



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

**REGULAR MEETING
Tuesday, May 10, 2016
6:00 P.M.**

**Council Chambers
202 N. State Route 89
Chino Valley, Arizona**

A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.

AGENDA AMENDMENT #1 - May 9, 2016 (Items preceded by asterisk are either new or amended)

- 1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL**
- 2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**
- 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.

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 regarding the following information not being on the Town's web site: crime statistics, community disaster preparedness plan, and the Town's preparations related to recreational marijuana.

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

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.

- a. Consideration and possible action to approve revised form of Agreement for Towing Services. (Chuck Wynn, Police Chief)
- b. Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)
- c. Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk)
- d. Consideration and possible action to accept the April 14, 2016 study session 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 for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of \$10,000.00. If approved, the \$10,000 will be added to the Recreation Department's Recreation Programs 2016/2017 budget. (Chris Bartels, Recreation Supervisor)

Recommended Action: Approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of \$10,000.00.

- b. Consideration and possible action to approve Ordinance Number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C). (James Gardner, Associate Planner)

Recommended Action: Approve Ordinance Number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

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. An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and 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 litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town.
- b. An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director)
- c. *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 in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)
- d. An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft)

9. ACTION ITEMS RESUMED

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

- a. *Consideration and possible action to approve ~~an amendment to the Provisional A Settlement Agreement~~ in the matter of Cortez v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve ~~amendment to the Provisional Settlement Agreement~~ in the matter of Cortez v. Town of Chino Valley.

- b. Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement. (Ruth Mayday, Development Services Director)

Recommended Action: Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

- c. *Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

- d. *Consideration and possible action to approve Resolution No. 16-1081 rescinding Resolution No. 15-1055.

Recommended Action: Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055

10. ADJOURNMENT

Dated this 5th day of May, 2016.

Amendment dated 9th day of May, 2016

By: **Jami C. Lewis, Town Clerk**

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at <http://www.chinoaz.net/agendacenter> and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date: _____ Time: _____ By: _____
Jami C. Lewis, Town Clerk



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 8. c.

Meeting Date: 05/10/2016
Contact Person: Phyllis Smiley, Town Attorney
Department: Town Attorney
Estimated length of Staff Presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

*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 in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

Attachments

No file(s) attached.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 9. a.

Meeting Date: 05/10/2016
Contact Person: Phyllis Smiley, Town Attorney
Department: Town Attorney
Item Type: Action
Estimated length of staff presentation: None
Physical location of item: Peavine Loop roadway (Road 4 South)

AGENDA ITEM TITLE:

Consideration and possible action to approve ~~an amendment to the Provisional~~ A Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

RECOMMENDED ACTION:

Motion to approve ~~amendment to the Provisional~~ Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

SITUATION AND ANALYSIS:

Issue Statement

The Town Council approved and the Town entered into a Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley effective March 6, 2014, whereby the Town agreed to transfer ownership of a parcel of land to be designated by the Town and agreed to by the Plaintiff. It has now become clear that the transfer of ownership is not possible. The Town and Cortez are now proposing a cash settlement. Since the Provisional Settlement does not provide for a cash settlement, ~~an amendment is required~~ A NEW SETTLEMENT AGREEMENT IS BEING PROPOSED.

Approval of the ~~amendment~~ NEW AGREEMENT will approve the cash settlement, bringing a final resolution to the lawsuit. Upon payment of the cash settlement amount and dedication of right-of-way also required by the Provisional Settlement Agreement and the Settlement Agreement, the lawsuit will be resolved and, upon joint motion or stipulation by the parties, will be dismissed.

Applicable "Policy"

Satisfaction of "Policy"

Summary of Issues and Staff Rationale

Findings of Fact

Fiscal Impact

Fiscal Impact?: Yes

If Yes, Budget Code: 01-95-5600

Available: Yes

Funding Source:

Funds will come from the General Funds Contingency Line Item.

Attachments

No file(s) attached.



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 9. c.

Meeting Date: 05/10/2016
Contact Person: Phyllis Smiley, Town Attorney
Department: Town Attorney
Item Type: Action Item
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

*Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

RECOMMENDED ACTION:

Move to approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

SITUATION AND ANALYSIS:

Issue Statement

Applicable "Policy"

Satisfaction of "Policy"

Summary of Issues and Staff Rationale

Findings of Fact

Fiscal Impact

Fiscal Impact?: none
If Yes, Budget Code:
Available:
Funding Source:

Attachments

No file(s) attached.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 9. d.

Meeting Date: 05/10/2016
Contact Person: Phyllis Smiley, Town Attorney
Department: Town Attorney
Item Type: Action Item
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve Resolution No. 16-1081, rescinding Resolution No. 15-1055.

RECOMMENDED ACTION:

Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055.

SITUATION AND ANALYSIS:

Issue Statement

Approval of this resolution rescinding Resolution 15-1055 censuring former Councilmember Linda Hatch is required pursuant to the agreed-upon settlement of Yavapai County Superior Court case No. P1300 CV2016-000013, Hatch v. Chino Valley et al. Staff recommends approving Resolution No. 16-1081.

Applicable "Policy"

Satisfaction of "Policy"

Summary of Issues and Staff Rationale

Findings of Fact

Fiscal Impact

Fiscal Impact?: None
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Resolution 16-1081

Resolution 15-1055

RESOLUTION NO. 16-1081

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF
THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI,
ARIZONA, REPEALING RESOLUTION NO. 15-1055 RELATED
TO REMOVING THE CENSURE OF COUNCILMEMBER
HATCH; PROVIDING FOR REPEAL OF CONFLICTING
RESOLUTIONS; AND PROVIDING FOR SEVERABILITY**

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Chino Valley, County of Yavapai, Arizona, that Resolution 15-1055 censuring Councilmember Linda Hatch for refusing to comply with certain public records requests by denying that such records existed when they did, in fact exist, is hereby repealed and of no effect.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 10th day of May, 2016.

Chris Marley, Mayor

ATTEST:

Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:

Phyllis L.N. Smiley, Town Attorney

I hereby certify the above foregoing Resolution No. 16-1081 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on May 10, 2016, and that quorum was present thereat and that the vote thereon was ____ ayes and ____ nays and ____ abstentions. ____ Council members were absent or excused.

Jami C. Lewis, Town Clerk

RESOLUTION NO. 15-1055

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, YAVAPAI COUNTY, ARIZONA, CENSURING COUNCILMEMBER LINDA HATCH FOR REFUSING TO COMPLY WITH CERTAIN PUBLIC RECORDS REQUESTS BY DENYING THAT SUCH RECORDS EXISTED WHEN THEY DID, IN FACT, EXIST.

WHEREAS, Chapter 35, Code of Ethics of the Chino Valley Town Code establishes ethical standards of conduct for public officials of the town; and

WHEREAS, the Council deems it to be of the utmost importance that all members of the Council be held to the standards of conduct set forth in this Code of Ethics; and

WHEREAS, Section 35.04 of the Town Code (Conduct in Public Office) requires Councilmembers to lead by example and to seek and speak the truth; and

WHEREAS, on February 23, 2015 Councilwoman Hatch did respond to the two public records requests by denying that she had any records in her possession that fit the description and stating that she did not use personal email for Town business except under certain stated conditions; and

WHEREAS, the entire membership of the Chino Valley Town Council has been provided copies of four emails which fit the description listed in the public records requests that were obtained from another party to the email; and

WHEREAS, it is the Council's intent that the Code of Ethics be enforced,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Chino Valley, Arizona, that:

1. The Council finds such falsification and denial of the existence of public records in her possession to be unacceptable behavior for a public official and in violation of the Town's Code of Ethics.
2. Councilmember Linda Hatch is formally censured by the Chino Valley Town Council for such falsification and denial.
3. The Council demands that Councilmember Hatch comply immediately with Public Records Requests 15-02-02 and 15-02-05 by furnishing all documents responsive to the requests that are in her possession, electronically or otherwise, to the Chino Valley Town Attorney within ten business days of the approval of this Resolution.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of May, 2015.

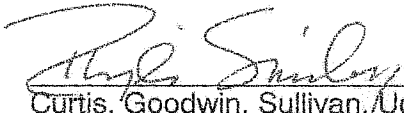


Chris Marley, Mayor

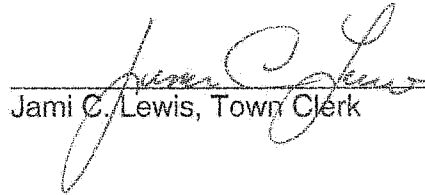
ATTEST:


Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:


Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
Town Attorneys
By: Phyllis Smiley

I hereby certify the above foregoing Resolution No. 15-1055 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on May 12, 2015, and that quorum was present thereat and that the vote thereon was 3 ayes and 1 nays and 0 abstentions. 2 Council members were absent or excused.


Jami C. Lewis, Town Clerk