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

TUESDAY, MAY 26, 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 26, 2015.

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

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittman; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Chief Chuck Wynn; Police Lieutenant Vince Schaan; Police Sergeant Randy Chapman; 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.

Vice-Mayor Croft gave the invocation; Mayor Marley led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

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.

Eva Spain, resident, spoke about Councilmember Hatch being treated unfairly with regard to the Ethics Complaint procedure.

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.

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.

Mayor Marley reported on the status of several public records requests and read a portion of his Memorial Day speech.

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

Assistant Town Manager Grittman reported on: (i) recent activities of and upcoming remodeling at the Senior Center, and (ii) an agreement with Yavapai County for GIS services and support.

Public Works Director/Town Engineer Grittman reported on the current chip seal program.

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 approve consent agenda items a, b, and c.

Vote: 6 - 0 PASSED - Unanimously

a) Consideration and possible action to accept the April 28, 2015 regular meeting minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to adopt Resolution No. 15-1058, approving the proposed statements and estimates of expenses of the Town of Chino Valley Street Lighting Improvement Districts for fiscal year 2015/2016, pursuant to Section 48-616, Arizona Revised Statutes, as amended; setting a date for public hearing on the proposed statements and estimates as approved; and providing for notice of the hearing and publication of the proposed statements and estimates of the expenses of the district which shall be provided for by the levy and collection of ad valorem taxes on the assessed value of all the real and personal property in the districts. (Joe Duffy, Finance Director)

c) Consideration and possible action to authorize the Mayor to sign a Letter of Commitment with the Economic Development Administration (EDA) in the amount of $85,000. The match of $85,000 is budgeted in the Capital Improvement Fund for FY 2015/2016.(Ruth Mayday, Development Services Director)

MOVED by Mayor Chris Marley, seconded by Vice-Mayor Darryl Croft to recess the meeting at 6:19 p.m.

Vote: 6 - 0 PASSED - Unanimously

Mayor Marley reconvened the meeting at 6:23 p.m.

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 ratify Council's action on September 9, 2014 to dismiss Robert McCaullay from the Planning and Zoning Commission or to overturn the Council's September 9, 2014 action. (Mayor Marley)

Recommended Action: Consider and either (1) ratify Council's September 9, 2014 action to remove Mr. McCaullay from the Planning and Zoning Commission or (2) overturn Council's September 9, 2014 action to remove Mr. McCaullay from the Planning and Zoning Commission.

Councilmember McKee recused herself and left the chambers at 6:24 p.m.

Mayor Marley reported that:

- On September 2, 2014, the Chino Valley Police Department (PD) began an investigation into what appeared to be a violation of Arizona's Conflict of Interest laws by two members, Mr. Edmonds and Mr. McCaullay, of the Chino Valley Planning and Zoning Commission. On September 9, the PD reported that, as preliminary findings were that there had been a violation of State Statute and criminal charges may be forthcoming, they would send the case to the Yavapai County Attorney's office.
- There was a Planning and Zoning hearing scheduled for September 16, which involved a possible ruling on the property which was part of the ongoing investigation. Since there was no provision in the Unified Development Ordinance (UDO) for suspension of commission members during the course of an investigation and the County Attorney's Office had not yet met to discuss the case, the town attorney determined that according to Town Code Section 30.071 and UDO Section 1.4.1, commissioners served at the pleasure of the Council, and therefore an executive session with a 24-hour notice to the commissioner was all that was required.
- On September 9, 2014, after an executive session, Council voted to remove the two commissioners pursuant to Town Code Section 30.071. Council later received notification that Mr. Edmonds had sent in a letter of resignation effective September 4, which was prior to the executive session.
- On November 3, the PD received notice from the Yavapai County Attorney's office that, although Mr. Edmonds and Mr. McCaullay had publicly indicated that they had an interest in the matters before the commission, there was no evidence that their votes conferred a direct economic benefit on either person. Therefore, their conduct did not rise to the level of a criminal violation of the statute.
- Since Council removed Mr. McCaullay from his position on September 9 without giving him the required 24-hour notice, the Mayor scheduled an executive session for this meeting with the required 24-hour notice to Mr. McCaullay in order to discuss his earlier dismissal.

Mayor Marley apologized to Mr. McCaullay for not getting 24-hour notice to him and he read an excerpt from Robert's Rules of Order pertaining to abstaining to voting on questions of direct personal interest.

Jeffrey Sparks, an attorney representing Mr. McCaullay, alleged that as Mr. McCaullay was denied his rights and due process, none of the code provisions for removal applied, and the county attorney found no criminal violation, he was improperly removed from the Commission.

Mayor Marley clarified that in order to reverse their September 9, 2014 decision, a motion to rescind that action was needed.

MOVED by Councilmember Wojcik to rescind the decision back in September 2014. The motion FAILED for lack of a second.

Mayor Marley reported that the September 9, 2014 decision stood.

Councilmember McKee returned to the dais at 6:45 p.m.

b) Consideration and possible action to approve Resolution No. 15-1059, adopting a Tentative Budget for the fiscal year 2015-2016, and proposed expenditure limitation for the same year, in the amount of $23,937,400, setting the Expenditure Limit for Fiscal Year 2014/2015. (Joe Duffy, Finance Director)

Recommended Action:Approve Resolution No. 15-1059, adopting the Tentative Budget and proposed expenditure limitation for FY 2015-2016, in the amount of $23,937,400.

Mr. Duffy reported on the tentative budget. Key points were:

- *Changes since preliminary budget presentation:* Updated revenue manual and projections; additional grant match for the RED grant; new charts; and formatting changes. Net change was a budget decrease of $12,000.
- *Significant items next budget year:* (i) increases in health insurance and dependent care contribution, public safety public retirement system, staffing headcount, and cost of living; (ii) exhaustion of impact fee funds and highway user revenue fund (HURF) reserves; (iii) acquisition of Prescott water; (iv) USDA refinance and Molly Rae sewer; and (v) planning to address capital asset shortfalls.
- *Total budget:* Decreased from $29,966,774 last fiscal year.
- *General Fund*: Carryover of $326,885; proposed to transfer $50,000 to HURF; and transferred in $150,000 for aquatics.
- *Special Funds:* (i) Decreased HURF carryover, fund balance, and road materials; and increased total revenues; (ii) Decreased total Capital Improvement revenues by $1.9 million, and decreased expenses by $2.2 million; (iii) Net operating losses in the Water Enterprise Fund were decreasing; and (iv) Net operating losses in the Sewer Enterprise Fund should decrease significantly.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to approve Resolution No. 15-1059, adopting the Tentative Budget and proposed expenditure limitation for FY 2015-2016, in the amount of $23,937,400.

Vote: 6 - 0 PASSED - Unanimously

c) *Continued from March 10, 2015:* Consideration and possible action to appoint applicants to fill vacancies on the Planning and Zoning Commission, Parks and Recreation Advisory Board, Public Safety Retirement Board, Industrial Development Authority, and Municipal Property Corporation. (Jami Lewis, Town Clerk)

Recommended Action: Appoint applicants to the Planning and Zoning Commission, Parks and

Recreation Advisory Board, Public Safety Retirement Board, Industrial Development Authority, and Municipal Property Corporation, as recommended by the Council Appointments Subcommittee; and designate for the Planning and Zoning Commission that Ms. Lane be appointed to the Planning and Zoning Commissionterm ending January 31, ____[2016 or 2017] and Mr. Bacon be appointed to the same term ending January 31, ____[2016 or 2017].

Vice-Mayor Croft reported that the Appointments Subcommittee reviewed applications on February 23, 2015, and recommended the following for appointment:

- Planning and Zoning Commission – Annie Lane to term ending January 31, 2017, Michael Bacon to term ending January 31, 2016, and Claude Baker as alternate.
- Parks and Recreation Advisory Board – Deryl Jevons to term ending June 30, 2015.
- Public Safety Retirement Board – Re-appoint Cheryl Romley to term ending June 30, 2016.
- Industrial Development Authority – Appoint John Coomer to term ending June 30, 2017.
- Municipal Property Corporation – Re-appoint John Coomer to term ending June 30, 2017.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best approve those appointments recommended by the Appointments Subcommittee.

Vote: 6 - 0 PASSED - Unanimously

d) Consideration and possible action to direct staff in regards to the placement of the Granite Mountain Hotshots memorial. (Ruth Mayday, Development Services Director)

Recommended Action: Allow Mr. Nietzschmann to reconsider alternative locations for the memorial.

Ms. Mayday reported that the Klaus Nietzschmann and the Elks Club were requesting permission to locate a Granite Mountain Hot Shots monument on Town property. Previously, at Council's direction, staff asked Mr. Nietzschmann to select alternative sites.

Mr. Nietzschmann told Council that he looked at and the Elks discussed Memory Park and the Community Center. They wanted visibility and accessibility, and as neither of the alternative locations provided that, he was again asking for a spot in front of town hall. They planned to allow parking at the town hall parking lot and benches for visitors to sit on.

Council asked about signage and the process for the project. Staff reported that the Town could place a sign on its own property or could approach ADOT about one on the highway; and Mr. Nietzschmann would have to go through Development Services like any other land use project, except there will be no fees.

Public Comment:

Jan Mazy, Town employee, informed Council that there was a Hot Shots plaque in Memory Park, as well as at the flagpole next to the Library.

Annie Lane, resident, expressed concern about it being a distraction for drivers on the highway.

Ms. Mayday suggested that she bring the item back to the next meeting for direction.

Council asked staff to provide all information they would need to make a decision, including foundation plans and site plans at all locations, and access information.

e) Consideration and possible action to award the Community Development Block Grant Paving Project of portions of Chino Meadows Unit 5 to Fann Contracting, Inc. per one of the following two options: (i) an amount not to exceed $265,500.00, excluding Lazy Loop and a portion of Cottonwood Drive due to budget limitations;

OR

(ii) an amount not to exceed $315,995.00 and authorize staff to move $50,495.00 from the current fiscal year contingency line item to the Grants line item for this project. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action:

(i) Award the Community Development Block Grant Paving Project of portions of Chino Meadows Unit 5 to Fann Contracting, Inc., in an amount not to exceed $265,500.00, excluding Lazy Loop and a portion of Cottonwood Drive;

OR

(ii) Award the Community Development Block Grant Paving Project of portions of Chino Meadows Unit 5 to Fann Contracting, Inc., in an amount not to exceed $315,995.00, and authorize staff to move $50,495.00 from the current fiscal year contingency line item to the Grants line item for this project.

Councilmember Wojcik recused himself from this item at 7:22 p.m., due to a possible appearance of conflict of interest, as he lived on Lazy Loop Drive.

Mr. Grittman reported that:

- The Town received Community Development Block Grant (CDBG) funds every four years. The Town intended to use the entire grant amount to pave as much as possible in Chino Meadows Unit 5. Staff created a base bid to pave certain streets, while an additive alternative provided a price to pave the remaining streets of Chino Meadows Unit 5 south of Little Doggie Draw.
- Fann Contracting's low bid of $315,995.00 exceeded the $265,500.00 in available CDBG funds. Therefore, the funding amount will not allow for paving the entire proposed area. Staff recommended eliminating all non-pavement to pavement areas of the project—Lazy Loop and Cottonwood Drive between Porcupine Pass and the southern terminus, which will maximize the amount of paving under the grant amount.
- Because of the importance of providing a uniform presentation of the neighborhood, staff prepared an alternative to funding this project above the grant limitations by allocating $50,495 from the current fiscal year's contingency funds to cover the shortfall.

Council discussion: Council generally believed that since so many roads in the Town needed repair, they could not justify spending the extra money and the Town should just get as much as they could with the grant funds.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to award the Community Development Block Grant Paving Project of portions of Chino Meadows Unit 5 to Fann Contracting, Inc., in an amount not to exceed $265,500.00, excluding Lazy Loop and a portion of Cottonwood Drive;

Vote: 5 - 0 PASSED

Other: Councilmember Don Wojcik (RECUSE)

Councilmember Wojcik returned to the dais at 7:35 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.

The Executive Session was not held.

a) Consideration and possible action to recess the regular meeting and hold an executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of dismissal of Robert McCaullay from the Planning and Zoning Commission.

9) ACTION ITEMS RESUMED

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

10) ADJOURNMENT

MOVED by Mayor Chris Marley, seconded by Vice-Mayor Darryl Croft to adjourn the meeting at 7:37 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 26th 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.

Jami C. Lewis, Town Clerk