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER AND ESTABLISHING HER TERM OF OFFICE

Judge LaSota stated Ms. Randall was an experienced court administrator and was a certified Civil Traffic Hearing Officer. Performing that duty for the city would not entail any additional costs.

Council Member Pratt moved to approve Resolution Number 2502 appointing Janie B. Randall as a Civil Traffic Violation Hearing Officer and establishing her term of office. Council Member Kirby seconded the motion which carried unanimously.

Mayor Joens asked the City Clerk to read Resolution Number 2502 by title only.

RESOLUTION NUMBER 2502

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING JANIE B. RANDALL AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER AND ESTABLISHING HER TERM OF OFFICE.

RESOLUTION NUMBER 2503—APPOINTING BELINDA GUAY AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER AND ESTABLISHING HER TERM OF OFFICE

Judge LaSota stated Ms. Guay was an experienced Superior Court Clerk and this appointment would improve customer service at the court for people who might otherwise have to return in order to see a judge. She would attend Civil Traffic Hearing Officer training in May.

Council Member Kirby moved to approve Resolution Number 2503 appointing Ms. Belinda Guay as a Civil Traffic Hearing Officer. Council Member Norman seconded the motion, which carried unanimously.

Mayor Joens asked the City Clerk to read Resolution Number 2503 by title only.

RESOLUTION NUMBER 2503

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING BELINDA GUAY AS A CIVIL TRAFFIC VIOLATION HEARING OFFICER AND ESTABLISHING HER TERM OF OFFICE.

ACQUISITION OF NEW RIGHT-OF-WAY FOR WEST MINGUS AVENUE THROUGH THE CLEMENCEAU TOWNSITE PARCEL OWNED BY CLEMENCEAU TOWNSITE, L.L.C.

Mr. Costello stated the Clemenceau Townsite straddled Mingus Avenue as one parcel of land. The existing right-of-way varied from 32 to 40 feet. The road improvement standard called for an 80 right-of-way to allow the road to be upgraded to three lanes from two. Anticipated development had been delayed so that the purchase of the right-of-way had now to be considered. The city owned well sites adjacent to the Townsite property which it intended to abandon whose acreage was closely equivalent to the acreage of the right-of-way desired. A land trade was possible if the values of the properties were equivalent. The city would salvage water equipment currently located on its property and the Townsite would take on the burden of demolishing and removing what was not removed by the city.

Council Member Pratt stated his support.

Mayor Joens asked what type of amenities the owner would offer when the time came for development of the property.

Mr. Costello stated Candy Lane could be reconstructed. Willard Street needed curb, gutter, and sidewalks on one side.

Mayor Joens asked if they would be appraised.

Mr. Horton stated that was the only way to ascertain what each parcel was worth.

Council Member Kirby stated the general sense of the Council was to go ahead and continue to see if something could be worked out with Mr. Nackard.

UPDATE REGARDING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CBDG) PROGRAM

Mr. Gehlert stated this was a formal reminder of the start of a process that was addressed every four years. The CBDG program was federally funded through the U.S. Department of Housing and Urban Development (HUD) via the Arizona Department of Commerce. It provided money for revitalization projects of lower income areas usually in the amount of about \$360,000. Staff recommended applying funds to a single large project rather than many small ones. Public input was required throughout the process. There was a calendar of events including public hearing due to start around September 2010. Various types of programs could be considered. Applications were to be submitted by June 2011 and funds would be made available by the beginning of 2012.

SETTLEMENT AGREEMENT WITH THE INDUSTRIAL COMMISSION OF ARIZONA-DIVISION OF OCCUPATIONAL SAFETY AND HEALTH FOR CITATIONS CONCERNING THE COTTONWOOD MUNICIPAL COURT

Mr. Horton stated last November the Industrial Commission of Arizona Division of Occupational Safety and Health, conducted an inspection in response to complaints by former employees of the court building. What they found were three non-serious violations that had been corrected: the number of appliances plugged into outlets, the labeling of doors, and clutter that impeded ingress and egress. The more imbedded problem was mold in the back of the building. The Council had made the decision to move the court to the Carpet One building because of the need for more and better space. Conversion of that building into the new court was expected to be completed within months. That had been communicated to the Commission. The officer responsible for giving the city the violation stated that because of action taken it was proposed the city accept a token fine and informal settlement; not a finding. It was not regarded as a huge safety issue and the current building could continue to be occupied until August 1. The informal settlement would impose a \$500 fine and recognize August 1 as the date the court would vacate its current building. There was no admission of anything by the city. It was a disposition of the finding. It could not be used as part of an allegation that the city created an unsafe, unhealthy work environment. The only thing it could be used for was for enforcement purposes if the city did not comply and get out of the existing court building by August 1 or pay the fine.

Council Member Kirby moved to approve the informal settlement agreement with the Industrial Commission of Arizona–Division of Occupational Safety and Health, for citations concerning the Cottonwood Municipal Court; to authorize the City Manager and the City Attorney to negotiate the final language of the agreement; and to authorize the Mayor to execute the final form of the agreement. The motion was seconded by Council Member Pratt, which carried unanimously.

CLAIMS & ADJUSTMENTS

Council Member Kirby moved to pay the Claims and Adjustments. The motion was seconded by Council Member Norman.

Mr. Horton stated the statute about when an ordinance could be brought back to the Council for consideration regarding water rates stated it was 30 days. We did not have the latitude he had represented we did. If the Council wanted new water rates to be effective July 1, the approval must be done 30 days prior, in June. The presentation and notice had been done and the public had been heard and the Council could act upon the Notice of Intent that was out there now. Another hearing was not needed.

Mayor Joens stated it would be brought back in June and the public would have another opportunity to provide its input.

The motion to pay the claims and adjustments carried unanimously.

ADJOURNMENT

Council Member Kirby moved to adjourn. The motion was seconded by Council Member Elinski, and carried unanimously. The regular meeting adjourned at 9:13 p.m.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk