MINUTES OF THE REGULAR COUNCIL MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

TUESDAY, JANUARY 14, 2014
6:00 P.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, January 14, 2014.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Linda Hatch; Councilmember Pat McKee; Councilmember Lon Turner; Councilmember Don Wojcik

Staff Present: Town Manager Robert Smith; General Services Director Cecilia Watts; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Chief Chuck Wynn; Police Lieutenant Vince Schaan; Police Officer Jeff Pizzi; Town Engineer/Public Works Director Ron Grittman; Civil Engineer Richard Straub; Utilities Supervisor Chris Bartels; Planner Ruth Mayday; Town Clerk Assistant Liz Hart; Town Clerk Jami Lewis (recorder)

1) CALL TO ORDER, INVOCATION; PLEDGE OF ALLEGIANCE; ROLL CALL

Mayor Marley called the meeting to order at 6:01 p.m.

Councilmember Best gave the invocation and Mayor Marley led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Recognition of various public body members for their past years of service. (Mayor Marley)

Mayor Marley acknowledged several citizens for their service to the Town on various public bodies.

b) Proclamation supporting the "Start By Believing" Public Awareness Campaign, sponsored by the Yavapai Family Advocacy Center. (Chuck Wynn, Police Chief)

Mayor Marley read the proclamation and presented it Kathryn Chapman with Yavapai Family Advocacy Center and Jerald Monahan, Prescott Police Chief, representing the Yavapai Coordinated Community Response Team, who spoke about the nationwide campaign to effect positive change for sexual assault victims.

3) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Council concerning a subject that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

Norma Bennett, Chino Valley business owner, spoke about the upcoming sewer fee increase and the difficulty many residents had in affording their payments.

Joel Baker, resident, spoke about Council's authority and responsibilities under the council-manager form of government.

Tracie Schimikowsky, Director, Chino Valley Area Chamber of Commerce, spoke about the UPS Store's grand opening and the Spring 2014 Citizens' Academy.

Melissa O'Neil, resident, spoke about problems with the sewer payment process, as well as issues in the neighborhood with sewer smell and bad water from the private water company.

4) RESPONSE TO THE PUBLIC

Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.

There was nothing to report.

5) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.

Mayor Marley read the Monthly Mayor's Report, which pertained to the status of the draft Strategic Plan.

a) Status report on the Road 4 South extension project. (Robert Smith, Town Manager)

Mr. Smith reported on the status of:

- Road 4 South extension project
- Granite Mountain Hotshot memorial bench and plaque
- General Plan update
- Economic Development Plan, Strategic Plan, and Financial Plan
- Grants being sought
- Prescott water system purchase
- Recent energy audit

Mayor Marley asked Mr. Smith to provide a written summary of these matters to Council.

6) **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

Council set down consent agenda items 6d and 6c.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve consent agenda items 6a and 6b.

Vote: 7 - 0 PASSED

a) Consideration and possible action to approve the December 10, 2013 regular meeting minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to approve the December 11, 2013 study session/retreat minutes. (Jami Lewis, Town Clerk)

c) Consideration and possible action to approve Financial Report for the month ended November 30, 2013. (Joe Duffy, Finance Director)

Councilmember McKee asked staff to clarify current revenues and expenditures. Finance Director Duffy explained that at 42% through the fiscal year, the Town had spent 40% of budgeted expenditures.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to approve consent agenda item 6c.

Vote: 7 - 0 PASSED

d) Consideration and possible action to approve Resolution No. 14-1021 to allow for the submission of an application to the Arizona Game and Fish Department for a Shooting Range Development Grant to accommodate the expansion of a 200 ~~foot~~ yard rifle range. (Ruth Mayday, Planner)

Council asked for clarification on several items. Ms. Mayday and Town Manager Smith reported that:

- Under the Town's agreement with the Sportsman's Club, the Town was obligated to seek funding for creating a 200 yard range. The application process required a conceptual plan, and due to the grant's tight timeframe, staff did not have the opportunity to bring the plan to Council.
- Although the conceptual plan included improvements for overflow and RV parking areas, these grant funds were not intended to fund them. While RV parking was important, not only for the shooting range but for other events at Old Home Manor, it was not the top priority and would need to be done separately in a phased approach.
- The grant was for $100,000 and had a 50% match that could be met through in-house engineering of the design and moving dirt, for which the grant money could not be used.

Mayor Marley commented about placing a discussion on the next meeting's agenda to form a committee to address further development at Old Home Manor.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to approve consent agenda item 6b.

Vote: 7 - 0 PASSED

7) ACTION ITEMS

a) (i) Consideration and possible action to hold a public hearing for 2014 Community Development Block Grant (CDBG) funding.
(ii) Consideration and possible action to select a project for CDBG funding.
(Cecilia Watts, General Services Director)

Recommended Action: (i) Hold public hearing; (ii) Approve the Chino Meadows 5 paving project as the Town's selected project for 2014 CDBG funding.

Councilmember Wojcik recused himself from this item at 7:02 p.m., to avoid any appearance of impropriety, as the matter could impact his neighborhood.

Acronyms used in this item:

CDBG (Community Development Block Grant)
DOH (Department of Housing)

Ms. Watts reported that:

- The Town received an allocation of CDBG funding through the Arizona DOH every four years. DOH notified the Town that it should expect approximately $264,220.00 in fiscal year 2014.
- Two public hearings were required as part of the funding process. 25 persons attended the first public hearing on November 12, 2013, and the only project proposed, by the Public Works Department, was for paving streets in the Chino Meadows 5 area. The overwhelming majority of the people in attendance were there to support this project, which was a continuation of projects in the Chino Meadows area to deal with drainage and access issues.
- Road projects were considered to be a high priority for DOH's five-year goals. One of the benefits of continuing a project in the same neighborhood was the ability to use the survey that was developed for the 2010 CDBG project, which "income qualified" the neighborhood, demonstrating a benefit to an area in which over 51% of the people were of low to moderate income.
- After this second public hearing, Council will formally vote on whether to use the CDBG funds for this purpose. Staff anticipated that in March 2014, once the application was complete, Council will be asked to pass a resolution allowing the Mayor to sign said application.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to open the public hearing.

Vote: 6 - 0 PASSED

Other: Councilmember Don Wojcik (RECUSE)

No one from the public spoke.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Linda Hatch to close the public hearing.

Vote: 6 - 0 PASSED

Other: Councilmember Don Wojcik (RECUSE)

Senior Engineering Project Manager Richard Straub reported that the project proposed to pave five streets in the Chino Meadows 5 area. Town forces would repair the roadbed to keep within the available funds and the project was anticipated to take one week. If pavement costs increased between now and construction, the project would have to be scaled back.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Linda Hatch to approve the Chino Meadows 5 paving project as the Town's selected project for 2014 CDBG funding.

Vote: 6 - 0 PASSED

Other: Councilmember Don Wojcik (RECUSE)

Councilmember Wojcik returned to the dais at 7:08 p.m.

b) Consideration and possible action to approve a Conditional Use Permit (CUP) for a 20 MW Photovoltaic Solar Facility in the AR-4 (Agricultural Residential 4 Acre Minimum Zoning District) on approximately 200 acres of real property located immediately north of the northwest corner of the property commonly known as Old Home Manor (2100 Old Home Manor Drive), and further described as Assessor's Parcel No. 306-02-300F. (Ruth Mayday, Planner)

Recommended Action: Approve the required findings and Conditional Use Permit (CUP) for the construction and operation of a 20 MW Photovoltaic Solar Facility at 2100 Old Home Manor Drive, as set forth in the proposed Use Permit.

Acronym used in this item:

CUP (Conditional Use Permit)
OHM (Old Home Manor)

Ms. Mayday reported that:

- Property owner/applicant, Wilkinson Investments LLC/RES America Developments, Inc., filed an application with the Town requesting a Conditional Use Permit for a 25-year period, to construct and operate a 20 MW Photovoltaic solar energy facility in the AR-4 Zoning District.
- On November 14, 2013, notices were mailed to the surrounding property owners within 300 feet of the subject property in lieu of a neighborhood meeting, as only one of the adjoining property owners was not a public utility, or a party to the proposed project, or the Town of Chino Valley, in accordance with the Unified Development Ordinance.
- A public hearing was held before the Planning and Zoning Commission on December 3, 2013, during which there were no public comments nor objections. The Commission voted to recommend approval and to forward an ordinance granting the Use Permit to Council.
- Upon review of the proposed ordinance, the Town Attorney advised staff that approval of CUPs did not require an ordinance and was more appropriately done by Council making the required findings and approving a document granting the use permit and setting forth the conditions of approval. The proposed CUP included the Commission's recommended

findings and conditions.

- Conditions of the CUP included: a landscaping feature at the entrance of the OHM industrial park; signage at the northeast corner of Perkinsville and Jerome Junction Road; extension of Jerome Junction Road to Rodeo Drive; fencing around the facility; and limiting the property to photovoltaic use. A small 2,000 square foot building would be used for storage and occasional use when people visited the site.
- Whether or not the facility would be turned over to APS was yet to be determined.
- Errors in the proposed CUP with regard to dates and zoning district designation will be corrected.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to approve the required findings and Conditional Use Permit (CUP) for the construction and operation of a 20 MW Photovoltaic Solar Facility at 2100 Old Home Manor Drive, as set forth in the proposed Use Permit.

Vote: 7 - 0 PASSED

c) Consideration and possible action to approve Agreement to Relocate an Overhead Transmission Power Line with Arizona Public Service (APS) for the relocation of conflicting power poles along the Road 4 South alignment, in an amount not to exceed $60,000.00. Funds to come from Roads Impact Fees, and will be accounted in the Capital Improvements Fund. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Approve the Agreement with APS for relocating conflicting power poles along the Road 4 South alignment, in an amount not to exceed $60,000.00.

Mr. Grittman reported that:

- The Road 4 South project had an APS 69Kv power line that was in conflict with recently acquired right-of-way and construction alignment. The proposed agreement will authorize APS to relocate the conflicting power poles to outside the right-of-way.
- Early in the project, staff reviewed roadway alignment alternatives that would have avoided the need for this relocation. As Road 4 South's existing alignment was located completely on right-of-way acquired from State Land, each alternative would require additional land from the State Land Department, which would have been significantly more expensive than relocating the APS power poles and would have resulted in significant delays to the project.
- Because APS owned and operated the electrical system, only they could perform the relocation and the Town did not have the ability to open this to a public bidding process.
- APS was recommending that they resolve the conflict by replacing the three existing wooden power poles with one large steel pole. APS developed various other options, but each option exceeded the proposed cost estimate.
- There was an error in the staff report: the power pole relocations would be done in phase 2, not phase 1, of the project.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the Agreement with APS for relocating conflicting power poles along the Road 4 South alignment, in an amount not to exceed $60,000.00.

Vote: 7 - 0 PASSED

d) Discussion and possible action regarding the Agreement for Professional Consulting Services with California Skateparks, approved on December 10, 2013, including but not limited to possible legal issues with California Skateparks owners and former business relationships. (Councilmember Linda Hatch; Councilmember Don Wojcik)

Recommended Action: Direction to staff.

Councilmember Hatch reported that:

- On December 27, 2013, several Town officials received an email through the Town's web server from Tim Donovan requesting that the Town Attorney investigate various allegations against the owner of California Skateparks ("CSP").
- In researching the matter, Councilmember Hatch found that the Los Angeles district attorney had filed criminal action against the company, and their corporate status had been revoked in California and Arizona prior to their agreement with the Town.
- However, presently, the district attorney's decision had been resolved without any admission of wrongdoing and CSP had agreed to pay legal fees. CSP's corporate status had also been remedied in Arizona.
- There were questions about Council needing to reapprove the agreement since CSP was not properly registered with the Corporation Commission when it was approved, as well as verification that there was no money coming back to the Town from CSP as a result of this agreement.

Bill Minadeo, Vice-President of Sales for CSP, stated that:

- The company's corporate status was revoked due to an address change and both had been remedied.
- CSP had a current general engineering license in Arizona, valid since 2012, and the company, which had constructed 20 skateparks in Arizona, had a good reputation in the state.
- No money was coming back to the Town..

Mayor Marley also noted that these legal issues related to construction matters, and the Town was only requesting design work from CSP.

Town Attorney Smiley advised that there was no requirement in Town codes or laws requiring an entity to have filed as a corporation with the Arizona Corporation Commission; executing the agreement during the gap in corporate standing would not cause the agreement to be re-approved; and the Town was protected by the agreement as CSP was now registered and in good standing.

e) Consideration and possible action to appoint applicants to fill vacancies on various public bodies. (Jami Lewis, Town Clerk)

Recommended Action: Appoint applicants to the Chino Valley Planning and Zoning Commission, Senior Center Advisory Board, and Municipal Property Corporation as recommended by the Council Appointments Subcommittee.

Ms. Lewis and Vice-Mayor Croft reported that the Council Appointments Subcommittee met on December 19, 2013 and January 8, 2014 to review applications for several public bodies and to interview an applicant for the Planning and Zoning Commission. The Subcommittee was recommending that Council:

- Re-appoint Michael Edmonds, Charles Merritt, and Florence Sloan, and appoint Gary Pasciak to the Planning and Zoning Commission, with terms ending January 31, 2017.
- Appoint Anita DeMello to the Senior Center Advisory Board, with term ending June 30, 2014.
- Appoint Travis Bard to the Municipal Property Corporation, with term ending June 30, 2015.

Should Council appoint these applicants, public body vacancies still existed on the Board of Adjustment, Industrial Development Authority, Parks and Recreation Advisory Board, and Senior Center Advisory Board.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to appoint applicants to the Chino Valley Planning and Zoning Commission, Senior Center Advisory Board, and Municipal Property Corporation as recommended by the Council Appointments Subcommittee.

Vote: 7 - 0 PASSED

Mayor Marley called for a brief recess at 7:39 p.m. and called the meeting back to order at 7:53 p.m.

8) EXECUTIVE SESSION

Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes:

a) Pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town of Chino Valley. (Mayor Marley)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to go into executive session for the reasons stated at 7:54 p.m.

Vote: 7 - 0 PASSED

9) ACTION ITEMS RESUMED

After the Executive Session, Council will reconvene the Regular Meeting.

Mayor Marley reconvened the regular meeting at 8:51 p.m.

Vote: 7 - 0 PASSED

a) Consideration and possible action to approve the proposed agreement with Cortez Enterprises, Inc. in settlement of claims and contemplated litigation. (Mayor Marley)

Mayor Marley reported that Council would take no action

10) ADJOURNMENT

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to adjourn the meeting at 8:52 p.m.

Vote: 7 - 0 PASSED

Chris Marley, Mayor

ATTEST:

Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 14th day of January, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 28th day of January, 2014.

Jami C. Lewis, Town Clerk