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

## TUESDAY, MAY 27, 2014
## 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 27, 2014.

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; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Planner Ruth Mayday; Building Official Dan Trout; Town Clerk Assistant Liz Hart (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.

### 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.*

Beverly Swanty with the Chino Valley Elks Lodge spoke about their annual Flag Day Ceremony on June 14 at Memory Park.

Ronald Maines, resident, spoke about the proposed bond issue and requested an accounting of the town's current debt. Council asked staff to contact Mr. Maines about this and post the information on the town's web site.

### 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.*

Mayor Marley had nothing to report.

## 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 report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

Mr. Smith asked Development Services Deputy Director/Chief Building Official Dan Trout to report on building permit statistics for 2011 through 2014 and new permit tracking software for the department.

## 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 6a and b.

**Vote:** 7 - 0 PASSED

**a)** Consideration and possible action to support and join Prescott Valley's proposed resolution to the AZ League of Municipalities to authorize municipalities to use a sampling method to determine population estimates and housing vacancy rates for mid-decennial population updates. (Robert Smith, Town Manager)

**b)** Consideration and possible action to approve Resolution No. 14-1035, adopting a Tentative Budget for the fiscal year 2014-2015, and proposed expenditure limitation for the same year, in the amount of $29,866,774. (Joe Duffy, Finance Director)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to move item 8a in front of the executive session.

**Vote:** 7 - 0 PASSED

## 7) 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.*

(Council heard these items after item 8a but they are retained here for clarity.)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to recess the regular meeting and hold the executive session at 6:18 p.m.

**Vote:** 7 - 0 PASSED

Mayor Marley reconvened the regular meeting at 7:02 p.m.

a) Pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding the requirements of the Provisional Settlement Agreement with Cortez Enterprises, Inc. and options of the Town. (Mayor Marley & Robert Smith, Town Manager)

Mayor Marley reported that this item will be placed on the next agenda.

b) Pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignments, appointment, promotion, dismissal, salary of Town Magistrate John Walker, and pursuant to A.R.S. § 38-481.03(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 regarding the contract withTown Magistrate John Walker. (Mayor Marley & Council)

Mayor Marley reported that Council reviewed this item.

c) Pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider the Town's position and instruct the Town Attorney regarding the Town's position regarding a contract with Prescott Sportsmen's Club, Inc. related to management services for the Chino Valley Shooting Range that is the subject of negotiations. (Mayor Marley)

Mayor Marley reported that Council instructed the town attorney to draft certain provisions and send them to the Prescott Sportsmen's Club for review.

**8) ACTION ITEMS**

a) Consideration and possible action to approve disbanding the Town of Chino Valley SR89 Utility Project Citizen Committee. (Liz Hart, Town Clerk Assistant)

Recommended Action: Approve the disbanding the Town of Chino Valley SR89 Utility Project Citizen Committee.

(Council heard this item after item 6b but is retained here for clarity.)

The staff report by Town Clerk Assistant Hart stated that on April 9, 2013, Council established the subject committee to review the SR 89 Utility Project, which pertained to proposed extensions of sewer and water to the highway for economic development and financial stability purposes, and bring a recommendation to the Council regarding a potential bond election in November 2014. The committee presented its report to Council on May 13, 2014.

Mayor Marley recognized the Committee members.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve disbanding the Town of Chino Valley SR 89 Utility Project Citizen Committee.

**Vote:** 7 - 0 PASSED

**b)** Consideration and possible action to allow the Elks to erect a Hot Shots monument. (Mayor Marley)

Recommended Action:Discuss potential installation, and possibly assign to staff or committee for consideration and staff report to Council.

(Council heard this item after item 7c but is retained here for clarity.)

Mayor Marley reported that Klaus Neitzschmann with the Chino Valley Elks Lodge had contacted the Town about their desire to erect a bronze monument in honor of the Prescott Hot Shots, preferably in front of Town Hall, so that it will be visible to those driving on the highway. The Elks, partnering with the Chino Valley Fire District Charities, intended to seek funding for the entire project.

Mr. Smith suggested having appropriate staff members meet with the Elks and bring their recommendation to Council.

**c)** Consideration and possible action to approve the 2014 Road Maintenance Program with the additional amount of $45,000.00 above the already approved amount of $190,000.00 on September 10, 2013. Funds to come from HURF Road Materials. (Joe Duffy, Finance Director)

Recommended Action: Approve the 2014 Road Maintenance Program with the additional amount of $45,000.00 above the already approved amount of $190,000.00.

Mr. Duffy and Town Engineer Grittman (staff report) reported that:

- The total roads material budget in the HURF fund for FY 2013/2014 was $300,000. On September 10, 2013, Council approved using $190,000 of this budget for road resurfacing; the rest was allocated for other road maintenance, such as pothole repair and crack sealing.
- As of May 19, 2014, Public Works had spent $172,000 on road resurfacing. The department was requesting a budget adjustment by moving $45,000 from other road maintenance to road resurfacing, thus increasing the road resurfacing budget from $190,000 to $235,000 this fiscal year for the spring chip seal program.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the 2014 Road Maintenance Program with the additional amount of $45,000.00 above the already approved amount of $190,000.00.

**Vote:** 7 - 0 PASSED

**d)** Consideration and possible action to adopt a motion to accept previously dedicated and recorded Roadway Easements related to the Road 1 East Roadway Project over Yavapai County Assessor parcels 102-01-001M fna 102-01-01M, 102-01-214C, 102-01-219G fna 102-01-01W, 102-01-219H fna 102-01-01R, 102-01-223E fna 102-01-01K, 102-01-216A, 102-01-216. (Robert Smith, Town Manager)

Recommended Action: Adopt a motion to accept previously dedicated and recorded Roadway Easements related to the Road 1 East Roadway Project over Yavapai County Assessor parcels 102-01-001M fna 102-01-01M, 102-01-214C, 102-01-219G fna 102-01-01W, 102-01-219H fna 102-01-01R, 102-01-223E fna 102-01-01K, 102-01-216A, 102-01-216.

Town Attorney Susan Goodwin (staff report), Mr. Smith, and Town Attorney Smiley reported that:

- In 1986, the owners of the subject properties dedicated easements to the public for roadway and utility purposes. At that time, those properties were in the county, and the easements were dedicated and recorded in the Yavapai County Recorder's Office, and they could currently be found in the appropriate title reports.
- Subsequently, the Town annexed that area. Since the annexation, while the Town had treated the easements as Town easements, staff could find no formal acceptance of the easements in county or town records.
- The Town was now ready to proceed with the Road 1 East improvements over the roadway easements and the town attorney recommended that the recordkeeping error be corrected to expressly reflect formal acceptance of the roadway easements so that they met the Town's definition of "rights-of-way."

Council asked about the Chino Golf Range owner contesting the Town's authority to use his easement for the Road 1 East project. Ms. Smiley related that staff had researched the title reports, parcel number changes, and whether or not there were any pre-annexation development agreements related to the easements, and the attorneys were in the process of drafting a response to the business owner.

Council Comments:

- Council should not vote on the item without being able to review the easement documents and having them available to the public.
- Council should not take action until the Chino Golf Range owner's letter had been answered, as there was a chance of litigation by acting on it now.
- Staff should provide the easement documents, title report, and map depicting the easements.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to recess the meeting at 7:21 p.m.

**Vote:** 7 - 0 PASSED

Mayor Marley called the meeting back to order at 7:32 p.m.

Ms. Smiley handed out unofficial copies of the documents and related that:

- Town Attorney Goodwin, who prepared the staff report did not anticipate that Council would want the documents in the packet, as they were available on the county website.
- Although staff could not locate any official action by the county, one way to accept a dedication was to use the property as a right-of-way. These easements had been used by the public for 38 years.
- Upon annexing the area, the Town might have assumed that the County had accepted the easements, and it was not the Town's practice to accept other county roads at the time of annexation.
- Now that there was a question about the Town having the easements, the town attorney was recommending that Council close the loop and formally accept them.

Council comments:

- Councilmembers had a duty to review all items and they needed materials in advance.

- As long as the business owner's inquiry was unanswered, there was still a question as to the Town's right to build the road.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to table this item to the next meeting and get all the documents together.

**Vote:** 7 - 0 PASSED

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to move up item 8g.

**Vote:** 7 - 0 PASSED

**e)** Consideration and possible action to amend Section 4.21.7 Temporary Signs and Section 4.21.11 Prohibited Signs previously authorized by the adoption of Ordinance 10-726 with modifications. (Ruth Mayday, Planner)

Recommended Action: amending the language of Section 4.21.7 Temporary Signs and 4.21.11 Prohibited Signs as recommended.

(This item was heard after item 8g but is retained here for clarity.)

Ms. Mayday reported that:

- In 2009, during construction on State Route 89, residents and visitors complained of difficulty in locating businesses, and merchants suffered because of construction related confusion and the continuing economic downturn.
- In response, Council adopted Ordinance 09-718, temporarily suspending prohibitions on certain signage, and they extended these provisions through January 8, 2014 via Ordinance 10-726.
- Since that time, many businesses contacted the Town about negative impacts in their businesses since the ordinance's expiration and supporting reinstatement of the language in Ordinance 10-726.
- On April 1, 2014, the Planning and Zoning Commission ("Commission") discussed amendments to the language in Ordinance 10-726 and heard comment from business owners. On May 6, 2014, the Commission held a public hearing regarding the proposed amendments and voted unanimously to forward the item to Council with a recommendation for approval.
- Rather than extend the provisions of Ordinance 10-726, the town attorney had recommended that Council revise Unified Development Ordinance Section 4.21.7 Temporary Signsand 4.21.11 Prohibited Signs, making those changes permanent, rather than using ordinances to suspend the provisions.
- Staff recommended that Council hear from business owners tonight and postpone adoption of this item until June 10.

Public Comment:

Norma Bennett, business owner, spoke in favor of flag signs, which had increased her business' visibility.

David Tinsley, business owner, spoke about the importance of signage to businesses and his request that Council consider this in their decisions.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to place this item on the next agenda with an Ordinance.

**Vote:** 7 - 0 PASSED

**f)** Consideration and possible action to amend Section 5.5 Subdivision Regulations: Modifications, Appeals, and Enforcement. (Ruth Mayday, Planner)

Recommended Action: Amend and rename Section 5.5 Modification and Enforcement of Subdivision Regulations.

Staff requested that this item be postponed.

**g)** Presentation, consideration, and possible action to approve ballot language for General Obligation bond election. (Robert Smith, Town Manager)

Recommended Action: Approve proposed general obligation bond election ballot language.

(This item was heard after item 8d but is retained here for clarity.)

Mark Reader, financial advisor with Stifel, Nicolaus, and Michael Cafiso, bond attorney with Greenberg Traurig, reviewed the election materials for the bond measure.

Election Process

- A resolution to call the election needed to be adopted by late June or early July and the November 4 election would be a polling place election, not a vote-by-mail election.
- Once Council called the election: they could no longer advocate the proposal and must remain neutral; the voter information pamphlet also needed to be content neutral; and the Town will announce to the public that they could submit pro/con statements for the pamphlet.
- The pamphlet will be mailed to every residence with a qualified elector and the contents were driven by state law. Within those parameters, staff needed Council's help with the language regarding the bond.
- Next steps were for Council to call the election and draft the pamphlet. A study session was scheduled for June 5 to review the pamphlet language.

Ballot Question and Pamphlet

- While the ballot question was the technical description of what voters would approve or deny, the pamphlet should be informative for the voters and include broader information, such as a description of the proposed projects. Council could include data that was not required, but they needed to be careful to stay within the legal requirements. Staff recommended a question and answer type format for the pamphlet.
- The draft pamphlet included the official ballot format, questions and answers about the bonds, bond amounts, bond interest rates, estimated taxpayer costs, current outstanding bond debt and debt limits, bond projects and expenditures, finance plan, and general voter information.

Bond Project

- The current bond budget was $13.5 million, with the Prescott water purchase at $4.1 million, Wilhoit Water purchase at $100,000, wastewater treatment plant purchase at

$3,030,000, and SR 89 water and waste water at $3.1 million each. It also included plenty of construction contingency.

- The bond budget included an interest rate not to exceed 7% and an amortization period of not-to-exceed 25 years.
- The Town would be required to use the Water Infrastructure Finance Authority (WIFA) program for acquisition of utilities relative to possible grant funds and loan interest rates.
- While the Town was not required to use WIFA for the SR 89 project, it had the option to do so.

**h)** Consideration and possible action to approve Resolution 14-1037 authorizing the application for a Clean Water State Revolving Fund (CWSRF) loan from the Water Infrastructure Finance Authority (WIFA) of Arizona and Resolution 14-1038 authorizing the application for a Drinking Water State Revolving Fund (DWSRF) loan from the Water Infrastructure Finance Authority of Arizona. (Joe Duffy, Finance Director)

Recommended Action: Approve Resolutions No. 14-1037 and 14-1038.

Mr. Duffy reported that:

- The Town had submitted details of the Highway 89 Water and Sewer projects to WIFA, which scored the projects and determined the Town as a disadvantaged community.
- This will allow the Town to receive a subsidized interest rate of 25% on the waste water projects and 20% on the drinking water projects. The Town may also qualify to have a portion of the principle of each project forgiven.
- In order to obtain and determine funding pre-approval, interest rate, and forgivable principle prior to the November election, the Town needed to adopt the proposed resolutions to proceed with application to the WIFA Board for funding approval.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Resolution Nos. 14-1037 and 14-1038.

**Vote:** 7 - 0 PASSED

**i)** Consideration and possible action to approve Resolution Number 14-1036 requesting the legislature appropriate $20,000,000 to the Greater Arizona Development Authority (GADA) Infrastructure Fund and insulate the fund from future sweeps. (Joe Duffy, Finance Director)

Recommended Action:Approve Resolution Number 14-1036.

Mr. Duffy reported that:

- While the Water Infrastructure Finance Authority (WIFA) could only finance drinking water, clean water, and wastewater projects, GADA could finance recreational, administrative buildings, police and fire, and other long-term projects.
- As the Town received GADA funding last year, Julie Richards, GADA Program Consultant, requested that the Town co-support this resolution to encourage the legislature to continue to fund GADA and insulate the fund from future sweeps.
- The City of Apache Junction and Town of Queen Creek had already adopted similar resolutions and the League of Arizona Cities and Towns supported it.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Resolution Number 14-1036.

**Vote:** 7 - 0 PASSED

**j)** Consideration and possible action to approve a proposal and scope of work with Elliot D. Pollack & Company, to perform economic development analysis and create an economic development plan for the Town of Chino Valley. (Robert Smith, Town Manager)

Recommended Action: Approve the proposal and scope of work with Elliot D. Pollack & Company, to perform economic development analysis and create an economic development plan for the Town of Chino Valley.

Mr. Smith reported that:

- On May 15, 2014, Council discussed the upcoming bond process and General Plan, as well as economic development in the Town, and what to do next. Staff believed that the next step was to create an economic development plan to develop the area that will be improved using bond proceeds.
- As a first step, the proposed General Plan had an Economic Development Element, along with some general policies for local and regional economic development. In conjunction, the Town needed to begin economic development related analysis and planning, policies on local and regional economic development, and participation with local and regional economic development agencies and organizations.
- Pollack proposed three phases of work: (i) analysis of the bond issue structure—this was already complete; (ii) reports and impact analysis of an approved bond issue; and (iii) developing an economic development plan for the Town. $7,000 will be due in FY 2014/2015 and $7,000 in the following fiscal year.
- Subsequent to the Bond election, staff anticipated a 'phase two' effort with Pollack to complete additional work based on the election's outcome.

Council comments: Since it was not clear if the $14,000 included certain ancillary costs mentioned in the proposal, Council could approve the proposal with a not-to-exceed amount of $14,000.

Town Attorney Smiley advised that if Council voted to include the the ancillary costs in the not-to-exceed price of $14,000, the contract would need to be approved with such modifications.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Linda Hatch to approve the proposal and scope of work with Elliot D. Pollack & Company, to perform economic development analysis and create an economic development plan for the Town of Chino Valley, not to exceed $14,000, including all ancillary costs and the contract will be modified to state so.

**Vote:** 7 - 0 PASSED

**k)** Consideration and possible action to review and approve Town Manager's goals. (Mayor Marley & Council)

Recommended Action: Direction to Staff.

Council reviewed and discussed several of the proposed goals and determined timeframes for their completion.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the town manager goals as modified.

**Vote:** 7 - 0 PASSED

l) Consideration, discussion, and possible action regarding review of the Road 4 South extension project expenditures. (Mayor Marley & Joe Duffy, Finance Director)

Recommended Action: Direction to staff.

Mr. Duffy reported that:

- On May 13, 2014, Council requested a review of the Road 4 South project's expenditures, as a result of questions from the public regarding costs that appeared to be omitted from prior presentations.
- Mr. Duffy reviewed a detailed ledger, with expenses categorized and summarized, and stated that with future projects, he will provide reports like this in order to avoid the confusion that had occurred with this project.
- Some engineering work had been coded in a prior fiscal year before this project was assigned an account number, and it was not industry standard to code staff salaries in relation to such projects.
- The difference between staff's original presentation on April 22 and this one was $1,100, due to small invoice changes and credits.

Council asked about statutory limits on inhouse counsel. Town Attorney Smiley stated that she believed it was $216.00.

Mayor Marley recognized those who worked to complete this project, thus avoiding litigation.

## 9) ADJOURNMENT

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to adjourn the meeting at 8:51 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 27th day of May, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 26th day of August, 2014.

Jami C. Lewis, Town Clerk