

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD FEBRUARY 1, 2011, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the regular meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Tim Elinski, Council Member
Duane Kirby, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member
Darold Smith, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jiménez, City Clerk
Steve Horton, City Attorney
Charlie Scully, Long Range Planner
Richard Faust, General Services Manager

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was lead by Anna May Cory, President of the Pines Motel. She then informed the Council that the Pines Motel had received a “Certified Green” designation from the Arizona Hotel/Motel Association. She indicated there were currently not more than 20-30 properties in the state with this designation, and the Pines Motel was the first Certified Green motel in Cottonwood.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER--
THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON
ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS
PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh stated he had two items that were more MATForce related, but valuable information for our citizens. The Department of Health Services had come out with their first draft of the medical marijuana rules and they were going to be taking more suggestions and input which could be done through their website. They were also holding public meetings in Flagstaff, two in Phoenix, and one in Tucson. Also, for parents that were interested in keeping up on what the latest trends were in drug and substance abuse, you could become a member of the “Most Valuable Parent” program through MATForce and go online at

matforce.org and sign up to automatically receive information.

Council Member Pratt stated he took part in the League of Women voter's forum on the 26th.

Council Member Kirby stated in the period he had been absent from the Council he had the opportunity to go through his obligations and decided he could no longer support his chairmanship of the Area Agency on Aging regional council and resigned his position which had been filled by Jake Gonzalez. He would like to retain his membership on NACOG (Northern Arizona Council of Governments).

Mayor Joens reminded the public that Cottonwood had a government channel on Cable One TV—Channel 2, in partnership with Yavapai Broadcasting. If people did not have cable TV they could also watch the Council and many other community events on the internet at verdevalleytv.com. She then announced the following:

- On January 21 she and Vice Mayor Pfeifer attended the Northern Arizona Municipal Water Users Association meeting. It was a consortium of cities and towns in northern Arizona who were collaborating on future water supplies.
- On January 22 the Vice Mayor spoke at the ribbon cutting for the Blazin' M.
- On January 22 she drove her mother to Sierra Vista to visit her brother and sister.
- On January 24 she did an interview with Jane Whitmire who interviewed her for the Verde Valley Economic Development Study which would identify several important factors about the Verde River and its relationship to the economy and economic development of the Verde Valley.
- On January 26 she interviewed Cottonwood Firefighter Lt. Troy Hoke for the Council's Spotlight on Volunteers, Elaine Bremner about the Verde Valley Senior Center, and Barbie Hart about the Verde Valley Birding Festival, all which could be seen on verdevalleytv.com or channel 2.
- On January 26 she met with Supervisor Chip Davis, City of Cottonwood employees, the Fair board and community volunteers to discuss the equestrian center and its needs, including lights and water, which were things staff was looking into.
- On January 26 most of the Council members were at the candidate forum either participating or observing, and thanked the League of Women Voters who brought this opportunity for citizens and voters to learn about candidates.
- On January 28 they met with the hang gliding community to discuss a change of landing zones.
- On January 28 she attended the Chamber dinner/dance along with Vice Mayor Pfeifer, who was an outgoing member of the board, and Council Member Norman also attended the event.

CALL TO THE PUBLIC

There were no comments from the public.

PROCLAMATION—JOINING THE “LET’S MOVE!”CAMPAIGN

Mayor Joens stated with the Council’s permission she would like to table the proclamation and come back on the 15th with resolution and information on the program they were trying to set up this coming year.

APPROVAL OF MINUTES—Regular Meetings of November 2 & 16, 2010, and Special Meeting of December 14, 2010

Mayor Joens stated she had a couple of minor questions regarding page 2 of the November 16 minutes where it said she attended the first annual 5K walk, which was actually the Fit Kids 5K Walk; on the third item the last word should be projects, not project; and the reference to the Verde River Days meeting should be Verde River Basin meeting. Those were the only ones she found.

She then asked for a motion if there were no more corrections.

Council Member Pratt moved to approve the minutes of November 2 and 16, 2010, and the special meeting of December 14, 2010. The motion was seconded by Council Member Elinski, and carried unanimously.

UNFINISHED BUSINESS

ORDINANCE NUMBER 569—AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY DELETING SECTION 404. H. “BUILDING HEIGHT REQUIREMENTS” AND REPLACING IT WITH A NEW SECTION 404. H. “HEIGHT REGULATIONS” PERTAINING TO HEIGHTS OF NON-HABITABLE STRUCTURES; DELETING SECTION 404. H. 3. “RESIDENTIAL ACCESSORY BUILDINGS” AND ADDING A NEW SUB SECTION (7) TO SECTION 404. G. 6. c. “DETACHED ACCESSORY BUILDINGS IN RESIDENTIAL ZONES”; AND AMENDING SECTION 304. “DESIGN REVIEW” TO ALLOW MINOR HEIGHT EXCEPTIONS FOR VARIOUS NON-HABITABLE STRUCTURES SUBJECT TO DESIGN REVIEW PROCEDURES AND CRITERIA; SECOND & FINAL READING

Mr. Scully stated this item was considered at the first reading held last month at the City Council’s meeting of January 18, as well as a discussion item on October 12, 2010, and considered and approved by the Planning and Zoning Commission with recommendations at its meeting on September 9, 2010. Approval of this item would have the effect of providing comprehensive amendments to the height regulations in the Zoning Ordinance for non-habitable structures. It would help clear up a number of questions that keep coming up that were not currently addressed and also make it easier for some of those standard issues such as roof top items. Staff thought this would be an improvement to help the public, staff and the Council answered some of those questions.

Council Member Pratt stated they had discussed this quite a bit and Charlie had done a lot of work. He had looked at it and read it closely and it seemed pretty clear. It was an

improved amendment and good for the city.

Council Member Smith moved to approve Ordinance Number 569 approving amendments to the city's Zoning Ordinance regarding height regulations. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

The Mayor requested the City Clerk to read Ordinance Number 569 by title only.

ORDINANCE NUMBER 569

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY DELETING SECTION 404. H. "BUILDING HEIGHT REQUIREMENTS" AND REPLACING IT WITH A NEW SECTION 404. H. "HEIGHT REGULATIONS" PERTAINING TO HEIGHTS OF NON-HABITABLE STRUCTURES; DELETING SECTION 404. H. 3. "RESIDENTIAL ACCESSORY BUILDINGS" AND ADDING A NEW SUB SECTION (7) TO SECTION 404. G. 6. c. "DETACHED ACCESSORY BUILDINGS IN RESIDENTIAL ZONES"; AND AMENDING SECTION 304. "DESIGN REVIEW" TO ALLOW MINOR HEIGHT EXCEPTIONS FOR VARIOUS NON-HABITABLE STRUCTURES SUBJECT TO DESIGN REVIEW PROCEDURES AND CRITERIA.

NEW BUSINESS

RESOLUTION NUMBER 2572--DEEMING THE GRANTING OF A NEW 25-YEAR ELECTRIC UTILITY FRANCHISE TO ARIZONA PUBLIC SERVICE CORPORATION IN ACCORDANCE WITH THAT CERTAIN FRANCHISE AGREEMENT THAT HAS BEEN PRESENTED TO THE COUNCIL TO BE BENEFICIAL TO THE CITY, AND AUTHORIZING THE PROPOSED FRANCHISE AGREEMENT TO BE PRESENTED TO THE CITY'S VOTERS FOR APPROVAL ON THE BALLOT OF THE MAY 17, 2011, SPECIAL ELECTION

Mr. Horton stated they had recently discussed the context of the Council calling for an election so the voters could be asked to renew Arizona Public Service's (APS) utility franchise. If they would recall, by statute and common practice, statute authorized franchises to be granted for up to 25 years. That was the case with the current APS franchise which the city entered into 1986 and expired in June. The way the statute worked was the public utility wishing to have the new franchise would come to the city and present the proposed franchise. What had occurred over the course of the last several months was APS and city staff had conferred and negotiated the terms, which were similar but not identical because of the passage of 25 years of time since the last franchise was entered into, and agreed upon the terms of a proposed franchise that could now be considered by the Council to be authorized to be presented to the voters. If the Council approved this resolution tonight, it will have deemed to have determined it to be beneficial to the city to continue APS's franchise and the voters would get to decide in May whether to continue the franchise. With us tonight was Ms. Kendra Cea from APS with whom staff had been working

with to develop this franchise which was modeled after franchises approved statewide.

Mayor Joens stated they also had Wayne Ferguson with us tonight who was the manager of APS in the Verde Valley.

Kendra Cea addressed the Council and stated she was present on behalf of APS and Wayne Ferguson. Steve, Doug, and Marianne were a pleasure to work with in getting the items negotiated for the model franchise. This was part of Arizona statute that required franchises for public utilities. APS had 53 franchises across the state with municipalities in 11 of the counties in which they served. The municipal franchise had to go to a vote of the people, which would happen on May 17. They would do a legal posting of the franchise so the voters knew what they were voting on which would start in April. The purpose behind the franchise was to basically provide jurisdiction over how as a public utility APS operated in the public right-of-way and how they worked together between the government and APS providing electric and energy related services to the city's citizens.

Council Member Pratt stated he had been through all this and it seemed to him why would they not put this out to the citizens for a vote. It looked like it was beneficial to the city, and he noticed that in the past ten years the city had collected a franchise fee of about 1 million which he guessed would increase over the next 10 years and into the future.

Ms. Cea stated so they knew how this franchise worked, because it was slightly different than the last one, APS's franchise was now a model throughout the state, and was a two percent franchise. The city had a sales tax of one percent which APS collected, and because the city had adopted model option 13 of the model city tax code APS would collect the two percent for franchise and the one percent for sales tax that was automatically turned back to the city.

Mayor Joens questioned if voters did not approve this what would the scenario be.

Ms. Cea stated they would come back to the table as far as presenting the franchise to the City Council again and it would have to go back to an election. The more likely scenario that would take place is it would be a significant communication to the voters as to what was taking place. It had never been voted against in a municipal election.

Mayor Joens questioned what would happen if the voters said no, would APS not be able to work in the rights-of-way during that time.

Ms. Cea stated they would stop collecting the two percent and it would change how they operated as a utility. It would not change the fact that they had CC&Rs to operate throughout the state of Arizona.

Mayor Joens asked if there were any comments from the public, and there were none.

Council Member Kirby moved to approve Resolution Number 2572, deeming the granting of

a new 25-year franchise to Arizona Public Service in accordance with a new franchise beneficial to the city and authorizing the agreement to be presented to the city's voters for approval at the May 17, 2011 election. The motion was seconded by Council Member Norman, and carried unanimously.

Mayor Joens requested the City Clerk read Resolution Number 2572 by title only.

RESOLUTION NUMBER 2572

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, DEEMING THE GRANTING OF A NEW 25-YEAR ELECTRIC UTILITY FRANCHISE TO ARIZONA PUBLIC SERVICE CORPORATION IN ACCORDANCE WITH THAT CERTAIN FRANCHISE AGREEMENT THAT HAS BEEN PRESENTED TO THE COUNCIL TO BE BENEFICIAL TO THE CITY, AND AUTHORIZING THE PROPOSED FRANCHISE AGREEMENT TO BE PRESENTED TO THE CITY'S VOTERS FOR APPROVAL ON THE BALLOT OF THE MAY 17, 2011 SPECIAL ELECTION.

FEE REDUCTION FOR USE OF THE COTTONWOOD RECREATION CENTER BY NON-RESIDENTS WHO HAVE THEIR RESPECTIVE BUSINESS OPERATIONS IN THE CITY LIMITS AND ARE A MEMBER OF THE COTTONWOOD CHAMBER OF COMMERCE

Mr. Bartosh stated this started with him receiving a call from one of the local businesses that asked if the city had anything that gave business owners who did not reside in the city a break on the membership at the recreation center. After discussion with Richard Faust and the Chamber of Commerce it seemed like this might be something the Council might want to consider in terms of recognizing all that our local business owners contribute to our local economy.

Council Member Kirby stated this reflected the fact that he brought this up earlier that the Council should look at what the people in the community should pay in respect to their consideration of Cottonwood as their home city. If their mail came to Cottonwood they should get the Cottonwood rate, but they decided not to go that way. He hoped in the very near future they would reconsider that decision and allow the people who receive their mail with a Cottonwood address to get the local fees.

Council Member Pratt stated he looked this over and thought it was a great idea. He had lately made clear he really did support local businesses a lot and this was just another way to do it.

Council Member Elinski questioned how would you define the owner of the business, especially with a corporation there could be multiple owners of that business, and why would they need to be a member of the Chamber.

Mr. Faust stated with multiple owners it was going to be one of those things where they were

going to offer the same thing with multiple owners. It was a value benefit program and gave value to those people and rewarded those people who actually have a business in Cottonwood. It was also a value program for us because he thought they were going to capture a few more people outside of the community possibly that might not utilize the recreation center. So it was going to bring in additional fees in to our current structure program, and was something that did add weight and value to the program overall.

Mr. Bartosh stated in terms of the Chamber, the city supported the Chamber financially so much through the bed tax that it seemed like a legitimate return in terms of this discount; to be a member of the Chamber and to really be part of the business community here in Cottonwood.

Council Member Smith questioned if we had any idea how many businesses were not a member of the Chamber in Cottonwood.

Mr. Faust stated he was not really sure.

Council Member Smith stated the reason for the question was he did not particularly care for this because of the fact we were saying if you want a discount you have to join the Chamber. That was not fair. He was sure there were a lot of businesses that decided not to join the Chamber. He owned a business in the city and he was not joining the Chamber of Commerce. The city supported it incredibly with taxes. He thought it was kind of a form of blackmail to say if you want this discount you have to do this. It seemed they were forcing everybody that wanted a discount to join the Chamber of Commerce and pay money.

Council Member Elinski stated he did not think they were tying their hands and forcing them to join the Chamber, but he would be interested in looking at if you have a business license in the City of Cottonwood and your business address was in the city maybe they could look at extending that offer to those businesses as well. If the rest of the Council was interested in looking at that, he would too. Otherwise he was comfortable with the proposal.

Mr. Faust stated he thought under the circumstances, in getting back with Darold's (Council Member Smith's) comment, he understood and thought the circumstances were the Chamber did do an awful lot for the community and that was where Doug and the Chamber were both going.

Mayor Joens stated she thought the more members of the Chamber and businesses supporting each other would benefit economic development in the community by having more members in the Chamber of Commerce. Cities and towns support their Chambers of Commerce for those reasons because they are the ones working every single day to bring more businesses to the area, support tourism, all of the things that support our economy.

Council Member Smith questioned how much it cost to join the Chamber.

Mr. Faust stated he was not really sure.

Mayor Joens stated it was \$50 a year for her as a non-business member.

Vice Mayor Pfeifer stated she just looked into that for single person like her daughter at La Femme, who joined the Chamber and it cost her \$175.

Council Member Smith stated he really did not like the idea saying if you want a 10 percent discount you have to join the Chamber. He thought Mr. Elinski brought up a very valid point if you have a licensed business and have employees you are entitled to a 10 percent discount.

Mr. Bob Oliphant, a city resident, addressed the Council and stated the twin goals of this proposal were very clearly stated in the information provided to the Council by staff, and quoted the following from it: "To thank business owners who lived outside the city but choose to conduct business in the city." That was the first objective. The second objective was: "Another method to increase recreation center membership." The requirement as Councilman Smith and Councilman Elinski already pointed out was limited on conditions to "non-residents who have their respective businesses operations within the Cottonwood city limits and belong to the Chamber of Commerce." He saw the policy as discriminatory because of that condition. For example, the county and the State of Arizona were technically, he supposed, non-resident businesses operating within the city limits with employees who were in fact non-residents. He questioned if they were to be included or excluded from this policy. He suggested if the policy went forward they should be included. The county and state combined brought hundreds of thousands of dollars to the community. Applying a fee reduction to all profit and non-profit businesses in this community would be fair, equitable, logical, and would carry out clearly the twin objectives that they had for this policy. Limiting the fee reduction just to those that belonged to the Chamber of Commerce sounded like there was some sort of deal with a non-profit organization to encourage it to get more members via the city. Many businesses, for political, financial, or other reasons, simply chose not to belong to the Chamber of Commerce and they should not be penalized because they have chosen to not join that organization. He noted the Chamber was an independent non-profit organization that on occasion, on the national level, supported political candidates or political issues.

Vice Mayor Pfeifer stated as a clarification, that the Chamber did not support candidates or issues. They had their own agenda and it was tourism and to bring people and businesses in. Her daughter just joined the Chamber. The shop she worked in was not a member and she did not have a business license because they work for the shop so they would not have the license to join the recreation center without joining the Chamber to get the discount.

Council Member Pratt stated on the issue of political donations, he would have to do a little research, but it seemed nationally they did support a party.

Vice Mayor Pfeifer stated they did not belong to the national.

Council Member Pratt stated in rethinking this he thought perhaps that Mr. Smith and Mr.

Elinski were making good sense in offering the discount to all business owners. His concern was supporting the small local businesses, so he would be okay and say not to exclude those who do not belong to the Chamber. If you have a business in Cottonwood whether you belong or not will give you the discount because they did want to support local businesses.

Mayor Joens stated she assumed they had calculated the costs to the recreation center of that and it would be a lot less if you offered it to Chamber members. She questioned if they could afford to give it across the board.

Mr. Faust stated he was not sure how many business owners lived outside the boundary of Cottonwood that actually do business in Cottonwood.

Council Member Smith stated Mr. Oliphant had brought up a very good point as to the state and government workers who live here and could not join the Chamber of Commerce. He questioned why they couldn't give them a 10 percent discount.

Mr. Faust stated they had the opportunity through a corporate sponsorship like they did with the hospital or any other employment group as long as the administration contacted the city and said they had 10 or more or 20 or more people. He thought if it was 10 they got a 10 percent, if they had more than 25 they got up to a 15 percent discount for employees.

Council Member Smith stated he still did not like it as long as it was in there that you had to join the Chamber of Commerce.

Council Member Elinski questioned if they could just not say either you are a member of the Chamber or you have a business license with the City of Cottonwood and the business location was within the city. That way folks that were self-employed but worked for a company would be covered.

Mr. Faust stated when they looked at the population base it actually worked out. You were probably looking at 12-15 percent of the population. You could probably identify that same rate. If there were maybe 200-300 business owners out there they might pick up close to 20 and that rate was only going to be probably around \$60 less than they would normally pay.

Council Member Kirby suggested they table this item and have staff come back with a better proposal.

Mr. Pratt questioned if they could not just approve a fee reduction for use of the Cottonwood Recreation Center by non-residents who have their respective business operations in the city limits and stop there.

Council Member Pratt then moved to approve a fee reduction for the use of the Cottonwood Recreation Center by non-residents who have their respective business operations in the city limits of Cottonwood. The motion was seconded by Council Member Norman, and carried unanimously.

Council Member Kirby stated he did not think Council Member Pratt mentioned what kind of a reduction they were planning to give.

Mayor Joens, Vice Mayor Pfeifer, and Council Member Pratt all stated 10 percent.

Council Member Kirby stated that was not in the motion.

Council Member Pratt then moved to approve a fee reduction of 10 percent for the use of the Cottonwood Recreation Center by non-residents who have their respective business operations in the city limits. The motion was seconded by Council Member Norman, and carried unanimously.

CLAIMS & ADJUSTMENTS

Council Member Norman moved to pay the Claims and Adjustments.

Council Member Smith stated he noticed Larry Green was not on the Claims and questioned if the city was all done with him.

Mr. Bartosh stated he did not know the exact date, but did not think it was up yet and would check and get him the exact date of the termination of that agreement.

Mayor Joens questioned if the Yavapai Title utilities growth premium for the fourth quarter was the money the city owed to Mr. Garrison.

Mr. Bartosh stated she could be right on that one, and would double check and let the Council know in the management report on Friday.

The motion was seconded by Council Member Elinski, and carried unanimously.

ANNUAL REVIEW OF THE CITY MANAGER—PURSUANT TO A.R.S. §38-431.03.(A)(1) DISCUSSION OR CONSIDERATION OF EMPLOYMENT, ASSIGNMENT, APPOINTMENT, PROMOTION, DEMOTION, DISMISSAL, SALARIES, DISCIPLINING OR RESIGNATION OF A PUBLIC OFFICER, APPOINTEE OR EMPLOYEE OF ANY PUBLIC BODY, EXCEPT THAT, WITH THE EXCEPTION OF SALARY DISCUSSIONS, AN OFFICER, APPOINTEE OR EMPLOYEE MAY DEMAND THAT THE DISCUSSION OR CONSIDERATION OCCUR AT A PUBLIC MEETING; THE COUNCIL MAY VOTE TO CONVENE INTO EXECUTIVE SESSION SUBJECT TO THE CITY MANAGER'S RIGHT TO COMPEL THE COUNCIL TO DISCUSS THIS MATTER IN OPEN MEETING

Mayor Joens stated Mr. Bartosh had been sent a letter giving him 24 hours notice about this and his response was that he would like to hold this meeting in executive session. Council Member Elinski moved to convene into executive session. The motion was seconded by Council Member Kirby, and carried unanimously.

After the city manager's review under executive session, Council Member Norman moved to

resolve into regular session. The motion was seconded by Council Member Smith, and carried unanimously.

ADJOURNMENT

Council Member Smith moved to adjourn. The motion was seconded by Council Member Norman, and carried unanimously. The regular meeting adjourned at 7:50 p.m.

Diane Joens, Mayor

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 February 17, 2011. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date