

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

**TUESDAY, JULY 8, 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, July 8, 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 Town Manager Robert Smith; General Services Director Cecilia Grittmann; Town Attorney Phyllis

Present: Smiley; Finance Director Joe Duffy; Lieutenant Vince Schaan; Officer Cody Johnson; Civilian Operations Supervisor Laurie Whisenand; Civilian Officer Marrilee Easton; Magistrate John Walker; Town Engineer/Public Works Director Ron Grittmann; Planner 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 6:01 p.m.

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

Councilmember McKee attended the meeting via conference phone.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Proclamation Supporting National Night Out 2014

Mayor Marley read the proclamation; Lieutenant Schaan and Civilian Officer Easton spoke about the August 5 event at Memory Park.

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.

Will Williams with the Chino Valley Lions Club spoke about the proposed route for the Territorial Days parade.

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) The possibility of current sewer users being exempt from the proposed property tax due to the bills incurred when sewer system was originally established.

Who represents the out of state owners, which are unable to vote on the proposed tax?

Mayor Marley reported that he was unable to obtain an answer on this item and he will address it on the following agenda.

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.

Councilmember Hatch reported on Chino Valley Finance Director Joe Duffy's appointment to the NACOG Audit Committee.

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

Mr. Smith reported on:

- Planner Ruth Mayday's promotion to Development Services Director.
- A video clip promoting the Town's aquatic center, produced by Cable One at no cost.

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, b and c.

Vote: 7 - 0 PASSED

- a) Consideration and possible action to approve the revised vote-by-mail Election Services Agreement between Yavapai County Board of Supervisors, Yavapai County Recorder and the Town of Chino Valley for utilizing County election services to remain in effect until terminated.

Recommended Action: Approve Elections Services Agreement with Yavapai County Recorder for utilizing County election services, with Agreement to remain in effect until terminated

- b) Consideration and possible action to approve recommended budget adjustments for the Fiscal Year Ending June 30, 2014. (Joe Duffy, Finance Director)

Recommended Action: Approve recommended budget adjustments for Fiscal Year Ending June 30, 2014.

- c) Consideration and possible action to adopt Resolution No. 14-1040, approving the proposed statements and estimates of expenses of the Town of Chino Valley Street Lighting Improvement Districts for fiscal year 2014/2015, 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)

Recommended Action: Adopt Resolution No. 14-1040, approving the proposed statements and estimates of expenses of the Town of Chino Valley Street Lighting Improvement Districts for fiscal year 2014/2015.

7) ACTION ITEMS

- a) Discussion, consideration, and possible action to adopt a resolution ordering and authorizing all matters necessary for a bond election to be held on November 4, 2014. If this resolution is so adopted, the deadline for submitting arguments with respect to it is August 4, 2014. (Robert Smith, Town Manager)

Recommended Action: Approve Resolution No. 14-1041, ordering and authorizing all matters necessary for a bond election to be held on November 4, 2014.

Mr. Smith reported that:

- Council had indicated through prior action that the findings generated by the citizens' bond committee warranted a bond question on the November 2014 election ballot.
- Michael Cafiso with Greenburg Traurig, the Town's bond counsel, prepared the resolution and ballot language that will be used for the election.
- The ballot language would authorize the issuance of bonds that would be repaid by the property owners in the Town through secondary property taxes for the design and construction of facilities for water production and distribution and wastewater collecting and treatment. The authorization would be for bonds that would mature not more than 25 years from their date and would bear interest at a rate of not to exceed 7% per annum. The issuance of these bonds would result in a property tax increase sufficient to pay the annual debt service on the bonds.

Mayor Marley spoke about the many Council meetings in which Council discussed this matter, including June 24, 2014, wherein Council reviewed and discussed the subject resolution, ballot language, and voter information pamphlet. Council was being asked to vote on the resolution and ballot language tonight; the pamphlet language will be reviewed in an upcoming meeting. Mr. Cafiso also edited the resolution since the packet was published.

Council asked about infrastructure extensions beyond Road 4 South and across the highway, and mandating businesses to hook up. Mr. Smith related that:

- A Prescott water line on the west side of SR 89 traversing from Road 4 South past Road 5 South would be included in the acquisition.
- The bond did not include funds to cross the highway, but Development Services Director Mayday had received preliminary clearance to use grant money from an old EPA grant in the amount of \$470,000 for that purpose.
- Mandatory connection would depend upon the funds being used, but Council could waive connection fees for the bond-defined project area.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Resolution No. 14-1041, ordering and authorizing all matters necessary for a bond election to be held on November 4, 2014.

Vote: 7 - 0 PASSED

- b) Consideration and possible action to to amend the Unified Development Ordinance (UDO) to regulate the manner and placement of Assisted Living Facilities, Assisted Living Homes, Recovery Homes, and related special purpose residences. (Ruth Mayday, Planner)

Recommended Action: Approval of the proposed text amendments to Section 2.1 Definitions and Chapter 3 Zoning Districts?, Sections 3.5 through 3.13 (AR-36, AR-5, AR-4, SR-2.5, S4-2, SR 1.6, SR-1, SR-0.16, MR), and Section 3.15 (CL) and Section 4.10 Special Purpose and Temporary Housing for the purposes of regulating the manner and placement of Sober Homes, Assisted Living Centers, and Assisted Living Homes.

Ms. Mayday reported that:

- On June 24, 2014, during discussion on this item, a question was raised about the proposed use being in conflict with the UDO's definition of 'single family residential.' In further reviewing the UDO, staff found no definition for 'single family residential,' but there was a definition for 'dwelling, single family' that used the phrase 'single housekeeping unit,' which was also not defined. The proposed amendment would add a definition that would allow for groups of unrelated individuals to occupy a single-family dwelling unit. Neither the International Building Code nor the International Residential Code limited the number of persons that could occupy a single-family residential dwelling unit, related or not related.
- The right and ability of recovery homes to locate in single-family neighborhoods was well-established in law, in which the courts demonstrated their willingness to uphold the Fair Housing Act's (FHA) prohibitions on discrimination based on handicap, while striking down the imposition of zoning regulations governing the manner and placement of said homes. In short, the rights of the handicapped to not suffer discrimination in housing choices superseded the Town's ability to define family and regulate the number of persons residing in a dwelling unit based on familial status.
- While the town could not regulate the manner and placement of recovery homes, it could do so for assisted living homes and centers. Staff recommended defining Assisted Living Center as 11 or more residents, and an Assisted Living Home as 10 or less residents; and allowing them as conditional uses in residential zoning districts to encourage the public process, and as permitted uses in Multiple Family (MH) and Commercial Light (CL) zoning districts.
- An entity was currently considering one of these homes in Appaloosa Meadows.
- Staff recommended the changes to the UDO proposed in Ordinance 14-785.

Town Attorney Smiley clarified that sober and recovery residences were not regulated by anyone, as their residents were protected persons under FHA and ADA as persons with a

disability. Assisted living homes and centers were regulated by the state and must be licensed. When discussing zoning, the town could regulate where to locate such homes, but not such things as the number of caregivers.

Public comment:

Craig Brown, 4th District County Supervisor, related that the county was discussing this issue, particularly whether or not such operations constituted a business and should be taxed.

Lee Paul, Appaloosa Meadows resident, opposed any such business in the subdivision, as its CC&R regulations prohibited business activity.

Cheri Romley, Appaloosa Meadows resident, opposed such homes in the subdivision due to the CC&R regulations and quality of life issues, such as lower property values, increased traffic, and lack of knowledge about who would monitor such homes. She urged the town to delay a decision and study other municipalities' regulations.

Jay Bates, Appaloosa Meadows resident, opposed such homes in the subdivision, and asked about CC&Rs overruling other regulations, and what would be allowed under the proposed amendments. He also requested that Council postpone the item until the HOA obtained counsel.

Hans Vang, Appaloosa Meadows resident, stated that area homeowners signed contracts prohibiting home businesses.

Fred Reubhausen, Appaloosa Meadows resident, opposed any such operation in the subdivision.

Annie Lane spoke about no one neighborhood being better than others.

Randy Brumund, Appaloosa Meadows resident, opposed the proposition.

Sherry Brown, Appaloosa Meadows resident, asked why she had not heard about this matter.

Kim Burkett, Appaloosa Meadows resident, spoke about having bad experiences with such homes as a law enforcement officer.

Ms. Smiley and Ms. Mayday advised that:

- this item pertained to a zoning code amendment, not any specific property;
- zoning regulations did not affect CC&Rs;
- the courts considered such homes as any other single family residence, not a business; and
- while assisted living homes would require HOA approval, recovery homes would not.

Council discussion:

- Council's actions were separate from those of the HOAs, which would have to seek their own counsel and recommendations.
- The town needed to determine if recovery homes would need to pay bed tax or if they were taxed as rentals.
- Council had previously voted to require a 5,280-foot distance from such homes.
- If Council did not pass this ordinance today, someone could apply for a recovery home tomorrow at any location and not have to abide by the distance or other requirements in the ordinance.

- They generally believed that these proposed regulations would protect the town and the HOAs.

Ms. Smiley stated that her understanding was that such homes were taxed as rental properties.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to approve the proposed text amendments to Section 2.1 Definitions and Chapter 3 Zoning Districts, Sections 3.5 through 3.13 (AR-36, AR-5, AR-4, SR-2.5, SR-2, SR 1.6, SR-1, SR-0.16, MR), and Section 3.15 (CL) and Section 4.10 Special Purpose and Temporary Housing for the purposes of regulating the manner and placement of Sober Homes, Assisted Living Centers, and Assisted Living Homes.

Vote: 7 - 0 PASSED

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.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to go into executive session after a brief recess at 7:19 p.m.

Vote: 7 - 0 PASSED

(Councilmember McKee left the meeting after item 8b)

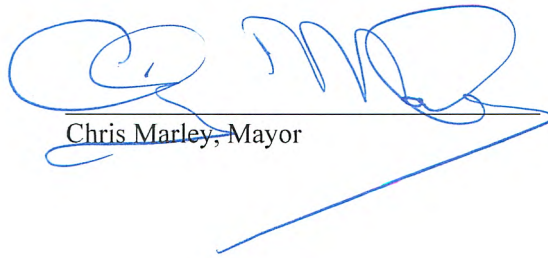
Mayor Marley reconvened the regular meeting at 8:24 p.m.

- a) Council may hold an executive session pursuant to A.R.S. 38-431.03(A)(1) for discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of the Town Magistrate.(Councilmember Hatch/Councilmember McKee)
- b) An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (7) for discussion or consultation for legal advice with the Town Attorney regarding right of way easement along the proposed extension of Road 1 East and for discussions or consultations with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located along the proposed extension of Road 1 East between Road 4 South and Kalinich and to consider a proposal from property owner Steven Chontos related to Yavapai County Assessor's Parcel Number 102-01-223E, one of the properties located within the project boundaries. (Mayor Marley)

9) ADJOURNMENT

MOVED by Councilmember Lon Turner, seconded by Councilmember Mike Best to adjourn the meeting at 8:24 p.m.

Vote: 6 - 0 PASSED



Chris Marley, Mayor

ATTEST:

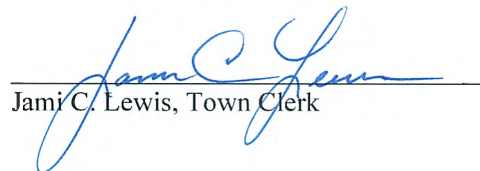


Jami C. Lewis, Town Clerk

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 8th day of July, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 14th day of October, 2014.



Jami C. Lewis, Town Clerk