

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

**TUESDAY, JULY 9, 2013
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 9, 2013.

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 Watts; Town
Present: Attorney Phyllis Smiley; Police Lieutenant Vince Schaan; Police Officer Randy Chapman; Town Engineer/Public Works Director Ron Grittmann; Building Official Dan Trout; Associate Planner Dennis Price; Town Clerk Assistant 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 and Mayor Marley led the pledge of allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

Councilmember Hatch introduced Councilmember McKee's grandchildren, Christian and Brenden Woodside, visiting from Pennsylvania.

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 speaker remarks.

Clyde Marshall, resident, spoke about dust and speeding issues on M. A. Perkins Trailway and presented a petition signed by area residents asking the Town to pave the road.

Michael Edmonds asked about the dollar amount triggering the Town's public bidding requirement.

Flavia Hewett, new resident, asked about the lack of additional shopping in the Town.

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)** Town staff's authority to make recommendations to the Planning and Zoning Commission.

Mayor Marley reported that elected and appointed bodies, such as the Town Council and Planning and Zoning Commissions, relied upon staff's expertise for information and analysis in order to ask informed questions and make informed decisions.

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 Council participation in the Frontier Days parade, and on being appointed by the Northern Arizona Council of Governments (NACOG) to represent Yavapai County on a membership committee, whose purpose will be to set up new guidelines for membership on NACOG's Economic Development Committee.

Mayor Marley and Councilmember Turner reported on a successful 4th of July celebration last week.

Mayor Marley read the Mayor's Report, which pertained to the Hot Shots Memorial Service, held earlier today.

- a)** Recognition of Chino Valley FFA Leadership Team for representing the State of Arizona at the FFA annual national convention. (Councilmember Best)

Councilmember Best recognized the instructor and members of the FFA for winning the state leadership competition and representing the state at the FFA national convention.

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 item 6a. AYE: Unanimous. NAY: None. ABSTAIN: None. Motion: PASSED

- a) Consideration and possible action to approve the June 11, 2013 regular meeting minutes. (Jami Lewis, Town Clerk)

7) ACTION ITEMS

- a) Consideration and possible action to adopt Ordinance No. 13-771 approving a zone change from "CL" Commercial Light to "CH" Commercial Heavy for an approximately 1-acre parcel located at 3440 N. State Route 89, Chino Valley, AZ 86323 and further identified as Assessor's Parcel Number 306-04-028C. Applicant/Property owner: Mary DeWitt, Trustee for the DeWitt Family Revocable Trust. (Dennis Price, Associate Planner)

Acronym used in this item:

UDO (Unified Development Ordinance)

Mr. Price reported that:

- The applicant's commercial tenant/purchaser desired to offer an expanded range of services, such as welding, auto body repairs, and painting, which necessitated the request to rezone the property from Commercial Light ("CL") to Commercial Heavy ("CH").
- Citizen protocol: Nine letters were sent to neighboring properties and a neighborhood meeting was held on May 29, 2013. Staff received no letters for or against the request and no community members attended the meeting.
- General Plan Conformance: The proposed rezone was consistent with and conformed to the Land Use Designation for the property as set forth in the Land Use Element of the Town's 2003 General Plan.
- June 18, 2013, Planning and Zoning Commission public hearing: The applicant requested that staff's recommended stipulations for paving and landscaping be waived. The Commission voted to recommend that Council approve the zone change and waive the requirement for paving in favor of the applicant providing a gravel driving surface for dust control, as well as the landscaping requirement.
- Since that meeting, questions were raised relative to staff's recommendations, the applicant's request for waivers, and the Commission's recommendations.

Town Attorney Phyllis Smiley reported that she found nothing in the UDO that allowed Council to waive the requirements of a conventional rezoning. However, no

waiver for paving and landscaping requirements were needed at this time, as they were triggered by a change in the use or configuration of an existing commercial building, which was not being proposed. The only requirement triggered at this time was storage fencing. As such, she recommended that Council approve Ordinance No. 13-771, Option 1, which contained staff's recommendations, as opposed to Option 2, which contained the Commissions recommendations.

Bill O'Leary, the applicant's attorney, stated that:

- Fencing/screening were required in both ordinance options only for outside storage, not the whole property.
- The storage area was proposed to abut Choctaw Lane, rather than SR 89, to avoid loss of visibility for the business.
- As Option 1 required paving and landscaping now and his client preferred gravel now, he believed Option 2 addressed the Commission's terms of approval, as well as that of the UDO.

Council discussed:

- details as to the screening and paving requirements;
- the ordinance options not being clear; and
- needing more time to review the matter.

Owner/Applicant Mary DeWitt spoke about this being a simple issue and asked Council to approve the rezone to allow the business owner to continue to operate.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to postpone item 7a until the next meeting. AYE: 4 NAY: Councilmember Mike Best Councilmember Linda Hatch ABSTAIN: Councilmember Pat McKee (ABSTAIN) Motion: PASSED

- b) (i) Public Hearing regarding application from Lauren Merrett for the acquisition of control (change of ownership) of an existing Series 10 (Beer and Wine) Liquor License for Maverik, Inc., located at 1060 S. Highway 89, Chino Valley.

(ii) Consideration and possible action to either allow or protest the change of ownership of the Series 10 Liquor License for Maverik, Inc. to the Arizona Department of Liquor Licenses and Control. (Jami Lewis, Town Clerk)

Ms. Lewis reported that:

- Per A.R.S. § 4-203.F, if a person other than those persons originally licensed acquired control over a license or licensee, the person shall file notice of the acquisition with the state, which is forwarded to the Council, which may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person(s) acquiring control.
- Lauren Merrett applied with the state for an acquisition of control of Maverik's Series 10 (beer and wine store) Liquor License. This non-transferable, off-sale retail privileges liquor license allowed a retail store to sell beer and wine, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

- The Police and Planning Departments reviewed the application and offered no comments. Staff posted the establishment with the necessary notices to meet the required 20-day period from June 11, 2013 through July 9, 2013. Staff did not receive any written arguments in favor of or in opposition to the application.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to open the public hearing. AYE: Unanimous. NAY: None. ABSTAIN: None.
Motion: PASSED

No one from the public spoke.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to close the public hearing. AYE: Unanimous. NAY: None. ABSTAIN: None.
Motion: PASSED

As there was no protest, Council took no action.

- c) Discussion and possible direction to staff regarding extension of Road 1 East to Road 4-1/2 South instead of the proposed location. (Councilmember Lon Turner; Councilmember Don Wojcik)

Acronyms used in this item:

ADOT (Arizona Department of Transportation)
IGA (Intergovernmental Agreement)

Councilmembers Turner and Wojcik stated that they put this item on the agenda to give business owner Steve Chontos an opportunity to discuss the matter with Council.

Mr. Chontos reported that:

- 10 months ago, the town engineer presented a two-part proposal to provide an alternate route in case the Road 4 South roundabout was closed due to an accident.
- As the past three accidents in the roundabout caused the Town to close Road 4 South, thereby preventing access to Road 1 East, he did not feel extending Road 1 East was justified.
- In addition, he and two other business owners in the affected area were never approached by the Town about the proposal.
- If Council determined to have staff extend Road 1 East, he recommended stopping at "Road 4½ South" instead of the proposed Kalinich Avenue, as: (i) it would allow the property owners to keep their land intact and avoid lengthy and costly court cases; (ii) it was the best and shortest way to achieve an alternate route; (iii) Dirt on the Range had already put a road base along that alignment; and (iv) it would be the most economical for the Town, as the Town could acquire that right-of-way at no charge, whereas the property owners further south will want compensation.

- He did not oppose the proposed roundabout between "Road 4½ South" and Road 5 South.

Town Engineer Ron Gritman related that:

- Council and staff had discussed this matter on several occasions and ADOT had held public meetings to discuss plans with the affected business community. During early discussions, the various parties discussed using a frontage road for access, but Mr. Chontos refused to grant the right-of-way. After all the discussions, Council gave direction to staff and ADOT on the current design.
- ADOT had now completed the project's design and it was out for bid. Moving Kalinich Avenue to "Road 4½ South" would require an amendment to the design and if Council requested this, the whole project would probably be shelved.
- Presently, ADOT had just completed the intergovernmental agreement that provided for the Town to contribute \$100,000 toward the roundabout; this was scheduled to be on the next agenda. Area property owners will also be notified about the final plans.
- The town attorney was reviewing past documents relating to the area's annexation in 1999, and staff believed the Town had all the rights-of-way and easements needed for the Road 1 East extension, except for one parcel.

Mr. Chontos added that he was never asked about dedicating frontage right-of-way, he had not been informed of one important meeting, and no roundabout was discussed during Council's November 13, 2012 meeting.

Council discussed the matter's history and having no recollection about the \$100,000 contribution.

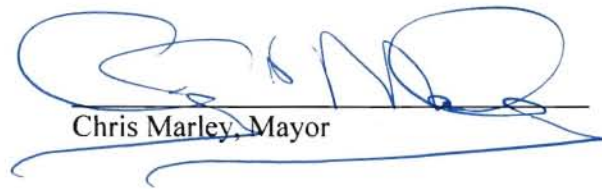
Council asked staff to provide documentation on the discussions and decisions made, including the Town's \$100,000 contribution, and have Mr. Stump with ADOT present at the next meeting

8) EXECUTIVE SESSION

Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the Town's attorneys on any of the above agenda items pursuant to A.R.S. § 38-431.03(A)(3).

9) ADJOURNMENT

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to adjourn at 7:30 p.m. AYE: Unanimous. NAY: None. ABSTAIN: None. Motion: PASSED



Chris Marley, Mayor

ATTEST:

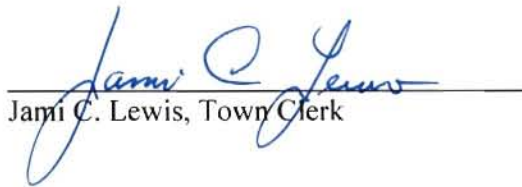


Jami C. Lewis, Town Clerk

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 9th day of July, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 13th day of August, 2013.



Jami C. Lewis, Town Clerk