

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD SEPTMBER 17, 2013, 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 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  
Randy Garrison, Council Member  
Terence Pratt, Council Member  
Ruben Jauregui, Council Member

COUNCIL MEMBERS ABSENT

Diane Joens, Mayor

STAFF MEMBERS PRESENT

Steve Horton, City Attorney  
Matthew McLean, Deputy Clerk  
Rudy Rodriguez, Administrative Services General Manager  
Morgan Scott, Development Services Operations Manager  
Berrin Nejad, Community Development Manager  
Michael Kuykendall, Fire Chief  
Bruce Morrow, Transportation Manager

PLEDGE OF ALLEGIANCE

Barbara U'Ren, Cottonwood-Oak Creek School District Superintendent, and Dr. Paul Tighe, Mingus Union High School Superintendent, led 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 announced Thunder Valley Rally was this weekend; the Verde Valley Youth Commission will be hosting a Harvest Festival at the Verde Valley Moose Lodge on October 5; a recovery celebration would be held at Garrison park on Saturday; and the new accounting software will star rolling out.

INTRODUCTION OF NEW EMPLOYEES--FIREFIGHTER JOHN WESBROCK

Chief Kuykendall introduced Firefighter John Wesbrock to the Council.

## PROCLAMATIONS

### NATIONAL EMPLOYER SUPPORT OF THE GUARD AND RESERVE WEEK, SEPTEMBER 22-18, 2013

Vice Mayor Pfeifer proclaimed September 22-18 as National Employer Support of the Guard and Reserve Week and presented the proclamation to Luke Sefton from the Employer Support of the Guard and Reserve.

### PROCLAIMING SEPTEMBER 2013 AS RECOVERY MONTH

Vice Mayor Pfeifer proclaimed September 2013 as recovery month and presented the proclamation to Laurie Verder from the Verde Valley Guidance Clinic.

### PRESENTATION REGARDING THE COTTONWOOD-OAK CREEK & MINGUS UNION HIGH SCHOOL DISTRICTS' CONTINUATION OF THE 10 PERCENT BUDGET OVERRIDE ELECTION

Barb U'Ren and Dr. Tighe discussed with the Council the importance of the override election for the school districts.

### PRESENTATION BY SEDONA RECYCLES REGARDING THE SERVICES IT PROVIDES IN THE VERDE VALLEY

Alex Rovang from Sedona Recycles discussed all the programs that Sedona Recycles does in the community.

## CALL TO THE PUBLIC

Sondraya Bradley from Cottonwood, informed the Council about the purported dangers of smart meters that APS is scheduled to install and urged the Council take action to prevent it.

Elaine Brown, from the Village of Oak-Creek, spoke against smart meters.

Judi Iwata-Smith, from Cottonwood, spoke against smart meters.

Patricia Rohmer, from Cottonwood, spoke against smart meters and asked the Council for a waiver on her monthly sewer fees.

Lani Wyatt, from Cottonwood, spoke about the problems with the sidewalks and how dangerous it is for people in wheelchairs and all the cigarette butts lying around.

Fred Piper, from Cottonwood, informed the Council about the airshow that is happening at the Sedona Airport.

APPROVAL OF MINUTES—The Regular Meetings of August 6 and 20 and September 3, 2013 and the Special Meetings of August 13, 2013.

Council Member Pratt moved to approve the minutes of the regular meetings of August 6 and 20, and September 3, 2013, and the special meetings of August 13, 2013. The motion was seconded by Council Member Elinski and carried unanimously.

UNFINISHED BUSINESS

ORDINANCE NUMBER 600 - PROPOSING AN AMENDMENT TO SECTION 404.H.8.b OF THE CITY'S ZONING ORDINANCE, GOVERNING THE ALLOWABLE HEIGHT OF WIRELESS COMMUNICATIONS FACILITIES; SECOND AND FINAL READING.

Mr. Horton stated the current zoning ordinance limits the height of cell towers to 60 feet without exception. What staff is proposing as we work on a more comprehensive rewrite of that part of the zoning ordinance is to provide a legislative mechanism by which the Council, upon a certain showing on a case by case basis, would allow cell towers to exceed that 60 feet presumptive height limitation by an additional 30 additional feet. That showing would mirror the showing that would have to be made, and if it were made in federal court would entitle an applicant to a concession under local law and regulation an accommodation, and it would depend upon the test of the least intrusive alternative to provide adequate cell coverage and each carrier has that right under federal law. We are not proposing that the Council approve or entertain any specific development proposal tonight, what they are proposing is adopting this ordinance that would provide the mechanism by which an applicant could come in and offer proof that they would be entitled to exceed the 60 foot height limitations by up to 30 additional feet.

Council Member Garrison stated he had three issues with this wording and the revision in this ordinance. One is that it allows it any zoning district other than R1 in Old Town and he doesn't live in R1 and he doesn't want a 90 foot tower in his neighbor's backyard. If this is going to be allowed it should be restricted to commercial and maybe more industrial areas. Another problem he has is that it states the Council may hold a separate hearing; it doesn't say we will hold a separate hearing to discuss the findings of the commission. The other item is we may impose reasonable conditions upon an approval that is done by the commission. It doesn't say that the Council has the right to back that commission finding out.

Mr. Horton stated the way the ordinance or the code change would be structured, the Planning and Zoning Commission would serve as an advisory capacity only. The Council has the opportunity to call for a separate hearing. Originally the evidentiary presentation is made to the commission, which would then make findings and recommendation to the Council and at that point all the options are on the table and the Council makes the final decision. It is not a decision that is appealed to the Council, it is not even a decision, it is a recommendation from the commission to the Council. At that point the Council could deny, approve, approve with stipulations, or call for the evidence to be represented to you. Staff's

thinking about that was we wanted to maximize the Council's oppositions but we didn't want to write out the Planning and Zoning Commission which has the expertise and the resources to actually hear the matter in the first instance, and we didn't want to write them out of the process either.

Council Member Pratt stated he does appreciate the fact that it says the Planning and Zoning Commission shall hold a public hearing, so at least we will have a public hearing, but he must agree with Council Member Garrison that he would hate to see cell towers in the backyard and would like the cell towers be zoned to the commercial and industrial areas. He has received a lot of comments in the last week or so and a lot of emails from people who are a little worried about this and a little concerned. One of the concerns is health and then another concern is aesthetics.

Council Member Jauregui stated the tower is going to look like a tree and those are part of the things that the Council can control if and when it comes before the Council. He believes what legal counsel is trying to do is keep us in a good legal footing in order to avoid any kind of litigation that would be extremely expensive. We are no way giving our authority away. The Planning and Zoning Commission is just giving us their recommendation after they reviewed the information, so there is no way we are giving anything away. He doesn't have a problem putting it in the industrial commercial areas.

Council Member Elinski stated if they can come up with findings that show it would be more advantageous to them to provide better coverage in having it in a residential area, wouldn't they be able to circumvent the city process and go directly to the feds to have it placed in that area.

Mr. Horton stated they would have that option, however, litigation in federal court is time consuming and expensive. Everybody wants to avoid it and it is a last resort. This provides a pressure release valve in the city's code that will allow an applicant to make a showing. What the intent of this language is, is to provide you an opportunity on a particular case on a particular showing after staff has vetted it, after the city's RF expert has vetted it, after the planning and zoning has vetted it and then finally after this Council has vetted it. None of that has happened; there is no particular proposal on the table yet under this mechanism because the mechanism isn't in place yet.

Council Member Elinski stated he feels comfortable with the way the ordinance is written. He is not comfortable with cell phone towers in his backyard, but he thinks they have the option to review every application that comes forward.

Council Member Garrison stated this is written specifically for towers and he really has a hard time seeing a point where the Council is going to be looking for a way to put in a 90 foot tower in this community under its own accord. He questioned what is the benefit to the city other than staying out of a legal issue, and what is the benefit to us to have this tower in our community that we are not already getting where it stands now. We are already served well as far as he is concerned without starting to place these things around. He asked how

many other communities in our area allowed their ordinances to be changed specifically for cell phone towers or radio towers.

Mr. Horton stated he would like to refer to Berrin who has been doing the research on other communities and what they are doing. What they are finding is that our ordinance is more restrictive and other communities allow taller towers either as a matter of right or their ability to put them in. The applicants, under the current code, are able to establish towers up to 60 feet in height, so the city may wind up seeing shorter towers or maybe a single shorter tower.

Council Member Dowling stated it could end up being a large expenditure of taxpayer dollars in order to delay them from installing a tower placed at some point if the applicants decided to pursue a federal case. He then asked members of the audience who had a cell phone, and most of the audience raised their hands. He continued, stating he knows that we all use them and nobody likes the idea of the tower and nobody wants it in their backyard, but unfortunately unless we all decide to stop using our cell phones, they are going to be an inconvenient fact of life and the best we can do is manage it to be the least inconvenient possible.

Elaine Brown, from the Village of Oak Creek, stated she has her cell phone in a pouch that has silver fabric so doesn't attract the microwave radiation and it is on airplane mode so it is not constantly getting hit. She spoke against cell towers.

Alan Paxhia, from Cottonwood, spoke against the cell towers and was concerned for the airline pilots having trouble coming to the airport.

Greg Lake, an attorney representing Capital Telecom, spoke in favor of the ordinance. By and large most people in the community want good voice and data wireless coverage and they want that coverage with the least possible number of sites. What this ordinance will provide the Council is a way to reduce the number of towers that get built in this community. If you raise one tower incrementally you will reduce by a quantum factor the number of smaller towers that must get built throughout the rest of the community. They have the obligation to come before you and present the specifics, and the Council has the right to decide if they met that obligation.

Vice Mayor Pfeifer called up Ms. Nejad and asked her to explain her findings.

Ms. Nejad stated the research is still going on and she is not ready to answer those questions.

Council Member Pratt stated after hearing everything and Council Member Jauregui's point about avoiding litigation, it seems like this ordinance might be a good tool for the city to use. He can still be opposed to the towers, but it at least gives us a mechanism to have a negotiation, discussion and avoid litigation. His one remaining concern is the zoning. He has concerns about large towers in Cottonwood.

Mr. Horton stated to that point, the applicant has heard and will hear from staff that Council's view of any particular proposal will be strongly colored and informed if the project is proposed even in a high density residential area or anything other than a commercial or industrial place. Site matters, and under the jurisprudence, place matters. Nothing under federal law or case law deprives the Council the ability to look at the proposal in relation to the particular site that it is being proposed for.

Mr. Bartosh stated Sedona and Clarkdale have similar ordinances.

Patricia Rohmer, from Cottonwood, spoke against the towers and stated we have to consider the health ramifications.

Council Member Jauregui moved to approve Ordinance Number 600. The motion was seconded by Council Member Elinski and carried with dissenting votes by Council Member Garrison and Council Member Pratt.

Vice Mayor Pfeifer requested the Deputy Clerk read Ordinance Number 600 by title only.

#### ORDINANCE NUMBER 600

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, RELATING TO THE PERMISSIBLE HEIGHT OF WIRELESS COMMUNICATIONS FACILITIES, AND AMENDING SECTION 404.H.8.b OF THE CITY'S ZONING ORDINANCE

#### CONSENT AGENDA

PAYMENT OF THE FINAL INSTALLMENT FOR THE COST SHARING ARRANGEMENT WITH THE TOWN OF CAMP VERDE FOR THE SR260 LOBBYIST

RESOLUTION NUMBER 2717--APPROVING A GRANT AGREEMENT WITH THE UNITED STATES OF AMERICA, ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR THE INSTALLATION OF AN AUTOMATED WEATHER OBSERVATION SYSTEM (AWOS) AT THE COTTONWOOD AIRPORT

APPROVAL OF A CONTRACT WITH WOODRUFF CONSTRUCTION FOR INSTALLATION OF AN AUTOMATED WEATHER OBSERVATION STATION AT THE COTTONWOOD AIRPORT

CONSIDERATION OF A PERSON TRANSFER LIQUOR LICENSE APPLICATION FOR LISA G. YOUNG, APPLICANT FOR MY DOBRO LOCATED AT 1100 HIGHWAY 260. 5. CONSENT OF ASSIGNMENT OF TENANT RIGHTS FOR LOT 133 OF COTTONWOOD AIRPARK TRACT ONE--PARTS B&C, FROM BACKUS FAMILY INVESTMENTS, L.L.C., TO FIRST SAVINGS BANK, CUSTODIAN FOR LARRY CONIFER, IRA

CONSIDERATION OF A PERSON TRANSFER LIQUOR LICENSE APPLICATION FOR THOMAS E. OLIVAS, APPLICANT FOR OLIVAS MEXICAN RESTAURANT LOCATED AT 301 WEST HIGHWAY 89A

Council Member Pratt moved to approve the consent agenda. The motion was seconded by Council Member Garrison and carried unanimously.

Vice Mayor Pfeifer requested the Deputy Clerk read Resolution Number 2717 by title only.

RESOLUTION NUMBER 2717

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING A GRANT AGREEMENT WITH THE UNITED STATES OF AMERICA, ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR THE INSTALLATION OF AN AUTOMATED WEATHER OBSERVATION SYSTEM (AWOS) AT THE COTTONWOOD AIRPORT.

NEW BUSINESS

CONSIDERATION OF A REQUEST FROM SEDONA/VERDE VALLEY PRIDE, FOR WAIVER OF SECTION 9.12.030, A., ALCOHOLIC BEVERAGES, OF THE MUNICIPAL CODE IN ORDER TO SERVE AND SELL BEER AND WINE AT THE OLD TOWN ACTIVITY PARK FOR AN EVENT SCHEDULED FOR SEPTEMBER 28, 2013

Mr. McLean explained that we had received a special event liquor license for Sedona Pride to sell beer and wine at the Old Town Activity Park on September 28, 2013, and thus they would require a waiver of Section 9.12.030 of the municipal code.

Mr. Bartosh pointed out that this was granted last year for the same event and it was very well received and attended.

Council Member Dowling moved to waive section 9.12.030 A of the Municipal Code to allow Sedona Verde Valley Pride to serve and sell beer and wine at the Old Town activity park for an event scheduled for September 28, 2013, subject to the approval of the Arizona Department of Liquor Licenses and Control. The motion was seconded by Council Member Pratt and carried unanimously.

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY GREGORY LUCKEY, APPLICANT FOR SEDONA PRIDE, FOR AN EVENT SCHEDULED FOR SEPTEMBER 28, 2013, AT THE OLD TOWN ACTIVITY PARK

Council Member Pratt moved to approve the special event liquor license application submitted by Gregory Luckey, applicant for Sedona Pride, for an event scheduled for September 28, 2013, at the Old Town activity park. The motion was seconded by Council Member Dowling and carried unanimously.

APPROVAL OF A NEW INFORMATION TECHNOLOGY TECHNICIAN II POSITION (RANGE 21)  
AND ELIMINATION OF AN ACCOUNTING SPECIALIST II POSITION (RANGE 18) UNDER THE  
ADMINISTRATIVE SERVICES DEPARTMENT

Mr. Rodriguez stated we had an opening after Carol Brown fell ill and we had to replace that position. We were lucky enough to have Helen Bartels step up and accept the position. That left us with an opening in the utility bookkeeper position. With the new accounting system coming online, a lot of work that position had done will be alleviated and we are looking to eliminate that position. With the new communication center coming online and all the resources that will be necessary to bring that system online and also to maintain that system, our thought is to eliminate the utility billing clerk and hire another IT person and help eliminate some of the service contracts out there with the police department. We have a contractor currently that we are heavily using and our idea is to reduce his workload and thus reduce the cost.

Mr. Bartosh stated he commended Mr. Rodriguez for taking this step. He is proud of the steps we have made of integrating more technology into the city to make us more efficient. One of the concerns he hears from the staff is that we need more IT help. He thinks this is a good investment.

Council Member Elinski asked if at some point someone is going to make the Cottonwood website look nice.

Mr. Rodriguez stated we are still waiting for the branding to take care of that.

Council Member Pratt stated the IT people are overworked and it is a win-win because we save money by not using the contractor.

Council Member Elinski moved to approve new Information Technology Technician II position range 21 and eliminate the Accounting Specialist II position range 18. The motion was seconded by Council Member Pratt and carried unanimously.

CLAIMS & ADJUSTMENTS

Council Member Dowling moved to pay the claims. The motion was seconded by Council Member Garrison and carried unanimously.

ADJOURNMENT

Vice Mayor Pfeifer moved to adjourn. The motion was seconded by Council Member Jauregui and carried unanimously. The regular meeting adjourned at 7:53 p.m.

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Diane Joens, Mayor

ATTEST:

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Matthew McLean, Deputy 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 September 17, 2013. I further certify that the meeting was duly called, and that a quorum was present.

\_\_\_\_\_  
Matthew McLean, Deputy Clerk

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Date