

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

**TUESDAY, MARCH 24, 2015
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, March 24, 2015.

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; Assistant Town Manager Cecilia Grittmann; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Human Resources Director Laura Kyriakakis; Police Chief Chuck Wynn; Police Lieutenant Vince Schaan; Police Officer Eric Hatchell; Town Engineer/Public Works Director Ron Grittmann; Development Services Director Ruth Mayday; IT Specialist Spencer Guest; 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 declaring April 7, 2015 as 2015 Mayor's Day of Recognition for National Service, sponsored by Corporation for National and Community Service. (Mayor Marley)

Mayor Marley read the proclamation and presented it to Lloyd Weathers with Prescott College's National Service Program.

- b)** Yavapai College Update by Dr. Clint Ewell, Vice President for Finance and Administrative Services.

Mr. Ewell spoke about the College's 2014 Governing Board Annual Report, statewide funding cuts to education, and the College's plans not to vacate the Chino Valley campus until 2022.

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.

Jimmy Whited, resident, spoke about an upcoming demonstration by tri-city veterans against Islam and the current federal administration.

Ron Romley with Yavapai Regional Transit asked the mayor for a letter of support to attach to an ADOT grant.

Norm Freeman, resident, spoke about staff including a time on agenda amendments.

Dan Carlson, resident, spoke about Council listening to each other and considering the economic effects upon people from their decisions.

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) Robert McCaullay and the Planning and Zoning Commission.

Mayor Marley reported that:

- Council had removed Mr. McCaullay from the Commission due to an ongoing investigation into a possible violation of conflict of interest law, pertaining to a case that was set to be heard by the Commission. As Town regulations did not provide for suspension of a commissioner during the course of an investigation, Council voted during an executive session to remove Mr. McCaullay from the Commission per Town Code Section 30.071.
- No hearing was required for such removal, but as the Council removed Mr. McCaullay without providing the required 24-hour notice of executive session to him, Council will schedule another executive session for May 12 to address the matter.

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 Turner reported that he investigated an issue raised during the previous meeting with regard to Verizon and cell tower permits, and he verified that in the last two years, Verizon had made no attempts or requests for permitting in the Town.

Mayor Marley read the Monthly Mayor's Report, which pertained to the Town's process for revising its business signage ordinance.

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

Mr. Smith had nothing to report.

- c) Presentation of preliminary revenue projections for the Fiscal Year 2015/2016 budget. (Joe Duffy, Finance Director)

Mr. Duffy presented the draft Revenue Manual, which summarized all revenues over the past five and next five fiscal years. Key points were:

- *Assumptions:* All revenues were projected to stay even or increase 3%, excluding transfers, carryover, and grants; and expenses were projected at 3% growth. Now that reserves were built up, staff was projecting revenues at 3% instead of 2%, which was still conservative, but a little more realistic.
- *Major revenues:* General Fund revenues increased 3% this year; state shared revenues were 2% over estimates; and total sales tax revenues were 1% over estimates—this would have been 2% without the change in Prescott transportation tax.
- *Utility revenues:* Water Fund revenues were projected to be down 10%, primarily due to reduced water buy-in fees; and staff hoped sewer fund revenues would break even by next fiscal year.
- *Capital Improvement funds:* Staff was projecting 3% per year growth.

Council asked about revenue loss due to Alco's closure. Mr. Duffy stated that it was not a significant loss and did not reduce sales tax projections.

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 Mike Best to accept Consent Agenda items a, b, c and d.

Vote: 7 - 0 PASSED

- a) Consideration and possible action to accept the February 24, 2015 regular meeting minutes. (Jami Lewis, Town Clerk)
- b) Consideration and possible action to accept the February 26, 2015 study session minutes. (Jami Lewis, Town Clerk)
- c) Consideration and possible action to accept the March 10, 2015 regular meeting minutes. (Jami Lewis, Town Clerk)
- d) Consideration and possible action to approve Financial Report for the month ended January 31, 2015. (Joe Duffy, Finance Director)

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 approve (1) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc.; (2) Installation Contract for Wireless Communications Facilities Project 2015 with Pinnacle Consulting, Inc., and (3) Wireless Communications Site Lease with SunState Towers, LLC, all related to installation of three (3) wireless communications towers with Town dishes to be located on them to provide enhanced wireless capabilities between the Town Hall, North Campus (Library) and the Recreation Center. Funds to come from the Capital Improvement Fund. (Councilmember Mike Best; Councilmember Lon Turner)

Recommended Action: Approve (1) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc.; (2) Installation Contract for Wireless Communications Facilities Project 2015 with Pinnacle Consulting, Inc., and (3) Wireless Communications Site Lease with SunState Towers, LLC

The staff report by Development Services Director Mayday stated that that on March 10, 2015, Council directed staff to further research the project and provide Council with additional information.

MOVED by Councilmember Lon Turner, seconded by Councilmember Pat McKee to remove this from the agenda tonight and look at rescheduling it at a later date.

Vote: 7 - 0 PASSED

Steve Chontos, resident, requested to speak as he would be away in the future. Town Attorney Smiley advised that Mr. Chontos could provide his comments in a letter to the Council. Mayor Marley asked Mr. Chontos to contact Councilmember Turner regarding his concerns.

- b) Consideration and possible action to establish a procedure for addressing Code of Ethics violations and to provide direction to Staff to prepare an ordinance to be approved by Council that will incorporate the Council's recommendations into the Town Code. (Mayor Marley)

Recommended Action: Establish procedure and potential penalties to address Code of Ethics Violations and direct staff to prepare an ordinance to amend the Town Code to incorporate the procedures.

The staff report by Town Attorney Smiley stated that:

- Currently, the Town Code provided that complaints of alleged violations of the Town's Code of Ethics were submitted in writing to the Mayor, Vice Mayor or Town Attorney, depending on the circumstances and that they must be addressed by the Town Council within 60 days of being submitted. There were no provisions outlining what happened to a complaint between the time it was received and the Town Council meeting.
- In light of confusion over how to address the complaint recently received, Mayor Marley proposed a procedure to be followed. The Town Attorney reviewed the procedure and made further recommendations for Council's consideration in a memorandum provided to the Council.

Councilmember Hatch believed that the Town should disclose all attorney-client privileged documents so that the public and Council could review and have open discussion on them, provide fair and unbiased opportunity for both sides, and ensure fundamental due process.

MOVED by Councilmember Linda Hatch, seconded by Councilmember Pat McKee to waive and disclose attorney-client privilege documents and postpone item until the next meeting when such documents were made public.

Vote: 6 - 1 PASSED

NAY: Mayor Chris Marley

- c) Consideration and possible action to approve the use of Sagan University to utilize the Town as the pass-through agent for three Tribal Grants, as per the requirements of Proposition 202. (Cecilia Grittmann, Assistant Town Manager)

Recommended Action: Approve Sagan University to utilize the Town as its pass-through agent for three Tribal Grants, as per the requirements of Proposition 202.

Ms. Grittmann reported that:

- Sagan University, a not-for-profit 501(c) organization, was requesting that the Town act as the pass-through agent for the University, as it applied for Arizona Indian gaming funds in support of its start-up as a general academic, on-line university program. The University will target students and partnerships from the Native American, African American, Hispanic, economically depressed, rural, and other underserved communities.
- As the University developed, it will be required to develop and sustain an office or building, and they wished to locate in Chino Valley. Although the number of jobs created locally, because of the on-line nature of the education, will not be significant, they intended to create this physical presence in the Town.
- Per Proposition 202, passed in 2002, 12% of tribal gaming revenues was to be shared with the state and its counties, cities and towns, and invested throughout the state to improve education, health care, conservation, and the economies of local communities.
- Should a tribe approve a grant, the State required tribes to pass the money through a city, town, or county to the organization applying for the funds. The Town would only be responsible for accepting and redistributing funds to the entity and would not be responsible for monitoring, accounting or reporting on how the recipient organization used the funds.
- Sagan University intended on submitting grant applications to tribes throughout Arizona. The requests will vary in amounts, and the dates will be determined by each tribe's funding grant cycle. Should the University receive notice that they will be funded by one of the tribes, it was likely the Town will sign a Memorandum of Understanding (MOU) with each tribe upon successful grant award and an Intergovernmental Agreement with the University.
- There was no financial impact to the Town for this transaction. Should Sagan University desire to utilize the Town for future tribal pass-through grants, the requests will come before Council for its approval.

Councilmember Hatch disclosed that part of her income came from a competing university. Town Attorney Smiley advised that she did not believe Councilmember Hatch had any pecuniary interest in the matter and thus, no conflict of interest.

Dr. Eve Kaczmarek introduced Provost Bob Eulick and spoke about the University, which they hoped to open in the fall of 2016. They intended to provide undergrad and graduate courses, targeting the Native American population. They were currently seeking three grants, one of which was due Friday.

Council asked about the following topics. Dr. Kaczmarek and Town Manager Smith responded.

- *Accreditation:* They had started working on a packet, but could not apply until they had been up and running for two years.
- *Town resources to be used:* Staff anticipated six to ten staff hours per year. A fee for the Town could be worked out if the University was awarded the grants.
- *Financial benefit to the Town:* None, although as they grew into a building, they hoped to provide jobs for the Chino Valley area.
- *Grant amounts and limits:* Current grant amounts sought were \$5,000, \$15,000, and \$1 million; all of which would be awarded in June. The Town could also solicit for grants. Each tribe had different requirements and the grants were limited only by the amount of money the casinos took in.
- *Liability, exposure, or accountability to the Town:* All liability was between the granting institution and the tribe. Staff foresaw no exposure and any accountability issues would be included in the intergovernmental agreement.
- *Grant frequencies:* Sagan hoped to apply frequently with the tribes, as well as other sources.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Linda Hatch to approve Sagan University to utilize the Town as its pass-through agent for three Tribal Grants, as per the requirements of Proposition 202.

Vote: 7 - 0 PASSED

- d) *Consideration and possible action to: (i) appoint an Interim Presiding Magistrate Judge; and (ii) provide direction to Staff regarding continuing research into options for alternative magistrate court providers and/or recruitment process for a permanent Presiding Magistrate. (Phyllis Smiley, Town Attorney)

Recommended Action:

- (i) Move to appoint _____ to serve as Interim Presiding Magistrate for the Town of Chino Valley for a period not to exceed ____ months and direct Staff to prepare a contract with _____ for approval by Council at its meeting on April 14, 2015; and
- (ii) Direction to staff to continue research into options for alternative magistrate court providers and provide Council with staff's findings at Council's April 28, 2015 meeting.

Ms. Smiley reported that:

- As of March 27, 2015, the Chino Valley Magistrate Court will be without a presiding magistrate due to John Walker's retirement. A new or interim presiding magistrate needed to be appointed prior to that date to assure continuing operation of the Court.
- Cathy Kelley, the Town's Judge Pro Tem, informed staff that Yavapai County Superior Court Administrator Rolf Eckels had advised her that if the Town did not appoint a new or interim magistrate prior to March 27, Yavapai County Superior Court will take over the Town Court's operation. Judge Kelley also indicated that she could not continue as pro tem judge after March 27, because Judge Walker appointed her and her appointment was tied to his service as presiding magistrate.
- The Town Attorney contacted Mr. Eckels who advised that Judge Mackey, Yavapai County Superior Court Presiding Judge, was concerned about the situation in Chino Valley, but as long as the Town was making progress toward resolving the issues and finding a permanent solution, the County will not step in. A pro tempore judge might continue to act as a pro tempore judge, but not act as the presiding magistrate unless the Town Council appointed him or her to do so, as a presiding magistrate had certain

- duties related to running the court that could not be performed by a pro tempore judge.
- Due to the short time between now and the effective date of Judge Walker's retirement, there was not enough time to complete a recruitment process for a new presiding magistrate. As such, staff recommended that Council appoint an interim presiding magistrate effective March 27, 2015.
- Also, prior to Judge Walker's retirement, Council directed staff to review the Town's options regarding efficient and cost-effective means of providing magistrate court services to the Town. Options included contracting with another municipality or the justice of the peace for court services or operating the magistrate court on a non-full time basis. Staff's research on these options was not complete at this time, and they anticipated making a presentation of their findings and recommendations to Council at the second Council meeting in April. Staff recommended that Council not appoint a permanent presiding magistrate until Council had the opportunity to consider the options and determine the best one for the Town.

(The following portion of Item 7d was heard after item 8a.)

Mayor Marley reconvened the regular meeting at 7:33 p.m.

Vice-Mayor Croft noted that the Town was required to give 24-hour notice to the person they would like to appoint. To give staff that time to provide notice, he made the following motion.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to postpone this Agenda item until the March 26 study session.

Vote: 7 - 0 PASSED

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 Pat McKee to adjourn into executive session at 7:06 p.m.

Vote: 7 - 0 PASSED

- a) *Pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of employment, assignment, appointment, or salaries of Cathy Kelley as Interim Presiding Magistrate of the Chino Valley Municipal Court. (Phyllis Smiley, Town Attorney)

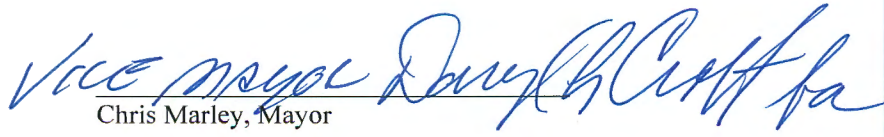
9) ACTION ITEMS RESUMED

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

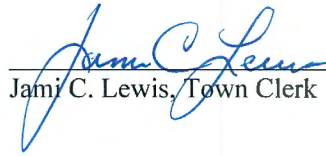
10) ADJOURNMENT

MOVED by Councilmember Linda Hatch, seconded by Vice-Mayor Darryl Croft to adjourn the meeting at 7:34 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 24th day of March, 2015. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 14th day of April, 2015.


Jami C. Lewis, Town Clerk