



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

SPECIAL MEETING
Monday, July 2, 2012
5:00 P.M.

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

AGENDA

- 1) **CALL TO ORDER; ROLL CALL**
- 2) Council may vote to hold an executive session pursuant to A.R.S. § 38-431.03(A)(1) and (A)(4) for discussion or consideration of employment, appointment, or salary for the position of Town Magistrate, and for discussion or consultation with its attorneys in order to consider its position and instruct its attorneys regarding the Town's position regarding the negotiation of a contract for the same. (Magistrate Evaluation Committee)
- 3) Consideration and possible action to approve Employment Agreement for Presiding Magistrate with John Walker, as amended, for a three-year term effective July 1, 2012 and ending June 30, 2015, in the amount of \$85,500 for each of the first two years of this Agreement, with a possible increase for the third year of this Agreement. (Magistrate Evaluation Committee)
- 4) **ADJOURNMENT**

Dated this 29th day of June, 2012.

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 636-1787 (TDD) 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/clerk/townagenda.shtml>, 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 Town Hall, Chino Valley Post Office, and Chino Valley Aquatic Center 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 Special Meeting

Item No. **3.**

Meeting Date: 07/02/2012
Contact Person/Dept: Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208
Item Type: N/A
**Estimated length
of staff presentation:** None
Physical location of item: Magistrate Court

Information

AGENDA ITEM TITLE:

Consideration and possible action to approve Employment Agreement for Presiding Magistrate with John Walker, as amended, for a three-year term effective July 1, 2012 and ending June 30, 2015, in the amount of \$85,500 for each of the first two years of this Agreement, with a possible increase for the third year of this Agreement.

RECOMMENDED ACTION:

Approve Employment Agreement for Presiding Magistrate with John Walker, as amended, for a three-year term effective July 1, 2012 and ending June 30, 2015, in the amount of \$85,500 for each of the first two years of this Agreement, with a possible increase for the third year of this Agreement.

SITUATION AND ANALYSIS:

On June 26, 2012, Council approved an Employment Agreement for Presiding Magistrate with current Magistrate John Walker. Subsequently, it was discovered that the document distributed in the agenda packet was not the version approved by the Magistrate Evaluation Committee (MEC).

Two versions of the Agreement are attached for discussion: One as amended by Town Attorney Tom Kack and one as amended by the MEC.

Fiscal Impact

Fiscal Impact?: Yes

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Agreement as amended by Town Attorney

Agreement as amended by the MEC

EMPLOYMENT AGREEMENT PRESIDING MAGISTRATE

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2012, by and between the Town of Chino Valley, Arizona ("the Town"), acting through its Mayor and Common Council (collectively referred to as "the Council") and John G. Walker (the Presiding Magistrate)

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1. Powers And Duties Of Presiding Magistrate.

The Town agrees to employ John G. Walker as the Presiding Magistrate of the Chino Valley Municipal Court as provided by this Agreement, the Arizona Constitution, Arizona law, and the Town Code of Chino Valley.

SECTION 2. Term of this Agreement

A. The term of this Agreement shall commence effective July 1, 2012, and shall end on June 30, 2015. ~~The parties agree that a condition precedent to the validity and binding of the parties to this agreement for a term in excess of two (2) years is an amendment to the Town Code of Chino Valley, not later than August 1, 2012, which authorizes a three (3) year term~~

B. Either party to this Agreement may terminate it pursuant to the following terms:

1. The Presiding Magistrate may terminate this Agreement for any reason or no reason at all. The Presiding Magistrate agrees that if he intends to terminate this Agreement, he shall provide written notice of his intent to terminate at least sixty (60) days in advance of the actual termination date.
2. The Council may terminate this Agreement at any time for good cause in accordance with the provisions of the Arizona Constitution and Arizona law, with the affirmative vote of four members of the Council at any regular or special meeting. The Presiding Magistrate shall be given written notice setting forth the Town's grounds for the

termination of this Agreement and be afforded all of the protections of due process of law, including but not limited to a hearing, which may be held in public at the discretion of the Presiding Magistrate. The grounds for good cause in terminating this agreement include: the conviction of the Presiding Magistrate of any crime which involves moral turpitude or ~~the determination of the Town to provide for Municipal Court services for the Town of Chino Valley to provide for a municipal court on a contract or other basis, such as has been done by and between the City of Prescott and Yavapai County for the Prescott Municipal Court and the Prescott Precinct Justice Court (a "Shared Court").~~ as provided in the following paragraph.

3. In the event that the Town notifies the Presiding Magistrate of its intent to terminate this Agreement due to financial constraints and that it will no longer provide a Municipal Court in the Town of Chino Valley, ~~The, the~~ date of termination of this Agreement shall be the date that the jurisdiction of the Chino Valley Municipal Court is actually transferred to the appropriate Justice of the Peace in Yavapai County or other court which has the constitutional and statutory authority to exercise jurisdiction over matters arising within the former jurisdiction of Chino Valley. The Town shall provide six (6) months prior notice to the Presiding Magistrate of the Town's intent to terminate this Agreement on the above ground, and the Town may not terminate this Agreement on this ground prior to June 30, 2014.

C. On the date of the termination of this Agreement, all compensation payable to the Presiding Magistrate under this Agreement shall cease, except that the Town shall pay to the Presiding Magistrate all compensation earned but not paid as of the date of termination. Upon termination of this Agreement, the Town shall pay to the Presiding Magistrate all amounts due and owing for vacation leave for his accrued but unused vacation leave and his accrued but unused sick leave under the terms and conditions which apply to other Town employees pursuant to the Town's personnel policies and procedures as they existed on the effective date of this Agreement. The Town shall make such payments not later than seven (7) days after the date of termination of this Agreement.

SECTION 3: Compensation: The Town agrees to pay the Presiding Magistrate an annual compensation of \$85,500.00 for each of the first two (2) years of this Agreement. Prior to June 30, 2014, John G. Walker and the Council will meet

and confer about a potential increase in his compensation for the third year of this Agreement. Additionally, from time to time during the period this Agreement is in effect, the Council may, within its sole discretion, grant the Presiding Magistrate such increases in compensation as the Council deems appropriate. Payment of the Magistrate's compensation shall be made on a bi-weekly basis, commencing with the first pay period provided for within the term of this Agreement.

SECTION 4. Presiding Magistrate's Duties. The Presiding Magistrate shall be responsible and shall perform all of the following duties:

General Duties Statement:

The Presiding Magistrate is recognized by the Arizona Supreme Court as the Chief Executive Officer of the judicial branch of government for the Town of Chino Valley. As such, the Presiding Magistrate is responsible both to the Arizona Supreme Court and to the Chino Valley Town Council as the legislative branch of government. Therefore, the position of Presiding Magistrate requires the ability to accommodate, coordinate, and balance the interests of preserving the independence of the Court as an integral part of the state judiciary, with the practical necessities of being an integral part of the government for the Town of Chino Valley.

Essential Duties:

- Overall management and administration of the Court and the supervision of the judicial employees who comprise the court staff.
- Presides over and adjudicates cases involving alleged violations of Arizona Revised Statutes (primarily Title 13 and Title 28), and the Town Code of Ordinances.
- Presides over and adjudicates orders of protection and injunctions against harassment.
- Conducts initial appearances, arraignments, pretrial disposition conferences, change of plea hearings, sentencing, order to show cause hearings, motion hearings, traffic hearings, jury and non-jury trials, restitution hearings, payment review hearings, juvenile civil traffic arraignments and hearings and all other hearings as may be required.
- Authorizes and issues criminal arrest warrants, search warrants, and felony complaints on behalf of the Prescott Justice Court.
- Issues oral and written order orders and opinions as may be necessary.
- Performs legal research and maintains currency with developments in Arizona statutes, Rules and case law.
- Complies with the Town's Personnel Policies and Procedures in the administration of the court.
- Complies with the Arizona Supreme Court's administrative orders and its Opinions expressed in its Municipal Court Questions and Answers, and the directives of the Administrative Office of the Court.

- Prepares and submits the Court's annual budget to the Town Council, and manages the approved budget.
- Provides oral or written quarterly reports to the Town Council on the state of the judicial branch.
- The Magistrate shall additionally be responsible for maintaining reasonable, regular business hours for the Court. Those hours are presently 8:00 a.m. to 4:30 p.m., Monday through Thursday of each week, excluding holidays. The Magistrate shall have flexibility in adjusting the operating hours of the Court each day of the week to facilitate the Court's administration and services to the public, to include, for example, rescheduling to provide for night Court.
- While not a function of the Town's Magistrate Court, if requested to do so by the Town Council and if not a conflict with his duties as Presiding Magistrate, John Walker also agrees to act as the Hearing Officer regarding the imposition of sewer liens.

SECTION 5. Benefits.

- A. Arizona State Retirement. The Presiding Magistrate shall be eligible to participate in the Arizona State Retirement System.
- B. Insurance Coverage.
 1. The Presiding Magistrate shall be covered by the same family medical and dental plans as full time employees of the Town.
 2. The coverages provided for herein shall be subject to such changes as the Town or its insurance carrier may make from time to time applicable to full time employees of the Town. Additionally, any other coverage that may be added by the Town in the future and which are applicable to full time employees of the Town will be made available to the Presiding Magistrate on the same terms and conditions extended to such other employees and/or their dependents.
- C. Vacation Leave. The Presiding Magistrate shall be entitled to accrue and use vacation leave at the rate and under the terms and conditions which apply to full time Town employees pursuant to the Town's Personnel Policy as it exists on the effective date of this Agreement.

D. Sick Leave. The Presiding Magistrate shall be entitled to accrue and use sick leave, to participate in the sick leave bank, and upon the termination of this Agreement shall be paid for unused sick leave at the rates and under the terms and conditions set forth in the Personnel Policy as it existed on the effective date of this Agreement.

E. Holidays. The Presiding Magistrate shall also be afforded with paid holidays according to the Chino Valley Personnel Policy.

SECTION 6. Notices. Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, or through overnight carrier service, addressed as follows or at such address may be changed from time to time upon notice to the other.

Town: Mayor
Town of Chino Valley
P.O. Box 406
Chino Valley, Arizona 86323
and

Human Resources Director:

Town of Chino Valley
P.O. Box 406
Chino Valley, Arizona 86323

Magistrate Judge: John G. Walker
466 Brady Road
Prescott, Arizona 86305

John G. Walker
Presiding Magistrate
Chino Valley Municipal Court
P.O. Box 406

Magistrate Court Judge
1988 N. Road 1 West
Chino Valley, Arizona 86323

SECTION 7. General Provisions.

- A. Entire Agreement. The text of this Agreement constitutes the entire agreement between the parties. Any representations, statements, promises or understandings not contained herein shall be of no continued force, effect or validity.
- B. Severability. The invalidity in whole or part of any provision hereof shall not affect the validity of any other provision hereof and this Agreement shall remain in full force and effect except as to such invalid provision, ~~with the exception of the provisions of SECTION 2 (A) Term of This Agreement. If the Town Code is not amended to authorize a three (3) year term for the Presiding Magistrate by August 1, 2012, then it shall be deemed that John Walker's appointment as Presiding Magistrate was simply extended to August 1, 2012, and the balance of this entire Agreement shall be null and void.~~
- C. Conflict of Interest. Pursuant to A.R.S. § 38-511, the Town may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the Town is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. In the foregoing event, the Town further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town of Chino Valley from any other party to the agreement arising out of this Agreement.
- D. Modification or Amendment. Nothing herein shall prohibit the parties from modifying or amending the terms and conditions of this Agreement; provided, however, such amendment or modification is made in a separate writing that is executed by the parties and supported by reasonable and sufficient consideration.
- E. Governing Law. This Agreement shall be governed by the laws of the State of Arizona, and any suit to enforce or interpret any provision hereof or to obtain any remedy with respect hereto may be sought only in the superior court for Yavapai County, Arizona. Each party irrevocably consents to jurisdiction and venue in said court.

F. Waiver. Failure of party to exercise any of its rights with respect to a breach of this Agreement shall not constitute a waiver of any right that the party may have with respect to any other breach.

IN WITNESS THEREOF, the Town of Chino Valley has caused this Agreement to be signed and executed in its behalf by its Mayor and duly attested by its Town Clerk, and the Presiding Magistrate has signed and executed this Agreement, both in duplicate, the day and year first written above.

John G. Walker

Chris Marley, Mayor

Attest:

Approved as to form:

Jami Lewis, Town Clerk

Thomas P. Kack,
Musgrove, Drutz & Kack, PC, Town
Attorney

EMPLOYMENT AGREEMENT
PRESIDING MAGISTRATE

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 2012, by and between the Town of Chino Valley, Arizona ("the Town"), acting through its Mayor and Common Council (collectively referred to as "the Council") and John G. Walker (the Presiding Magistrate)

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A. The term of this Agreement shall commence effective July 1, 2012, and shall end on June 30, 2015.

B. Either party to this Agreement may terminate it pursuant to the following terms:

1. The Presiding Magistrate may terminate this Agreement for any reason or no reason at all. The Presiding Magistrate agrees that if he intends to terminate this Agreement, he shall provide written notice of his intent to terminate at least sixty (60) days in advance of the actual termination date.

2. The Council may terminate this Agreement at any time for good cause in accordance with the provisions of the Arizona Constitution and Arizona law, with the affirmative vote of four members of the Council at any regular or special meeting. The Presiding Magistrate shall be given written notice setting forth the Town's grounds for the termination of this Agreement and be afforded all of the protections of due process of law, including but not limited to a hearing, which may be held in public at the discretion of the Presiding Magistrate. The grounds for good cause in terminating this agreement include: the conviction of the Presiding Magistrate of any crime which involves moral turpitude or the inability of the Town to provide a Municipal

1 Court for the Town of Chino Valley as provided in the Arizona
2 Constitution and under Arizona law.

3 3. In the event that the Town notifies the Presiding Magistrate of its
4 intent to terminate this Agreement on the grounds of its inability to
5 provide a Municipal Court for the Town of Chino Valley, the date of
6 termination of this Agreement shall be the date that the jurisdiction of
7 the Chino Valley Municipal Court is actually transferred to the
8 appropriate Justice of the Peace Court in Yavapai County which has
9 concurrent jurisdiction with the Chino Valley Municipal Court or to
10 another court which has constitutional and statutory authority to
11 exercise jurisdiction over matters arising within the jurisdiction of
12 Chino Valley. The Town shall provide six (6) months prior notice to the
13 Presiding Magistrate of the Town's intent to terminate this Agreement
14 on the above ground, and the Town may not terminate this Agreement
15 on this ground prior to June 30, 2014.

16
17 C. On the date of the termination of this Agreement, all compensation
18 payable to the Presiding Magistrate under this Agreement shall cease,
19 except that the Town shall pay to the Presiding Magistrate all
20 compensation earned but not paid as of the date of termination. Upon
21 termination of this Agreement, the Town shall pay to the Presiding
22 Magistrate all amounts due and owing for vacation leave for his accrued
23 but unused vacation leave and his accrued but unused sick leave under
24 the terms and conditions which apply to other Town employees pursuant
25 to the Town's personnel policies and procedures as they existed on the
26 effective date of this Agreement. The Town shall make such payments
27 not later than seven (7) days after the date of termination of this
28 Agreement.

29 SECTION 3: Compensation: The Town agrees to pay the Presiding Magistrate
30 an annual compensation of \$85,500.00 for each of the first two (2) years of this
31 Agreement. Prior to June 30, 2014, John G. Walker and the Council will meet
32 and confer about a potential increase in his compensation for the third year of
33 this Agreement. Additionally, from time to time during the period this
34 Agreement is in effect, the Council may, within its sole discretion, grant the
35 Presiding Magistrate such increases in compensation as the Council deems
36 appropriate. Payment of the Magistrate's compensation shall be made on a bi-
37 weekly basis, commencing with the first pay period provided for within the
38 term of this Agreement.

39 SECTION 4. Presiding Magistrate's Duties. The Presiding Magistrate shall be
40 responsible and shall perform all of the following duties:

1 General Duties Statement:

2 The Presiding Magistrate is recognized by the Arizona Supreme Court as
3 the Chief Executive Officer of the judicial branch of government for the Town of
4 Chino Valley. As such, the Presiding Magistrate is responsible both to the
5 Arizona Supreme Court and to the Chino Valley Town Council as the legislative
6 branch of government. Therefore, the position of Presiding Magistrate requires
7 the ability to accommodate, coordinate, and balance the interests of preserving
8 the independence of the Court as an integral part of the state judiciary, with
9 the practical necessities of being an integral part of the government for the
10 Town of Chino Valley.

11 Essential Duties:

- 12 • Overall management and administration of the Court and the
13 supervision of the judicial employees who compromise the court staff.
- 14 • Presides over and adjudicates cases involving alleged violations of
15 Arizona Revised Statutes (primarily Title 13 and Title 28), and the Town Code of
16 Ordinances.
- 17 • Presides over and adjudicates orders of protection and injunctions
18 against harassment.
- 19 • Conducts initial appearances, arraignments, pretrial disposition
20 conferences, change of plea hearings, sentencing, order to show cause
21 hearings, motion hearings, traffic hearings, jury and non-jury trials, restitution
22 hearings, payment review hearings, juvenile civil traffic arraignments and
23 hearings and all other hearings as may be required.
- 24 • Authorizes and issues criminal arrest warrants, search warrants, and
25 felony complaints on behalf of the Prescott Justice Court.
- 26 • Issues oral and written order orders and opinions as may be necessary.
- 27 • Performs legal research and maintains currency with developments in
28 Arizona statutes, Rules and case law.
- 29 • Complies with the Town's Personnel Policies and Procedures in the
30 administration of the court.
- 31 • Complies with the Arizona Supreme Court's administrative orders and its
32 Opinions expressed in its Municipal Court Questions and Answers, and the
33 directives of the Administrative Office of the Court.

- 1 • Prepares and submits the Court's annual budget to the Town Council,
2 and manages the approved budget.
- 3 • Provides oral or written quarterly reports to the Town Council on the
4 state of the judicial branch.
- 5 • The Magistrate shall additionally be responsible for maintaining
6 reasonable, regular business hours for the Court. Those hours are presently
7 8:00 a.m. to 4:30 p.m., Monday through Thursday of each week, excluding
8 holidays. The Magistrate shall have flexibility in adjusting the operating hours
9 of the Court each day of the week to facilitate the Court's administration and
10 services to the public, to include, for example, rescheduling to provide for night
11 court.
- 12 • While not an essential duty of his appointment, the Presiding Magistrate
13 may serve as a Hearing Officer under the provision of Town Ordinance 10-741.

14
15 SECTION 5. Benefits.

16 A. Arizona State Retirement. The Presiding Magistrate shall be
17 eligible to participate in the Arizona State Retirement System.

18 B. Insurance Coverage.

19 1. The Presiding Magistrate shall be covered by the same family
20 medical and dental plans as full time employees of the Town.

21 2. The coverages provided for herein shall be subject to such
22 changes as the Town or its insurance carrier may make from time
23 to time applicable to full time employees of the Town. Additionally,
24 any other coverage that may be added by the Town in the future
25 and which are applicable to full time employees of the Town will be
26 made available to the Presiding Magistrate on the same terms and
27 conditions extended to such other employees and/or their
28 dependents.

29 C. Vacation Leave. The Presiding Magistrate shall be entitled to
30 accrue and use vacation leave at the rate and under the terms and
31 conditions which apply to full time Town employees pursuant to the
32 Town's Personnel Policy as it exists on the effective date of this
33 Agreement.

34 D. Sick Leave. The Presiding Magistrate shall be entitled to accrue
35 and use sick leave, to participate in the sick leave bank, and upon the
36 termination of this Agreement shall be paid for unused sick leave at the

1 rates and under the terms and conditions set forth in the Personnel
2 Policy as it existed on the effective date of this Agreement.

3 E. Holidays. The Presiding Magistrate shall also be afforded with paid
4 holidays according to the Chino Valley Personnel Policy.

5
6 SECTION 6. Notices. Notices pursuant to this Agreement shall be given by
7 deposit in the custody of the United States Postal Service, postage prepaid, or
8 through overnight carrier service, addressed as follows or at such address may
9 be changed from time to time upon notice to the other.

10 Town: Mayor
11 Town of Chino Valley
12 P.O. Box 406
13 Chino Valley, Arizona 86323
14 and

15 Human Resources Director:
16 Town of Chino Valley
17 P.O. Box 406
18 Chino Valley, Arizona 86323
19

20 Magistrate Judge: John G. Walker
21 466 Brady Road
22 Prescott, Arizona 86305
23
24 John G. Walker
25 Presiding Magistrate
26 Chino Valley Municipal Court
27 P.O. Box 406
28 Magistrate Court Judge
29 1988 N. Road 1 West
30 Chino Valley, Arizona 86323
31
32

33 SECTION 7. General Provisions.

34 A. Entire Agreement. The text of this Agreement constitutes the
35 entire agreement between the parties. Any representations, statements,
36 promises or understandings not contained herein shall be of no
37 continued force, effect or validity.

38 B. Severability. The invalidity in whole or part of any provision hereof
39 shall not affect the validity of any other provision hereof and this

1 Agreement shall remain in full force and effect except as to such invalid
2 provision.

3 C. Conflict of Interest. Pursuant to A.R.S. § 38-511, the Town may
4 cancel this Agreement, without penalty or further obligation, if any
5 person significantly involved in initiating, negotiating, securing, drafting
6 or creating the agreement on behalf of the Town is, at any time while the
7 agreement or any extension of the agreement is in effect, an employee or
8 agent of any other party to the agreement in any capacity or a consultant
9 to any other party of the agreement with respect to the subject matter of
10 the agreement. In the foregoing event, the Town further elects to recoup
11 any fee or commission paid or due to any person significantly involved in
12 initiating, negotiating, securing, drafting or creating this Agreement on
13 behalf of the Town of Chino Valley from any other party to the agreement
14 arising out of this Agreement.

15 D. Modification or Amendment. Nothing herein shall prohibit the
16 parties from modifying or amending the terms and conditions of this
17 Agreement; provided, however, such amendment or modification is made
18 in a separate writing that is executed by the parties and supported by
19 reasonable and sufficient consideration.

20 E. Governing Law. This Agreement shall be governed by the laws of
21 the State of Arizona, and any suit to enforce or interpret any provision
22 hereof or to obtain any remedy with respect hereto may be sought only in
23 the superior court for Yavapai County, Arizona. Each party irrevocably
24 consents to jurisdiction and venue in said court.

25 F. Waiver. Failure of party to exercise any of its rights with respect to
26 a breach of this Agreement shall not constitute a waiver of any right that
27 the party may have with respect to any other breach.

28
29 IN WITNESS THEREOF, the Town of Chino Valley has caused this
30 Agreement to be signed and executed in its behalf by its Mayor and duly
31 attested by its Town Clerk, and the Presiding Magistrate has signed and
32 executed this Agreement, both in duplicate, the day and year first written
33 above.

34
35
36
37 _____
John G. Walker

Chris Marley, Mayor

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Attest:

Approved as to form:

Jami Lewis, Town Clerk

Thomas P. Kack,
Musgrove, Drutz & Kack, PC, Town
Attorney