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

TUESDAY, APRIL 24, 2012
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, April 24, 2012.

Mayor Marley called the meeting to order at 6:02 p.m.

Council Present: Mayor Chris Marley, Vice-Mayor Carl Tenney, and Councilmembers Mike Best, Darryl Croft, Dean Echols, Linda Hatch, and Lon Turner.

Staff Present: Interim Town Manager Robert Smith, General Services Director Cecilia Watts, Town Attorney Tom Kack, Police Commander Mark Garcia, Sergeant Vince Schaan, Associate Planner David Nicolella, Town Engineer/Public Works Director Ron Grittman, Utilities Supervisor Chris Bartels, Utilities Technician Joe Grassi, Town Clerk Assistant Liz Hart, and Town Clerk Jami Lewis (recorder).

Councilmember Best gave the invocation and Mayor Marley led the pledge of allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

2a) Proclamation declaring May 1-7, 2012 as "Youth Week," sponsored by the Chino Valley Elks Lodge #2842.

Mayor Marley read the proclamation and presented it to Elks representative, Don Polk.

2b) Proclamation declaring April 16, 2012 as "National Health Care Decisions Day," sponsored by the national organization, "Aging with Dignity," and the local coalition, "Community Partnership for Comfort Care."

Mayor Marley read the proclamation and presented it to Robin Christie with Granite Mountain Health and Hospice, Susan Cohen with Good Samaritan Health and Hospice, Brenda Eakin with Hospice Family Care, and Lana Pomel with Hospice CompassUS, who spoke about preparing advance directives and being available to give a workshop in Chino Valley.

3a) CALL TO THE PUBLIC

Ab Jackson, CEO, Chino Valley Area Chamber of Commerce, spoke about the upcoming Business and Educator's Breakfast and acknowledged Interim Town Manager Robert Smith for participating on "Talk of the Town."

Jerry Franklin with the Paulden Area Community Organization spoke about a Salute to Veterans event being held on May 19 in Paulden.

Dick Busby, Paulden resident, spoke about the 2012 building codes and the Town's need to take some action with regard to a board of appeals when it adopted the new codes.

Kay Jones, resident, commended the Windmill House and Rotary Club for stepping up to sponsor and host this year's SpringFest, and other organizations for taking on other Town events, such as 4th of July and Territorial Days.

Candy Blakeslee, resident, spoke about several new businesses in Town, including O'Reilly's, Jack's Dogs, a coffee shop, Little Caesars, and a video store, as well as Century 21 celebrating 20 years in Chino Valley.

Gloria Moore, resident, commended the Windmill House and various service organizations for continuing several traditional Town events.

3b) RESPONSE TO THE PUBLIC

Mayor Marley reported on two responses from the previous meeting's Call to the Public:

- Windmill House Conditional Use Permit (CUP) – Staff was currently reviewing the CUP for possible modifications to specify the events that could take place on the property. In past years, the Town had sponsored the event, but this year several other groups headed it up and selected the venue. Interim Town Manager Robert Smith added that any changes to the CUP would require a neighborhood meeting, public hearing before the Planning and Zoning Commission, and Council approval.
- Council's criteria for selecting ad hoc committee members – Mayor's ad hoc committees were special purpose committees whose members were selected at the mayor's sole discretion. His criteria for the Flood Control Committee had been that candidates exhibit a desire for the good of the Town as whole, with no personal agendas, and whose interests were in storm water reclamation.

4) CURRENT EVENT SUMMARIES AND REPORTS

Councilmember Hatch reported on an upcoming NACOG meeting.

Town Clerk Jami Lewis presented a report on HB 2826 "consolidated elections." Key points were:

- HB 2826 would modify the statute related to consolidated election dates for political subdivisions. Its stated purpose was to increase voter participation and decrease taxpayer costs.
- Currently, all elections in Arizona must be held on one of four days in any given year. While the Town currently held its regular elections in Spring of odd numbered years, HB 2826 would require that beginning with elections held in 2014, it must hold all its elections during the Fall of even numbered years.
- Possible challenges to the Town and Yavapai County included:
    - o Yavapai County might no longer be able to contract with county cities and towns for elections services, and as most municipalities did not have the financial or personnel resources to run their own elections, this would force them to contract with the private sector at an increased cost.

- Contracting with the private sector could cause voter confusion resulting from multiple ballots and could create a situation wherein a voter might have to vote in two separate polling places.
- Voter fatigue was a real possibility, as local measures and candidates would be on the same ballot as those for the nation, state, and county, and local candidates would be placed last on the ballot.
- Multiple ballots, multiple polling places, and voter fatigue could defeat the stated purpose of increasing voter participation. In addition, there were no municipalities in Yavapai County that held their elections in the Fall of even-numbered years, yet Yavapai County had the highest voter turnout in the state.
- Elections were a matter of local control and should be left to the citizens to decide, and the many special elections that rural communities held might not be able to wait for up to two years to be addressed.

- If Council agreed that this was not a good bill, individual Councilmembers could contact Rep. Fann and Tobin or the Council as a whole may consent to staff sending a letter to them on their behalf.

Council indicated it preference that staff send a letter on their behalf opposing the bill.

Mayor Marley read the Monthly Mayor's Report which pertained to the Town's financial condition, upcoming budget meetings, and the need to work together as a community on the Town's fiscal challenges.

4a) Status report by Town Attorney Tom Kack regarding the draft policy of installation of culverts for driveways within the Town corporate limits.

Mr. Kack reported that staff had researched other area communities and found that in some, property owners needed a permit to install a culvert, and the norm appeared to be that property owners were responsible for driveway and culvert maintenance. Despite two property owners who were adamant that the Town was responsible for culvert installation and maintenance, his findings were that the Town did not have a legal responsibility to maintain driveway culverts that provided access to private properties. Per these findings, the town attorneys were recommending that the pending maintenance policy apply to all improvements in the Town's rights-of-way, including bar ditches, culverts, and driveways.

Joe Iaccarino, resident, asked if the public could comment on this item. Mayor Marley stated that comments were not typically invited during such reports.

CONSENT AGENDA

5) Consideration and possible action to approve the March 15, 2012 Study Session minutes. (Jami Lewis, Town Clerk)

6) Consideration and possible action to approve the March 27, 2012 Regular Meeting minutes. (Jami Lewis, Town Clerk)

7) Consideration and possible action to consent to Mayor Marley's absence from the Town for a period greater than 15 days starting April 25, 2012 pursuant to Town Code Section 30.024. (Jami Lewis, Town Clerk)

8) Consideration and possible action to accept resignation of Michael Tobey from the Transit Advisory Committee, and appoint Sue Ellen Mitchell to the same, with term ending September 30, 2013. (Jami Lewis, Town Clerk)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to accept Consent Agenda items 5-8. The motion PASSED unanimously 7-0.

ACTION ITEMS

8) Consideration and possible action with regard to non-profit medical marijuana dispensaries and to allow said establishments to operate solely under the State Law with no amendments to the Town of Chino Valley Unified Development Ordinance (UDO). (David Nicolella, Associate Planner)

Acronym used in this item:
UDO (Unified Development Ordinance)
Zoning District acronyms:
AR (Agricultural/Residential)
CL (Commercial Light)
CH (Commercial Heavy)
I (Industrial)

Mr. Nicolella reported that:

- After voter approval of Prop 203, the Arizona Medical Marijuana Act, in November 2010, the Arizona Department of Health Services began working on licensing rules and local governments began working on amending their zoning regulations to implement the new law, which was in A.R.S. § 36-2801.
- The State had determined that the Chino Valley/Ash Fork areas were eligible to receive a maximum of one non-profit medical marijuana dispensary. This 3,000 square mile area included a large portion of Yavapai County and encompassed approximately 18 communities.
- After a public hearing before Council on May 10, 2011, Council directed staff to bring back the following proposals to the Planning and Zoning Commission ("Commission") for their recommendations: (i) Allow non-profit medical marijuana dispensaries to operate solely under the State's regulations and make no amendments to the UDO; except to (ii) Amend the UDO to provide a minimum 500-foot separation between medical marijuana facilities and churches.
- After a public hearing before the Commission on March 20, 2012, the Commission voted to recommend to Council that dispensaries operate solely under the State's regulations and that the UDO not be amended to provide a separation between medical marijuana facilities and churches, as the State's regulations were extensive enough, the Police Department was taking a position that it preferred to have a dispensary in Town to reduce

cultivation enterprises, and as no other municipality had a 500-foot rule, it might discourage a dispensary from locating here.

- Under this recommendation, a dispensary and/or infusion facility would be allowed in the CL zoning district. However, a dispensary and/or infusion facility with on-site cultivation would require CH zoning. An off-site cultivation facility only, on the same license as the dispensary, would be allowed in the CH zoning district per UDO Section 4.30 "Commercial Greenhouses." Anyone applying for a dispensary had to indicate in their paperwork where cultivation was intended to take place.
- The greenhouses required for cultivation must be secured, and if they did not lock, they must be surrounded by a block wall, steel gates, or the like. These regulations did not apply to card holders and care givers who were restricted to 12 plants in a locked facility or 12 plants per patient, respectively.
- Regarding enforcement, the State was to enforce its own rules, while the Town would enforce its own building, zoning, and fire regulations.

Bill Sullivan, resident, told Council that he had been looking into applying for a dispensary for many months. Based on statements made during a May 5, 2011 Commission meeting that CL could be used for cultivation, he had invested a lot of money and then found that the rules changed when he submitted his application. Mr. Nicolella clarified that the May 5, 2011 minutes reflected that agricultural commodities could be grown in CH, but not CL.

Candy Blakeslee, resident, recalled that at the May 5, 2011 meeting, staff stated that cultivation could also be done in the AR-5 zone as long as commercial greenhouse requirements were met; she asked if this was also true for CL. Mr. Nicolella stated that UDO Section 4.30 required 10 contiguous acres for commercial greenhouses in the AR, CL, CH, and I zones.

Bill Blankmaier, resident and Yavapai County Health Inspector, related that he often processed requests for special event beer gardens, but he recently received a first request for a special pot event.

Vice-Mayor Tenney MOVED, seconded by Councilmember Croft, to allow non-profit medical marijuana dispensaries to operate in the Town solely under the State Law with no amendments to the Unified Development Ordinance. The motion PASSED unanimously 7-0.

9) Consideration and possible action to forward a recommendation to Arizona Department of Transportation regarding the selection of Jon Hair for Artistic Services for the Highway 89 Sidewalk and Landscaping project, located at Road 4 South at the roundabout. (Ron Grittman, Town Engineer)

Acronym used in this item:
ADOT (Arizona Department of Transportation)

Mr. Grittman reported that:

- On May 27, 2010, Council executed a professional services agreement with Stanley Consultants for design and construction plans for sidewalks and landscaping along SR 89 between Center Street and Road 4 South/Outer Loop Road, as well as installation of three full size equine sculptings in the center of the existing roundabout at Road 4 South.

- Because of the difficulty of writing a specification on how to build a sculpting, these types of services were typically done as a direct select, a process that allowed a public agency to directly select an individual or company that possessed a unique set of skills and abilities to perform a unique task. This was the avenue that Chino Valley had chosen to provide these sculptings.
- In February 2011, Stanley Consultants completed the construction plans and specifications for the project, which included a lump sum price of $250,000 for the sculptings.
- On January 10, 2012, the Town executed a professional services agreement with Stroh Architecture to assist staff with selecting the appropriate artist and ensuring that the Town was in compliance with ADOT requirements.
- The process that followed, including developing a Request for Qualifications and advertising it nationwide, was in accordance with ADOT directives and compliance with the Call for Artists Guide and the Arizona Arts Commission.
- On April 9, 2012, a review panel comprised of Councilmember Croft, Councilmember Hatch, Sharlot Hall Museum Curator John Langellier, Phippen Museum Curator Kim Villalpondo and Town resident Carol Faoro, met to review the submittals from the top three artists: John Hair, Sandy Scott, and Bradford Williams, resulting in the recommendation that Jon Hair be selected as the sole provider for the sculptings.
- Once Council approved this selection, staff would notify ADOT of the Town's findings and include these artist services as a direct select within the contract documents.

Council asked about continuing to advocate for the original artist, Diana Simpson; funding an out of Town artist; and one contractor overseeing the entire project. Mr. Grittman related that:

- The Town could not go back to the original process to hire the original artist, as staff found the process to be out of compliance and Council had directed staff in December 2011 to follow the current process. Due to that change, the project was behind schedule; ADOT needed the Town's recommendation this month, and if the Town went back, it would miss the June funding deadline.
- Although there was a local artist in the top three, the committee's unanimous choice was Mr. Hair, who was not local.
- One contractor would oversee the whole project, including landscaping, sidewalks, sculpture, and signage, and would include Mr. Hair as a subcontractor.
- In order to use the funds, the Town's only option at this time was to continue this process.

Councilmember Hatch added that per Mr. Stroh, a large portion of the funds would go to a foundry, and Mr. Hair had announced that that was willing to take bids from any local foundry. Also, one reason the committee had selected Mr. Hair was that he would give the Town an original sculpting, while some of the other artists offered copies of previous sculptings.

Public comment:

Carol Faoro, review committee member, asked Council to consider rejecting all three of the top offers and selecting Ms. Simpson, who was in fourth-place, as none of the top three offered a three-horse design, which was what Council had approved originally. Also, Mr. Hair was proposing a mustang bronze, which was not indicative of this area; Town residents did not want the funds to go out of state; and Ms. Simpson's design met the proposal's requirements.

Bonnie Casey, resident and professional artist, told Council that local artists were expressing concern about an out-of-town artist being selected.

Mike Olsen, owner of Olsen's Grain, stated that he supported Ms. Simpson's rendition and did not support a mustang, which was not authentic to the area. He urged Council to stand up to ADOT's red tape.

Ab Jackson, CEO, Chino Valley Area Chamber of Commerce, encouraged Council to shop local and asked if Ms. Faoro had voted 100% for Mr. Hair. Ms. Faoro explained that of the top three, Mr. Hair's was the best, and although she believed Ms. Simpson's design was better than Mr. Hair's, Ms. Simpson's was not in the top three.

Natalie Crewel, Prescott resident and sculptor, did not support the project leaving Chino Valley.

Council asked for further explanation about the review committee's process, why the committee members did not argue for the local artist, and if the Town could get the landscaping and sidewalks without the statue. Ms. Faoro, Councilmember Hatch, Councilmember Croft, and Town Attorney Tom Kack explained that:

- The review had to be done pursuant to a federal process, since the project was being federally funded. Score sheets for all 14 artists were given to committee members, who were asked to score the papers privately, per specified guidelines, without any opportunity for discussion.
- Per the guidelines, only 10 points was allowed for local artists and additional weight was given to experienced artists. The committee asked if they could add points for local artists but was told that the score sheets would be rejected. Under this process, Ms. Simpson came in fourth.
- Some committee members then filed grievances, but they could not change the vote. The Town's only option would be to reject all the applications and start over, at the risk of missing the State's deadline.
- Per the Town's intergovernmental agreement with ADOT, the Town committed to pay for the project's design. The Town had already paid $100,000, and to increase the landscaping and eliminate the sculptings would cost another $24,000 for the consultant to change the specifications and plans.

Additional public comment:

Candy Blakeslee, resident, proposed that since this issue had divided the Town, Council should reject the entire project.

Bonnie Casey, resident, requested that Council be more careful in the future to not go down a path with such criteria.

Marti Klein, resident, preferred to hire a local artist, but as that was not an option right now, she proposed that Council follow the committee's recommendation.

Tom Payne, business owner, suggested appointing better committee members that would support local artists.

Council discussion: Council generally expressed frustration with the whole process and not getting to use a local artist, but they believed they needed to follow the process by which they were bound, and they thanked those who served on the committee.

Vice-Mayor Tenney MOVED, seconded by Councilmember Croft, to forward a recommendation to ADOT to select Jon Hair for Artistic Services of equine sculptings for the Highway 89 Sidewalk and Landscaping Project. The motion PASSED unanimously 7-0.

10) Consideration and discussion regarding the fiscal year 2012/2013 proposed budget. (Robert Smith, Interim Town Manager)

Mr. Smith asked if Council had any questions or concerns resulting from the budget study session on the 19th. Vice-Mayor Tenney asked staff to schedule another Finance Committee meeting soon to discuss budget matters.

11) Consideration, discussion, and possible direction to staff with regard to developing a citizen survey to determine the public's preferences for service priorities and the creation of additional revenue streams. (Mayor Marley & Vice-Mayor Tenney)

Mayor Marley reported that:

- At Council's study session on April 5, while discussing the Town's fiscal status, Council and staff discussed the need to educate the public and help them understand that the Town was at a turning point and needed to make changes: either create new revenues or make draconian cuts. One way to keep them informed was through groups like the General Plan Committee and other community organizations.
- One option to obtain the community's input was through a survey to gauge their preference for cutting services versus an additional revenue stream, and/or to evaluate and prioritize present services, programs and projects.

Council discussed the proposal. Comments included:

- Get a survey to every citizen within the Town limits as quickly as possible due to the budget timeframe.
- Include an educational component with regard to the Town's options.
- Use a format similar to one handed out at the Citizens Academy and allow Council to review the final document.
- Include sustainable buildings in the survey contents.
- Use serial numbers to avoid fraud yet protect respondents' identity.
- Put the survey information on the Town's website.
- Staff should work in concert with the General Plan Committee.
- Find a way to get the community to respond, as the Town had received poor results from surveys in past.

Mr. Smith related that he had had discussions with Dava Hoffman regarding concerns that the data from the General Plan process was not respective of the entire Town population and staff and the General Plan Committee (GPC) were working on how to capture the true essence of the issues. Staff could use this same process with this survey and share information back and forth with the GPC. He added that putting a survey together would take at least four to six weeks.

Vice-Mayor Tenney MOVED, seconded by Councilmember Tenney, to direct the manager and staff to develop a citizen survey to determine the public's preference for services and revenue sources and bring a draft back for approval by Town Council. The motion PASSED unanimously 7-0.

12) Consideration and possible action to approve the April 5, 2012 Study Session minutes. (Absent: Councilmembers Echols and Turner) (Jami Lewis, Town Clerk)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to approve the April 5, 2012 Study Session minutes. The motion PASSED unanimously 5-0 with 2 abstentions by Councilmembers Echols and Turner.

EXECUTIVE SESSION

Council held no executive sessions.

13) ADJOURNMENT

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to adjourn the meeting. The motion PASSED unanimously 7-0 at 8:11 p.m.

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Chris Marley, Mayor

ATTEST:

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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 April, 2012. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this __22nd__ day of __May__, 2012.

Jami C. Lewis

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Jami C. Lewis, Town Clerk