

MINUTES OF THE WORK SESSION OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD APRIL 13, 2010, SCHEDULED AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

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CALL TO ORDER AND ROLL CALL

Mayor Joens called the work session to order at 6:00 p.m.

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

Marianne Jiménez, Acting City Manager	Steve Horton, City Attorney
Dan Lueder, Development Services General Manager	Jody Fanning, Police Chief
Richard Faust, Community Services General Manager	Mike Casson, Fire Chief
Rudy Rodriguez, Administrative Services General Manager	Richard Smith, Deputy Clerk
Kyla Allen, Executive Assistant to the City Manager	

ITEMS FOR DISCUSSION, CONSIDERATION, AND POSSIBLE DIRECTION TO STAFF:

POTENTIAL INTERGOVERNMENTAL AGREEMENT WITH DEAD HORSE RANCH STATE PARK FOR OPERATION OF ITS WATER AND WASTEWATER SYSTEMS BY THE CITY'S UTILITY DEPARTMENT

Mr. Lueder stated the city had been approached by the management of Dead Horse Ranch State Park with a view to assisting in the operation of their water and wastewater systems. The city was doing this on an informal basis and the park wished at this point to formalize an arrangement. Before that could be done, direction from the Council was desired to determine what it should entail and what benefits would result from such an agreement. It was proposed city staff would check the park's well, booster station, reservoir, and lift station every single day which would require about an hour a day of staff time. Staff would also complete logs and any ADEQ correspondence, as well as collect and analyze bacteriological samples required for potable water systems. The city would also provide technical advice and maintain the disinfection system. The park would pay for non-routine maintenance, fund any required improvements, and emergency repairs. He was hesitant to have the city become liable for any system improvements or breakdowns. In return, consideration was being given to allowing staff free entry to the park. In view of the park's importance to the city, staff sought the Council's direction on how and whether to proceed

with preparing an intergovernmental agreement to formalize the relationship between the city and Dead Horse Ranch State Park.

Council Member Smith asked about the cost and what the city could do to help the park.

Mr. Lueder stated daily staff time would amount to a cost of about \$35 a day. The reason to insist on disinfection was a city operator would have to put his certification on their system which meant the operator would be civilly and criminally liable. If there was a break or issue we would fix it. We would not let the park run out of water or incur regulatory penalties. Also, staff would be available for consultation.

Council Member Smith stated he wasn't sure he liked the idea of free admission for city staff.

Council Member Pratt stated he supported helping the park and thought there was nothing amiss with allowing staff to have free admission.

Mr. Horton stated there did not appear to be any problem with such a *quid pro quo* because the park was a recreational and economic asset to the community and as such an arrangement such as this would be okay.

Vice Mayor Pfeifer stated the city should do anything it could to help the park since it was so important for the city.

Council Member Elinski stated he disliked that only city employees would benefit since taxpayers were paying city employee salaries. It was unfair that only city employees would benefit. He supported helping the park and asked how long an agreement would be in effect.

Mr. Lueder stated that was something that could be looked at on an annual basis at budget time. The suggestion of an employee benefit was optional at the Council's discretion.

Council Member Pratt stated employees got discounts at the Recreation Center and they should be given the benefit of park entrance if available.

Mr. Brian Gehling, of Cottonwood, stated he preferred seeing a benefit being given to all residents of Cottonwood rather than just city employees.

Mr. Les Bovee, Manager of Dead Horse Ranch State Park, stated any decision of passes to the park would have to be decided by the director of the park system. The director was willing to open the park for city functions. The park would also be opened for summer camp, although staff could no longer be provided for that function. It was a great benefit to the park to have the city's help with its water and wastewater systems.

Mayor Joens stated she was uncomfortable with a benefit for employees though not with

one that allowed for municipal functions. Other cities and the county were donating money to parks. It did not seem right to expect something in return at this time.

Council Member Kirby stated he didn't see any problem with staff getting free park visits.

Council Member Smith stated public perception of a staff benefit would not be favorable.

Mr. Lueder stated he and Mr. Bovee had discussed a disc golf course. The most ideal place would be to start at the Jail Trail. A conceptual layout of a course did not include the park at this time. Perhaps getting that would be a benefit to the city and its citizens that all could share.

Mr. Bob Oliphant, of Cottonwood, stated serious dollar estimates should be provided to the Council. It was significant where the money came from. As far as employee benefits were concerned, if money came from the General Fund there would be no problem. If it came from the Enterprise Fund it would be inappropriate.

Vice Mayor Pfeifer stated she was concerned with public perception from giving staff free passes while the park needed every penny it could get.

Council Member Norman stated she felt the same way.

Mr. Lueder stated he would prepare an intergovernmental agreement (IGA) but expand on city use of the park and on the disc golf course idea.

Mr. Horton stated there was no legal issue with the city staff receiving free admission. It was a question of whether it was a benefit to the city the park system wished to give.

Mayor Joens stated Council direction was to proceed to help out the state park.

Mr. Lueder asked if the Council approved continuing to do system checks until the IGA was approved.

Mayor Joens stated appreciation for staff doing so.

Council Member Smith asked for more detailed information on disc golf.

Mr. Lueder stated he would forward a packet of information.

#### PROCEDURE FOR PROCUREMENT OF PROFESSIONAL SERVICES

Mr. Lueder stated he wished Mr. Horton to review Title 34 and the difference between procuring a consultant for a large project or series of projects versus a small one.

Mr. Horton stated unlike state agencies, the city was not bound by the state procurement

code, except when it built something. Title 34 did apply to construction services from design forward. There was a recipe for how to go about doing those kinds of procurements. Everything was up to the Council to decide about how to go about procurements. There were some procurement provisions in the City Code, and there was the Financial Operations Guide (FOG) that the Council adopted by ordinance. Staff would soon bring to the Council some refinements of the procurement policy to clarify some ambiguities. The Court of Appeals had just supplied an important clarification by declaring Section 2.88.020, the Procurement of Professional Services section of the City Code did not apply to the Council when the Council was procuring those kinds of services. It did apply to the departments and offices within the city. Anything of significant cost or anything that was a policy decision was to be brought to the Council.

Engineers were a good example. They were registered professionals and could be hired for the design phase of a construction project. When procured for that purpose, Title 34 procedures had to be followed. The city used consulting engineers for all sorts of different things such as utility rate studies and advice, and environmental due diligence on property not covered by statute. Staff sought direction from the Council on how to approach procurements for situations when technical professional services in particular were to be purchased.

Mr. Lueder stated another issue not involved in Title 34 was the regulatory agencies that governed water and wastewater. ADEQ and USEPA absolutely required engineer stamps on plans and approvals of those plans. Part of the reason we had to use professional engineers was we could not build anything without them. Any system improvement in excess of \$12,500 required a set of plans. Those plans could not get approved unless a professional engineer stamped them. There was a process that covered approval to construct which allowed the building of a project and then one where we were required to get approval of the construction to operate. The engineer had to take the design plans and say a structure was built according to them and stamp his approval. Part of the reason we had to use professional engineers was state requirements.

Coe & Van Loo (CVL) had been handling the city's water issues for many years and they had gone through an interview and a selection process. They had done appraisals, feasibility studies, and everything with the acquisition of the water companies. At the same time Stantec was handling wastewater matters. In 2006 a Request for Qualifications (RFQ) was done under Title 34 with a selection committee which consisted of the city manager, himself, the city engineer and wastewater superintendant. Four packets were taken out, but none by local firms who were advised of the opportunity. Two packets were returned properly. The subsequent interview process resulted in the choice of CVL. In the time since, staff had been pleased with their services for both water and wastewater.

There had been concern expressed by some citizens and Council Members about using the services of a single consultant a lot. We had also used the services of two local firms, Shephard-Wesnitzer and Pender Engineering, quite a lot. A similar program was followed by the Public Works Department every time a street project was done where there was a

simultaneous need for utilities work.

Because of arsenic mitigation and other problems a lot of money was being spent on engineering. It was CVL's idea the city hire its own engineer to reduce costs. Staff was now gradually moving toward doing as much as possible in-house. The problem with utilities was a need to have a large firm on hand as a consultant since only they had the expertise to handle the wide range of projects the city had with wells, waterlines and other large projects.

The original wastewater engineering contract with CVL was for a five year period including extensions. The Council could choose to utilize other services and do another solicitation of qualifications. He had explained what was being done and why and requested direction from the Council on which direction to go with this.

Council Member Elinski asked if there was a reason why the city didn't always go by Title 34 on all procurements.

Mr. Horton stated Title 34 was limited to construction.

Council Member Elinski asked if the same formula could be applied to other procurements.

Mr. Horton stated, absolutely. The Council could adopt the entire state procurement code, parts of it, or develop prescribed or preferred methods of procurement. What had been done historically was to evaluate what the purchase at hand was and develop a recommendation or set of choices to frame the issue for the Council. If it was something that was administrative and more day-to-day and within the procurement authority of staff or the city manager, that was done. If it was over the allowed threshold or was more of a policy decision, or an ongoing thing, it was brought to the Council for direction.

Council Member Elinski stated it would be cumbersome sometimes to go through the whole process. The advantage of speeding things up was great for citizens because it wouldn't cost as much and could be done more quickly. Our procurement procedures seemed to be different for different services.

Mr. Horton stated there was a very detailed policy on the procurement of professional services that hadn't been implemented because it was time consuming and burdensome. There were annual statements of interest and the creation of a panel by each department and office of the city. Depending on the size of the procurement, the decision point would be determined by how much would be spent. This required estimating costs, which was sometimes hard where there was ongoing projects with professionals. The policy was written when the city was smaller and did less purchasing of professional services.

Council Member Kirby stated we couldn't go by Title 34 because it was a bid process for construction where we supplied bidders with a lot of the detail. You couldn't handle that with professional services.

Mr. Horton stated he was right except over the last few years the Legislature had added on to Title 34 a variety of different mechanisms such as Construction Manager at Risk as was being used at the Recreation Center. There was also Design-Bid-Build where a design professional prepared plans which were then put out to bid. There was also Design-Build, usually for high dollar projects, where a design construction team was solicited and contracted to complete an entire project. One could not just say we would do procurements by Title 34.

Council Member Kirby stated some projects continued on over years and would be difficult to re-advertise when they were in process. There was also a need to retain continuity on a project. The people doing the work in the city were familiar with our projects and were qualified to do them. If there were two or three firms that met these criteria we could take a low bid.

Mr. Horton stated a perfect example was environmental due diligence. A price could not be put on having someone on speed-dial when issues arose involving multiple government agencies. It could be cumbersome and time consuming to do a procurement to get someone to help you when we already had a listing in our Rolodex.

Council Member Kirby asked if it would be feasible to hire an engineer to do all the work of the city. Changing engineers during a project was asking for trouble.

Mr. Lueder stated that was true. Familiarity was a definite benefit. When he worked with the County they retained on call engineers for small, less technical projects. There were three different firms which rotated such work. A qualification process took about six weeks to complete all the various required steps and was burdensome for a small staff. All projects had scopes which he reviewed before they went out to bid. All scopes with CVL had negotiated prices.

Council Member Elinski stated he liked the way procurements were made now. Keeping CVL was beneficial to the city. He asked if it would be possible to have local firms handle some of the smaller projects.

Mr. Lueder stated the thought now was to handle that in house. There were limitations as well. Smaller projects were often refused by CVL in favor of smaller firms.

Council Member Smith asked how we knew we were getting the best cost. He asked if the city hired a firm that designed and built a project.

Mr. Lueder stated CVL did not have a construction division. The way he knew he got a good price was because of his 35 years of negotiation experience and the concurrence of the Finance Director. On large contracts, bids were not permitted as certain projects were qualifications based. At any time the city could terminate a contract if it was felt the price for a project was not in the city's best interest.

Council Member Smith stated CVL was looking at all the wastewater projects: Highway 260, Bella Montaña, and Riverfront Park.

Mr. Lueder stated that was the way the Council approved it. That was why this was before the Council now. If the Council was uncomfortable with the way things were being done, another solicitation of qualifications process could be done. As an aside, CVL had not changed their rates since 2006. They were significantly less costly than Shephard-Wesnitzer or Pender Engineering.

Mr. Horton stated a refinement of a procurement policy would be presented in the near future for the Council's consideration.

Mr. Lueder stated any project over \$50,000 already came before the Council for approval. The choice for the Council was to have staff write up a new bid process or retain CVL until their contract expired.

The Council consensus was to retain CVL.

#### CONCEPTUAL CHANGE TO THE PROPOSED WATER RATE INCREASE FOR LOW INCOME AND LOW WATER USAGE CUSTOMERS

Mr. Lueder stated the Council had expressed a desire to assist low-income people when implementing a water rate increase. Staff was suggesting leaving the rate for use of 1,001 to 4,000 gallons unchanged. The current proposal increased rates for all tier levels. The suggestion now was to increase only those tiers above the 4,000 gallons a month use. The loss of revenue from not changing the rates for the lower tier would be applied to the increase of the higher tiers. This was a way to avoid penalizing the low users.

Council Member Pratt strongly supported this concept because it protected lower income folks and would encourage conservation. He would like the unchanged rates to apply to as high as 5,000 gallons usage.

Mayor Joens stated scenarios for both the 4,000 and 5,000 gallons levels should be prepared and presented to the Council for consideration.

#### FUNDING FOR THE VERDE VALLEY VETERANS VAN

Mr. Rodriguez explained this matter would have to be postponed until the Verde Valley Veterans Van organization could present verification of its status as a 501c3 tax-exempt organization thereby qualifying it for the possible receipt of donated funds from the city.

#### USE OF THE MULTI-PURPOSE MEETING ROOMS IN THE PUBLIC SAFETY FACILITY

Chief Fanning stated the multi-purpose room at the Public Safety Building was originally designed for training members of the police and fire departments as well as certain city

meetings and events. No user fee had ever been imposed for its use by the public during the past eight years. The city had borne all the costs of upkeep and cleaning. The other designed use of the multi-purpose room was for an Emergency Operations Center.

The building was deteriorating because of heavy public use while funds for repairs and replacement of items were scarce. With the Recreation Center opening soon, there would be meeting rooms across the street available, albeit for a fee. People were unlikely to pay to use those rooms if the room at the Public Safety Building remained available to them free of charge.

There were some options staff wished the Council to consider. One was to close the use of the room except for official city functions. Another option would be to impose a fee schedule for public use comparable to that in use at the Recreation Center. Both the police and fire departments would retain the right to pre-empt scheduled public use if necessity dictated the need to do so. Several days each week would be reserved for use by either the fire or police department

Council Member Smith stated the public should not be allowed to use the room in the Public Safety Building since there were rooms available at the Recreation Center.

Council Member Pratt stated he supported option number one.

Vice Mayor Pfeifer stated use should be restricted to public safety officials for security reasons.

Council Members Elinski and Kirby stated they supported option number one.

Mayor Joens stated the Council consensus was for option one.

Chief Fanning stated the room would be available for such functions as MATForce meetings. Staff would alert users of the changes and allow for a suitable transition period. Once the Recreation Center was fully operational, the transition would be finalized.

#### ADJOURNMENT

Council Member Pratt moved to adjourn. Council Member Kirby seconded the motion, which carried unanimously. The work session adjourned at 7:46 p.m.

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Diane Joens, Mayor

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Richard Smith, Deputy Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a work session of the City Council of the City of Cottonwood held on April 13, 2010. I further certify that the meeting was duly called, and that a quorum was present.

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Richard Smith, Deputy Clerk

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Date