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

TUESDAY, MAY 12, 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, May 12, 2015.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Linda Hatch; Councilmember Pat McKee; Councilmember Lon Turner

Absent: Councilmember Don Wojcik

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittman; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Human Resources Director Laura Kyriakakis; Police Chief Chuck Wynn; Police Lieutenant Vince Schaan; Police Officer Doug Garrett; Town Engineer/Public Works Director Ron Grittman; Assistant Public Works Director/Town Engineer Michael Lopez; Development Services Director Ruth Mayday; 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.

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

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Proclamation declaring May 22-23, 2015 as "Poppy Days," sponsored by the American Legion Auxiliary. (Mayor Marley)

Mayor Marley read the proclamation and presented it to members of the Auxiliary.

b) Proclamation declaring May 2015 as "Mental Health Month," sponsored by the West Yavapai Guidance Clinic. (Mayor Marley)

Mayor Marley read the proclamation and presented it to Tina Blake, Development Coordinator for West Yavapai Guidance Clinic.

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.

Robert Lahey, resident, spoke about a meeting handout that he believed contained some misconceptions.

Annie Lane, resident, spoke positively about improvements to the Town's website.

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) Statement against industry and in support of taxing certain business operations.

Mayor Marley reported that while the statement was tongue-in-cheek, businesses did need to obtain a business license.

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.

Vice-Mayor Croft reported on the May 2015 Citizens' Academy cancellation.

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

Development Services Director Mayday and Mr. Smith reported on the EDA issuing a non-binding letter of commitment to fund roads, water, and sewer to Old Home Manor.

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 accept the April 14, 2015 regular meeting minutes. (Jami Lewis, Town Clerk)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to accept the April 14, 2015 regular meeting minutes.

Vote: 6 - 0 PASSED - Unanimously

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 complaint and adopt resolution filed by Mayor Chris Marley against Councilmember Linda Hatch pursuant to Town Code Chapter 35 Code of Ethics, Section 35.04 Conduct in Public Office. (Vice-Mayor Croft)

Recommended Action: Adopt Resolution No.15-1055 censuring Councilmember Hatch for refusing to comply with certain records requests when such records did, in fact exist, and demanding that Councilmember Hatch comply with said requests by furnishing any missing documents to the Chino Valley Town Attorney within ten business days.

Vice-Mayor Croft reported that:

- Items 7a and 7b pertained to complaints regarding Code of Ethics violations. Item 7a was filed by Mayor Marley against Councilmember Hatch and item 7b was filed by Councilmember Hatch against Mayor Marley.
- Since Mayor Marley was involved in both complaints, the complaints were submitted to the vice-mayor, delivered to the town clerk for processing, and placed on the Council agenda for action.

Vice-Mayor Croft then reviewed the format and procedural rules for the hearing.

Mayor Marley presented his complaint, which alleged unethical behavior by Councilmember Hatch relative to activities of the Magistrate Evaluation Subcommittee and a subsequent refusal to produce related records in response to a records requests that he submitted.

Councilmember Hatch's attorney, Gary Kidd, presented her response, speaking about the reasons for Councilmember Hatch's actions as a member of the Magistrate Evaluation Subcommittee; a general lack of due process; problems with the complaint; inconsistencies with the allegations; problems with the public records request process; and the appearance that this action was retaliatory.

Mayor Marley and Mr. Kidd each presented brief rebuttals, summarizing the aforementioned points.

Council asked for Town Attorney Smiley's opinion about the complaint process. Ms. Smiley advised that while the ordinance adopting the complaint procedure was not yet effective, and the current Code only required that Council address the matter within 60 days, it was not illegal to have a hearing format, and while there was no option for censure in the Code, there was no legal effect from it.

MOVED by Councilmember Lon Turner, seconded by Councilmember Mike Best to adopt Resolution No.15-1055.

Vote: 3 - 1 PASSED

NAY: Councilmember Pat McKee

Other: Mayor Chris Marley (RECUSE)
Councilmember Linda Hatch (RECUSE)

b) Consideration and possible action to address a complaint filed by Councilmember Linda Hatch against Mayor Chris Marley pursuant to Town Code Chapter 35 Code of Ethics, Section 35.04 Conduct in Public Office. (Vice-Mayor Croft)

Recommended Action: Adopt Resolution No.15-1057 censuring Mayor Marley for refusing to comply with certain public records requests by denying that such records existed when they did in fact exist..

Town Clerk Lewis reported that Ordinance No. 15-796, which adopted procedures for ethics complaints, had not yet passed the 30-day enactment period. Therefore, the current procedures per Town Code Chapter 35 were being followed, which only required that Council consider the matter within 60 days. As Councilmember Hatch desired that the item be on the May 12 agenda, she followed Council's Rules of Procedure, Section 10(A) to obtain a co-sponsor and place the item on this agenda.

Councilmember Hatch presented her complaint, which alleged unethical behavior by Mayor Marley in that he refused to disclose records responsive to a records request that she submitted and one of which was later found during a search of the Town's email system.

Mayor Marley presented his response that he had his wife type up the resolution approved under item 7a and send it to the Town and he was not attempting to hide or modify it.

Councilmember Hatch presented her rebuttal stating that she believed there were more emails responsive to her request that remained undisclosed. Mayor Marley did not present a rebuttal.

Council noted that the town clerk received the email in question seven days prior to the records request.

MOVED by Councilmember Mike Best, seconded by Vice-Mayor Darryl Croft to censure.

Vote: 1 - 3 FAILED

NAY: Vice-Mayor Darryl Croft
Councilmember Mike Best
Councilmember Lon Turner
Other: Mayor Chris Marley (RECUSE)
Councilmember Linda Hatch (RECUSE)

Vice-Mayor Croft recessed the meeting at 6:59 p.m. and reconvened it at 7:14 p.m.

(During the break Councilmember Hatch tendered her resignation and left the meeting.)

c) (i) Public Hearing regarding application from Noel Arturo Flores for a new Series 12 (Restaurant) Liquor License for Arturo's Mexican Restaurant, Inc., located at 900 S. State Route 89, Chino Valley.

(ii) Consideration and possible action to recommend approval for new Series 12 Liquor License application for Arturo's Mexican Restaurant. (Jami Lewis, Town Clerk)

Recommended Actions:
(i) Hold Public Hearing.
(ii) Recommend to the Arizona State Liquor Board that it grant a new Series 12 Liquor License application for Arturo's Mexican Restaurant. located at 900 S. State Route 89, Chino Valley.

Ms. Lewis reported that:

- Mr. Flores applied with the state for a new Series 12 Liquor License for Arturo's Mexican Restaurant. This non-transferable, on-sale retail privileges liquor license allowed the license holder to sell and serve all types of spirituous liquor solely for consumption on the premises of an establishment which derived at least forty percent (40%) of its gross revenue from the sale of food. Failure to meet the 40% food requirement might result in revocation of the license.
- 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 from April 13, 2015 through May 11, 2015. Staff received no written arguments in favor of or in opposition to the application.

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

Vote: 5 - 0 PASSED - Unanimously

Lee Paul, resident, spoke in support of the license.

Michelle Flores, Mr. Flores' wife, spoke about the business' expansion.

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

Vote: 5 - 0 PASSED - Unanimously

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to recommend to the Arizona State Liquor Board that it grant a new Series 12 Liquor License application for Arturo's Mexican Restaurant, located at 900 S. State Route 89, Chino Valley.

Vote: 5 - 0 PASSED - Unanimously

d) Consideration and possible action to award the construction contract to CLM Earthmovers, LLC in an amount not to exceed $812,762.70 for the construction of 2 box culverts and channel improvements along Little Dogie Draw in Chino Meadows Units 2 and 5. Funding of $800,000 to come from the Yavapai County Drainage District, accounted for in the Capital Improvements Fund, with the balance of $12,762.70 to come from the HURF Fund. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Award the construction contract to CLM Earthmovers, LLC in an amount not to exceed $812,762.70 for the construction of 2 box culverts and channel improvements along Little Dogie Draw in Chino Meadows Units 2 and 5.

Mr. Grittman reported that:

- Over the last several years, the Yavapai County Flood Control District had funded drainage projects within the Town. This project was the second of three projects outlined in the intergovernmental agreement between the Town and the County.
- The Town received six bids on April 30, 2015 with CLM Earthmovers as the low bidders.
- The engineering estimate for the entire project was over $1.3 million. Due to re-appropriation of flood control funds to other needs, the County agreed to fund $800,000.00 for construction of this project, which will require the project to be built in phases—the box culverts at Porcupine Pass and the Peavine Trail, channel improvements between them, and extensions of the channel on the east side of the Peavine Trail will now be done at a later date.
- $12,762.70 for reconstruction of Porcupine Pass Road over the newly constructed box culvert will be funded by Highway User Revenue Funds.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to award the construction contract to CLM Earthmovers, LLC in an amount not to exceed $812,762.70 for the construction of 2 box culverts and channel improvements along Little Dogie Draw in Chino Meadows Units 2 and 5.

Vote: 5 - 0 PASSED - Unanimously

e) Informational hearing, consideration, and possible action to approve (1) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc. and a Wireless Communications Site Lease with SunState Towers, LLC, related to installation and leasing of two (2) wireless communications towers with Town dishes to be located on them to provide enhanced wireless capabilities between Town Hall and the Recreation Center. The previously proposed tower at the Library/North Campus will now be a separate project. Fiscal Impact: The Town will receive $1,400 per month in lease fees. (Councilmember Best; Councilmember Turner)

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

Development Services Director Ruth Mayday reported on this proposal:

Background

When the Town upgraded to new financial software in March 2014, staff realized that it might eliminate the cost of CableOne fiber links. After much technical research, feasibility analysis and coordination, staff approached the wireless communications industry to see if needed Town tower locations might be built by the cell tower industry to create the Town's data network while also improving wireless communications in the community. Staff's objective at that time was to minimize any Town expenditure of funds in the creation of the wireless data network.

Timeline

- January 22, 2015 – Staff brought the proposed project to a Council study session for feedback.
- February 24, 2015 – Council held a public informational meeting.
- March 10, 2015 – Council denied approval of the item.
- March 24, 2015 – The item was re-introduced to Council, who postponed it.
- Subsequently, staff worked with Councilmembers Turner and Best to explore alternatives to the proposal.

Item Restructure

- The project now proposed that Pinnacle Towers ("Pinnacle") will:
  - install two cell sites for Verizon Wireless use, located at the public works yard east of the Recreation Building and Town Hall;
  - install Town antennas, and necessary cabling and conduit at no cost to the Town;
  - provide $700 per month rent to the Town for land lease for each tower;
  - provide $300 per month collocation rents to the Town for each subsequent collocator to the site after the first, initial service provider (Verizon) for each tower;
  - not charge the Town rent for space on the towers for Town data antennas;
  - allow the Town contractor to align the antenna mounts, and maintain or replace equipment as needed for each tower.
- The Town will provide or pay for materials necessary for Pinnacle to accomplish Town installation.
- The leases will run for five consecutive five-year terms.
- The library tower was not part of this project and will be bid and constructed separately, should Council approve and execute the subject lease agreements. Should high bids eclipse the current budgeted amount for the item, staff will approach Council for the use of contingency funds to complete the work.

Benefits

- Needed line of sight to expand the Town's wireless network, enabling the Town to streamline operations and effectively provide timely service to the citizens.
- Enhanced signal quality and increased data transfer speeds to allow improved communication between various facilities, including enhanced radio communications for Police officers.
- Stronger Verizon presence will enable staff to perform data entry in the field, enhancing customer service and more reliable coverage for public safety and emergency services.

Unified Development Ordinance Compliance

- The proposed project served the purposes and met the requirements of Section 4.25 Wireless Telecommunication Facilities.
- A conditional use permit was not required for the proposed towers.

Town Attorney Smiley reviewed some last minute revisions to the agreement, primarily pertaining to term length and commencement date. She also reviewed the differences between this proposal and the one brought to Council previously.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to approve (i) Wireless Communications Facilities Project 2015 Master Agreement with SunState Towers, LLC and Pinnacle Consulting, Inc.; (ii) Installation Contract for Wireless Communications Facilities Project 2015 with Pinnacle Consulting, Inc., and (iii) Two (2) Wireless Communications Site Lease with SunState Towers, LLC.

Vote: 5 - 0 PASSED - Unanimously

f) Consideration and possible action to authorize the Mayor to sign Form CD-511 "Certification Regarding Lobbying", Standard Form 424D - "Assurances - Construction Programs", and Standard Form LLL - "Disclosure of Lobbying Activities" related to the Economic Development Administration (EDA) grant award. (Ruth Mayday, Development Services Director)

Recommended Action: Authorize the Mayor to sign standard forms 424D, LLL, and CD-511 required for the final award of a $1,600,074 EDA grant.

Ms. Mayday reported that:

- Staff had received notice of a non-binding commitment from the EDA in the amount of $1,600,074 for the purpose of installing sewer, water, and road infrastructure improvements at Old Home Manor.
- Signature of these documents by the Mayor will allow the Town to receive funding from the EDA, thus fulfilling the goals and objectives set forth in the 2014 Strategic Plan.
- The forms affirm that the Town will not use the funds to lobby for more funds, and that the Town will abide by its procurement code.

Mayor Marley reviewed several of the compliance requirements listed in the 424D Form.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to authorize the Mayor to sign standard forms 424D, LLL, and CD-511 required for the final award of a $1,600,074 EDA grant.

Vote: 5 - 0 PASSED - Unanimously

g) Consideration and possible action to approve an agreement between the Town of Chino Valley and Arizona Game and Fish Department to accept a grant of $16,550 (with 50:50 match in kind from Town) to make improvements to the shooting range at Old Home Manor. (Ruth Mayday, Development Services Director)

Recommended Action: Approve the agreement between the Town of Chino Valley and the Arizona Game and Fish Department and accept $16,550 in grant funds.

Ms. Mayday reported that:

- Staff had applied for funds through the AGFD shooting range improvement grant program. As the town did not receive the full funding amount requested, staff had proposed that $15,000 be used to further excavate the 200-yard rifle range, and $1,550 be used toward an historic assessment of the entire property covered in the lease.
- Acceptance of these funds will provide additional outside funding for further development of the shooting range at OHM, in accordance with the 2014 Strategic Plan. AGFD reimbursed the town for the historic assessment as the requirement came in after the funds were awarded.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to approve the agreement between the Town of Chino Valley and the Arizona Game and Fish Department and accept $16,550 in grant funds.

Vote: 5 - 0 PASSED - Unanimously

h) Consideration and possible action regarding the process for an internal or external recruitment to fill the position of Town Magistrate. (Mayor Marley)

Recommended Action: Instruct staff to begin an internal recruitment process to fill the Magistrate position and provide direction to staff regarding the process.

Mayor Marley reported that an external process might go beyond the required 90-day period, and an internal recruitment would be much easier.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to instruct staff to begin an internal recruitment process to fill the Magistrate position and provide direction to staff regarding the process.

Vote: 5 - 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.

9) ACTION ITEMS RESUMED

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

10) ADJOURNMENT

MOVED by Councilmember Lon Turner, seconded by Councilmember Mike Best to adjourn the meeting at 7:46 p.m.

Vote: 5 - 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 12th day of May, 2015. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 23rd day of June, 2015.

Li Hart for

Jami C. Lewis, Town Clerk