

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD APRIL 17, 2012, 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  
Jesse Dowling, Council Member  
Tim Elinski, Council Member  
Ruben Jauregui, Council Member  
Linda Norman, Council Member  
Terence Pratt, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager	Marianne Jiménez, City Clerk
Steve Horton, City Attorney	Mike Casson, Fire Chief
Mike Kuykendall, Interim Fire Chief	Nikki Arbeiter, Planner
Debbie Breitzkreutz, Wastewater Superintendent	Roger Biggs, Utility Dept. Admin. Manager
Dan Lueder, Development Services General Manager	

PLEDGE OF ALLEGIANCE

Sari McQuality, led the Pledge and was presented a certificate of appreciation by Mayor Joens.

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 reminded everyone of the Mickelsen run which was this coming Saturday; also at 10 a.m. on Saturday at Renegades the Adopt for Life Center was holding a Cruizin' for Critters fundraiser; April 28 was Sizzlin' Salsa in Old Town; and the Council had been distributed the new water conservation cards.

Mayor Joens stated a Mayor/Council water forum would be held on May 10 at 6 p.m., and the new water conservation cards would officially be handed out at the forum.

Mayor Joens then announced the following:

- On April 6 for Inside Cottonwood, CableOne TV Channel 2, she interviewed State Land Commissioner Maria Baier and they discussed the 10 square miles of state trust lands contiguous to Cottonwood; she also interviewed Pam Miller for the Prime Time Fair, which will be held from 9 a.m. to 1 p.m. at Tavasci School on May 12. The council's Senior Commission is assisting with the event.
- On April 11 she attended another O'Connor House meeting. In creating O'Connor House, Justice Sandra Day O'Connor's hope is to create a place that will be a center for problem solving by bringing together groups with divergent views. The Verde Valley group will bring a presentation to the council at the May 1 meeting.
- Amberlyn Kleinman, a Spanish teacher at Mingus Union High School, is also the sponsor for a club called Invisible Children. The high school club is focused on raising money to send the organization Invisible Children to help out the peoples in Uganda and the Congo of Africa combat Joseph Kony and his genocidal, civil war there. This Friday the students will be recognizing an event called "Cover the Night." Members will be placing flyers, posters, banners, etc. around town to help the community learn more about this war and bring Kony to justice this year to end this war.
- On Sunday she, Council Member Dowling, and the city manager attended a Holocaust presentation, Days of Remembrance at the Yavapai College Auditorium.
- On Monday she met with interim State Parks Director Bill Feldmeier who thanked the city of Cottonwood again for the water and wastewater testing it does for Dead Horse Ranch State Park.
- On Saturday For Our City Cottonwood, Care, Inc., local churches and non-profits, community volunteers and Cottonwood Oak Creek School District, held a Cottonwood/Verde Village citywide cleanup and they filled up 15 dumpsters.
- She will miss the May 1 council meeting as she is serving as a panelist for the Arizona Water Association's 85th Annual Conference.

#### PROCLAMATION—ELKS NATIONAL YOUTH WEEK & BIKE MONTH

Mayor Joens proclaimed the first week in May as Youth Week; and May 2012 as Bike Month and the week of May 14-18, 2012 as Bike-To-Work Week.

#### PRESENTATION—OVERVIEW OF THE WATER LITERACY EDUCATION FOR KINDERGARTEN STUDENTS PROGRAM

Linda Heidenreich, an instructor for Yavapai College's summer kids program, and Debbie Breitreutz, Wastewater Superintendent and Roger Biggs, Utility Department Administrative Manager, gave an overview of the program to educate kindergarten students about water conservation, preservation, production, and reuse, which was taught by Ms. Heidenreich.

CALL TO THE PUBLIC—There were no comments from the public.

#### APPROVAL OF MINUTES—Regular Meetings of March 20 and April 3, 2012

Council Member Elinski moved to approve the minutes. The motion was seconded by

Council Member Norman, and carried unanimously.

UNFINISHED BUSINESS—None.

CONSENT AGENDA

NEW LIQUOR LICENSE APPLICATION FOR OLIVIA DIAZ, OWNER OF EL PATIO BAR AND GRILL, LOCATED AT 1695 EAST COTTONWOOD STREET, SUITE J

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY STEVEN GOTTLIEB, APPLICANT FOR THE FRATERNAL ORDER OF EAGLES #3600, FOR AN EVENT SCHEDULED FOR MAY 26, 2012, IN THE PARKING LOT OF RENEGADES STEAKHOUSE LOCATED AT 747 SOUTH MAIN STREET

Council Member Pratt moved to approve the Consent Agenda. The motion was seconded by Council Member Elinski, and carried unanimously.

NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.

AWARD OF CONTRACT FOR THE CITY'S PROSECUTION/CODE ENFORCEMENT SERVICES

Mr. Horton stated as the Council was aware, our previous prosecutor resigned and a request for proposals was issued seeking statements of qualifications and cost proposals. We received seven excellent proposals and a committee of six was formed to review the proposals. The committee selected Mr. Bob Van Wyck, who he knew and was an attorney and judge of long experience and great reputation. He had been a city prosecutor, a county prosecutor, a city judge, a superior court judge, and was currently sitting as a pro-tem superior court judge in Navajo county. He had also served as a town attorney and prosecutor for Cottonwood in the late 1980's and early 1990's. He was called on to come in and serve as the city's prosecutor and code enforcement attorney as needed, and we have heard nothing but wonderful reviews about how he has been working with the court and city staff.

Mr. Van Wyck introduced himself to the Council and stated he appreciated the judge and the competent clerk staff and city staff he had worked with in code enforcement, and hoped they accepted the recommendation. The job was as much an administrative job and management case job as it was a prosecutor's job. He was an administrator as well as a lawyer, so these kinds of jobs were fulfilling to him.

Council Member Pratt stated they received numerous letters and emails commending him on his service for the great job he had done.

Mayor Joens asked Mr. Van Wyck if he spoke Spanish.

Mr. Van Wyck indicated he did, though not fluently.

Vice Mayor Pfeifer moved to award the prosecution/code enforcement services contract to the Van Wyck Law Firm, PLLC, and to authorize the mayor to sign the agreement and to take any additional actions required to implement the agreement. The motion was seconded by Council Member Pratt, and carried unanimously.

AUTHORIZATION TO RECLASSIFY THREE INTERIM COTTONWOOD FIRE DEPARTMENT LIEUTENANT POSITIONS TO CLASSIFIED FIRE LIEUTENANT POSITIONS

Interim Fire Chief Mike Kuykendall stated the fire department was requesting council authorization to reclassify three interim fire lieutenant positions to permanent fire lieutenant positions at a salary range 48. The reason for this was when they were awarded the 2008 SAFER grant for staffing they hired 12 additional firefighters and needed supervisory positions, and at that time they were able to create the interim lieutenant positions. Because of situational changes they would like to change those positions to permanent positions. It would behoove us as a department to add some permanency to those positions for the people in them and to provide some stability in the department, especially with the fact that we have an interim chief at the moment and some other positions are going to have to be interim until that situation comes to a conclusion. It has a minimal affect financially on the department, and to implement it immediately it would have less than a \$500 impact for the remainder of this fiscal year, and the fiscal impact had already been included in the preliminary budget for the following fiscal year.

Council Member Elinski questioned what the overall financial impact would be.

Chief Casson stated this would probably be somewhere in the vicinity of \$6,000 to \$7,000 annually.

Council Member Pratt stated it seemed to him they should trust the experts. They worked with these people and obviously they thought they were doing a good job and wouldn't recommend it if they didn't think they were.

Council Member Pratt then moved to reclassify three interim fire lieutenant positions to permanent fire lieutenant positions in salary range 48. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

RESOLUTION NUMBER 2638 - ADOPTING THE 2011 UPDATE OF THE YAVAPAI MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

Mr. Lueder stated in 2005-06 the first multi-jurisdictional plan was put together and adopted by various entities in Yavapai County. The Arizona Department of Emergency Management obtained a federal planning grant and hired a consultant to assist the county in updating the process. The plan was updated and reviewed by all the agencies, and FEMA and Yavapai County were asking all the participating jurisdictions to adopt this plan. By adopting this plan Cottonwood would be eligible for FEMA grants should we have a natural disaster.

Mayor Joens stated the plan was 648 pages.

Mr. Lueder stated the public could view the plan that was on a disk in the City Clerk's office or on the city's website.

Council Member Pratt moved to approve Resolution Number 2638, adopting the 2011 update of the Yavapai County Multi-Jurisdictional Mitigation Plan. The motion was seconded by Council Member Dowling, and carried unanimously.

The City Clerk read Resolution Number 2638 by title only.

#### RESOLUTION NUMBER 2638

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, ADOPTING THE YAVAPAI MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN 2011.

#### ESTABLISHMENT OF A COMPACTOR STATION VOUCHER PROGRAM

Mr. Lueder stated Clint Coombs, the city's terrorist liaison officer, was charged with supervising the code enforcement staff, and since coming on in September he had been dealing with quite a few of the city's code enforcement issues. One of the things Mr. Coombs came to him and the city manager about was the fact that there were a lot of residents who would like to do the right thing, but the disposal cost could be prohibitive. Right now to dispose of a pickup truck load of trash at the compactor station cost \$28. As they were routed through the code review process we may be putting some people in a situation where they are facing fines and a dump fee they really can't afford. The result is some people will resort to dumping in the desert. Mr. Coombs had suggested the idea of the code enforcement officers issuing vouchers that will allow them to dump a load at the compactor station. They felt this would help those who want to clean up but can't afford to. If we offer the financial assistance and they decide not to take it, it makes our case in the code enforcement hearing much stronger. Staff was requesting \$500 from the council contingency fund to fund the program, and should the program be utilized and the funds used up they would come back to the council for additional funds.

Mayor Joens stated she thought it was a great idea and that it would benefit the community.

Council Member Elisnki moved that we establish a compactor station voucher program using \$500 from the council contingency fund. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

#### APPROVAL OF AN AGREEMENT WITH VENTAS REALTY FOR RIGHT-OF-WAY REQUIRED FOR THE MINGUS AVENUE RECONSTRUCTION PROJECT FROM 89A TO WILLARD STREET

Mr. Horton stated this is the last piece of right-of-way we need for this project. This one involved a Cottonwood senior living facility operated by a corporation based in Texas, which

leases property from a Delaware corporation. It took a lot of coordinating and down time between communications to put this together. This afternoon we received word there is more documentation that is needed before escrow can close. This concludes the property acquisition part of this project.

Council Member Norman moved to approve the right-of-way purchase agreement with Ventas Realty. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

ANNUAL REVIEW OF THE CITY MAGISTRATE—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 MAGISTRATE’S RIGHT TO COMPEL THE COUNCIL TO DISCUSS THIS MATTER IN OPEN MEETING

Mayor Joens stated Judge LaSota did receive a letter giving the option of compelling the council to hold his review in public, and questioned which he preferred.

Judge LaSota replied whatever the council’s pleasure is. He indicated he had emailed her back saying it was okay to do it in private if the council desired.

Mayor Joens questioned the council what its pleasure was.

Council Member Pratt stated he was fine with doing it in public if the Judge was fine with that.

The consensus of the council was to conduct the annual review in public.

Mayor Joens requested the Judge to cover some of his accomplishments.

Judge LaSota stated he was going into his fourth year as presiding magistrate for the city. There have been three different rounds of performance evaluations by attorneys within the past year. Out of those there were 16 different areas that evaluate for integrity, communication skills, legal ability, judicial temperament, administrative skills, and sentencing. There were a total of 72 ratings in each of those 16 categories, and on 15 of those categories 70 of the responses were superior, one was very good, and one was satisfactory for a total of 72. The diversion programs continued to be very successful, the e-citation program had been fully implemented, a second courtroom had been completed with court enhancement monies and they now have a storage room built into that room. Additionally, it allows them to become a training center for continuing legal education for staff members. The Justice EZ Trac program allows payments to come in online from anywhere, they also just implemented a language access plan to comply with federal requirements, the court enhancement program that he instituted was saving the city a lot of

money by using those funds to buy cabinets, chairs, and book shelves. One of the immediate goals for next year was going to all digital to allow for better productivity. Additionally, the touch screen monitors they were going to use were free from the Arizona Office of Courts and they will train for free. Over the past year there have been no complaints to the city or any agencies by defendants, attorneys, victims, witnesses, observers, parties, the State Bar, the Commission on Judicial Conduct, or court staff complaints. He thought by the fact that the council did not hear any complaints spoke for itself. He went on to review money saving items and the fees the court had collected.

Council Member Pratt stated from everything he had seen, the Judge had done a great job, and had been innovative and saved some money. He had talked to attorneys, police officers, and a few people that were before him as violators, and he was impressed they all said the Judge was very fair and impartial and they were treated with respect. He advised the Judge to relax when he did get some criticism from the board and to treat it as a positive thing, as they were just trying to make what was a very good court better.

Mayor Joens stated they had two members from the JRAB commission and questioned if they cared to share anything.

Mr. Hoggard stated he was asked to come to the meeting tonight and was prepared to answer any questions or address any issues raised in their report, and thought the commission's report was fairly self explanatory.

Mayor Joens stated the council appreciated the work that they did. Normally, they would not ask for their help mid-year of a two-year contract, but they wanted to consider the Judge for merit pay as they did all other employees. She too heard from the public that they were happy with the Judge, his demeanor in court, and she thanked him for treating the public respectfully and fairly.

Council Member Pratt stated he thought the Judge deserved a merit pay raise.

Mayor Joens stated she thought they had been trying to do 5 percent for the employees the council hires. The exception was the city manager whose salary was way below what other managers in similar cities made.

Council Member Pratt stated he would approve that.

Judge LaSota stated his staff members--the court administrator and one of his clerks, recently had their evaluations and they were at 6 percent. He asked the council to consider the fact that he was a department head with some of the monetary good he had been doing and that they consider something above that level.

Mayor Joens stated she received info from Iris that was supposed to have been passed out to the Council. The Judge's salary was currently \$89,250 and a 5 percent raise would add \$4,462.50 to the salary which would make it \$93,712.50, if her calculations were correct. She then read the salaries cities and towns of similar size paid their judges, which ranged

from \$72,750 in Eloy to \$140,000 in Good Year.

A brief discussion ensued regarding which of the cities and towns judge's salaries mentioned were full time and part time.

Council Member Elinski stated as far as adjusting the salary to get it to where the market is right now, they were hoping to do that with the compensation study. He thought it was fair to give the Judge what they were giving to the rest of the employees, which was reasonable.

The consensus of the council was that it was fair compensation.

Mayor Joens then moved to approve the review our justice commission provided and to adjust for a merit pay five percent increase in salary. The motion was seconded by Council Member Pratt, and carried unanimously.

#### CLAIMS & ADJUSTMENTS

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

#### ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously. The regular meeting adjourned at 7:34 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 April 17, 2012. I further certify that the meeting was duly called, and that a quorum was present.

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Marianne Jiménez, City Clerk

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Date