

MINUTES OF THE WORK SESSION OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD OCTOBER 9, 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 work session to order at 6:00 p.m.

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Jesse Dowling, Council Member
Ruben Jauregui, Council Member
Terence Pratt, Council Member
Tim Elinski, Council Member

COUNCIL MEMBERS ABSENT

Linda Norman, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jiménez, City Clerk
Autumn Durnez, Code Enforcement Officer
Al Ponce, Code Enforcement Officer

Jody Fanning, Police Chief
Steve Horton, City Attorney
Nikki Arbeiter, Planner

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

REQUEST TO REVISE TITLE 6, ANIMALS; CHAPTERS 6.04, GENERAL REQUIREMENTS; 6.08, IMPOUNDMENT; 6.12, DOGS; AND 6.16, BEES; OF THE MUNICIPAL CODE.

Chief Fanning stated they were bringing an update to our Title 6 code. Many things have been changing with the animal control officers. They went from being called dog catchers, to animal control officers, and now ordinance enforcement officers. The profession is changing, the ideas and the values and views on animal control and care is changing; however, our codes have not changed for many years. Recently they tasked the ordinance enforcement people to update these policies, procedures, and the laws that pertain to animals inside the City of Cottonwood and were bringing it to the council for its direction on to continue forward with it.

Code Enforcement Officer Autumn Durnez, stated they wanted revision of all of chapter 6. What we have currently is out of date. They looked at what other communities, counties, and states have. New York and Florida were some of the bigger ones that had a huge section for animals and were a big help in this. They also spoke with different related officer fields including veterinary offices and shelters to help get an idea of what they see are lacking and what might be beneficial for our community. They had two big changes. One being they broke up chapters to be more user friendly, and they separated all our chargeable offenses in two categories; petty offense and class two misdemeanors.

Mayor Joens asked for a description of what each one means and how much of a fine a person might get.

Ms. Durnez stated for a petty offense it was narrower. It was a lesser charge and that would be for something like off-leash or something of that nature. Animal cruelty and animal abuse would fall under the class two.

Chief Fanning stated a class 2 misdemeanor was punishable by up to 6 months in jail, and he believed \$1,500 was the maximum fine. A petty offense was only a fine; no incarceration is allowed.

Mr. Horton stated a petty offense was criminal and the council could decide if it was civil or criminal.

Mr. Durnez continued, stating the first chapter, 6.01, was the introduction which began with a Mission Statement, and added definitions to help the community understand terms used by the ordinance enforcement officers.

Council Member Pratt asked if there was one section about the feeding of feral animals. He stated starving animals was not a real humane way to deal with them. They are other avenues, Trap-Neuter-Return, which made a lot of sense, and questioned if they had thought of that.

Ms. Durnez stated she had some information to pass out to answer some of the questions about feral cats and the feedings.

Vice Mayor Pfeifer questioned what if you've got a home in your neighborhood that has been turned over to feral cats and you can hardly walk down the street without smelling the feral cats. You had to readjust your whole front yard and no longer have any pretty little flowers because of the feral cats. They were scrawny and skinny and the whole trailer was full of feral cats. She questioned how does a person complain or get that taken care of.

Ms. Durnez stated this is something that has been huge in our community; dealing with feral cat populations. Unfortunately, there's not going to be an easy solution. The Trap-Neuter-Return program that Council Member Pratt spoke about is a good choice for some communities. At this point, unless the city is ready to begin a program, the financials and employees to run that is huge. It is good for some communities and she did not think we were quite there yet and ready. She passed out photos of feral cats with some information regarding what they do to our community. They begin with obviously populating, the fighting that brings transmittable diseases and injuries to cats. This is stuff that without somebody to manage a colony becomes a problem for the community. They do hunt, they take birds, small wildlife, and they were good hunters so it was overhunting areas that hurt the community a lot. Most of these animals they end up picking up and taking them to the shelter. Ninety percent of them are usually injured or sick and most of the diseases are highly contagious and easily spreadable. The second packet she passed out talks about

three of the most common diseases in the feline communities; feline aids, feline leukemia, and upper respiratory infection. Not only were they were passing them on to the cat colonies, they were passing them on to domesticated cats and pets. This is why they felt it was important to put in something regarding feeding of feral animals outside of your own private property to help protect the community.

Council member Elinski questioned if there was someone that wants to run a colony where they feed the cats, trap them and have them spayed or neutered, would this ordinance prohibit them from doing that.

Ms. Durnez stated not on their own property. The way the ordinance was set up they were proposing anyone that is willing to take care of these animals on their property are claiming responsibility for the animals.

Council Member Elinski stated it seemed they should write it in a way we could easily transition into the Trap-Neuter-Return so we wouldn't have to go back and change the ordinance.

Ms. Durnez stated there are several communities that have already adopted ordinances for just the Trap-Neuter-Return. She believed the ordinance they were proposing is mainly wildlife as a whole, feral animals as a whole, so she didn't feel in the future when we find a Trap-Neuter-Return program the community supported it wouldn't be hard to add.

Council Member Elinski asked if she knew if there was anyone now that was doing it or attempting it in the Verde Valley.

Ms. Durnez replied there are citizens that take it upon themselves, but we do not have an organization.

Council Member Elinski stated one thing he noticed under 6.04.20, Section B., where it stated it was unlawful for any person to poison any dog or dogs, he wondered why dogs were singled out.

Ms. Durnez stated that's part of what has currently been an issue in the area. It has been primarily dogs and it has been Yavapai County. Unfortunately, they did not choose to use a general term. It could very easily be turned to a general term.

Council Member Elinski questioned if somebody poisoned another animal that he owned besides a dog would he have any recourse.

Ms. Durnez stated they would have to be a little specific without being too general because we do have gopher poisons, mouse poisons, and we would have to be very careful on how we worded it.

Ms Durnez continued stating chapter 6.04 was just our general requirements and included

the minimal care required, cruel treatment, animal housing, the feeding of feral animals, noisy animals, removal of animal waste, diseased animals, prohibition of the sale and give away of animals, protection of animals in the public, dangerous animals, and bees. Most of these are taken from the current section, but have been added to to make them a little fuller for understanding. She did have a request that under the creating a disturbance, 6.12.020 and in 6.04, Section A., number 4, in order to abate the nuisance created by a dog barking, howling, whining or making other noises in violation of this section, ordinance enforcement officers may enter the yard and seize such animals. She would like to remove this particular spot from the ordinance at this time as we are not very clear on state statutes yet if we are in violation. Until that be determined she would like to ask that be removed at this time. Chapter 6.08 is impoundment and they have not made any changes other than update verbiage and titles for this section.

Council Member Elinski questioned Section 6.08.080, unredeemed animals for sale, regarding the city seizing a dog and selling that dog.

Ms. Durnez stated Section 6.080.080 will be for goats, horses, chickens, or any sort of livestock/poultry the city may seize or find abandoned. Our current shelter does not have the housing for such animals and by following this same statute we could get them rehomed and moved on faster.

Council Member Elinski stated it said if the owner of the animal comes within 30 days they can get their money for the animal after the fees have been paid. He did not think that was a good idea. If he was raising goats and let the thing loose and the city picks it up, sells it for him and then he gets paid for it; it doesn't seem to make a lot of sense.

Ms. Durnez stated you would only be paid for what the city sold it for. Fortunately, she had never had to enforce this actual title. This was one from year's prior when it was more predominate. She understood his viewpoint and if that was something the council wishes to address she would be ecstatic to be able to go over that and research it some more.

Council Member Elinski stated it was something we should look at.

Ms. Durnez continued, stating with chapter 6.11, which was the license, vaccination, and rabies, this chapter was pulled out of the current chapter 12. Most people that need the rabies and licensing information did not need to read through a whole other section to get down to where it is. Having a chapter just for that information would be very beneficial to the community.

Mayor Joens stated we charge \$6.00 for an altered animal, and questioned if that was enough.

Ms. Durnez stated at this time she would like to revisit that at a later date. She and Officer Ponce had researched what other communities in Arizona are charging, and if you would like they would like to come back at a different date to discuss that and see what we can set up.

Mayor Joens stated that would be good because it seems like \$6.00 barely even pays for the person to wait on her. On the other hand, they want it to be reasonable so people can afford to do it. It might be something that we just absorb.

Ms. Durnez stated the next chapter is 6.12, the dogs chapter. This chapter is what they primarily deal with under ordinance enforcement. We generally have the same sections previously found, but we have enhanced each section adding true definition and true grit behind each section. Section 6.12.070, care requirements, this section addresses providing adequate food, water, and shelter. This was one of the current ordinances that have become a little hard to enforce because of the interpretation it is open to. We would like to close that interpretation down and make it more specific to what the requirements are. You do need a bowl of water for a large dog, not a cereal bowl for a full day. This is the kind of thing we would like to enforce and see added to this section.

Mayor Joens stated that just makes good common sense.

Ms. Durnez stated our last chapter is 6.13., vicious dogs. We did not make changes to this section other than making it its own section and leaving it the way it was because it was very well written and does help with what we need it to help with.

Mayor Joens stated she had a question on registration of a vicious dog. It talks about they will have a tattoo in their ear and it says they can take the dog to a veterinarian or a tattooist. She questioned if you take it to a tattoo person and it's not anesthetized does it hurt the dog, and the second thing is if it's a vicious dog how are you going to protect the tattoo artist.

Ms. Durnez stated this is something the tattoo artist would have to make the decision for themselves. Unfortunately, she is not a dog and can't state how much is actually felt through their senses. The understanding that's out there through studies is it would be no more worse than tagging a cows ear or piercing your own ears.

Council Member Pratt stated it was very good and he would like to explore more the Trap-Neuter-Return information and he would probably do some more research on that.

Council Member Jauregui stated he would like more information of what it would take as far as personnel and what the cost would be to initiate a Trap-Neuter-Return program.

Mayor Joens stated she felt the same way and would like to have information on that program and whether we could collaborate with the Adopt for Life Center for Animals.

Marianne Jiménez addressed the council as a citizen at large. She stated five years ago she tried to get a Trap-Neuter-Return program in the city and implement a mandatory spay/neuter law. There was opposition from the local dog agility group for a mandatory spay/neuter law and their main opposition to it was there were fees that were going to be charged to register breeders that would be exempt from the mandatory spay/neuter law.

Those funds were going to go to a spay/neuter fund so we could get some of these feral cats neutered and spayed. Essentially it didn't go anywhere and she dropped it. The pictures Ms. Durnez passed out were very sad and that is why she was hoping the city would start a Trap-Neuter-Return program. She got involved personally with an organization she started which came out of a call she received at City Hall from a woman who was very concerned about the feral cats that were left from the Clemenceau houses that were removed. She adopted the colony and all the cats had been spayed, neutered, and vaccinated. They were not feral and she still did feed a couple of cats that are neutered and spayed and this new ordinance would make her a criminal for doing that. She had some information that she passed out to the council and gave to Ms. Durnez about feral cats. There was an organization called Alley Cat Allies that helps communities across the United States start the Trap-Neuter-Return program. There was a webinar that was going to be held on October 23 on TNR basics which she had enrolled in and hoped that Autumn and Al would also enroll in it. San Diego has a very well recognized program they started. The key to it was having the vets on board with it. Her organization did try to get the local vets involved with no success.

Ms. Jiménez continued and stated there were some items in the animal ordinance she wanted to comment on. One of them was under the Mission Statement; the last sentence about owners having to carefully manage their pets' ability to procreate. The only good way to manage that is through spaying or neutering. She thought that should be looked at and instead of saying "carefully manage" that may be a place where we can say you must spay or neuter your animal. Under Section 6.04.020, cruel treatment prohibited, D., she also had a concern that it states only dogs and we should include cats in there or just animals.

Mayor Joens stated she thought of that when she read it too.

Ms. Jiménez stated the section she was really opposed to was Section 6.04.040, feeding of feral animals. Communities across the United States have allowed members of the community to feed, trap, neuter, vaccinate and return the animals to area they are in if you have a volunteer to feed the cats and provide water. This makes it unlawful for anybody in the city to feed a feral cat or any feral animal, but mostly we know that we are talking about feral cats. That really is what the problem is. She hoped the council would consider other options for those sections. Regarding what Autumn mentioned about cats killing the birds, there were studies that show that cats aren't causing the bird and wildlife decline; humans are. Communication towers kill up to 50 million birds a year. She hoped the council would consider some changes to those sections and support a Trap-Neuter-Return program in the city and she was willing to help in any way she could.

Kyla Allen, representing the Verde Valley Humane Society/Adopt for Life Center for Animals, stated Autumn was pretty careful in that she did approach the executive director there and talked to him about this ordinance and the updates she's doing. Specifically, she requested they set aside a spay/neuter at this time so you can get this ordinance passed and that can be approached another time because it is so politically charged and because it takes a lot of money to get the program going and it takes a lot of community support. The shelter has actually submitted for two grants specifically for spay/neutering. One was spay, neutering,

and releasing which they will know in January or thereabouts whether they got it (the grant.) The thing that you do need is you need a full time person that will do just that program and won't do anything else because we do have such a large problem. The cat population that gets fed isn't just the cats that you see, it's the cats that continue to come and find the food. You can clear a feral population up by spaying and neutering and that's not all you are going to get. You are going to get other cats migrate in there. Marianne did a superb job a couple of years ago when she took care of that entire colony, but Marianne is not the senior lady that just throws her food outside and feeds the cat and doesn't take care of them, give them vaccinations or check their eyes. We have the other ladies that just like to know that they are feeding and taking care of an animal by feeding it, but where we still have the diseased population running rampant. We do understand that and we are working towards that. In fact, that was one of her goals before she leaves as president of the board is to have either spay/neuter in place or have it just around the corner set up to take place. It was also a goal that Doug gave her probably a year or two years ago to address it. It was just time consuming and finding the money to do it. She just wanted them to know the shelter has been thinking about it and talking to Autumn because they did know what a problem it can be.

Mayor Joens stated now it is a huge problem but as a program went forward it supposedly would become less of a problem. It could be that we should go back and just discuss again the neuter program. The only issue is we are a very, very, small town of 11,250 people and we are surrounded by other towns and counties which would probably never look at this law. We may fix our problem but then theirs would come in and we'll have to deal with those problems too, but Cottonwood has always dealt with those problems from outside of our city so it would be nothing new.

Council Member Dowling stated we need the time to find that so we can actually wrap our hands around what exactly it is. If it is one person full time doing it, we at least need to have a something a little more tangible so we could actually look at what we have to do instead of just covering and go it's too big.

Council Member Pratt stated he and Ruben had already requested that.

Darold Smith addressed the council and questioned if chapter 6.04.080, prohibition of the sale or giveaway of animals, were you going to do away with that or modify it.

Ms. Durnez stated we are actually going to keep that exactly as it is stated.

Mr. Smith stated he sees it quite frequently that people on their own property have a sign of animals for sale or giving away an animal. He questioned if that is going to be treated as illegal under this.

Ms. Durnez replied it is not.

Mr. Smith stated he had been approached to help start a spay and neuter type of clinic but

he thought it was in the county. He questioned if the county ordinances are pretty much the same as ours here.

Ms. Durnez replied they are not.

Mr. Smith stated he was in favor of Trap-Neuter-Return.

Mr. Bartosh stated just a personal experience he had in Old Town was one of the problems you run into when people feed feral cats is where they put the food because it doesn't just attract feral cats. It attracts skunks, javelinas, and coyotes which if you live in a rural setting you are used to seeing those, but in a neighborhood where there are kids playing and stuff like that he thought that gets to be a problem. So there has to be some responsibility if someone chooses to do this that they do it in a way that it doesn't attract other wild animals.

Mayor Joens stated she wished people wouldn't do that but it's their private property and questioned how much are we going to go on somebody's land and tell them they can't feed something.

Mr. Bartosh stated the reality is it's not only a public safety detriment to the community, but it eventually could end up getting a wild animal killed as they come in to a populated area.

Vice Mayor Pfeifer stated in my neighborhood we've all had to adjust because one lady wants to feed all these cats. That's not fair to the neighborhood either or to our cats that we have and take care of and have vaccinated. We've got this whole bunch of cats over here that are being fed, but they aren't being vaccinated, not being cared for and the diseases are rampant and they come over and use our yard for bathrooms. It's really getting out of hand just on our street. Our neighbors are calling me and complaining to me about it constantly because they can't walk up and down the street because the stench is so bad, so that's another problem too.

Council Member Jauregui stated he did not feed feral cats in his yard and he has skunks in his yard all the time so they are going to come anyway.

Chief Fanning stated they are going to come. We're not going to prohibit people from feeding animals on their own property. The issue is just randomly placing food out there for every animal to come and feed, and as Kyla said if you leave food out there for five ten are going to show up tonight and tomorrow night 15 are going show up. It's kind of the old adage "if you build it they will come." That is the problem in some of the neighborhoods we are dealing with as the police department. The people in the neighborhoods are complaining to us because there are those two people that are not doing it the right way and just leaving food out in the backyard and all of these cats are starting to migrate to their neighborhoods. Their animals are being attacked by these wild cats so there's other issues we're dealing with here. We're not trying to stop people from feeding cats that they're taking care of in any way; we're just trying to stop the open basic dumping of food in their backyard and induce all these animals to come at it. As long as you take responsibility for the animals and you do

take care of them, that's fine, but to just dump food out there and completely disregard it, which we do have people doing that, causes a problem for the whole neighborhood. Now we have a quality of life issue for the neighborhood.

Council Member Jauregui stated if we do know who these people are we can educate them.

Chief Fanning stated we do educate them and quite often most of them tell us it's none of our business. There's nothing we can do about it. If you want to dump a can of tuna in your backyard right now there's not much we can do about it. We have to make rules because of some bad people. There are good people that try to do it right, but there are bad people that are doing it the wrong way which is ruining it for everybody.

Ms. Durnez stated she would just like to add to this it's not just our residences. These are the businesses as well which Cottonwood has an enormous flow of businesses. We have separate persons or parties that are feeding in alleyways, in parking lots, behind businesses, and not just cats either. Raccoons and skunks are coming in to the businesses and making themselves at home whether it's in their rafting, or under their buildings. It's a bigger problem that what a lot of residents realize and that is why we are requesting an ordinance to help us help the community with this problem overall.

Council Member Dowling stated it's really sort of subjective right now as to who is good and who is bad. He questioned if there is some way that you can actually quantify that. Say one person is taking care of all these cats and there's no problems or complaints, yet they might feel as though they're being singled out as a law breaking person even though they are taking care of it and doing it right versus somebody else.

Ms. Durnez stated that's where we would like to start with on your property. It should not be allowed to go on someone else's property to cause this issue. That would be a good place to start and maintain and to get it back under control from what it currently is.

Mayor Joens clarified that she understood from Ruben and Terence that they want to know about the Trap-Neuter-Return program and you wanted to know more about the neutering program; mandatory neutering.

Council Member Jauregui stated he would like to get some specifics.

Mayor Joens stated I guess if we did go back to where we were five years ago, which she remembered very well, we would have to deal with the breeders and that cost. We know what our pitfalls were before, so we have to figure out how to deal with those because we know we're going to probably get that same response if council decides to go for something.

Council Member Pratt questioned if could we also find out if the Town of Jerome does have that program.

Ms. Durnez stated she will see if that's through the town or that's just community involvement.

Vice Mayor Pfeifer stated I just don't want it to sound like I'm heartless about not feeding these cats. We can't just totally neglect the cat if the cat's starving to death, so we have to go into this gently and educate the people, otherwise the cats are going to suffer and it's really not their fault that we have people out there that think they are doing something good and it's creating a problem. So I don't want to see cats starving all over Cottonwood either. I would like to see the problem in our area taken care of, but at the same time we have to do it with a little bit of concern for the cats that have been thrown out or let loose and breeding out the wild.

Mayor Joens stated the whole problem is it's not the cats; it's the humans that don't take care of them and get them altered.

Ms. Jiménez stated there are some cats that I do not feed on my property that are spayed and neutered and I'm very careful about. I don't just go and dump the food, I wait until they finish eating and I take the bowls away, but this will still make it illegal to do that.

Mayor Joens stated maybe we can address that. If someone does feed cats and is responsible and takes the bowls away that we could figure what a responsible way to do that is. There might be a way that if people in the city wanted to take care of colonies and be responsible for them, that we could have a program that allowed that and some rules like don't leave the food.

Chief Fanning stated the problem with that would be the fact that they're still not spayed and neutered and they're still procreating and we're feeding them and they're procreating and now we have more and they will continue to spread. If we have the Trap-Neuter-Release then it's okay, but to just tell somebody that they can feed them if they are cautious about it if they're not spayed and neutered will not solve any of our problems. I want to find a way to protect the animals and the citizens and make it to where they both can live together.

Mayor Joens questioned if that is something that we could readdress with the vets again to see if there are any now that are willing to participate in a program.

Ms. Durnez stated she can specifically ask again and it's not a lot at all even as far as lowering rates right now.

Chief Fanning asked the council if they have a direction they would like us to go at this point. I understand you want us to look at the cats spay neuter and release program which we are more than happy to bring the council back more information in regards to that. However, I would like to see us move forward with the ordinance as a whole and that spay neuter and release can be added. The ordinance is designed to add that in once we have it implemented and we know that this is going to take awhile. It's going to be a budgetary issue. I don't want to hold off too long on the ordinance if we can avoid it.

Mayor Joens stated I would say that we move forward with this but only if people like Marianne and others who have adopted colonies could get a permit to do so.

Council Member Pratt stated I think we should go ahead with it. Most of it is fine, but also let's look at a TNR program and see if we can implement that.

Council Member Jauregui questioned did anyone write down the concerns that were mentioned by the City Clerk and are going to be addressed.

Chief Fanning stated I believe that she (Ms. Durnez) is very adept to them and will be speaking firsthand with Marianne to make sure we address them.

Mayor Joens stated so we can have a permit process with your permission.

Chief Fanning stated we can work on something to that effect, because if we have a person that's willing to come to us and get a permit we know that we have a person that's willing to work with us. Those honestly are not our problems, it's the other people. I don't know that we'd even have to have a permit if they just notified us. I don't see that we would have to have a permit because we know Marianne does do this and she has these animals, so I don't know that we need a permitting for it.

Mayor Joens stated I want to be sure that when we're ready to bring it back for discussion that we notify the public and make sure the public is advised whether we have to put ads in the paper or whatever we need to do to let the public know.

Chief Fanning stated we will do that.

Mr. Horton stated it would be helpful if we could get some direction. We might not be prepared to do this now, and questioned do you want it as it's framed now that any violation of this chapter will be a criminal offense. If the council is comfortable leaving it like that or should we consider having there be a civil enforcement option. I don't know if there is a hard recommendation from staff.

Chief Fanning stated pretty much everything that we have in there right now as you see, most of it is petty offense, some of it is misdemeanor. Cruelty to animals, abandonment of animals, those are misdemeanor offences and I firmly believe that those deserve to be misdemeanors. I believe most of these are consecutive to what other jurisdictions are using in regards to their punishment abilities on them. They're very similar we kind of modeled ourselves after several other communities.

Mayor Joens stated so both of these are criminal; the petty offense is a criminal offense.

Chief Fanning stated you cannot go to jail on a petty offense. We cannot handcuff you and we cannot take you to jail on a petty offense. You can only be fined.

Mayor Joens stated but then you have a criminal record.

Mr. Horton stated part of it is the consequence and part of it is the forum where it is adjudicated. In a civil process it would be a hearing officer who can encourage compliance. He was not trying to sell one or the other; he just wanted the council to make an informed decision. If it's a petty offense it goes into the municipal court.

Council Member Pratt stated the ones that come under misdemeanor charge, such as cruelty to animals, he definitely agreed with.

Chief Fanning stated we can look at some of the other ones and most definitely if that is the council's desire reduce them to civil infractions and then reduce some of the burden on the court. He didn't know if we would have that much burden on the courts, but no more than we currently have because he thought all of our stuff right now is already a misdemeanor or a petty offense.

Mayor Joens questioned Chief Fanning if he felt like he knew what the council's direction was or if he needed further direction. There was a bit of concern about feeding, but they were going to look at that and see what they can do for people that,

Chief Fanning stated they would look at the way that it's worded and see if there's a way for people that are wanting to be compliant can do it without just opening Pandora's box.

Mayor Joens stated the other was to give us more information about TNR and a city-wide neuter program.

PLACEMENT AND DEVELOPMENT OF A NEW CITY HALL

Mr. Bartosh stated this had been put on the back burner for a little bit because we were focused on the public safety communication center. Recently we were approached by Mr. Nackard who owns the 9.2 acres of land directly across from Hog Wild. He is interested in trading our buildings down here for that property. Staff has put together some conceptual drawings of what a city hall would look like on that property as well as the current property that the city owns in Old Town.

Ms. Arbieter stated the first property we looked at was the 5.2 acres that the city already owns. There are pros and cons between the two properties.

Mr. Bartosh stated the goal of the discussion is not to discuss the actual construction or the design, but to narrow down and talk about the two location options. Mr. Nackard has indicated he would like to trade for the buildings down here, and he had proposed giving the city the first year lease for free, then \$.50/square foot for the next year. One of the things the city could do if they were interested in this property is just purchase it outright, and his current asking price is \$1.6 million.

Council Member Pratt stated he likes both ideas. He likes the Nackard Property being the gateway into old town, but also likes have City Hall down here and having this public space. His two concerns would be the Boys and Girls Club and he would hate to take that field away from them. He would also like to keep the basketball courts since it gets a lot of traffic.

Mr. Bartosh stated the discussion he has had with their current executive director is that they would love to move into a larger space that is designed and built for their needs.

Council Member Elinski stated he would like to keep it as a cultural center in Old Town.

Mr. Bartosh stated the city council has directed staff to begin developing concepts for a new City Hall, a facility which has been contemplated for over 25 years. The council first added the project to their annual capital improvements planning in 2005.

Ms. Arbeither stated the facility would be constructed as part of the current city campus located in Old Town along North Main Street and south of Pima Street within a C-1 (light commercial) zone. The total site includes roughly 5-1/2 acres adjacent to the downtown commercial strip and a mixed use commercial/residential zone to the southeast. A residential area is also located immediately to the north/east, most of which is separated from the site by a riparian stream channel known as Blow-Out Wash (also a FEMA flood channel). In addition to the current City Hall, the site presently includes the Business Assistance Center, historic Civic Center building, former Recreation Center and maintenance facility, Boys and Girls Club, and an old baseball field. City properties on the west side of Main Street include the present Council Chambers and City Clerk's office; and City Finance office.

Mr. Nackard stated back when he bought this property he had talked with Brian Mickelsen about some corridors on that property. It would lend itself well to pedestrian access off that hill.

Mayor Joens stated if we build a community civic center, would we build a band shell or something like that.

Mr. Bartosh stated it has all been conceptual, but that is one of the thoughts--to try and complement the events we do have in Old Town.

Council Member Pratt stated he would like to see us at least get appraisals on both the Nackard property and this property here. We couldn't even consider an exchange until we had those appraisals.

Mayor Joens stated the direction is to look at everything.

Mr. Bartosh stated to look at what financially makes the most sense and hopefully by that time we have a better idea of what the communication center is going to cost.

Mr. Lueder asked the council if it would be okay to move the basketball courts.

Council Member Pratt stated he likes having them close to the street and not hidden anywhere, just for safety issues.

Council Member Jauregui stated he would not like to see the courts moved.

Mayor Joens stated it would be nice to have a gathering place for teens.

Council Member Elinski stated those were originally tennis courts and were tied to the Civic Center.

Mayor Joens asked about moving the City Hall building so it would be opened up.

Mr. Bartosh stated one of things is that when we do have events back there it isn't very visible.

REQUEST TO ADJUST THE CITY'S BUSINESS REGISTRATION FEES

Mr. Rodriguez stated we have not made any changes on the fees for many years and want to make small changes to the programs. Cottonwood has the lowest fees at \$20 per year. Clarkdale is \$30 per year, Camp Verde is \$50 for a new business and \$15 for renewals, Sedona is \$25 per year, Flagstaff is \$20 per year, Prescott Valley is \$65 per year for a new business and \$45 for renewals. Our proposal is to raise it to \$50 per registration. The proration would be for half a year. We want to make sure that if they owe the city any money, their registration will not be renewed. We also want to change the processing of the registrations from the City Clerk to the Administrative Services General Manager. One of the reasons for the fee change is they want to try and recoup our cost and the other one is enforcement so that the businesses that do not turn it in on a timely basis will be penalized.

Council Member Pratt stated there is a 25 percent penalty for registering late, and questioned if there is a penalty for doing business without a registration.

Mr. Rodriguez stated he hasn't gone through it, but he is sure he can have Clint give them a visit.

Mr. Horton stated he believes there is a requirement to be registered to conduct business in the city, and a violation of the municipal code, which is the general penalty clause of a misdemeanor.

Mr. Rodriguez stated we wouldn't want to send anyone to jail, but instead give them an opportunity to correct it.

Council Member Elinski stated he likes everything except the fee which is more than double. We shouldn't be trying to recoup the cost of issuing the registration because we are getting TPT from business in Cottonwood.

Mr. Rodriguez stated \$50 does not even begin to recoup the cost. It brings us more into reality to what is being charged out there.

Council Member Elinski stated he thinks it should be raised, but at \$50 it is excessive to more than double it.

Mayor Joens asked Ms. Jimenez if it would be a challenge for a business to pay \$50 to open a business.

Ms. Jimenez stated there have been a lot of complaints about the \$20 fee. Every year we have about 200 businesses that do not renew and a lot of them are contractors.

Council Member Elinski stated we should go after the contractors because it is terrible what a lot of his colleagues do and a lot of them aren't filing their TPTs correctly. He thinks that education will help with this and he would like us to try a little bit more education before we raise the rates.

Mr. Rodriguez stated if they can't afford the \$50 then they're probably not ready to start a business. You can charge \$5.00 and you will always have someone who is going to complain.

Mayor Joens stated her husband would complain, but she would be in support of the \$50.

Council Member Jauregui asked how long ago was the \$20 fee established.

Ms. Jimenez stated it has been in effect since 1989. Prior to that it was based on a scale of receipts of the business; \$1.00-\$5,000, \$5,000 to \$10,000, etc. On the other hand we have new business owners that come in from out of state and they are surprised about how cheap it is.

Council Member Jauregui stated since this fee goes back to 1989 and considering how everything else has dramatically gone up in the last few years, \$50 is probably not a bad fee to pay.

Council Member Elinski stated \$50 is not much at all, but we are also struggling with our water and sewer rates and should more than double those, but to more than double them from one year to the next is just a hard pill for people to swallow.

Council Member Jauregui stated it might not change again for another 25 years.

Council Member Pratt stated it does look bad to more than double the fee, but we should use this a reminder and look at some of our other fees and see if we need to gradually increase them rather than wait years and then do it. It is much more palatable if you do it in smaller steps.

Mr. Horton stated anytime we charge a new fee or increase an existing one, we have to post the intent to do so for 60 days before the council can take action.

The council and staff discussed how this would be accomplished before the renewals in January.

At this point in the meeting Council Member Pratt excused himself and left the meeting at 7:57 p.m.

Mayor Joens stated the direction is to move forward to taking it through the public process.

REQUEST TO REVISE THE FEE SCHEDULE FOR TEMPORARY USE PERMITS

Mr. Rodriguez stated this also related to TUP and fees and tent sales. A lot of businesses are coming into town and we are not collecting the sales taxes here. It would make it a level playing field for our local businesses. He shared with the council what Payson had done with their TUP.

Mayor Joens stated she totally supports this.

Mr. Rodriguez stated he doesn't think that our local businesses are going to Camp Verde to drum up business. The fees in Payson are high and we need to determine where do we draw the line. We have people that host special events such as the Thunder Valley Rally that sell stuff and include outside vendors that would be affected by this.

Mayor Joens asked how we can leave them out.

Mr. Rodriguez stated they are going to come in and sell t-shirts or jackets and we are not worried about them. We are more concerned with cars and RVs. We can go up to a certain amount, say \$5,000.

Council Member Jauregui stated the outside vendors come into town and they don't have to charge sales tax, but the store that is right next to them still has to charge the sales tax.

Mr. Rodriguez stated a lot of these have a business in town and will submit sales tax to us and that is why we ask for a listing of those businesses that are going to be in town. One for insurance purposes and secondly so we can track them and give them to our sales tax auditor. If they transact here in town they have to have a business registration and they have to submit sales tax. No one is forgiven for sales tax.

Ms. Jimenez stated under the special event permit that is now the temporary use permit, they are not required to have a business registration, they are just supposed to pay the \$5.00 fee.

Mr. Rodriguez stated but they are supposed to pay the sales tax.

Ms. Jimenez stated that is one the biggest complaints she has heard from local businesses is about outside vendors coming to town and sell items that take business away from their local business.

The Council and staff discussed what the minimum fee should be before the city starts charging a TUP fee.

Council Member Elinski stated it should be \$5,000 and up.

Mr. Rodriguez stated the value of what they are going to display has to average less than \$5,000.

Mayor Joens stated \$5,000 seems like a fair amount.

Council Member Elinski stated they should still have a business registration and pay sales tax.

Mayor Joens stated someone that comes here for a one day event shouldn't have to get a business registration.

Mr. Rodriguez stated we can leave that as part of the permitting process for now, but as far as the sales tax they need to collect the sales tax.

Mayor Joens asked if the farmer's market people need to provide business licenses.
Mr. Rodriguez stated no. We have never tracked their sales tax either.

Mayor Joens stated we should do this for the big ticket items. It is not fair to Larry Green and people that pay sales taxes and really keep this community in services to have someone outside of town being dishonest essentially by coming in and selling these items right next door to the businesses that pay. It's not ethical.

Mr. Rodriguez stated obviously there have been problems. These fees may seem a little bit high, but we can adjust those.

Mayor Joens stated the consensus of the council is to move forward with the bottom at \$5,000.

Mr. Rodriguez stated unlike the business registrations we don't have to have this in by January, so we have a little bit of time to do some research on this some more.

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Council Member Jauregui and carried unanimously. The work session adjourned at 8:17 p.m.

Diane Joens, 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 work session of the City Council of the City of Cottonwood held on October 9, 2012. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date