

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

**TUESDAY, FEBRUARY 23, 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 23, 2016.

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

Absent: Councilmember Lon Turner

Staff Present: Town Manager Robert Smith; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Chief Chuck Wynn; Police Officer Jody Villalobos; Acting Public Works Director/Town Engineer Michael Lopez; Utility/Recreation Supervisor Chris Bartels; Development Services Director Ruth Mayday; Town Clerk Assistant Amy Pyeatt-Lansa; Town Clerk Jami Lewis (recorder)

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

**An invocation will be given at the beginning of the meeting by a member of Council. Persons who do not wish to participate may remain in the lobby during the invocation and will be notified by Town staff when the invocation is finished. The Council will pause briefly to allow those in the lobby to enter before proceeding with the Pledge of Allegiance and the rest of the meeting.*

The invocation is solely the expression of the religious belief of the speaker and is not an endorsement of those beliefs by other Council members or by the Town of Chino Valley. Religion is a personal matter, independent of the function of government. The purpose of the invocation is to solemnize the legislative proceedings of the Council. It is not intended to advance, proselytize, disparage, or denigrate any other religion, belief, or non-belief or to coerce others to participate. No stigma or different treatment of persons who choose to participate or who choose not to participate will be tolerated.

Mayor Marley called the meeting to order at 6:03 p.m.

Councilmember Cuka gave the invocation; Mayor Marley led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a) Yavapai College Community Update, presented by Dr. Penny Wills, President. (Jami Lewis, Town Clerk)

Dr. Wills presented highlights from the Yavapai College Community Update and District Governing Board's Annual Report; and spoke about changes in education, accomplishments at the various campuses, the college's fiscal condition; and a new partnership between the Joint Technical Education District and the college's Career and Technical Education Center.

Karla Phillips, Chino Valley Campus Associate Dean, spoke about the status of the Chino Valley campus' agriculture, equine, and electrical technology programs.

- b) Presentation of Government Finance Officers Association (GFOA) Budget Award for FY 2015/2016. (Mayor Marley)

Mayor Marley read a statement about the GFOA Budget Award and presented the award to Finance Director Duffy.

3) **CALL TO THE PUBLIC**

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council 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.

Mayor Marley reviewed the meeting rules of decorum.

Lillian Morales, resident, spoke about constitutional and legal support for invocations.

Michael Bacon, resident, presented findings from a 2014 survey on why pastors did not speak out on politically controversial issues.

Al Gibbons, resident, spoke in support of the long-standing tradition of invocations in public places.

Lee Paul, resident, spoke in support of Council's defense of their constitutional rights.

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 pertaining to the Council Rules of Procedure regarding disturbances in meetings. (Mayor Marley)

Mayor Marley reported on the Town's meeting rules of decorum with regard to removing persons from a meeting.

- b) Comments regarding pumpkin pot pie, the ideal Chino Valley product.

Mayor Marley commented on the product having a great future.

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 a recent Central Yavapai Metropolitan Planning Organization meeting and the new timeframe for a signal at Road 1 North and State Route 89.

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

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

Mr. Smith reported on a recent Central Arizona Partnership meeting, which focused on regional economic development needs.

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 Corey Mendoza to approve consent agenda item 6a.

Vote: 6 - 0 PASSED - Unanimously

- a) Consideration and possible action to adopt Resolution 16-1076 authorizing the Chief of Police to apply for Governor's Office of Highway Safety (GOHS) grants for federal budget year 2017. (Chuck Wynn, Police Chief)

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 authorize the Mayor to sign a letter of support for Federal Senate Bill 1895 and House Bill 3345, related to the Downwinders Compensation Act of 2015. (Chris Marley, Mayor)

Recommended Action: Authorize the Mayor to sign the letter of support.

Sherrie Hanna showed a video about the downwinders program and spoke about two U.S. bills that had been proposed to correct flaws in the 1990 Radiation Exposure Compensation Act map boundaries.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to authorize the Mayor to sign the letter of support for Federal Senate Bill 1895 and House Bill 3345.

Vote: 6 - 0 PASSED - Unanimously

- b) Consideration and possible action to approve a Protected Development Rights Plan (PDR Plan) for the property located at 2550 N. Road 1 East. (Ruth Mayday, Development Services Director)

Recommended Action: Approve PDR Plan 16-002 for the property located at 2550 N. Road 1 East, including the Landscaping Plan PDR 16-002, encompassing approximately 12.15 acres.

Ms. Mayday presented an overview of PDR Plans with regard to items 7b, 7c, 7d and 7e:

- A PDR Plan set forth a specific use in a specific area and protected that use from any future regulations for a specific period of time. The subject PDR Plans on this agenda related to medical marijuana growers and what the Town could or could not regulate.
- In January, Council adopted Ordinance 16-811, which changed MMJ cultivation regulations. Current MMJ establishments had 30 days from ordinance adoption to request a PDR Plan, otherwise, those uses would become legal non-conforming as of February 25, and they would no longer be able to expand.
- PDR Plans did not grant or modify zoning; constitute a site plan, unless specifically approved as such; allow for variances without a public process; or require a public participation process.
- Phased plans were limited to five years with a two-year extension upon Council approval, and the Town could impose terms and conditions for approval.
- The statutory amendment procedure was limited to four specific situations, needed Council approval, and required a public process.
- Things to be considered in the decision-making process were that medical marijuana (MMJ) growing was a legal use; there were possible impacts of Prop 207 on zoning changes; PDR Plans were probably the best tool to preserve these development rights; and Ordinance 16-811 will take effect on February 25.
- What the Town did not know that might affect this matter was market demand and capacity for MMJ; legalization of recreational use; and changes in federal or state administration.

Town Attorney Smiley advised that these existing uses will become legal non-conforming uses on February 25. If the properties had been diminished in value by the ordinance, the property owners could bring a Prop 207 claim against the Town; but nothing like that had happened yet.

Ms. Mayday then presented the PDR Plan for Chino Valley Farms:

- Phase 1 included a current cultivation greenhouse and vegetable beds to be converted to MMJ; Phases 2 and 3 included additional greenhouse facilities.
- The proposed landscaping plan with each phase was in compliance with the Unified Development Ordinance (UDO).
- Staff recommended approval with additional landscaping requirements as set forth in the proposed plan.

Mayor Marley suggested that staff not grant a Certificate of Occupancy for each phase until the landscaping was done. Ms. Mayday stated that standard practice was to not issue the Certificate until all conditions were met.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to approve PDR Plan 16-002 for the property located at 2550 N. Road 1 East, including the Landscaping Plan PDR 16-002, encompassing approximately 12.15 acres, and before a certificate of occupancy is issued, landscaping must be finished.

Vote: 6 - 0 PASSED - Unanimously

- c) Consideration and possible action to approve PDR16-005, a Protected Development Rights Plan (PDR Plan) for the property located at 602 W. Road 1 North, encompassing approximately 20 (19.76) acres. (Ruth Mayday, Development Services Director)

Recommended Action: Approve PDR Plan 16-005 with the additional landscaping requirements set forth in the Landscaping Requirements for PDR 16-005, for the property encompassing approximately 19.76 acres.

Ms. Mayday presented the PDR Plan for property owner Herm Federwisch, and Dr. Gina Berman, who intended to purchase the subject property.

- The proposed greenhouse was limited to the portion of property behind the existing Commercial Light (CL) properties.
- Dr. Berman proposed a great deal of landscaping and separation between the greenhouse and surrounding uses and suggested additional landscaping further out as a buffer from surrounding properties, using evergreen trees for screening, and moving screening 20 feet back from the fence for security purposes.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to approve PDR Plan 16-005 with the additional landscaping requirements set forth in the Landscaping Requirements for PDR 16-005, for the property encompassing approximately 19.76 acres with the caveat that before a certificate of occupancy is issued, landscaping will be finished.

Vote: 6 - 0 PASSED - Unanimously

- d) Consideration and possible action to approve PDR 16-004, preserving development rights and setting forth a plan of development of a 53-acre parcel located at the southeast corner of State Route 89 and 4 South as described herein and made a part herewith. (Ruth Mayday, Development Services Director)

Recommended Action: Approve PDR Plan 16-004 with the additional landscaping requirements set forth in the Landscaping Requirements for PDR 16-004, for the property located at the Northeast corner of State Route 89 and East Road 4 South, encompassing approximately 53 acres.

Ms. Mayday presented the PDR Plan for Green Global:

- The proposal included greenhouses on a small portion, accessory buildings for processing, hoop houses, septic, parking, and additional parking for Phases 3 and 4; as well as commercial and multi-family residential components.
- The commercial component would likely screen the bulk of the MMJ project. Per UDO regulations, screening would be required for the front portion of the property.
- Late this afternoon, the applicant submitted Supplement B, requesting to delay certain landscaping for two years, to allow time to complete a significant drainage project that will require a large amount of grading. They also proposed some additional landscaping. Should buildings along the west side go up first, they will serve as screening; otherwise, pine trees will serve as screening.

Tom Kack, attorney for the applicant, reported on:

- the plan cutting the MMJ use to the smallest possible size to limit future greenhouses;

- the property's terrain, drainage project, and tree screening locations;
- the need to delay screening until the grading was done; and
- the four development phases and locations of commercial uses and multi-family residential.

Some councilmembers expressed concern about the visual impact on this property and screening timeframes. Ms. Mayday and Mr. Lopez stated that:

- Staff supported Supplement B, as it provided a fallback for screening if the commercial development was not done in two years.
- Public Works' concern was that the drainage improvements were done before opening, and staff was satisfied with the engineering.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Corey Mendoza to approve PDR Plan 16-004 for the property located at the northeast corner of State Route 89 and East Road 4 South, encompassing approximately 53 acres, plus the Supplemental Plan B.

Vote: 6 - 0 PASSED - Unanimously

- e) Consideration and possible action to approve a Protected Development Rights Plan (PDR Plan) for the property located at 645 West Road 4 North. (Ruth Mayday, Development Services Director)

Recommended Action: Approve PDR Plan 16-003 for the property located at 645 West Road 4 North with the additional landscaping requirements as set forth in Landscaping Requirements PDR16-003, encompassing approximately 12.4 acres.

Ms. Mayday presented the PDR Plan for Prescott Valley Growers:

- Phase 1 included an office and five greenhouses; Phase 2 included additional greenhouses as the demand warranted. Maximum build out for the greenhouses was 75,000 square feet.
- The PDR Plan was speculative, as the property owner had not identified a licensee or user for the greenhouses yet, but they desired to preserve the right to develop in that manner should a user arise.
- Currently, there was a nursery on the property and the PDR Plan was for the back half. The landscaping requirements were to be tied to development phases. The owner had agreed to the landscaping and additional screening.
- Staff recommended approval with the additional landscaping requirement as set forth in the landscaping plan.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to approve PDR Plan 16-003 for the property located at 645 West Road 4 North with the additional landscaping requirements as set forth in Landscaping Requirements PDR16-003, encompassing approximately 12.4 acres, and certificate of occupancy not granted until landscaping is finished.

Vote: 6 - 0 PASSED - Unanimously

- f) Consideration and possible action to adopt Communications Policy for the Town of Chino Valley. (Cecilia Grittman, Assistant Town Manager)

Recommended Action: Adopt the Town of Chino Valley's Communications Policy / Social Media Policy effective immediately.

Ms. Grittman presented:

- Perspectives on how other Councils were using their Town website and Facebook pages for communications.
- Statistics related to visits to the Town website, likes on Facebook, Council meetings and Facebook, computer versus smartphone visits, and resident versus non-resident use, hits on individual pages of the Town website.
- Changes to the proposed policy since its last appearance on an agenda.
- Fiscal and staffing impacts to update and monitor social media.

Mayor Marley brought to Council's attention the disclaimer in the policy relating to councilmember comments in a public setting or interview.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Corey Mendoza to adopt the Town of Chino Valley's Communications Policy / Social Media Policy effective immediately.

Vote: 6 - 0 PASSED - Unanimously

Mayor Marley called for a 10 minute recess at 7:49 p.m. and reconvened the meeting at 7:57 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.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Jack Miller to recess the regular meeting and hold the executive session at 7:59 p.m.

Vote: 6 - 0 PASSED - Unanimously

Mayor Marley reconvened the regular meeting at 9:07 p.m.

- a) Consideration and possible action to recess into an executive session 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 regarding a contract with Prescott Sportsmen's Club related to managing the Chino Valley Shooting Range that is the subject of negotiations.
- b) **Consideration and possible action to recess into an executive session pursuant to ARS sections 38-431.03(A)(3) and 38-431.03(A)(4) for discussion or consultation for legal advice with the Town Attorney regarding the invocation and in order to consider the Town's position and instruct the Town Attorney in order to avoid or resolve contemplated litigation related to the Town Council's invocation. (Phyllis Smiley, Town Attorney)

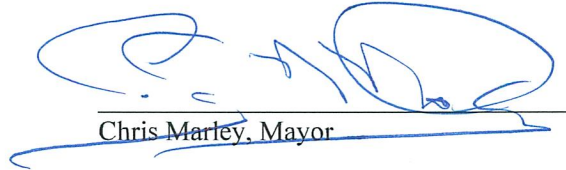
9) **ACTION ITEMS RESUMED**

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

10) **ADJOURNMENT**

MOVED by Councilmember Jack Miller, seconded by Councilmember Mike Best to adjourn the meeting at 9:08 p.m.

Vote: 6 - 0 PASSED - Unanimously


Chris Marley, Mayor

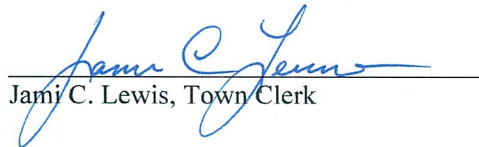
ATTEST:


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 23rd day of February, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 22nd day of March, 2016.


Jami C. Lewis, Town Clerk