

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD APRIL 3, 2012, 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
Jesse Dowling, Council Member
Tim Elinski, Council Member
Ruben Jauregui, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Matthew McLean, Deputy Clerk
Steve Horton, City Attorney
Morgan Scott, Development Services Operations Manager
Jody Fanning, Chief of Police
Charlie Scully, Long Range Planner

PLEDGE OF ALLEGIANCE

Yavapai County Supervisor Chip Davis led the Pledge.

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 announced the following: On March 24 the Cottonwood Fire Department conducted a child car safety seat installation and inspection clinic; the Human Resources department will be at the Chamber Job Fair tomorrow at the fairgrounds; all of our portal signs into the city have been redone; the city's Easter egg hunt is this Saturday; the old West Bend building will be demolished this weekend; the MS Bike ride will be April 14 and 15; and there will be a fundraiser motorcycle ride, Cruising for Critters, which is being put on by the Adopt for Life Center for Animals; and it Child Abuse Prevention month so everybody has blue ribbons to wear in recognition of that problem that continues to exist in our society.

Council Member Pratt stated on Wednesday evening he served on a focus group for

Cottonwood Oak Creek School district and different members in the community talked with a consulting firm about the school. There were two events coming up that he was excited about; April 21 was the Brian Mickelsen Run, and May 5 was Yavapai College's event called "Cinco de Vino" to plant three more acres of grapes on the campus in support of the viticulture program, and they were looking for volunteers to help plant the vines and he would like to see the city and maybe staff form a team and volunteer an hour.

Vice Mayor Pfeifer stated there were at least 44 employers at the Job Fair which started at 9 a.m.

Council Member Dowling stated he participated in the Mayor's March a Mile for Meals on March 31 which was a great event.

Mayor Joens announced the following:

- On March 24 she attended the ribbon cutting for the Verde River Citizen's Alliance cistern project which was located on the side of the BAC building.
- She attended the Senior Center Craft Fair and stopped in at the Verde Valley High School Rodeo at the Cottonwood Equestrian Center.
- March 28 she met with Dr. Donna Michaels, Barbara Litrell, Gennie Rench, Ellie Bower and some other women who are working on a Sandra Day O'Connor house project to encourage people to register to vote.
- March 26 she attended Mary Stein's services at the VFW hall in Cottonwood.
- March 30 she attended the Verde Valley Welcome Home Vietnam Veteran's Day in Sedona.
- On Saturday Doug Bartosh was invited by the Victorian Society of Prescott to serve as Governor John Hoyt as part of the Governor's Ball centennial celebration.
- For lunch she invited the employees the city council hires and she also invited Council Member Pratt to talk about working together.
- April 14 will be the city/county wide cleanup.

CALL TO THE PUBLIC

Dr. Bob Richards, from Cottonwood, stated he is concerned about the Special Event Liquor Licenses that are approved within the city, who is monitoring these events on how long alcohol is being sold, and security for the events.

Yavapai County Supervisor Chip Davis presented the Council with Arizona Centennial Commemorative Coins.

APPROVAL OF MINUTES— Joint Work Session of March 13, 2012 & Special Work Session of March 22, 2012

Council Member Norman moved to approve the minutes of March 13 and 22, 2012. The motion was seconded by Vice Mayor Pfeifer and carried unanimously.

UPDATE BY CASEY ROONEY, ECONOMIC DEVELOPMENT DIRECTOR, AND KIMBER LANNING

FROM ARIZONA FIRST, ON THE "COTTONWOOD BUY LOCAL" PROGRAMS

Mr. Rooney played a video promoting Old Town Cottonwood, and showed some of the ads that were placed in Arizona magazines. He then introduced Kimber Lanning from Arizona First.

Ms. Lanning went over the shop local and statewide campaign to attract people to Cottonwood. Local First Arizona has a specific website targeted to Verde Valley and flyers are distributed around Phoenix.

Brigid Bartosh, owner of Bonne Lait, thanked Mr. Rooney for all the work he is doing. She thanked Ms. Lanning and stated Local First has been doing a great job.

Kelley Foy, owner of Crema Café, thanked the Council for all the work that has been done for Old Town and stated she is very excited about what is going on in Old Town.

UNFINISHED BUSINESS - None

CONSENT AGENDA

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY JOSHUA BARTOSH, APPLICANT FOR THE OLD TOWN ASSOCIATION, FOR THE SETUP OF A BEER GARDEN AT 1101 NORTH MAIN STREET AS PART OF THE SALSA FESTIVAL SCHEDULED FOR APRIL 28, 2012, IN OLD TOWN

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY TERRA SHANKS, APPLICANT FOR THE VERDE VALLEY FAIR ASSOCIATION, FOR THE VERDE VALLEY FAIR SCHEDULED FOR MAY 3-6, 2012, AT THE VERDE VALLEY FAIRGROUNDS LOCATED AT 800 EAST CHERRY STREET

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

NEW BUSINESS

CONSIDERATION OF THE ADDITION OF A SAMPLING PRIVILEGE LIQUOR LICENSE TO THE CURRENT BEER AND WINE LIQUOR LICENSE HELD BY ROBERT W. DONAHUE, APPLICANT FOR THE DON'S SMOKE SHOP LOCATED AT 903A NORTH MAIN STREET

Mr. McLean stated we had received an application from the Don's Smoke Shop to add sampling privileges to their existing series 10 liquor license. The series 10 liquor license allows the Don's Smoke Shop to sell prepackaged beer and wine, similar to a convenience store.

Council Member Elinski asked if this was the same business owner that was selling spice to underage kids recently or not.

Chief Fanning stated the police department would oppose this permit based on the fact the Don's has demonstrated to us that their integrity is not very good. If you will remember three months ago they promised us that they would stop selling the bath salts and other illegal substances that the council approved to ban and then the state banned. Just in the last two weeks our undercover officers have arrested the owners for doing exactly what they promised the council they would not do. He believes that granting them the ability to now serve alcohol in their facility would only allow them to again violate more laws. The sell of the bath salts is a liquor violation. This case has now been turned over to liquor control, and they will be taking enforcement action against the Don's, or looking at enforcement action against the Don's for the liquor violation of selling the bath salts in the liquor establishment. He believes that this is not a thing that the police department as a whole feels would be a good thing for our community.

Mayor Joens asked if the arrests go to court or how does all of that work.

Chief Fanning stated it is in the court process right now and it will take time.

Council Member Jauregui stated in the meantime there is supposedly a presumption of innocence.

Chief Fanning stated yes sir.

Vice Mayor Pfeifer stated she would have to go along with Chief Fanning and she made up her mind even before he spoke that their irresponsibility in running a business, to her she can't go along with this at all. She thought they have shown that they are not responsible, they've shown that they don't have any concern for our community because of their actions, the promises that they had made to us weren't followed through. She understands that they are innocent till proven guilty, but let's let it go through the courts and then let them request it again if they are proven innocent. But right now, her own opinion is that she can't go along with it.

Council Member Pratt stated he agrees for somewhat different reasons and he would like to see this litigated into the court first before we approve it. And his concern was that even though they were within the letter of the law, he was really bothered by the ethical decisions. Even though the product said not for human consumption we all know people knew it was for human consumption and it really was a scourge. When he looked at this it really bothered him because he felt they had violated a level of trust here. He is opposed to it.

Council Member Jauregui stated this board simply recommends. That is all we do here and it's up to the liquor board to approve it or deny it. We are only a recommending body.

Mayor Joens stated it can be approved by the state.

Vice Mayor Pfeifer stated she thought we've done enough of these to know that. We know that it's up to the state; at least she did.

Mayor Joens asked if this might be an appropriate time to talk about those kinds of rules and regulations or not, because we did have a call to the public where we couldn't address it, but this item is specific to that.

Mr. Horton stated he thought it was related to this item. With the fact that the council serves as simply a recommending body, the primary jurisdiction over liquor in the state rests with the State Department of Liquor and by statute and regulation they seek our advice and input with respect to the issuance of liquor licenses and temporary permits or appendage permits. He thought, as Council Member Jauregui articulated, this is a matter of whether or not the council is going to support the issuance or oppose the issuance and then the state will make the final decision.

Council Member Dowling stated his question on that would be what are the potential issues with giving a recommendation to something that is, he guessed, pending litigation. Being that it's in a situation where it is already possibly headed to litigation, how should that affect our approval or disapproval of it, or recommendation.

Mr. Horton stated as much or as little as you want it to. What is before you is whether or not to recommend approval or denial that the state will take it under advisement and make its decision. He differentiates between litigation and prosecution. Litigation in his world is civil disputes and the resolution of civil disputes. Here there have been criminal charges filed, he believes, there's been arrests and either criminal charges or pending and those get processed through the prosecution process and adjudicated that way through the criminal justice system. In terms of the decision before the Council right now, it's kind of apples and oranges.

Council Member Jauregui asked if this goes to court and we find that the Don's is convicted of the issue of the spice, and we just heard that it affects the liquor license, does that mean that the liquor license will be suspended.

Mr. Horton stated he fully expect that is what would happen. To the extent there's a parallel investigation going on, which is more a civil matter as opposed to the criminal prosecution, the department of liquor is conducting an investigation as to whether this licensee continues to be eligible and entitled to the privilege of serving liquor. As an alternative to the criminal proceedings, it could well be that they lose their privilege to serve liquor in any context whether or not this additional privilege is granted.

Patrick Scanlan, a Cottonwood resident, stated these people are selling stuff here on a technicality for years, or months, or however long it was. He was shocked it was there and everybody in the community was fairly shocked it was there. He was shocked to find out that they have a liquor license. He questioned how a place that is selling paraphernalia on a technicality, and dope on a technicality, get a liquor license. Now they want to expand this liquor license, and he is hoping the license goes away and after that they go away. He asked that the council unanimously recommend no liquor license, no expanded liquor license, no

business license, because they are not entitled to the public trust anymore. They have proven it several times.

Brigid Bartosh, a Cottonwood resident and former bar owner, stated the sampling privilege, selling alcohol, opening it, and serving it is a privilege and in the very least requires owner responsibility, owner accountability, and employee training. The events that have occurred recently lead her to believe as a citizen that consideration of this is not in our best interests. It is unfortunate that this is a time where we are all expected to abide by what the court says, and we are innocent until proven guilty. However, she thinks this a good chance for our town to send a message that you cannot get by on a technicality. If what you are doing is wrong, it's wrong and we won't support it.

Council Member Jauregui moved that we tabled this issue pending any litigation.

Mayor Joens questioned the city attorney how does that work with this.

Mr. Horton stated he thought the department of liquor board is looking for either a vote of support or the lack thereof, and if the matter is tabled, he is not sure. He would want to talk with the department of liquor to see how they construe that. But he thinks if the matter is tabled, then the applicant doesn't have the city's support.

Mr. Bartosh stated there is a time limit on these that the Council has to make a recommendation one way or the other. So to table it would in essence, he did not know exactly what happens, but he assumes the liquor board would take that to mean the city approves or doesn't approve.

Mayor Joens stated they would need to have a second and she did not know if anybody was going to second that.

There was no second to the motion, which failed.

Council Member Pratt moved to not recommend approval of the addition of sampling privileges to the current beer and wine liquor license held by Don's Smoke Shop. The motion was seconded by Vice Mayor Pfeifer.

Council Member Jauregui stated Mr. Scanlan wanted to speak.

Mr. Scanlan stated he was going to ask Council Member Jauregui what he was doing, but since they didn't second his motion, never mind.

Council Member Jauregui stated what he was doing is not trying to second guess the court system here and this problem will probably take care of itself.

Mayor Joens then asked for those in favor to say aye. Mayor Joens, Vice Mayor Pfeifer, and Council Members Dowling, Elinski, Pratt and Norman voted aye, with Council Member

Jauregui voting no.

AWARD OF BID FOR THE COMPACTOR STATION SOLID WASTE HAULING

Mr. Scott stated the city took over the compactor station, hired an additional employee, expanded the hours of operation, and have not raised the rates. The city did not have a hauler for the trash, but have contracted with Waste Management in the interim before going out for bid. The existing rate with Waste Management was \$250 per pull with an additional \$40 per ton of waste disposed. Waste Management was the only bidder and the new rates would be \$99 per pull and an additional \$32 per ton of waste disposed. They would also be used throughout the city at different areas, including the cleanup event on April 14. The contract would be for one year with option to renew for two more years.

Council Member Pratt moved to award the compactor station solid waste hauling contract to Waste Management, Inc. The motion was seconded by Council Member Elinski and carried unanimously.

SUBMITTAL OF A YAVAPAI COUNTY COMMUNITY FOUNDATION CANINE ENFORCEMENT GRANT FOR THE POLICE CANINE VETERINARY EXPENSES

Chief Fanning stated this is for approval to submit a grant for veterinary services for the two K-9 units.

Council Member Norman moved to approve the submittal of the canine grant in the amount of \$3,500, requesting funds veterinary expenses for two K-9 Units. The motion was seconded by Vice Mayor Pfeifer and carried unanimously.

RESOLUTION NUMBER 2635—AUTHORIZING THE SUBMISSION OF A GRANT PROPOSAL IN CONNECTION WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FISCAL YEAR 2013 FUNDING CYCLE FOR DUI TASK FORCE DETAILS AND UNDERAGE DRINKING ENFORCEMENT OVERTIME

RESOLUTION NUMBER 2636—AUTHORIZING THE SUBMISSION OF A GRANT PROPOSAL IN CONNECTION WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FISCAL YEAR 2013 FUNDING CYCLE TO ASSIST WITH SELECTIVE TRAFFIC ENFORCEMENT DETAIL OVERTIME COSTS

Chief Fanning stated these are two grants to help pay for overtime for a DUI task force, mainly targeted to stop underage drinking, and for selective traffic enforcement detail.

Council Member Dowling moved to approve Resolution Numbers 2635 and 2636, authorizing the submission of a grant application to the Governor's Office of Highway Safety for DUI task force detail and underage drinking enforcement overtime as well as selective traffic enforcement detail overtime. The motion was seconded by Council Member Elinski and carried unanimously.

Mayor Joens requested the Deputy Clerk read Resolution Numbers 2635 and 2636 by title only.

RESOLUTION NUMBER 2635

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE SUBMISSION OF A GRANT PROPOSAL IN CONNECTION WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS) FISCAL YEAR 2013 FUNDING CYCLE.

RESOLUTION NUMBER 2636

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE SUBMISSION OF A GRANT PROPOSAL IN CONNECTION WITH THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY (GOHS) FISCAL YEAR 2013 FUNDING CYCLE.

RESOLUTION NUMBER 2637—MAKING KNOWN THE CITY'S COMMITMENT TO THE PRINCIPLE OF FAIR HOUSING, AND DESCRIBING ACTIONS IT SHALL UNDERTAKE TO AFFIRMATIVELY FURTHER FAIR HOUSING, AND DECLARING APRIL AS FAIR HOUSING MONTH IN COTTONWOOD

Mr. Scully stated we are required to do this every April. This a request from the state for communities involved with the block grant program. In addition to this resolution, we have posters in the public lobby areas, brochures, and will provide information to people that feel they have been discriminated against.

Mayor Joens stated this is an important thing the council does every April.

Council Member Elinski moved to approve Resolution Number 2637. The motion was seconded by Council Member Pratt and carried unanimously.

CLAIMS & ADJUSTMENTS

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

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Vice Mayor Pfeifer and carried unanimously.

The regular meeting adjourned at 7:40 p.m.