

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD JULY 5, 2011, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

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

COUNCIL MEMBERS PRESENT

Karen Pfeifer, Vice Mayor
Jesse Dowling, Council Member
Tim Elinski, Council Member
Ruben Jauregui, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member

COUNCIL MEMBERS ABSENT

Diane Joens, Mayor

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jiménez, City Clerk
Steve Horton, City Attorney
Dan Lueder, Development Services General Manager
George Gehlert, Community Development Director

Jody Fanning, Police Chief
Commander Gary Eisenga
Officer Del Munday

PLEDGE OF ALLEGIANCE

Vice Mayor Pfeifer requested Commander Eisenga lead the Pledge of Allegiance.

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 the fireworks went off well for the Fourth of July event, and the Farmers Market was starting this Thursday at 5 p.m.

Council Member Dowling stated he attended the NACOG meeting last Thursday in Flagstaff.

INTRODUCTION OF NEW EMPLOYEES--POLICE OFFICERS JOHN RANKIN & JAMES REPP; AND PROCUREMENT OFFICER LISA ELLIOTT

Chief Fanning introduced two new Police Officers, John Rankin and James Repp; and Mr. Rodriguez introduced the new Procurement Officer, Lisa Elliott.

PRESENTATION OF THE 2ND QUARTER SAFETY AWARD TO CHERYL MISKIEL, FIRE DEPARTMENT ADMINISTRATIVE COORDINATOR

Council Members Norman and Jauregui presented a check and certificate to Ms. Miskiel for being selected to receive the city's quarterly safety award for the second quarter.

PRESENTATION OF THE EMPLOYEE OF THE QUARTER AWARD TO CHARLIE SCULLY, LONG-RANGE PLANNER

Council Members Dowling and Elinski presented Mr. Scully with a check and certificate for being selected as employee of the quarter for the second quarter.

CALL TO THE PUBLIC

Mr. Robert Oliphant, a Cottonwood resident, addressed the Council and stated according to his review of the city's website there were currently 20 public sessions of the Cottonwood City Council where the detailed minutes of those meetings have yet to be posted. He questioned when the minutes would be posted and asked for an explanation of what appeared to be a failure to post minutes of the Council's public meetings in a reasonable time on the website.

Vice Mayor Pfeifer requested staff respond to Mr. Oliphant's questions.

APPROVAL OF MINUTES—1/12/11 Strategic Retreat; 2/15/11 Regular Meeting; 4/5/11 Regular Meeting; 4/19/11 Regular Meeting; 4/26/11 Special Meeting; 5/25/11 Special Meeting; 6/7/11 Regular Meeting; and 6/14/11 Work Session

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

UNFINISHED BUSINESS—None.

CONSENT AGENDA—The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

RESOLUTION NUMBER 2591—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF CLARKDALE, ARIZONA, FOR POLICE DISPATCHING.

RESOLUTION NUMBER 2592—APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF JEROME FOR POLICE DISPATCHING.

RESOLUTION NUMBER 2593--APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY, EMERGENCY SERVICES DEPARTMENT FOR THE CONTINUATION OF UNIFIED EMERGENCY SERVICES.

NEW LIQUOR LICENSE APPLICATION FOR LORI MABERY, APPLICANT FOR THE BLAZIN' M RANCH, SUITE 1, LOCATED AT 1875 MABERY RANCH ROAD.

NEW LIQUOR LICENSE APPLICATION FOR LORI MABERY, APPLICANT FOR THE BLAZIN' M RANCH, SUITE 2, LOCATED AT 1875 MABERY RANCH ROAD.

ACCEPTANCE OF YAVAPAI COUNTY COMMUNITY FOUNDATION 2011 CANINE ENFORCEMENT GRANT, CONTRACT NUMBER 20120854.

APPROVING A SERVICE AGREEMENT WITH MINGUS UNION HIGH SCHOOL (MUHS) FOR THE COTTONWOOD POLICE DEPARTMENT TO PROVIDE A SCHOOL RESOURCE OFFICER FOR MUHS.

APPROVAL OF AN EIGHT FOOT SANITARY SEWER EASEMENT AND THIRTY FOOT TEMPORARY CONSTRUCTION EASEMENT ACROSS A CITY OWNED PARCEL OF LAND IDENTIFIED AS APN 406-04-024A.

Council Member Pratt moved to accept 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.

PUBLIC HEARING REGARDING ADOPTION OF THE CITY'S TENTATIVE BUDGET FOR FISCAL YEAR 2011-12

Mr. Rodriguez stated prior to the adoption of the budget a public hearing is held for the public to comment on the budget. The proposed budget was posted on the city's website.

Vice Mayor Pfeifer opened the floor to the public.

Mr. Robert Oliphant, of Cottonwood, stated in going through the budget he kept looking for the priorities the Council had set for the city for the coming years, which he could not find. He questioned what the top five priorities the Council had set were. The latest census data, according to the budget information, indicated that the Cottonwood population had dropped by over 900 residents in a single year. The tentative budget appeared not to consider this downward trend in population, which he thought was a major consideration in any budget discussion. The budget indicated there was a little under \$7 million carry-over in the budget. He questioned if that meant that \$7 million in the current budget was not spent or what did it mean. He questioned what the Council was going to do in terms of a detailed explanation of the apparent huge increase over the past four years in the operational costs of the water

utility. The citizens of Cottonwood would like to know what an employee who grosses \$30,000, \$60,000, and \$90,000 actually brings home after social security, all the other deductions including potential medical deductions.

There were no further comments from the public, and Vice Mayor Pfeifer closed the public hearing.

Mr. Rodriguez stated the Strategic Plan reflected the priorities for the City Council. For 2010 we had a population (census) count and every other year our estimates were based on DES projections. As far as a 7 million dollar carryover, those were reserves that were set aside. The reason the reserves jumped up quite a bit was during the course of the year the Council decided to retract all sales tax back to the general fund in order to protect the general fund which made the fund balance grow. We have well over 4.6-4.7 in reserves set aside for this coming year; all of it set aside by Council actions in previous years. Because the economy went bad did not mean our suppliers had cut their costs. The water systems we purchased were in very ill repair. This was not an inexpensive operation, it was an operation that needed help and had greatly improved. The increase in our indirect costs was the nature of the business. As far as the employees' deductions, the city matched the same amount of retirement as they put in. The health insurance percentage goes out across the board for everybody, not necessarily on their pay, but on the cost of the health insurance for dependent coverage.

ADOPTION OF CITY'S TENTATIVE BUDGET & EXPENDITURE LIMITATION FOR FISCAL YEAR 2011-12

Mr. Rodriguez stated the tentative budget currently stood at \$78,422,500. The big change was we were no longer pursuing the refinance which was about 36.9 million dollars which was cut out, and we were going to concentrate on meeting our bond covenants. This budget was about 18 million dollars over the fiscal year that just ended. The big difference being we were budgeting a lot of our reserves, had projects that began last year that were rolled over into this year, and new projects starting off this year. Pages 3 & 4 of the handout given to the Council contained all the changes that were recorded between the proposed budget and the tentative budget. Within the motion to adopt the budget there were a number of things that would be approved. Funding the cities merit program. We will still have frozen positions, and there were no reclassifications or salary adjustments. We will be initiating a compensation study over the course of the year. They hoped to have that completed in March or early April and use it for the budget planning process for next year. We will continue the present employee contribution structure for dependent health care. The purchase of budgeted equipment on a delayed schedule, and the acquisition, planning, and construction of budgeted capital projects. This was a balance budget as required by the state and all expenditures had a revenue source.

Council Member Pratt moved to adopt fiscal year 2012 tentative budget and establish the city's fiscal year 2012 expenditure limitation as presented. The motion was seconded by Council Member Norman, and carried.

AGREEMENT WITH WOOD PATEL FOR ON-CALL UTILITY ENGINEERING SERVICES

Council Member Dowling declared a conflict of interest on this item due to his employment for a firm that was also in the running for these services.

Mr. Lueder stated the city had not had an on call engineering contract since the agreement with Coe & Van Loo expired several months ago. We have created an engineering division that was doing a lot more of the work that we used to contract out. However, with the economy picking up we need to have an engineering consultant on call to help on large projects or when the workload got too heavy for the two engineers we had on staff. Statements of Qualifications for engineering services were advertised and eight proposals were received from engineering firms around the state. The proposals were reviewed by a committee which consisted of: Utility Engineer, Troy O'Dell; Utilities Administrative Manager, Roger Biggs; and Engineering Technician, David Hausaman. The top three rated firms were invited to attend an onsite interview process. The scoring of the final candidates showed Wood Patel was the highest rated firm. Staff recommended Wood Patel be approved to be the utility on call engineering services, with a contract for a one-year period with the option to renew the agreement for an additional four years, subject to Council approval.

Following a brief discussion regarding the scoring process, Mr. Oliphant addressed the Council and questioned if this was made necessary by the transfer of one of city's top engineers, Tim Costello, from this engineering position to that of the airport FBO; and whether a person by the name of Mr. Knickerbocker was anyway involved with the company that received the bid.

Mr. Lueder responded that Mr. Costello had not ceased doing engineering work; he had the background to work at the airport. There was a Mr. Knickerbocker, who had done good work for us in the past, had intimate knowledge of the city, and was recognized as one of the top engineers of the state.

Council Member Jauregui moved to approve the agreement with Wood Patel for on call utility engineering services, subject to final review and approval of the agreement by the City Attorney. The motion was seconded by Council Member Elinski, and carried unanimously.

APPROVAL OF A DESIGN/BUILD CONTRACT FOR THE INSTALLATION OF PHOTOVOLTAIC SOLAR PANELS AT THE COTTONWOOD AIRPORT

Mr. Magarpan stated this was a follow-up to the grant approval from the state for energy projects. This was a design/build contract for the installation of solar panels at the airport. The contract was advertised and five firms submitted statements of qualifications. A selection committee ranked these firms and selected the top three firms to come in for an interview, and Kinney Construction was the highest ranked firm of the interviewees. Staff had worked with them to develop a proposal that was satisfactory to the city as well as within the budgeted grant money. This project would not cost the city anything.

Council Member Pratt questioned who was on the committee, and Mr. Margarpan stated himself, Troy O'Dell, Morgan Scott, and you had to have a public contractor involved and that was Mark Millar.

A brief discussion ensued regarding the scope of the project that would be determined as part of the design process while keeping within the budget of the grant.

Council Member Norman moved to authorize the Mayor to sign the contract with Kinney Construction Services in the amount of \$89,950 for the design/build contract to install a PV system at the Cottonwood Airport as funded by the American Recovery and Reinvestment Act with the Arizona Commerce Authority Energy office. This authorization is subject to final review and approval of the contract documents by the City Attorney. The motion was seconded by Council Member Pratt, and carried unanimously.

IMPLEMENTATION OF AN ADMINISTRATIVE FEE NOT TO EXCEED \$150 FOR COSTS RELATING TO THE REMOVAL, IMMOBILIZATION, IMPOUNDMENT, STORAGE AND/OR RELEASE OF VEHICLES, IN ACCORDANCE WITH ARIZONA REVISED STATUTES SECTION 28-3513

Commander Eisenga and Officer Munday gave a PowerPoint presentation regarding the implementation of an administrative fee for administrative paperwork the police department processed for vehicles that had been impounded due to the following reasons: a driver is suspended cancelled or revoked in their driver status while driving a motor vehicle; if the driver had never been issued a valid Arizona driver license or valid in any other jurisdiction; or a person that is subject to an airlock device which is a breathalyzer associated with the ignition key that is not functioning properly and they are driving. An officer shall also cause for removal a vehicle if all of the following apply: a person's driving privilege is cancelled, suspended or revoked; not in compliance with the financial responsibility requirements and are involved in an accident; if the person is extreme DUI or underage consumption while driving. Impounded vehicles were towed and placed into a 30-day hold at a tow company. The only way to get their vehicle back is through a post storage hearing where the owner of the vehicle is allowed to come to the police department and ask for a hearing. They have to provide a valid driver license, registration, and proof of insurance. Per A.R.S. § 28-3513, the implementation of administrative charges were allowed by the impounding agency for post storage hearings for the release of the property. The Police Department was requesting an implemented fee of \$150, unless the vehicle had been reported stolen at the time the vehicle was impounded. In 2010 the police department conducted 79 post-storage hearings, and from January 1, 2011, through June 2011, they had conducted 56. At \$150 per hearing this would have resulted in a collection of \$8,400. Numerous man hours were involved in the impoundment and early release hearings which averaged 4.9 hours total.

Council Member Pratt stated it looked like they were asking people who have had their vehicles impounded because they broke the law to pay for the impounding because of the time it takes officers to serve. They were not asking innocent people to pay money; they

were asking people who had taken the police officer's time to pay for that time, and he thought they should.

Council Member Jauregui questioned if that wasn't what the police department got paid to do anyway.

Commander Eisenga stated these were administrative charges for the post-storage hearing that was not the "normal" function of the Police Department, but was allowed in A.R.S.

Chief Fanning stated the state mandated that they must impound these vehicles where in the past they had the ability to have discretion. The recourse they allowed them was to charge an administrative fee because of the extra work the state was mandating they take on.

Council Member Jauregui stated part of the list of what was stated was done for an impoundment were things he thought were routinely done by the police department, and now we were going to place a fee on top of that, which was concerning to him.

Discussion ensued regarding the fees established by the private tow companies which were a maximum of \$15 per day; the notices that were sent to anyone that had any type of an entitlement to that vehicle, such as the banks, a lien holder, private entity, or any other registered owners on the title following the impoundment; and the time involved by police personnel for impounding a vehicle and conducting the hearings.

Mr. Oliphant questioned if there was an appeal from this post seizure of the vehicle, and what if the owner was indigent and unable to pay. He agreed with Council Member Jauregui that some of this was duplicitous. He also questioned if the amount charged for these administrative hearings should somehow reflect the average annual income of the community.

Council Member Dowling stated if somebody was indigent or in a situation where they didn't have the money there was a fair chance either they wouldn't be driving or they wouldn't be in the situation where they would even have to deal with this problem, unless their car was stolen and then they could report it stolen and the onerous would not then be on them, it was on whoever took the vehicle.

Mr. Horton stated as to the appeal process, he did not think there was one beyond the hearing, and thought that would be the final decision of the city. The remedy would then be the review under the administrative review act by the Superior Court for an action of the city that is deemed arbitrary, capricious, or unreasonable.

Following discussion regarding the amount of the hearing fee, Council Member Dowling moved to authorize the Cottonwood Police Department to charge an administrative fee not to exceed \$150 in connection with the removal, impoundment, storage and release of

vehicles in accordance with A.R.S 28-3513. The motion was seconded by Council Member Pratt, and carried with a dissenting vote by Council Member Jauregui.

RESOLUTION NUMBER 2590—DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "THE 2011 AMENDMENTS TO THE TAX CODE OF THE CITY OF COTTONWOOD"

Mr. Rodriguez stated the 2011 amendments to the Tax Code were required to be declared a public document which was accomplished by approving Resolution Number 2590.

Council Member Elinski moved to approve Resolution Number 2590. The motion was seconded by Council Member Norman, and carried unanimously.

Vice Mayor Pfeifer requested the City Clerk read Resolution Number 2590.

RESOLUTION NUMBER 2590

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "THE 2011 AMENDMENTS TO THE TAX CODE OF THE CITY OF COTTONWOOD."

ORDINANCE NUMBER 578—RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 2011 AMENDMENTS TO THE TAX CODE OF THE CITY OF COTTONWOOD" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS; FIRST READING

Mr. Rodriguez stated the Model Tax Code was a coordinated effort on the part of Arizona cities to achieve uniformity in tax administration. The updates had been reviewed and approved by the Unified Audit Committee. He then briefly reviewed the updates which were declared a public record available from the City Clerk.

Council Member Pratt stated essentially what this ordinance did was allow us to fulfill the requirements of the state statute and we legally had to do this, which Mr. Rodriguez confirmed.

Vice Mayor Pfeifer requested the City Clerk read Ordinance Number 578 by title only.

ORDINANCE NUMBER 578

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, RELATING TO THE PRIVILEGE LICENSE TAX; ADOPTING "THE 2011 AMENDMENTS TO THE TAX CODE OF THE CITY OF COTTONWOOD" BY REFERENCE; ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY AND PROVIDING PENALTIES FOR VIOLATIONS.

APPROVAL OF A DUAL AWARD OF THE CITY'S PHASED RETIREMENT PROGRAM TO ESI, INC., AND SMARTWORKS PLUS

Mr. Rodriguez stated a year ago the Council awarded the phased retirement program to Smartworks Plus. This program allowed employees that retired to come back to work for the city as contract employees. Shortly after the program was awarded a local company, ESI, came forward and requested to make a presentation regarding their company. The three general managers met with Phil Tavaci who took over the ESI company from his father, John Tavaci, and representatives from Smartworks. Both programs had certain strengths and the fees were about the same with the exception of the third year. One of the things Smartworks had was they do everything online from the application to entering hours into the system which was convenient for employees. The recommendation was to approve a dual award and let the employees decide which of the two companies they wanted to join. Both companies were under separate types of purchasing agreements; Mohave Contract and S.A.V.E. What staff wanted to do was contract with them for the duration of their separate contracts with the two different agencies, and then review the two companies to see if there had been any major changes that would allow us to go to a single company in the future.

Council Member Norman moved to dual award the phased retirement program and enter into agreements with ESI, Inc., and Smartworks Plus for the administration of the programs. The motion was seconded by Council Member Elinski, and carried unanimously.

CLAIMS & ADJUSTMENTS

Council Member Elinski moved to pay the claims. The motion was seconded by Council Member Pratt, and carried unanimously.

ADJOURNMENT

Vice Mayor Pfeifer moved to adjourn. The motion was seconded by Council Member Norman and carried unanimously. The regular meeting adjourned at 7:42 p.m.

Diane Joens, Mayor

ATTEST:

Marianne Jiménez, City Clerk

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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 July 5, 2011. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date