

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD DECEMBER 7, 2010, 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 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  
Marianne Jiménez, City Clerk  
Steve Horton, City Attorney  
Jesus Rodriguez, Administrative Services General Manager  
Dan Lueder, General Services General Manager

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Mary Lou-Allen, a teacher in the Inter-Act Club of Mingus Union High School. Mayor Joens presented her with a certificate of appreciation for leading the Pledge of Allegiance.

PRESENTATION OF A RESOLUTION OF RECOGNITION PRESENTED BY THE ARIZONA STATE PARKS BOARD TO THE CITY FOR PROVIDING DISPATCH SERVICE TO THE PARK'S LAW ENFORCEMENT OFFICERS, PROVIDING WATER AND WASTE WATER SYSTEM SERVICES, AND ASSISTING WITH THE MAINTENANCE OF THE SEWER LIFT STATION AT DEAD HORSE RANCH STATE PARK; AND HELPING MAINTAIN THE JAIL TRAIL GATES, BRIDGE AND THE PARK ENTRANCE ROAD

Mayor Joens stated Doug Bartosh, Roger Biggs and she accepted this resolution on behalf of the City Council at a State Parks Board meeting in Apache Junction that was awarded in recognition of the city providing dispatch service to Park's law enforcement officers, providing water and wastewater services to the park, assisting with the maintenance of the park's sewer lift station, and for helping maintain the Jail Trail gates, bridge and park entrance road.

Mayor Joens and Vice Mayor Pfeifer presented the resolution to members of the Utilities Department, Dan Lueder, Roger Biggs, Michael McCarbery, and Debbie Breikreutz, for all the work done on behalf of Dead Horse Ranch State Park.

CERTIFICATE OF APPRECIATION FOR THE CITY'S SPONSORSHIP OF THE 2010 VERDE RIVER DAYS CELEBRATION

Mayor Joens stated the City contributed \$2,000 this year to the Verde River Days Celebration, and read the certificate of appreciation that had been given to the city for being a sponsor of this event.

PRESENTATION OF A PLAQUE OF APPRECIATION TO YAVAPAI BROADCASTING

Mayor Joens moved to table the presentation of the plague to Yavapai Broadcasting until January. The motion was seconded by Council Member Kirby, and carried unanimously.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER

Mr. Bartosh informed the Council of the following:

- The Christmas parade, which had 53 entries, was last weekend.
- The Chocolate Walk was a success with 42 merchant participants.
- The city celebrated the lighting of the (metal) Christmas tree.
- The Chamber Mixer was this coming Thursday night.

Council Member Pratt stated he attended the Verde Valley Transportation Planning Organization meeting, but had nothing to report on it.

Mayor Joens announced the following:

- She attended a State Parks Board Meeting on the 17<sup>th</sup>.
- The regular Council meeting of December 21<sup>st</sup> was cancelled.
- She went to Sierra Vista and picked up her mom.
- She signed up for a webinar regarding the "La Nina" weather phenomena, and if anyone would like a copy of the information she would sent it to them.
- She, Vice Mayor Pfeifer and Council Member Norman attended the Clothe a Child event last Friday.
- Council Member Norman and Vice Mayor Pfeifer would be participating in the Shop with a Cop event on Saturday.
- She and the City Manager attended a meeting with Haley Grommer of the Boys and Girls Club on Friday.
- She attended the Christmas tree lighting ceremony and the Chocolate Walk.
- She attended the 20<sup>th</sup> Anniversary of the Verde Canyon Railroad train.
- She would be attending the Verde Valley Voices event at 3 p.m. next Saturday, and the Yes the Arc holiday program that evening.

CALL TO THE PUBLIC

Mr. Bob Oliphant, of Cottonwood, stated he had withdrawn his lawsuit against the City and would not be seeking cost damages in relation to the lawsuit. He had no reason to continue with a lawsuit since most of his concerns were addressed with the new ordinance.

Mayor Joens stated she had received a letter from a Lisa Hancock, of Clarkdale, who requested it be read during the meeting. The letter stated she appreciated the work that Steve Horton did in regards to her case, and that he demonstrated commitment, concern, and honorable and loyal professionalism. Ms. Hancock indicated Mr. Horton should be recognized for his excellent work.

APPROVAL OF MINUTES—REGULAR MEETING OF OCTOBER 19, 2010 & SPECIAL MEETING OF OCTOBER 27, 2010

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

UNFINISHED BUSINESS—None.

CONSENT AGENDA

REJECTION OF ALL BIDS RECEIVED FOR PAVEMENT MARKING SERVICES

RESOLUTION NUMBER 2551—APPROVING OF A MEMORANDUM OF UNDERSTANDING (MOU) WITH OTHER VERDE VALLEY JURISDICTIONS IN SUPPORT OF THE VERDE VALLEY REGIONAL TRAILS CONCEPT PLAN

NEW LIQUOR LICENSE FOR ANTHONY PUGLIANO, OWNER/AGENT FOR THE 260 SHELL LOCATED 1475 SOUTH HIGHWAY 260

WINE FESTIVAL/WINE FAIR LIQUOR LICENSE APPLICATION FOR BARBARA PREDMORE, APPLICANT FOR ALCANTARA, LLC FOR EVENTS TO BE HELD AT THE BLAZIN' M RANCH LOCATED AT 1875 MABERY RANCH ROAD, ON DECEMBER 8, 11, 15, 18, 22, 26, 27 AND 28, 2010

Council Member Pratt moved to approve the consent agenda as presented. The motion was seconded by Council Member Norman, and carried unanimously.

Mayor Joens stated she wanted to pull the Trails MOU item from the consent agenda.

Council Member Kirby moved to approve the consent agenda without Resolution 2551—Approving the Trails MOU. The motion was seconded by Council Member Smith, and carried unanimously.

RESOLUTION NUMBER 2551--APPROVING OF A MEMORANDUM OF UNDERSTANDING (MOU) WITH OTHER VERDE VALLEY JURISDICTIONS IN SUPPORT OF THE VERDE VALLEY REGIONAL TRAILS CONCEPT PLAN

Mayor Joens stated this item was important to the community and she wanted the community to comment on this item. Bob Rothrock had worked on this plan since 2004, and Steve Harris was on the Yavapai County Trails Committee.

Steve Harris addressed the Council and stated he had heard that there was opposition in regards to the trails plan, in specific that these would be motorized trails. The trails plan was for non-motorized use, and thanked the Council for approving the MOU.

Mayor Joens stated she had received a letter from Dr. Bob Richards regarding the trails plan and read from the letter. Dr. Richards stated he did not wish to diminish the concerns of the Quail Run residents, but did believe that they were overstated. He walked the proposed route in the Prescott National Forest and could not find any evidence of bonfires, trash or vandalism on his hike. He was adjacent to a fence line in only one short segment and could not see a house. The proposed trail was of such distance from the property that the natural foliage and topography made a wonderful screen. For this proposed trail to become a real trail, a coordinated effort between the City of Cottonwood, Prescott National Forest, Yavapai County, private land owners and adjacent property owners would be necessary. He would like the Council to approve the trails plan without any stipulations, and urged the City Council to attend the presentation before the Clarkdale City Council on January 18 at 9:00 a.m. to give their overall support to the plan.

Council Member Pratt moved to approve Resolution Number 2551, approving of a Memorandum of Understanding with other Verde Valley Jurisdictions in support of the Verde Valley Regional Trails Concept Plan. The motion was seconded by Council Member Elinski, and carried unanimously.

Mayor Joens requested the City Clerk read Resolution 2551 by title only.

RESOLUTION NUMBER 2551

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE TOWNS OF CAMP VERDE, CLARKDALE, AND JEROME, THE CITY OF SEDONA, AND YAVAPAI COUNTY, SUPPORTING THE VERDE VALLEY REGIONAL TRAILS CONCEPT PLAN.

Mayor Joens thanked Bob Rothrock and Mr. Harris and other members of the trails group for their support.

NEW BUSINESS

CONSENT OF ASSIGNMENT OF LEASEHOLD RIGHTS TO HIGH FIVE HANGARS CONDOMINIUMS UNIT NO. 5 FROM BACKUS FAMILY INVESTMENTS, LLC, TO BARBAROSSA ENTERPRISES, LLC (“LESSEE”); AND COLLATERAL ASSIGNMENT OF LESSEE’S LEASEHOLD INTEREST TO COUNTRY BANK OF PRESCOTT, ARIZONA

Mr. Horton stated the Planning and Zoning Commission had previously approved the conversion of the 5-unit hangar development located on Lot 135 of Cottonwood Airpark into a condominium-style development. The common areas of the project were transferred to the condominium association and the units were available for sale. He was presenting for approval, the sale of the first unit. The Council would be approving the Consent to the Assignment and the Collateral Assignment which was a financing document that gave the lender security in the underlying lease rights, not the ground.

Mr. Bob Backus stating he was representing the person that would be purchasing the property, Fredrick R. Bieber. Mr. Bieber was about 60 years old and a medical geneticist at Brigham and Women’s Hospital, a member of the faculty of medicine at Harvard University, and a consultant at the Massachusetts General Hospital and the Children’s Hospital Boston. Mr. Bieber had just purchased a home in Cottonwood Ranch and was looking to retire in Cottonwood.

Mayor Joens stated according to the 1983 lease, the city was seeking to use these lands for public interest by providing opportunities for industrial development and promoting economic development and the creation of new employment opportunities.

Mayor Joens then opened the floor to the public.

Bob Oliphant stated before the Council tonight was a question of leasing property owned by the City which was really the citizen’s property. The current lease agreement allowed the current property to be leased \$140 per acre per year. The lands selling in that area were approximately \$130,000 an acre. The return of only \$140 an acre per year was not fair to the citizens regardless of what was built upon it. The citizens were entitled to a fair return. The only question he had for the staff was if specific efforts had been made by the city to try and change the unconscionable \$140 an acre price to something that was reasonable.

Mr. Horton stated there were recitals in the original lease about economic development and job creation and the difference between a purpose and an enforceable condition. The lease was a valid and binding instrument and the rent amount was called out in the lease and there was nothing, in his judgment, the city could do to change that during the lease term.

Council Member Smith moved to approve the proposed Consent of Assignment of High Five Hangars Condominiums Unit Number 5 from Backus Family Investments, LLC, to Barbarossa Enterprises, LLC (“Lessee”); and the Collateral Assignment of Lessee’s Leasehold Interest in favor of Country Bank of Prescott, Arizona. The motion was seconded by Council Member Kirby, and carried unanimously.

RESOLUTION NUMBER 2547--ADDING A NEW SECTION, SECTION XVII, FUND BALANCE POLICY, TO THE CITY'S FINANCIAL OPERATIONS GUIDE (FOG)

Mr. Rodriguez stated the Governmental Finance Officers Association (GFOA) and the Governmental Accounting Standards Board (GASB) had been trying to set up guidelines for how to set up policies for fund balancing. The city had kept the Fund Balance in relatively good shape which had to do with the policies the city passed in conjunction with its budget. When the budget was adopted there were certain segments; a financial policy, debt service policy, and small fund balance policy that ensured a certain amount of reserves were set aside. GASB had come up with their Statement 54 giving five categories to be used which were: non-spendable, restricted, committed, assigned and unassigned. He then described the different fund balance categories as follows: Non-spendable fund balance included amounts that were not in a spendable form (i.e. inventory) or are required to be maintained intact (i.e. the principal of an endowment fund); Restricted fund balance includes amounts that can be spent only for specific purposes stipulated by external forces, such as grants and grant providers, also enabling legislation (i.e. HURF funds); Committed fund balance includes funds set aside by the Council that are restricted for a certain purpose; Assigned funds can be committed by the Council or the City Manager (i.e. money set aside for the recreation center); the Unassigned fund balance was cash available to be spent that staff did not have to come to the Council to be used.

Mr. Rodriguez further stated there was going to be a big change from what we had done in the past. The amounts were still basically going to be the same, we were just going to be moving from two categories (restricted, unrestricted) to these five different categories. We will be seeing this change with the upcoming budget. This did not go into effect until June 2011. The reason it was being brought up now was he wanted to get it in the Financial Operation Guide and use it as part of our budget process. The policy itself not only gave us guidelines, but what we should be maintaining. An example was the general fund, fund balance, which was currently unassigned, and staff was asking to keep between 16.66 percent and 25 percent which would be a two to three months coverage. The city currently maintained a 60 day coverage which he would like to keep for quite a period of time. The reason for that flexibility going upward was in case we have a boom year we will go above the 16.66 percent, and the next budget year we go ahead and use that and assign it for capital, additional staffing, and so forth. The debt service fund was a restricted fund. The reason it was restricted was there were two pieces to debt service that was covered in our covenant. One was the city had to maintain an amount equal to at least one annual debt service that will be paid out. It is funded fully for our water and sewer companies and kept in a bank account until the debts have been extinguished. In the meantime it had to be restricted. Another part of the debt service were the amounts we put in on a monthly basis so we can make our interest payments six months and a year down the road, which was also restricted. The general fund would always back the all of the other funds, which is why we make sure it is fully funded. One of the things that was important to our bond holders was what the city was doing with its fund balance. Over the last years we had tapped heavily into the fund balance for the purchase and remodel of the court house. We had some major projects coming such as tearing down a portion of the building next door and the remodeling

of the Old Town Jail. The bondholders knew they were one-time expenses that would probably increase the value of the assets the city had. Spending it on maintenance and operation was a tough one for the bond holders to swallow.

Council Member Smith stated the non-spendable fund balance was restricted, and questioned if the Council could not reassign HURF funds or funds like that.

Mr. Rodriguez stated the restricted funds could not be reassigned.

Council Member Smith stated however, the committed fund balance, the assigned fund balance, and the unassigned fund balance, the Council could spend some of that money here or there, or however it wanted.

Mr. Rodriguez stated that was correct and there were different levels. The committed funds were funds that had been set aside by the Council. The budget had been adopted and approved by the Council. By adopting the budget the Council was telling him he would have 16.66 percent of fund balance in that budget and other restrictions that were written into the document. The Council could at mid-year pass a resolution or ordinance that says they want to go below the 16.66 threshold and take it down to a 30-day coverage. The unassigned amounts, such as the undesignated reserves, which every Council had asked to keep a \$100,000, was for anything might come up which didn't require formal action.

Council Member Pratt stated the new policy followed the GASB guidelines and some of the questions that Council Member Smith asked were answered there. The new policy did seem to make a lot of sense since it followed the GASB guidelines.

Council Member Kirby moved to approve Resolution Number 2547. The motion was seconded by Council Member Elinski, and carried unanimously.

Mayor Joens requested the City Clerk read Resolution 2547 by title only.

#### RESOLUTION NUMBER 2547

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE CITY'S FINANCIAL OPERATIONS GUIDE BY ADOPTING A NEW SECTION XVII, FUND BALANCE POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

#### AWARD OF THE CITY'S TRANSACTION PRIVILEGE TAX (TPT) AUDITING SERVICES CONTRACT BID TO DON ZELECHOWSKI, CPA

Mr. Rodriguez stated that he would defer this item to the City Manager due to a conflict of interest he had by his personal friendship with Mr. Zelechowski who was the best man at his wedding.

Mr. Bartosh stated Mr. Zelechowski had worked with the city for 16 years and had done a great job. Not only did we rely on him for auditing services, but to help the city regarding questions about the TPT (transaction privilege tax). He was the only person who responded to the proposal. He was qualified and his charges were reasonable in terms of the service he provided and we have had great service from him. Staff recommended approval of the contract.

Council Member Elinski moved to approve the agreement with Don Zelechowski for TPT auditing services. The motion was seconded by Council Member Pratt, and carried unanimously.

AWARD OF THE CITY'S GASOLINE AND DIESEL FUEL OFFSITE REFUELING STATION(S) BID TO SC FUELS

Mr. Rodriguez stated SC Fuels had been providing fuel services for the city for many years, and would like a five year contract instead of a three year contract. SC Fuels was the only vendor to submit a bid.

Council Member Pratt stated the one bid seemed reasonable, and questioned whose option it would be to extend the contract.

Mr. Rodriguez stated it would be the city's option to extend the contract.

Council Member Kirby moved to award bid #FIN-10-02, Gasoline and Diesel Fuel offsite refueling stations to SC Fuels for a term of three years beginning January 1, 2011, and ending December 31, 2013, with the option to extend for an additional two, one year terms. The motion was seconded by Council Member Pratt, and carried unanimously.

RESOLUTION NUMBER 2552--APPROVING PARTICIPATION BY THE CITY IN THE GREATER ARIZONA MAYOR'S ASSOCIATION (GAMA) AND PAYMENT OF ANY MEMBERSHIP DUES

Mayor Joens suggested the city join the Greater Arizona Mayors' Association that was working on legislation that may benefit rural areas. The annual association dues were \$100.

Council Member Pratt moved to approve Resolution Number 2552, authorizing membership in the Greater Arizona Mayors' Association and the payment of dues in the amount of \$100. The motion was seconded by Council Member Norman, and carried unanimously.

Council Member Pratt stated it was good that Mayor Joens sent information to the Council from GAMA and it was good to know what other cities were doing.

Mayor Joens requested the City Clerk read Resolution 2552 by title only.

RESOLUTION NUMBER 2552

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING PARTICIPATION BY THE CITY IN THE GREATER ARIZONA MAYOR'S ASSOCIATION (GAMA) AND PAYMENT OF ANY MEMBERSHIP DUES.

CLAIMS & ADJUSTMENTS

Council Member Kirby moved to pay the Claims and Adjustments as presented. The motion was seconded by Council Member Smith, and carried unanimously.

ADJOURNMENT

Council Member Kirby moved to adjourn. The motion was seconded by Council Member Norman, and carried unanimously. The regular meeting adjourned at 7:35 p.m.

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Diane Joens, Mayor

ATTEST:

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Marianne Jiménez, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on December 7, 2010. I further certify that the meeting was duly called, and that a quorum was present.

\_\_\_\_\_  
Marianne Jiménez, City Clerk

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Date