

MINUTES OF THE WORK SESSION OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MAY 14, 2013, 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. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
Jesse Dowling, Council Member
Tim Elinski, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member

COUNCIL MEMBERS ABSENT

Ruben Jauregui, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Steve Horton, City Attorney
Marianne Jiménez, City Clerk
Rudy Rodriguez, Administrative Services General Manager
Dan Lueder, Development Services General Manager
Morgan Scott, Development Services Operations Manager

SETTING THE CITY'S STREET CONSTRUCTION PRIORITY LIST

Mr. Bartosh stated this was a strategic initiative that the Council identified and Mr. Scott and his staff were able to finally get it put together in terms of trying to identify what our street inventory was, what condition they were in, and a timeline of when staff would recommend preservation or maintenance on different streets.

Mr. Scott stated Council asked staff to survey the streets and come up with a list of projects so we can prioritize for budget reasons and to let the public know. He showed maps of city streets on the projection screen and stated the map allows us to identify the oldest chip seal out there. The first map showed what has been done in the past and the new map has what staff would recommend for the next couple of chip seal projects. Mr. Scott pointed out the streets on the map with relatively new pavement. Staff would recommend that we chip seal the new pavements to keep it in shape. We wouldn't need to put down a rubberized chip seal; we might just be able to get away with a seal.

Mayor Joens stated someone once told her that after you put asphalt on a street, you need to put chip seal within a year or two to seal it. It really is a protection so it has a longer life span, which is why we are doing it.

Mr. Scott stated we are increasing the life span of the streets and you can't seal too early. There is a healing process for the asphalt so it can air out. He then asked if there was anything on the map that was missing or they would like to see done sooner.

Mayor Joens stated we were looking at Grey Fox, Mesquite Hills, Contractor's Road, Happy Jack, Tierra Verde, and Vista Grande. It makes sense to her to treat those roads so we get maybe 20-30 years out of them instead of 10 or maybe 15, so that should be a priority.

Council Member Pratt stated there are a lot of streets in town that don't have a curb on them and those streets are falling apart.

Mr. Scott stated they divided the streets into four different categories. The first is the chip seal projects. The second is sidewalk priority. Third is total reconstruction. The fourth category are roads that are not in terrible shape, but the shoulders are degrading away because we have just put chip seal after chip seal and the shoulders aren't lasting. We are also building a lot of new parking lots that could benefit from a seal as well within the next couple years. He requested the Council consider that as a third priority.

The Council agreed.

Mr. Scott stated Rudy Rodriguez has requested that the Council might want to consider bumping back the chip seal projects by one more year.

Council Member Elinski asked if that one year would cost us five down the road.

Mr. Scott stated he can't tell him that, but he can say that most of the streets we are paving now are relatively new.

Mr. Lueder stated last budget year we went to a biannual chip sealing, because we get a lot better value out of a \$200,000 job rather than two \$300,000 jobs.

Mayor Joens stated sidewalks and streets are the utmost importance to the citizens that we serve.

Council Member Dowling stated bike lanes are really nice. He thinks the Council needs to be flexible and listen to the engineering department's suggestions.

Council Member Elinski stated in some of the historical neighborhoods it might be better to rethink the width and look of the sidewalks.

Council Member Pratt stated one of the major issues is the degradation of the edges. There are a lot of roads that is happening to.

Mr. Scott asked the Council if they were okay to move the chip seal project back one more year.

Mayor Joens asked if we skip a year, would it cost \$600,000 that next year.

Mr. Scott stated we were already scheduled to a \$600,000 project beginning next year after July 1.

Mayor Joens asked how many years since we did a project.

Mr. Scott stated it would be three years.

Mayor Joens stated that is too long to not work on a street.

Council Member Dowling asked if we were moving some of the chip seal and pavement preservation back in lieu of pursuing some smaller sidewalk projects.

Mr. Scott stated not in lieu of, since the sidewalk projects already has \$80,000, but Rudy asked us to cut some costs because the city's general fund is covering up for HURF since HURF is gone.

Mr. Lueder stated if we came back and decided if we weren't going to do the full blown \$600,000 this year and cut it in half to \$300,000, then maybe do \$100,000 worth of chip seal or fog seal and take care of some of the newer parking lots, and then take the other \$200,000 and come up with a couple different scenarios depending on what revenues look like. The parking lots are going to get a lot more use than the regular roads.

Mayor Joens stated we put a lot of money into raises and people are our greatest assets, but she doesn't want that to be at the sacrifice of the streets that the public holds near and dear. She hopes there is some kind of balance we can come up with.

Mr. Lueder stated he thinks we can, and we need to brainstorm some more to think up some more options.

Mayor Joens stated what she is hearing Council say is that we are willing to take a little bit of money from streets and put it into more sidewalks for now.

Mr. Bartosh stated he thinks staff can come back and give Council some recommendations on which particular street can wait one more year for chip seal in lieu of more sidewalks where we desperately need them.

Staff and Council discussed improving the sidewalks along Brian Mickelsen Parkway and Cottonwood Street.

Mayor Joens stated Cherry Street seems very important.

Council Member Elinski stated there is a curve on that street, where on Verde Heights there is no curve or anything to separate the vehicular pedestrian traffic. They have walked that many times on Verde Heights and he would think that would be for better safety.

Mr. Scott moved on to street reconstruction. There are two groups; streets we can go in and rip up asphalt and put in new asphalt, recent examples of this would be Skyline Drive, and the other is the larger projects which require replacing curb, gutter, sidewalk, and asphalt. 12th Street is the biggest priority and we need to get that going. The second priority is 10th Street, and we have grant funds to cover most of that project. The third and fourth priority would be Mingus Avenue from Willard to Main Street.

Mayor Joens asked if it would be possible to get some funds from Safe Routes to School.

Mr. Scott stated we can go after those funds. He asked what the next big priority is for the Council.

Mayor Joens stated Main Street is really important, but 6th Street is really important because it has our fire department, the recreation center, the county, the court, and the library, so that street is in a difficult kind of condition.

Mr. Lueder stated there are some drainage issues there as well.

Council Member Dowling stated it needs sidewalks on both sides of the street.

Mr. Garrison stated 8th Street has never been full width and it has caused problems.

SETTING STANDARDS FOR MOBILE VENDING PERMITS WITHIN THE CITY LIMITS

Ms. Nejad stated staff did a small study on this issue and they checked several communities out of state and also in Arizona. We did some comparisons with what we have and who has a better system and we consulted all these results. It is mainly food vending or mobile vending, meaning anyone who sells food or gives away only food from a mobile vending unit parked or on a public parcel of property. This can include catering trucks and ice cream trucks also. Currently the City of Cottonwood handles this issue in two ways; a peddler's license, through the finance department or through a temporary use permit through the planning department.

Council Member Elinski asked what the difference is between a peddler's license and TUP.

Ms. Nejad stated the peddler's license is through the finance department and it is just like ice cream trucks and they are mobile; they are constantly moving for those kind of activities. TUP process is mostly for events for a short time, a maximum of seven days, four times a year.

Ms. Jimenez stated the mobile vendors do not fall under a peddler. A peddler is going door to door and are handled through our police department and that is \$10 a day. This would fall under our street vendor permit. They have changed the internal rules on that and they now have to now get a Temporary Use Permit. A street vendor, if they were going to be on a private commercial parcel, could get what she would refer to as a regular annual business registration. So we have a peddler permit which is door to door and then we have a street vendor permit.

Mayor Joens stated she didn't think people could go door to door anymore.

Ms. Jimenez stated if they got a peddler permit they could go door to door.

Council Member Pratt asked so the barbecue people at Home Depot, that is a regular business license.

Ms. Jimenez stated that was correct. At one time we had the snow cone vendor in front of Wal-Mart. Those were mobile restaurants but they are in a permanent location so they would get a regular business registration which at the time was twenty dollars a year. At one time we had a hot dog cart at Apache and Main that were there for a short time, but again he was given a regular business registration. The temporary use permit came in about three years ago through the planning and zoning department, but what is still on the books is a street vendor and a peddler; there is a difference between the two. The mobile units would be a street vendor if they were parked in a location, either permanently or if they were not going to be parked there permanently then it would be under the TUP. The ice cream trucks would be issued a regular business registration, and there were only a couple of ice cream trucks and they weren't parked at the park selling but going through the neighborhoods.

Council Member Elinski asked if an ice cream truck wasn't limited on the number of days that they could operate.

Ms. Jimenez stated they were not, but she doesn't know what the finance or planning and zoning departments are doing now, since they used to be issued just a regular business registration and are allowed to go through the neighborhoods.

Council Member Elinski asked if the barbecue place had to stay at the one location and if they couldn't move around.

Mayor Joens asked about Rosie's Truck.

Ms. Jimenez stated that was also a regular business registration. They couldn't stay at anyone location more than 15 minutes at a time, so we had Rose's Mobile Vending, but she hasn't been out for a few years.

Ms. Nejad stated it has many parts and business registration is one portion, but she is mostly talking about the zoning part of it. So there are two options; a temporary use permit,

and costs for initial vendor use in Cottonwood. If they are going to be in one location, that would require a conditional use permit and fees change for that one. The fee goes to \$450 and the county health department goes \$635 for a total of \$1099.

Mr. Lueder stated the way the system works right now is not working. He is getting complaints from the police department that they are handing out a card telling them that they can be a peddler and basically they have no authority to do background checks. Staff has concerns about the liability of our police department issuing a permit for someone to go door to door. The purpose of the work session we had for tonight is we wanted to get direction from Council on how do we want to do peddler, and the next step is how we develop some of these ordinances. Then bring those back to the Council at a work session for review. What we want to do is get a system that works for all of the departments in the city. Planning and Zoning has to make sure the zoning is proper and we have to make sure we follow the regulations there, so what we are here to do tonight is not talk about how things used to be done or how they have been done, but what Council's wishes here and then we will react to that. We didn't want to write an ordinance without Council's input. There is a wide variety of issues here. He doesn't think there are as many peddlers these days as there used to be, but they are a problem. Simply because they can come in, and go down and pay a small fee and go about their business.

Mr. Bartosh stated it is important that this is more than just peddlers; that we are also talking about vendors too.

Council Member Pratt stated he likes that they did a lot of work on this here and he read the recommendation pretty closely and they are pretty good recommendations.

Council Member Elinski stated he didn't know anything about the peddler's license and he didn't even know we had such a thing, but he does see that as a very separate issue from the mobile food vending process. He was surprised to see that they want to do a background check for the mobile food vending. He is not sure where that is coming from.

Ms. Nejad stated most other cities do that.

Council Member Elinski asked if it was about the peddlers or all of them.

Ms. Nejad stated all of them.

Council Member Elinski asked if the ice cream truck vendors get fingerprinted.

Ms. Nejad stated she thought they should be the first ones.

Mr. Bartosh stated they should be.

Ms. Nejad stated the City of Scottsdale does.

Mayor Joens stated they stop in front of her house because there a lot of kids across the street, and there are tiny little kids all around this truck. How do we know that the parents are going to be home and the kids are not going to be snatched or something?

Council Member Elinski stated he doesn't see it as an issue, if a kid can walk into a store, why shouldn't they have background checks too.

Mr. Bartosh stated from a public safety perspective, these are people who are not associated with one location. In essence they can move anywhere and can leave in the night kind of thing and so what you want to do is make sure that they have a background check and that you are doing due diligence for the public to make sure when you license these people that they are law abiding folks that have not put the public at harm.

Council Member Elinski stated it would seem that would open us to more liability if we don't do that consistently across the board, because if there were an issue with an ice cream truck snatching a kid taking them in the middle of the night and we did a background check and they still stole that child or whatever, it just seems like it would open us up to more liability. If the city is going to do that, for mobile vendors, then they should do it for all the business licenses.

Mr. Lueder stated the difference is these people are going out into public, once again, keep in mind these are staff recommendations.

Mr. Horton stated he is thinking about the public safety aspect, and thinks we need to do everything we can and there are limits to how much investigating we can do, but the polestar is public safety. Back to the Mayor's point that we prohibited door to door peddlers, we do have a provision in our code that people could post against peddlers and then it is a violation of the city code to defy that section. He thinks that some procedure for investigating the records and the safety of the people that are engaging in these business is appropriate.

Council Member Pratt stated these recommendations seem really sound and they are taking from other cities and towns best practices.

Mr. Bartosh stated and we could ask Steve to check to find out what the other city attorneys who do this and is there case law behind it that requires it.

Mayor Joens stated she was wondering why they would be treated differently than other businesses.

Ms. Nejad stated that they have to have a state issued ID at some of the places. If they don't have it, then they can lose their licenses.

Mr. Horton stated there may be limitations under Arizona law or system we have access to, but he is looking at the State of Washington compounded this stuff from all municipalities

across Washington and other states. The investigation procedures that he has looked at makes it the duty of the chief of police to look at the credentials presented to determine if the applicant has a criminal record, to verify if the applicant has been truthful, and it is a pretty quick turnaround to do it, and then it talks about when a person would not be entitled to a license if they are within five years of a conviction of a felony or actually the service sentence of a felony and then you categorically deny if a person has been convicted of a series significant events. That is kind of due diligence that we can do, subject to the limitations, and we have heard from the chief on his limitations to background people based on their fingerprints.

Council Member Elinski asked if it was staff recommendation that all the employees will also need to get their fingerprint and background checks.

Ms. Nejad stated she is not sure about employees, but we can look into that.

Council Member Elinski asked if we can look into how many times this has been an issue as far as kids getting stolen away in the night or bad things happening.

Ms. Nejad stated the City of Phoenix and all of the valley do have it.

Council Member Elinski stated he doesn't doubt that, but he is asking if it has really been an issue or concern.

Mr. Lueder stated one of the things that has been a problem was that back east they would sell some drugs out these things. If you have someone with a burgerly conviction driving up and down the street casing people's houses.

Council Member Pratt stated again, all we have to do is ask other communities what legal basis they use to support this.

Vice Mayor Pfeifer stated you can read these also but mobile food vendor is anyone who peddles, vends, sells, displays offers, give away goods, or merchandise, blah, blah, blah on a mobile vendor, then on the mobile food vendor basically the same thing. At the same time, we have had merchants in town right around the corner from her for years and get candy and food from that little store and he was giving out drugs and selling drugs right in his store, so we have to tread pretty carefully on this, if we are going to be going after the mobile vendors and we are going to have to be more diligent with some of the stationary stores. Her granddaughter was not allowed to go anywhere near it because they were selling drugs out of the back door and selling candy in the front and there was all kinds of derelicts hanging out.

Mr. Horton stated it is okay for us to do the best we can in back grounding folks and the likelihood of liability to us is very remote. If we were just doing a reasonable job and doing the best we can to figure out if these people should doing what they are doing, unless we were grossly negligent and missed a flag, then we are immune from liability.

Council Member Elinski stated he likes to think that Cottonwood is a business friendly community and it seems to him that they are picking on this mobile food vending thing. If there is no overwhelming data that shows mobile vendors target people or case neighborhoods or have really committed any crime beyond serving junk food, then he doesn't see why we should make them get fingerprinted. He worked with kids a long time ago and he was fingerprinted and he understands because he was working directly with kids in daycare centers and that makes sense. In this situation he just doesn't see it as necessary and if we are going to do it for one business, than he thinks we should really do it across the board. As an example, he is a builder and remodeler and he goes into people's homes. Contractors far and away are worse than mobile food vendors as far as theft of private property and that kind of stuff.

Mr. Lueder stated this was not focused just on mobile food vendors, it was to present the research of what other communities are doing.

Mayor Joens stated it would be nice to know if a lot of other cities do actually do this that allow this.

Council Member Elinski stated the other cities might be allowing this because they don't want mobile food vendors in the community. He feels we shouldn't feel like we are targeting them or making them feel like they are being criminalized to come in and do business within the city. It may be that Scottsdale doesn't want them in the city.

Ms. Nejad stated they are not allowed in Scottsdale.

Mr. Dowling suggested that they look at places where mobile food vending is proper and encouraged and see what they have been doing.

Mayor Joens stated she has a mobile vet that is part of a stationary business, but there are a of lot stationary business that have trucks going out.

Mr. Bartosh stated they are actually going out to your house but are not vending out of their truck and we can make sure that is covered in the definition.

Mayor Joens asked if this was something we should take to the Chamber for discussion or comments.

Mr. Bartosh stated that is a good idea.

Ms. Nejad asked for direction from the Council on the following: do they want them all located in one area or do they just want to leave them free. Can they sell anything, or are they limited to what they are selling only, do you want them to be on the streets and streets close to or next to commercial zoning. Those areas would help staff to go from if they could provide some feedback.

Mr. Lueder stated if we can get people to be at least regulated where they are set up, because they are causing traffic problems, that way Code Enforcement can point to something and say they need to do this.

Mr. Bartosh stated he is sensing from the Council that what we need to do is go back and develop a little more detail for the Council to look at and give them some recommendation on vending on private or commercial property, vending on city property, all these issues and really come up with some ideas that the Council can mull over and probably come up with almost a draft policy that they can look at then go from there. He thinks staff has gotten enough direction from Council to go back and begin to look at what makes sense and bring it back at a work session and have a little bit more discussion.

Tamara Jarvis, owner of Gunners Barbecue, stated they were located at Home Depot but they wanted to eliminate us because they thought they could use the space more efficiently. They got the opportunity to set up at the Main Stage and that is where they got into what is required as far as zoning and whether or not she can be there. One of the issues was parking, but they are not taking up any of their parking spots. She does have a business registration and she does pay the taxes regularly. She is paying rent to them to be there.

Mr. Lueder stated this is one of the struggles that staff has. We have someone who has been in the community, who is a regular and follows the rules, yet there is nothing for staff to follow. We don't want to chase away the good vendors that are following the rules.

Mr. Bartosh stated since this process will take awhile, we can go work with vendors to see what we can do to make it work until we have a new policy that makes it work.

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Vice Mayor Pfeifer and carried unanimously.

The work session adjourned at 8:32 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 May 14, 2013. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date