

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

**TUESDAY, FEBRUARY 9, 2016
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, February 9, 2016.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Susie Cuka; Councilmember Jack Miller; Councilmember Corey Mendoza; Councilmember Lon Turner

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittmann; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Lieutenant Vince Schaan; Police Sergeant Randy Chapman; Assistant Public Works Director/Town Engineer Michael Lopez; Development Services Director Ruth Mayday; Associate Planner James Gardner; Deputy Town Clerk 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 6:00 p.m.

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

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a)** Proclamation Supporting Increased Awareness Relating to Human Trafficking (Chris Marley, Mayor)

Mayor Marley read the proclamation and presented it to Scott Mabrey, Director of Juvenile Court services for Yavapai County, who spoke about the campaign to raise awareness on this matter.

- b)** Presentation for Chino Valley voters regarding the Presidential Preference Election on March 22, 2016 and the November 8, 2016 General Election. (Jami Lewis, Town Clerk)

Ms. Lewis presented a video on the Presidential Preference Election and reported on issues of public interest regarding the upcoming general election.

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.

Lee Paul, resident, mused about pumpkin pot pie, the ideal Chino Valley product.

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.

- a)** Comments in support of pressing ADOT for a traffic light at Road 1 North and State Route 89.

Mayor Marley read a report from Acting Town Engineer Michael Lopez that stated that Per ADOT and Central Yavapai Metropolitan Planning Organization (CYMPO), the subject intersection was not on CYMPO's current project schedule, nor was it an ADOT priority, due to a lack of fatalities. However, ADOT was considering bumping it up.

Craig Brown, County Supervisor and CYMPO Chair, reported that there had been very recent discussions about moving the project back into the five-year plan, and the County had found some money that might be available to help with the project.

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.

- a)** Status reports by Mayor and Council regarding current events.

Councilmember Best reported on possible JTED program funding increases in the state budget.

Vice-Mayor Croft reported on the upcoming Citizen's Academy starting March 3.

Mayor Marley read the Monthly Mayor's Report, which pertained to future options resulting from the Town's failed attempt to acquire the Prescott water distribution system within the Town.

- b)** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

Mr. Smith presented permitting and valuation statistics from 2013-2015.

- c)** Report regarding new Council study session schedule and agenda item submission timeline. (Jami Lewis, Town Clerk)

Ms. Lewis briefed Council on the new submission timelines resulting from the study session schedule changes adopted last month.

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.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to accept consent agenda items a and b.

Vote: 7 - 0 PASSED - Unanimously

- a) Consideration and possible action to accept the January 19, 2016 study session minutes. (Jami Lewis, Town Clerk)
- b) Consideration and possible action to accept the January 26, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)

7) ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to modify the invocation portion of the Council meeting. (Mayor Marley)

Recommended Action: Instruct staff to implement any proposed changes.

Mayor Marley reported on:

- Communications he had received from other councilmembers, the public, and the media on the matter.
- Council discussing the matter and receiving public input.
- Federal- and state-level practices with regard to invocations.

Public Comment:

Shelli Mihelich, resident, spoke about being respectful to others regardless of religion, and there being nothing malicious about councilmembers' prayers.

Christopher Marley spoke about not acting on emotions alone and the councilmembers' being able to call upon the god they believed in.

Donna Armstrong, resident, did not support moments of silence, as veterans had fought to preserve religious freedom.

Lee Paul, resident, opposed political correctness and supported the freedoms to speak and pray.

Peggy Trout, resident, thanked Council for standing up for religious rights.

Katie Napp, resident, thanked Council for standing up for good.

Mayor Marley reviewed, and Council and staff discussed the following possible actions:

- *No invocation at all:* No councilmember supported this. One comment was that in studying separation of church and state, there was nothing against prayers.
- *Moments of silence:* No councilmember supported this.
- *Neutral prayers:* No councilmember supported this.
- *Rotating clergy:* No councilmember supported this. Comments were that would turn invocation into 'karaoke night;' and as their prayers were being given by themselves personally, it was up to them as individuals to decide how to pray; and bringing in clergy brings the prayer more into the public domain than them praying as individuals.
- *Council-sponsored individuals:* This option might face a constitutional challenge.
- *Ask folks who may be offended to wait outside during invocation:* Town Attorney Smiley stated that this issue was uncharted territory as far as constitutional law and she saw nothing in case law about it. Comments were that it could require announcing that before the prayer, or that option could be added to the bulletin.
- *Read a disclaimer before prayer:* The mayor recounted that he did this tonight, and he supported it, as he believed it kept Council within bounds of first amendment rights. Another councilmember did not prefer it.
- *Offer prayers without a disclaimer and let citizens vote their support or non-support at the ballot box:* Several supported this option. Comments were that this option could be challenged, and while they were willing to defend it, they would want to hear from the public on it.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to continue with prayer the way it is and not change it at all.

Vote: 7 - 0 PASSED - Unanimously

Mayor Marley asked if Council would support the Town Clerk's office placing a notice about the invocation. No one objected.

Mayor Marley recessed the meeting at 7:03 p.m. and reconvened it at 7:17 p.m.

- b) (i) Public Hearing regarding application from Sonia Martinez for a person transfer and location transfer of a Series 6 (Bar) Liquor License for Casa Chica, located at 443 Butterfield Road, Chino Valley.
- (ii) Consideration and possible action to recommend approval for the person transfer and location transfer of a Series 6 (Bar) Liquor License for Casa Chica. (Jami Lewis, Town Clerk)

Recommended Action:

- (i) Hold Public Hearing.
- (ii) Recommend approval for a person transfer and location transfer of a Series 6 Liquor License for Casa Chica.

Staff Report Summary: The Police and Planning Departments reviewed the application and recommended approval with no comments. Staff posted the establishment with the necessary notices to meet the required 20-day period, and staff received no written arguments in favor of or in opposition to the application.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to hold the public hearing.

Vote: 7 - 0 PASSED - unanimously

No one from public spoke.

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

Vote: 7 - 0 PASSED - unanimously

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to recommend approval for a person transfer and location transfer of a Series 6 Liquor License for Casa Chica.

Vote: 7 - 0 PASSED - Unanimously

- c) Consideration and possible action to rezone parcel 306-33-005D from Commercial Light (CL) to Commercial Heavy (CH), consisting of approximately 1.38 acres, located at 1448 S. State Route 89; Section 34, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona. (Agent: Charlie Arnold) (James Gardner, Associate Planner)

Recommended Action: Adopt Ordinance No.15-808 rezoning approximately 1.38 acres of real property generally located at 1448 S. State Route 89, from Commercial Light (CL) to Commercial Heavy (CH) zoning district.

Mr. Gardner presented on this item:

- *Location:* The subject structure was the former NAPA store.
- *Purpose of request:* To allow for light manufacturing and welding.
- *Proposed uses and structures:* Additional 6,000 sq. ft. facility, parking lot improvements, office space, on-site light manufacturing/welding, and sales of Conex containers.
- *Public concern:* The public's main concern was medical marijuana activity. This property had no current medical marijuana rights, nor would it with the zone change.
- *Conformance:* The request was in conformance with the General Plan's recommendation for a commercial corridor along State Route 89; surrounding parcels had compatible zoning; and the applicant met the public participation requirements.
- *Planning and Zoning Commission recommendation:* On January 5, 2016, the Commission voted 6-0 to recommend approval.

Council asked for more detail on the following topics:

- *Surfacing:* Double chipseal, or asphalt to concrete would be required.
- *Traffic:* The site would be closed to the public; the only traffic would be from employees.
- *Fencing:* The current fence might need to be moved back due to encroachment on one right-of-way. The applicant had not requested alternate landscaping.
- *Neighboring residential property:* The parcel to the south was split-zoned CL/AR. The current use on the AR portion of that property was a home, but the first 300 feet off the highway was Commercial, and subject rezone was 285 feet off the highway.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to adopt Ordinance No.16-808 rezoning approximately 1.38 acres of real property generally located at 1448 S. State Route 89, from Commercial Light (CL) to Commercial Heavy (CH) zoning district.

Vote: 7 - 0 PASSED - Unanimously

- d) Consideration and possible action to approve a Protected Development Rights Plan (PDR Plan) for the property located at 2144 N. Road 1 East. (Applicant: Zoned Properties, Inc.) (Ruth Mayday, Development Services Director)

Recommended Action: Approve PDR Plan 16-001 for the property located at 2144 N. Road 1 East, encompassing approximately 58.3 acres.

Staff Report summary:

- On January 26, 2016, the Town Council approved Ordinance No. 16-811, amending the Unified Development Ordinance (UDO) to allow the cultivation of Medical Marijuana ("MMJ") only in the I (Industrial) zoning district. Prior to the effective date of the amendments, February 26, 2016, medical marijuana cultivation was permitted in several other zoning districts, either by right or with a conditional use permit. There were owners of existing facilities in these zoning districts whose planned expansions will not be permitted when the amendments become effective. Through the approval of a Protected Development Rights Plan ("PDRP"), owners of land currently zoned for cultivation of medical marijuana will preserve their right to expand.
- Staff found that the subject PDRP met the requirements set forth in ARS §9-1202 and that the plan as submitted constituted a phased plan and should be approved for the period of five years, as requested.

Ms. Mayday presented on this item:

- *Purpose of the PDRP:* The subject PDRP would enable the property owner, whose land uses were affected by the recent UDO amendments, to continue the use and get his project completed in five to seven years from the time Council approved the development plan.
- *PDRPs:* The development rights to be secured had to be shown on the plan; and while the developer might easily amend his plan, the Council was very limited in its ability to change the requirements or the PDRP.
- *Proposed PDRP:* Ms. Mayday reviewed the proposed PDRP, which included development of various uses—hay cultivation, vineyards, residential, and solar facilities—in three phases.

Council asked about requirements for earlier phases to be completed before later phases commenced.

Ralph Pew, attorney for the applicant, reported that:

- The property owner concurred with staff's recommendation.
- The phased PDRP contained roughly 60 acres. The plan did not require that every portion of every phase be completely developed before the next phase began. However, they were willing to commit to the hay, vineyard, and solar uses being completed before commencing on the second MMJ extension.
- The PDRP was not a final site plan. It designated allowed uses in a master plan and would still require Council approval of a final site plan.
- The point of the plan was to restrict the property owner in his expansion and right of MMJ production. Cultivation of MMJ in the first phase was about one to one and a half acres. The second phase will have around three to four acres of cultivation.

- They expected to do the agricultural and solar uses within 18 months. Housing was more unpredictable.

Brian McClaren, Phoenix resident and associate of the applicant on the real estate development side, spoke about the phased development plan from the viewpoint of water, sustainable development, and renewable energy. They invited public comment on desirable uses for the property.

Town Attorney Smiley stated that Council was within its right to condition approval by requiring the hay, vineyard, and solar uses to be done before MMJ cultivation development began.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Corey Mendoza to approve PDR Plan 16-001 for the property located at 2144 N. Road 1 East, encompassing approximately 58.3 acres, and include in the plan for hay, vineyard, and solar will be complete before Phase 3 begins.

Vote: 7 - 0 PASSED - Unanimously

- e) Consideration and possible action to approve Financial Report for the six months ending December 31, 2015. (Joe Duffy, Finance Director)

Recommended Action: Approve Financial Report for the six months ending December 31, 2015.

Mr. Duffy presented on this item:

- Overall, the Town's financial condition was right on target; revenues were up 6% in the general fund; and expenses were a little bit higher, but were only at 47% of budget.
- Major Revenues: Most were higher than last year.
- HURF: There were increased expenses for equipment payments.
- Water Enterprise fund: There were inflated revenues and expenses due to water leaks at the Parks.
- Sewer Enterprise fund: Buyin fees were down; user fees were up; some increased maintenance expenses were planned.
- Capital Improvement fund: This was right on target pending reimbursement from Yavapai County Flood Control District.

Mr. Duffy then reviewed the following minor funds, which were used for capital or expansion, not day-to-day issues: Senior Center donations; Grants funds for Police, Animal Control, Senior Center, Library, Development Services, Public Works, Parks and Recreation, and Shooting Range; Special Revenue funds for the court; Capital Asset Replacement Fund; Impact Fee funds; Special Revenue fund for PD; and Street Lighting Improvement Districts. He recommended that staff eliminate transfers from the PD fund to the general fund, and just let those fees stay in the PD special revenue fund and be used for special equipment only.

Mayor Marley asked for a report on the amphitheater down the road.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Financial Report for the six months ending December 31, 2015.

Vote: 7 - 0 PASSED - Unanimously

- f) Consideration and possible action to approve the Letter of Support for a proposed roundabout at Road 5 North and State Route 89. (Michael Lopez, Acting Public Works Director/Town Engineer)

Recommended Action: Approve Letter of Support for the proposed Road 5 North roundabout.

Mr. Lopez reported that:

- ADOT recently asked the Town to offer support for the proposed Road 5 North roundabout. He and Associate Planner Gardner drafted a letter which either he or the mayor could sign. ADOT requested the letter by the end of the week.
- With the Town's support, the project will be presented to ADOT as a minor district project. Funding for it was not complete, but as ADOT was aware of the dangers at the intersection, they could at least get the process started.
- The Road 5 North project was intended to be similar to that of Road 4 South, which was a unique design and set a precedent for all future roundabouts with heavy truck traffic.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Susie Cuka to approve Letter of Support for the proposed Road 5 North roundabout, for the mayor's signature.

Vote: 7 - 0 PASSED - Unanimously

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.

No action taken.

9) ACTION ITEMS RESUMED

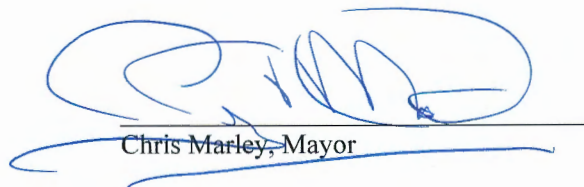
After the Executive Session, Council will reconvene the Regular Meeting.

No action taken.

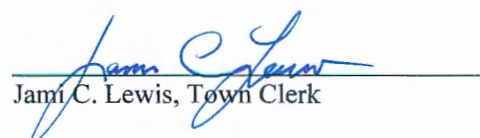
10) ADJOURNMENT

MOVED by Councilmember Jack Miller, seconded by Councilmember Mike Best to adjourn the meeting at 8:20 p.m.

Vote: 7 - 0 PASSED - Unanimously


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 9th day of February, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 8th day of March, 2016.



Jami C. Lewis, Town Clerk