



Town of Chino Valley

MEETING NOTICE TOWN COUNCIL

**REGULAR MEETING
Tuesday, August 26, 2014
6:00 P.M.**

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

AGENDA

- 1) CALL TO ORDER, INVOCATION; PLEDGE OF ALLEGIANCE; ROLL CALL**
- 2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**
 - a)** Town of Chino Valley and the Chino Valley Chamber of Commerce Business Appreciation Program. (Cecilia Gritman, General Services Director)
 - b)** Presentation regarding the Town co-sponsoring a free health care day in the quad-cities in June 2015. (Councilmember Best; Vice Mayor Croft)
- 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.

- 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 Town's legal authority to build the Road 1 East extension across current easements and proof that such easements had been dedicated.
- b)** The reasoning used to propose infrastructure expansion between Road 2 North and Road 3 North instead of other available areas.

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.

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.

- a) Consideration and possible action to approve the May 27, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)
- b) Consideration and possible action to approve the June 5, 2014 study session minutes. (Jami Lewis, Town Clerk)

7) ACTION ITEMS

- a) Consideration and possible action to approve an Accountability Contract between the Town of Chino Valley and the Chino Valley Chamber of Commerce in the amount of \$45,000. Funding source: \$38,000 to come from Non-Departmental outside agency line and \$7,000 to come from Contingencies. (Robert Smith, Town Manager)

Recommended Action: Approve an Accountability Contract between the Town and the Chino Valley Chamber of Commerce in the amount of \$45,000.

- b) (i) Public Hearing regarding application from Richard Bicker Jr., for the Agent Change and Acquisition of Control of an existing Series 9 (Liquor Store) Liquor License for Liquor Barn, located at 315 Business Park Drive #5, Chino Valley.
(ii) Consideration and possible action to either allow or protest the change of ownership of the Series 9 Liquor License for Liquor Barn to the Arizona Department of Liquor Licenses and Control. (Jami Lewis, Town Clerk)

Recommended Action:

- (i) Hold Public Hearing.
- (ii) Take no action; OR Protest the acquisition of control of Liquor Barn's Series 9 Liquor License.

- c) Consideration and possible action to rezone approximately 438 acres located in Section 6, Township 15 North, Range 1 West from Single Family Residential, Two (2) Acre Minimum (SR-2) to Industrial (I). (Ruth Mayday, Development Services Director)

Recommended Action: Approve rezoning the subject property from Single Family Residential, Two Acre Minimum (SR-2) to Industrial (I).

- d) Consideration and possible action to authorize issuance of a Conditional Use Permit for operating a portable asphalt plant on approximately 438 acres located in Section 6, Township 15 North, Range 1 West. (Ruth Mayday, Development Services Director)

Recommended Action: Approve issuance of a Conditional Use Permit for the operation of a portable asphalt plant on approximately 438 acres located in Section 6, Township 15 North, Range 1 West.

- e) Discussion and possible action to address a complaint filed by Vice-Mayor Croft pursuant to Town Code Chapter 35 Code of Ethics Section 35.04 Conduct in Public Office paragraph (D). (Mayor Marley; Vice-Mayor Croft)

Recommended Action: Call upon Councilmember Hatch to publicly apologize to Ms. Schimikowsky, President/CEO, Chino Valley Area Chamber of Commerce, and to refrain from conversing in an intimidating manner when discussing Town business with visitors and staff.

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.

- a) Pursuant to A.R.S. § 38-431.03(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 a Settlement and Release Agreement that is the subject of negotiations related to the Construction Manager at Risk Contract between the Town of Chino Valley and Fann Contracting, Inc. dated June 12, 2003 and all amendments thereto. (Robert Smith, Town Manager)
- b) 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 Attorney. (Councilmember Hatch; Councilmember McKee; Councilmember Wojcik)

9) **ACTION ITEMS RESUMED**

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

10) **ADJOURNMENT**

Dated this 20th day of August, 2014.

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 1-(800) 347-1695 (Arizona Relay Service) 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 South Campus, Chino Valley Post Office, and Chino Valley North Campus 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 Regular Meeting

Item No. 2. a.

Meeting Date: 08/26/2014
Contact Person: Cecilia Grittmann, General Services Director
 Phone: 928-636-2646 x-1202
Department: General Services
Item Type: Presentation Only
Estimated length of Staff Presentation: 10 minutes
Physical location of item: N / A

AGENDA ITEM TITLE:

Town of Chino Valley and the Chino Valley Chamber of Commerce Business Appreciation Program.
 (Cecilia Grittmann, General Services Director)

SITUATION & ANALYSIS:

Presentation by Tracie Schimikowsky, President / CEO of Chino Valley Chamber of Commerce, recognizing two new businesses that have opened in Chino Valley in the months of May & June 2014:

Robinson's Mobile Home Business, and Domino's Pizza (new owner).

Also, recognition of a long-standing business - Chino Heating and Cooling.

Attachments

No file(s) attached.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **2. b.**

Meeting Date: 08/26/2014
Contact Person: Liz Hart, Deputy Town Clerk/Records Technician
 Phone: 928-636-2646 x-1210
Department: Council
Item Type: Presentation Only
Estimated length of staff presentation: 10 minutes
Physical location of item: N/A

AGENDA ITEM TITLE:

Presentation regarding the Town co-sponsoring a free health care day in the quad-cities in June 2015.
 (Councilmember Best; Vice Mayor Croft)

RECOMMENDED ACTION:

SITUATION AND ANALYSIS:

See Attached

Fiscal Impact

Fiscal Impact?: None

If Yes, Budget Code:

Available:

Funding Source:

Attachments

No file(s) attached.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **6. a.**

Meeting Date: 08/26/2014

Contact Person: Jami Lewis, Town Clerk

Phone: 928-636-2646 x-1208

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the May 27, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)

RECOMMENDED ACTION:

Approve the May 27, 2014 regular meeting minutes.

Attachments

May 27, 2014 minutes

DRAFT

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

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 with Town 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 it 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 it 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 Gritman (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 g.

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 7g 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 Signs and 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

- I) 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



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **6. b.**

Meeting Date: 08/26/2014

Contact Person: Jami Lewis, Town Clerk

Phone: 928-636-2646 x-1208

Department: Town Clerk

Item Type: Consent

AGENDA ITEM TITLE:

Consideration and possible action to approve the June 5, 2014 study session minutes. (Jami Lewis, Town Clerk)

RECOMMENDED ACTION:

Approve the June 5, 2014 study session minutes.

Attachments

June 5, 2014 minutes

DRAFT

MINUTES OF THE STUDY SESSION OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

**THURSDAY, JUNE 5, 2014
6:00 P.M.**

The Town Council of the Town of Chino Valley, Arizona, met for a Study Session in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Thursday, June 5, 2014.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Linda Hatch; Councilmember Lon Turner; Councilmember Don Wojcik

Absent: Councilmember Mike Best; Councilmember Pat McKee

Staff Town Manager Robert Smith; General Services Director Cecilia Watts; Town Engineer/Public

Present: Works Director Ron Gritman; Town Clerk Assistant Liz Hart (recorder)

1) CALL TO ORDER; ROLL CALL

Mayor Marley called the meeting to order at 6:00 p.m.

2) REVIEW, DISCUSSION AND REVISION OF THE GENERAL OBLIGATION BOND.

Council reviewed and discussed the official ballot language, Call of Election resolution, and voter information pamphlet.

Official Ballot Language

- Based on comments from Council on May 27, 2014, Bond Counsel Mike Cafiso revised the official ballot language as follows: vehicle purchases as part of bond expenses was deleted, the bond term was reduced from 25 to 20 years, and interest rate was reduced from 7% to 5%. These numbers might change again as the Town received more information from the Water Infrastructure Finance Authority (WIFA).
- Council preferred to keep the term at 20 years.

Resolution to Call Election

Council asked about the town attorney drafting a resolution separate from the Call of Election to address certain concerns.

Pamphlet

- Title page: References to 'City' of Chino Valley should be corrected.
- Letter to voters: No comments.

- Introductory statement: No comments.
- Matters relating to the bonds: No comments.
- Estimated taxpayer cost: The tax rate increase was currently estimated at \$10.00 a month for an average home. Agricultural, commercial, and industrial property will be assessed at higher rates.
- Estimated issuance costs: No comments.
- Current outstanding general obligation debt and constitutional debt limitation: No comments.
- Plan of finance: Council preferred that staff assume the worst and be as conservative as possible with its assumptions and estimates.
- Information regarding polls and early/absentee voting: The town clerk's contact information and statements with regard to early/absentee voting needed to be verified and corrected.

Request for Pamphlet Arguments

- Council asked staff to verify whether or not the Town could charge its standard fee for argument submittals.
- The Town's address and phone number needed to be corrected.

Public Comment:

Steve Chontos, owner, Chino Golf Range, spoke about a situation years ago in another state in which the citizens voted a property tax to support sewerage a portion of the community. A citizen sued the municipality over being charged for the service that he could not use. The court found in his favor and the municipality decided not to charge anyone not hooking up to the system. He recommended that Council might want to reconsider the property tax for non-users. Council asked staff to consult with the bond attorney about this matter's applicability to the Town's situation.

Ronald Maines, resident, asked when WIFA would make its decision so that citizens could understand their costs. Mr. Smith stated that staff anticipated having those numbers by mid-July, as the pamphlet language was due in early August.

Mr. Smith requested that councilmembers send him suggested questions and answers to include in the pamphlet for Council's next discussion on June 10.

3) ADJOURNMENT

MOVED by Councilmember Linda Hatch, seconded by Mayor Chris Marley to adjourn the meeting at 6:58 p.m.

Vote: 5 - 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 Study Session of the Town Council of the Town of Chino Valley, Arizona held on the 5th day of June, 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



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 7. a.

Meeting Date: 08/26/2014
Contact Person: Robert Smith, Town Manager
 Phone: 928-636-2646 x-1201
Department: Town Manager
Item Type: Action-Presentation
Estimated length of staff presentation: 5 minutes
Physical location of item: N/A

AGENDA ITEM TITLE:

Consideration and possible action to approve an Accountability Contract between the Town of Chino Valley and the Chino Valley Area Chamber of Commerce in the amount of \$45,000.

RECOMMENDED ACTION:

Approve an Accountability Contract between the Town and the Chino Valley Area Chamber of Commerce in the amount of \$45,000.

SITUATION AND ANALYSIS:

The Chino Valley Chamber of Commerce has employed a new President & CEO who, under the guidance of a new strategic plan that the Chamber Board has developed, is making tangible progress in improving the Town of Chino Valley's business environment. The standing agreement between the Town and the Chamber has been revised, and consideration of the terms in the agreement are timely with the Chamber's new interests and directions for local business development and support. The Town of Chino Valley Development Services Department has also been focusing on local business support and development, and is working in partnership with the Chamber on several items to bring additional supportive resources to local business developers in our community.

The contract draft proposed has been created through a cooperative process between Town of Chino Valley staff and the Chamber's Board and President. The proposal outlines a set of specific objectives and deliverables, as well as regular reporting that would be expected from the Chamber, and requests a set amount of consideration for that suite of services.

As the Town of Chino Valley begins to encounter sustained recovery from the recent economic downturn, it has the opportunity to engage and take advantage of several local and regional resources to support local businesses and grow the local economy. The Chamber of Commerce is one of those resources and can serve as a force multiplier for the Town's economic development efforts. Staff has identified several mechanisms by which the Town and Chamber can cooperatively work together to secure business and economic development improvements for the Community -- several of which are

highlighted in the proposal presented herein.

Chamber President Tracie Schimikowsky will present information on the Chamber's work this past year, as well as the proposed agreement with the Town for services as well as Platinum Membership.

Fiscal Impact

Fiscal Impact?: \$45,000

If Yes, Budget Code: 01-95-5563

Available: \$45,000

Funding Source:

The Town budgeted \$38,000 in the fiscal year 14/15 budget. The additional \$7,000 will come from Contingencies.

Attachments

Accountability Contract FY13/14

Draft Contract Provisions FY14/15

Accountability Contract FY 14/15

Contract Exhibit FY14/15

Accountability Contract
between Town of Chino Valley and
Chino Valley Chamber of Commerce

This Contract is entered into this ____ day of _____, 2013 by and between the Town of Chino Valley, Arizona, an Arizona municipal corporation (hereinafter "Town") and the Chino Valley Chamber of Commerce (hereinafter "Chamber").

It is the finding of the Chino Valley Town Council that the Chamber is offering services that benefit the Chino Valley community and Town and that the Chamber should receive public funds in support of its facility, services and operations.

Now, therefore, in consideration of the mutual promises and covenants between the parties, and other good and valuable consideration, the parties agree as follows:

1. DURATION OF AGREEMENT: The duration of this Agreement shall be from its effective date until _____, 20____. If funds for this Agreement are not appropriated or budgeted by July 1, 20____, Town may terminate this Agreement by giving written notice to Chamber.

2. COMPENSATION: Town shall compensate Chamber in the amount of forty thousand five hundred dollars (\$40,500) for Services delineated and defined in this agreement.

3. SCOPE OF SERVICES: Chamber agrees to use funds received from Town to provide Visitor Center, Promotion/Marketing, Economic Development, Tourism and Education services ("Services"), as set forth in Exhibit A, which is attached hereto and incorporated herein and to use the funds from the Town for those purposes only. Chamber also agrees to maintain accurate financial records to enable Town to verify that the funds provided under this Agreement are expended in accordance with this Agreement. Chamber shall be responsible for compliance with all applicable federal, state and local laws and regulations.

4. ADDITIONAL SERVICES: In addition to the Services listed in Exhibit A, Chamber may, at the written request of Town, provide any of the services listed in Exhibit B, which is attached hereto and incorporated herein, at an additional cost to the Town, as shown on Exhibit B. In the event Chamber provides any Additional Services, Chamber shall, within thirty (30) days of completion of the Additional Service, provide Town with a written itemized invoice. Town shall pay the invoice promptly, but no later than fifteen (15) days of receipt thereof.

5. REPORTING: At the completion of the Services, Chamber shall submit to Town an itemized report setting forth how the funds received from Town were expended.

6. INSPECTION: Within five (5) days of receipt of a written request from Town, Chamber agrees to open for inspection and to make available all financial records relating to the Services.

7. CONTRACT NONCOMPLIANCE: If Town, in its sole discretion, determines Chamber is in breach of this Agreement, Town shall give written notice to Chamber of the specific area of noncompliance. Chamber shall comply within 30 calendar days of the date of notice.

8. TERMINATION FOR CAUSE: If Chamber does not comply within 30 calendar days from the date of the notice of breach, Town may terminate this Agreement. Chamber shall immediately return to Town all funds not spent for the services described in Exhibit A.

8. TERMINATION PURSUANT TO A.R.S. § 38-511: Town may terminate this Agreement pursuant to A.R.S. § 38-511.

9. INDEMNIFICATION: Chamber agrees to hold harmless and indemnify Town from any loss, damage, liability, cost, charge or expense, whether direct or indirect, including reasonable attorney's fees, and whether to any person or property to which Town, its agents, employees or said parties may be subject to related to the Services, including, but not limited to, actions for bodily injury, illness, death or property damage.

10. INDEPENDENT CONTRACTOR: Chamber is an independent contractor and not an agent or employee of Town. Chamber shall supervise and direct the Services using Chamber's best skill and attention. Chamber shall be solely responsible for all staffing, curriculum, scheduling, supplies, equipment for and transportation of participants to events for Services. Chamber shall be responsible to its employees, volunteers, Town employees and other persons performing any services related to the Services as set forth in this Agreement.

11. ENTIRE AGREEMENT; AMENDMENTS: This Agreement represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be amended except through an appropriate writing signed by both parties.

12. ASSIGNMENT PROHIBITED: Chamber shall not assign any rights acquired hereby, without first obtaining the written consent of Town.

13. NO DISCRIMINATION: Neither Chamber nor its employees or agents will discriminate on the basis of race, religion, handicap, gender or national origin in providing the Services.

14. IMMIGRATION LAW WARRANTY: As required by A.R.S. § 41-4401, Chamber hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Chamber further warrants that after hiring an employee, Chamber verifies the employment eligibility of the employee through the E-Verify program. If Chamber uses any subcontractors in performance of the services, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Chamber is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Town at its option may terminate the Contract after the third violation. Chamber shall not be deemed in material breach of this Contract if the Chamber and/or subcontractors establish compliance with the employment verification provisions

of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 3-214(A). Town retains the legal right to inspect the papers of any Chamber or subcontractor employee who works on the Contract to ensure that the Chamber or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

16. NOTICES: All notice provided for herein shall be hand delivered, delivered by overnight courier (e.g., Federal Express) or sent by certified or registered mail, return receipt requested, addressed to all parties hereto at the address designated for each party beside its signature or at such other address as the party who is to receive such notice may designate in writing. Notice shall be deemed completed upon: (i) such hand delivery or courier delivery or (ii) three (3) days after the deposit of same in a letter box or other means provided for the posting of mail, addressed to the party and with the proper amount of postage affixed thereto. Except as otherwise herein provided, actual receipt of notice shall not be required to effect notice hereunder.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names,

For Chamber

For Town

(Signature)

Chris Marley, Mayor

Title

Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
(928) 636-2646

Address

Attest:

City

Zip Code

Jami Lewis, Town Clerk

Telephone No.

Approved as to Form:

By:

Curtis, Goodwin, Sullivan, Udall
& Schwab, PLC, Town Attorneys

EXHIBIT A

SCOPE OF SERVICES

The Chamber agrees to use the funds received from the Town to provide the following services:

Visitor Center~

Maintain and staff the Visitor Center located within the Town. The Visitor Center will abide by the criteria set forth by the Arizona Office of Tourism to be a state designated LVIC (Local Visitor Information Center). The Visitor Center will be open to the public during normal working hours and staffed adequately to answer all correspondence, telephone or walk-in inquiries for general information relating to Chino Valley. The Visitor Center will be closed on posted Chamber holiday observances, a 24/7 kiosk on Chamber premises will be available at anytime with community information.

Shared Use of Meeting Spaces

Meeting space at the Chamber facilities may be used by the Town with advance coordination (and vice versa).

Promotion/Marketing ~

1. Distribute a relocation/community guide
2. Distribute maps of the Chino Valley area
3. Provide link to the Town's business directory from the Chamber website. Printed copies of the listing will be made available at the Visitor Center.
4. Provide an accommodation, attraction, event & dining guide including members & non-members
5. Promote the \$20 on the 20th ("Build Community, Buy Local") campaign
6. Coordinate with the Town staff to build and maintain a community calendar and provide linkage to the Town's website from the Chamber website.
7. Provide a Town booth at the Chamber's Health & Business Expo
8. Co-sponsor a variety of Town and Chamber activities and participate in Town-Sponsored and other Community Events (ie 4th of July Celebrations, Springfest and others)
9. Feature the Town's "Business Support Center" in the Chamber Visitor's Center
10. One (1) radio show per month to be hosted by the Town, if desired
11. "Platinum Sponsorship" for all Chamber events

The Chamber agrees that all printed materials created and distributed by the Chamber with funds from the Town will contain a statement recognizing and acknowledging that funding has been provided by the Town for such documents.

Economic Development~

1. Coordinate with the Town and other Economic Development organizations such as NACOG, PVEDF, GPREP and Yavapai College to represent the Chino Valley Business Sector and to foster business development in the Town of Chino Valley.
2. Assist the Town in developing a balanced mix of base jobs, retail businesses, restaurants, shopping, nightlife and social activities that attract families, visitors and residents to live and shop in Chino Valley.

3. Participate and support the development of business incubator resources in Chino Valley, in cooperation with the Town of Chino Valley's Small Business Support Center and tie it to the chamber's web based online business tools.

Tourism~

1. Destination Marketing programs
2. Continue Tourism Committee

Education~

1. Annually conduct a "Citizens Academy"

In order to maintain fairness between the many industries and retail businesses inside the Town, the Chino Valley Chamber of Commerce shall practice the concept of being community focused. The Chamber's mission is to promote economic growth and serve as a voice for the business community to enhance the quality of life for Chino Valley.

Where appropriate, the Chamber shall be involved in Town planning efforts such as General Plan Updates and the consideration of amendments to Codes and Ordinances, to provide helpful feedback from the business sector. The Chamber may also choose to offer feedback on project proposals brought before the Council as deemed appropriate by the Chamber Board.

Upon request of the Chamber, the Town shall disclose to the Chamber any information that pertains to the business community that may be legally and practically released.

EXHIBIT B

ADDITIONAL SERVICES

Promotion/Marketing ~

- | | |
|---|----------|
| 12. Kiosk for the Town's "Business Support Center" in the Chamber Visitor's Center | \$ 500* |
| 13. Expand Visitor Center <i>(additional brochure holders for marketing pieces on things to do throughout Arizona, WiFi & 1-2 donated public computers)</i> | \$1,000* |
| 14. Redesign Chamber website to include Economic Development & Business Support Center pages as well as existing pages pertinent to the Town/Community | \$1,500* |
| 15. Community photo library | \$ 500* |

Economic Development~

- | | |
|---|----------|
| 3. Renew "Tools for Business" subscription on chamber website <i>(Due June 2014)</i> | \$1,500 |
| 4. Economic Development Community Asset Inventory <i>(Education, Quality of life, Infrastructure, Transportation, Demographics & Workforce)</i> | \$1,000* |

Tourism~

- | | |
|---|----------|
| 1. Develop a Chino Valley Branding Campaign | \$2,500* |
| 2. Develop a tourism inventory to support the marketing program | \$ 250* |
| 3. Attend the 2014 Annual Governor's Conference on Tourism | \$ 500 |

Education~

- | | |
|---|--------|
| 2. Coordinate training with SCORE/SBDC/Community College at Chamber & Business Support Center | \$ 500 |
| 3. Conduct Informational/Education Forums as needed | \$ 500 |

Grand Total	\$10,250
-------------	----------

*One-time cost

Note: One-time cost total is \$7,250

Provisions of Agreement

Now, therefore, in consideration of the mutual promises and covenants of the parties, and other good and valuable consideration, the parties agree as follows:

The Town of Chino Valley agrees to tender to the Chino Valley Chamber of Commerce the sum of forty five thousand dollars (\$45,000) for services delineated and defined in this agreement.

Visitor Center~

Maintain and staff the Visitor Center located within the Town. The Visitor Center will abide by the criteria set forth by the Arizona Office of Tourism to be a state designated LVIC (Local Visitor Information Center). The Visitor Center will be open to the public during normal working hours and staffed adequately to answer all correspondence, telephone or walk-in inquiries for general information relating to Chino Valley. The Visitor Center will be closed on posted Chamber holiday observances, a 24/7 kiosk on Chamber premises will be available at anytime with community information.

Meeting space at the Chamber facilities may be used by the Town with advance coordination (and vice versa).

Promotion/Marketing ~

1. Distribute a relocation/community guide & maps of the Chino Valley area
2. Provide link to the Town's business directory from the Chamber website. Printed copies of the listing will be made available at the Visitor Center.
3. Provide an accommodation, attraction, event & dining guide including members & non-members
4. Coordinate with the Town staff to build and maintain a community calendar.
5. Provide a Town booth at the Chamber's Health & Business Expo
6. Co-sponsor a variety of Town and Chamber activities and participate in Town-Sponsored and other Community Events (ie 4th of July Celebrations, Halloween and others)
7. Feature the Town's "Business Support Center" in the Chamber Visitor's Center
8. One (1) radio show per month to be hosted by the Town, if desired
9. "Platinum Sponsorship" for all Chamber events
10. Continue expanding Visitor Center (*1-2 donated public computers*)

The Chamber agrees that all printed materials created and distributed by the Chamber with funds from the Town will contain a statement recognizing and acknowledging that funding has been provided by the Town for such documents.

Economic Development~

1. Coordinate with the Town and other Economic Development organizations such as Northern Arizona Council of Governments, Prescott Valley Economic Development Foundation, Greather Prescott Regional Economic Partnership and Yavapai College to represent the Chino Valley Business Sector and to foster business development in the Town of Chino Valley.
2. Assist the Town in developing a balanced mix of base jobs, retail businesses, restaurants, shopping, nightlife and social activities that attract families, visitors and residents to live and shop in Chino Valley.

3. Participate, promote and support the development of business incubator resources in Chino Valley, in cooperation with the Town of Chino Valley's Small Business Support Center and tie it to the chamber's web based online business tools.
4. Promote "Build Community, Buy Local" & \$20 on the 20th campaign
5. Renew "Tools for Business" subscription on chamber website
6. Re-engage the Chino Valley Economic Development Group
 - a. Partner with Yavapai College Regional Economic Development Center to reach out to businesses in the community for input, needs, etc.
7. Conduct at least 1 business retention site visit a quarter with the Town Planner.

Tourism~

1. Participate in AOT Co-Op Destination Marketing program
2. Continue Tourism Committee

Education~

1. Annually conduct a "Citizens Academy"
2. Assist with public education on the Government Obligation Bond.

In order to maintain fairness between the many industries and retail businesses inside the Town, the Chino Valley Chamber of Commerce shall practice the concept of being community focused. The Chamber's mission is to promote economic growth and serve as a voice for the business community to enhance the quality of life for Chino Valley.

Where appropriate, the Chamber shall be involved in Town planning efforts such as General Plan Updates and the consideration of amendments to Codes and Ordinances, to provide helpful feedback from the business sector. The Chamber may also choose to offer feedback on project proposals brought before the Council as deemed appropriate by the Chamber Board.

Upon request of the Chamber, the Town shall disclose to the Chamber any information that pertains to the business community that may be legally and practically released.

Accountability Contract
between Town of Chino Valley and
Chino Valley Chamber of Commerce

This Contract is entered into this ____ day of _____, 2014 by and between the Town of Chino Valley, Arizona, an Arizona municipal corporation (hereinafter "Town") and the Chino Valley Chamber of Commerce (hereinafter "Chamber").

It is the finding of the Chino Valley Town Council that Chamber is offering services that benefit the Chino Valley community and Town and that Chamber should receive public funds in support of its facility, services and operations.

Now, therefore, in consideration of the mutual promises and covenants between the parties, and other good and valuable consideration, the parties agree as follows:

1. TERM OF AGREEMENT:

1.1 The initial term of this Agreement shall be from its effective date until June 30, 2015.

1.2 This Agreement shall automatically renew for up to five (5) successive one-year terms, effective July 1 of each successive year. If funds for this Agreement are not appropriated or budgeted by the third Monday of July of the preceding year, Town may terminate this Agreement (or any renewal thereof) by giving written notice to Chamber. Additionally, either party may opt out of the automatic renewal by giving written notice to the other party of intention to not renew no later than May 1 preceding the non-renewal fiscal year.

2. COMPENSATION: Town shall compensate Chamber in the amount of forty-five thousand dollars (\$45,000) for Services delineated and defined in this agreement.

3. SCOPE OF SERVICES: Chamber agrees to use funds received from Town to provide Visitor Center, Promotion/Marketing, Economic Development, Tourism and Education services ("Services"), as set forth in Exhibit A, which is attached hereto and incorporated herein and to use the funds from the Town for those purposes only. Chamber also agrees to maintain accurate financial records to enable Town to verify that the funds provided under this Agreement are expended in accordance with this Agreement. Chamber shall be responsible for compliance with all applicable federal, state and local laws and regulations.

4. REPORTING: At the completion of the Services, Chamber shall submit to Town an itemized report setting forth how the funds received from Town were expended.

5. INSPECTION: Within five (5) days of receipt of a written request from Town, Chamber agrees to open for inspection and to make available all financial records relating to the Services.

6. CONTRACT NONCOMPLIANCE: If Town, in its sole discretion, determines Chamber is in breach of this Agreement, Town shall give written notice to Chamber of the specific area of noncompliance. Chamber shall comply within 30 calendar days of the date of notice.

7. TERMINATION FOR CAUSE: If Chamber does not comply within 30 calendar days from the date of the notice of breach, Town may terminate this Agreement. Chamber shall immediately return to Town all funds not spent for the services described in Exhibit A.

8. TERMINATION PURSUANT TO A.R.S. § 38-511: Town may terminate this Agreement pursuant to A.R.S. § 38-511.

9. INDEMNIFICATION: Chamber agrees to hold harmless and indemnify Town from any loss, damage, liability, cost, charge or expense, whether direct or indirect, including reasonable attorney's fees, and whether to any person or property to which Town, its agents, employees or said parties may be subject to related to the Services, including, but not limited to, actions for bodily injury, illness, death or property damage.

10. INDEPENDENT CONTRACTOR: Chamber is an independent contractor and not an agent or employee of Town. Chamber shall supervise and direct the Services using Chamber's best skill and attention. Chamber shall be solely responsible for all staffing, curriculum, scheduling, supplies, equipment for and transportation of participants to events for Services. Chamber shall be responsible to its employees, volunteers, Town employees and other persons performing any services related to the Services as set forth in this Agreement.

11. ENTIRE AGREEMENT; AMENDMENTS: This Agreement represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be amended except through an appropriate writing signed by both parties.

12. ASSIGNMENT PROHIBITED: Chamber shall not assign any rights acquired hereby, without first obtaining the written consent of Town.

13. NO DISCRIMINATION: Neither Chamber nor its employees or agents will discriminate on the basis of race, religion, handicap, gender or national origin in providing the Services.

14. IMMIGRATION LAW WARRANTY: As required by A.R.S. § 41-4401, Chamber hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Chamber further warrants that after hiring an employee, Chamber verifies the employment eligibility of the employee through the E-Verify program. If Chamber uses any subcontractors in performance of the services, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Chamber is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Town at its option may terminate the Contract after the third violation. Chamber shall not be deemed in material breach of this Contract if the Chamber and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 3-214(A). Town retains the legal right to inspect the papers of any Chamber or subcontractor employee who works on the Contract to ensure that the Chamber or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at

reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

16. NOTICES: All notice provided for herein shall be hand delivered, delivered by overnight courier (e.g., Federal Express) or sent by certified or registered mail, return receipt requested, addressed to all parties hereto at the address designated for each party beside its signature or at such other address as the party who is to receive such notice may designate in writing. Notice shall be deemed completed upon: (i) such hand delivery or courier delivery or (ii) three (3) days after the deposit of same in a letter box or other means provided for the posting of mail, addressed to the party and with the proper amount of postage affixed thereto. Except as otherwise herein provided, actual receipt of notice shall not be required to effect notice hereunder.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names,

For Chamber

For Town

(Signature)

Chris Marley, Mayor

Title

Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323
(928) 636-2646

Address

Attest:

City

Zip Code

Jami Lewis, Town Clerk

Telephone No.

Approved as to Form:

By: Phyllis Smiley
Curtis, Goodwin, Sullivan, Udall
& Schwab, PLC, Town Attorneys

EXHIBIT A

SCOPE OF SERVICES

The Chamber agrees to use the funds received from the Town to provide the following services:

Visitor Center~

Maintain and staff the Visitor Center located within the Town. The Visitor Center will abide by the criteria set forth by the Arizona Office of Tourism to be a state designated LVIC (Local Visitor Information Center). The Visitor Center will be open to the public during normal working hours and staffed adequately to answer all correspondence, telephone or walk-in inquiries for general information relating to Chino Valley. The Visitor Center will be closed on posted Chamber holiday observances, a 24/7 kiosk on Chamber premises will be available at anytime with community information.

Shared Use of Meeting Spaces

Meeting space at the Chamber facilities may be used by the Town with advance coordination (and vice versa).

Promotion/Marketing ~

1. Distribute a relocation/community guide.
2. Distribute maps of the Chino Valley area.
3. Provide link to the Town's business directory from the Chamber website. Printed copies of the listing will be made available at the Visitor Center.
4. Provide an accommodation, attraction, event & dining guide including members & non-members.
5. Coordinate with the Town staff to build and maintain a community calendar.
6. Provide a Town booth at the Chamber's Health & Business Expo.
7. Co-sponsor a variety of Town and Chamber activities and participate in Town-Sponsored and other Community Events (i.e., 4th of July Celebrations, Halloween and others).
8. Feature the Town's "Business Support Center" in the Chamber Visitor's Center.
9. One (1) radio show per month to be hosted by the Town, if desired.
10. "Platinum Sponsorship" for all Chamber events.
11. Continue expanding Visitor Center (*1-2 donated public computers*).

All printed materials created and distributed by the Chamber with funds from the Town shall contain a statement recognizing and acknowledging that funding has been provided by the Town for such documents.

Economic Development~

1. Coordinate with Town and other Economic Development organizations such as Northern Arizona Council of Governments, Prescott Valley Economic Development Foundation, Greater Prescott Regional Economic Partnership and Yavapai College to represent the Chino Valley Business Sector and to foster business development in the Town of Chino Valley.

2. Assist the Town in developing a balanced mix of base jobs, retail businesses, restaurants, shopping, nightlife and social activities that attract families, visitors and residents to live and shop in Chino Valley.
3. Participate and support the development of business incubator resources in Chino Valley, in cooperation with the Town of Chino Valley's Small Business Support Center and tie it to the chamber's web based online business tools.
4. Promote "Build Community, Buy Local" and \$20 on the 20th campaign.
5. Renew "Tools for Business" subscription on Chamber website.
6. Re-engage the Chino Valley Economic Development Group.
 - a. Partner with Yavapai College Regional Economic Development Center to reach out to businesses in the community for input, needs, etc.
7. Conduct at least 1 business retention site visit each quarter with the Town Planner.

Tourism~

1. Participate in Arizona Office of Tourism Co-Op Destination Marketing program.
2. Continue Tourism Committee.

Education~

1. Annually conduct a "Citizens Academy."
2. Assist with public education on the Government Obligation Bond.

In order to maintain fairness between the many industries and retail businesses located in Town, Chamber shall be community focused. Chamber's mission is to promote economic growth and serve as a voice for the business community to enhance the quality of life for Chino Valley.

Where appropriate, Chamber shall be involved in Town planning efforts such as General Plan Updates and the consideration of amendments to Codes and Ordinances, to provide helpful feedback from the business sector. Chamber may also choose to offer feedback on project proposals brought before the Town Council as deemed appropriate by the Chamber Board.

Upon request of Chamber, Town shall disclose to Chamber any information that pertains to the business community that may be legally and practically released.

2014/15 Budget Chamber/Town Services Agreement

Income

Town of Chino Valley (svc agmt)	\$ 45,000
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Total Income	\$ 45,000
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Expenses

Computer (web maint/comp repair)	\$ 400
Conference - AOT 2015	\$ 1,200
Conference - ICSC 2015	\$ 1,300
Insurance	\$ 833
Office Supplies	\$ 750
Printing/Copying	\$ 1,300
Advertising (AOT Coop FY16)	\$ 2,000
Postage Relocation Guides	\$ 350
Rent or Lease	\$ 7,200
Building repairs/maintenance	\$ 1,000
Platinum	\$ 2,500
Tools for Busines	\$ 1,000
Mileage	\$ 500
Other (Vol gifts, permits, event fees)	\$ 250
Meals/Entertainment	\$ 200
Accounting	\$ 100
Wages/Taxes/Benefits (.30 FTE)	\$ 21,486
Utilities	\$ 2,950

Total Expenses	\$ 45,319
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Net income/loss	\$ (319)
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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **7. b.**

Meeting Date: 08/26/2014
Contact Person: Jami Lewis, Town Clerk
 Phone: 928-636-2646 x-1208
Department: Town Clerk
Item Type: Action
Estimated length of staff presentation: None
Physical location of item: Liquor Barn, 315 Business Park Drive #5, Chino Valley

AGENDA ITEM TITLE:

- (i) Public Hearing regarding application from Richard Bicker Jr., for the Agent Change and Acquisition of Control of an existing Series 9 (Liquor Store) Liquor License for Liquor Barn, located at 315 Business Park Drive #5, Chino Valley.
- (ii) Consideration and possible action to either allow or protest the change of ownership of the Series 9 Liquor License for Liquor Barn to the Arizona Department of Liquor Licenses and Control.

RECOMMENDED ACTION:

- (i) Hold Public Hearing.
- (ii) Take no action; OR Protest the acquisition of control of Liquor Barn's Series 9 Liquor License.

SITUATION AND ANALYSIS:

See Attached.

Fiscal Impact

Fiscal Impact?: No
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Situation & Analysis
Liquor Barn Application

Agenda Item Staff Report SITUATION & ANALYSIS

Issue Statement

Brief narrative description of the issue at hand, including information about the problem or reason why Council involvement is required, why the item is now suitable for Council consideration and requires Council action for the item to move forward.

A.R.S. § 4-203.F provides that: "If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the director within thirty business days after such acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the director. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation before the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not to exceed one thousand dollars, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. *On receipt of notice of an acquisition of control or request of a preinvestigation, the director shall forward the notice within fifteen days to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. [italics by author]* If the director does not receive any protests, the director may protest the acquisition of control or approve the acquisition of control based on the capability, reliability and qualification of the person acquiring control. Any protest shall be set for a hearing before the board. Any transfer shall be approved or disapproved within one hundred five days of the filing of the notice of acquisition of control. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification."

Richard Bicker, Jr. has applied with the state for an Agent Change and Acquisition of Control of the Series 9 (liquor store) Liquor License for Liquor Barn. The liquor store (series 9) license is a "quota" license available only through the Liquor License Lottery or for purchase on the open market. Once issued, this liquor license is transferable from person to person and/or location to location within the same county and allows a spirituous liquor store retailer to sell all types of spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises. A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of delivery. Series 9 (liquor store) licensees and applicants may apply for unlimited sampling privileges by completing the Sampling Privileges form. Internet sale of liquor is not permitted in the state of Arizona. Liquor must be delivered to an Arizona liquor-licensed wholesaler, then an Arizona liquor-licensed retailer prior to delivery to the consumer.

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 July 29, 2014 through August 26, 2014. As of the date of this report, staff has not received any written arguments in favor of or in opposition to the application.

Applicable "Policy"

Bulleted list, by section number and title, of the statute, code, plan, policy, goal, initiative, etc. relevant to the issue that must be satisfied in order to resolve the issue. A brief summary of the "policy" section(s) may be included if there are multiple issues or details that need to be covered.

- A.R.S. § 4-203.F provides that the local governing body has the option to protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control.

Satisfaction of “Policy”

Bulleted list, by section number and title, of the above relevant “policies,” with a narrative explaining how each of them were/will be met or satisfied.

- Upon reviewing the material provided by the Department of Liquor Licenses and Control, and conducting a public hearing, the Council will meet the statute’s requirements by either directing staff to file a protest or taking no action.

Summary of Issues and Staff Rationale

Narrative explaining the issue at hand and how/why the staff proposed solution(s) are best for the Town. This may include more than one resolution or solution/alternative for Council to consider.

N/A

Findings of Fact

Bulleted list of staff findings that support the determination that the proposed resolution is the best solution for the Town.

- N/A

14 JUL 7 Lic. Dept AM1132

14 JUL 7 Lic. Dept AM1132
ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
www.azliquor.gov
(602) 542-5141

NOTIFICATION TO LOCAL GOVERNING BODY

AGENT CHANGE

☐

ACQUISITION OF CONTROL AND AGENT CHANGE

☒

ACQUISITION OF CONTROL

☐

Liquor License No. 09130026 Application accepted by C Bejar

A.R.S. § 4-203.F

If a person other than those persons originally licensed acquires control over a license or licensee, the person shall file notice of the acquisition with the Director within fifteen business days after such acquisition of control and a list of officers, directors or other controlling persons on a form prescribed by the Director. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed by this title. On request, the director shall conduct a preinvestigation prior to the assignment, sale or transfer of control of a license or licensee, the reasonable costs of which, not to exceed one thousand dollars, shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this title are met. On receipt of notice of an acquisition of control or request of a preinvestigation, the Director shall forward the notice within fifteen days to the local governing body of the city or town, if the licensed premises is in an incorporated area, or the county, if the licensed premises is in an unincorporated area. **The Local Governing Body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. If the Director does not receive any protests, the Director may protest the acquisition of control or approve the acquisition of control based on the capability, reliability and qualification of the person acquiring control.** Any protest shall be set for a hearing before the Board. Any transfer shall be approved or disapproved within one hundred five days of the filing of the notice of acquisition and control. The person who has acquired control of a license or licensee has the burden of an original application at the hearing, and the board shall make its determination pursuant to section 4-202 and this section with respect to capability, reliability and qualification.

mail to Town of Chino Valley

14 JUL 7 Lic. Dept AM1047

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

Page 45 of 75

800 W Washington 5th Floor
Phoenix AZ 85007-2934

14 JUL 7 Liqu. Dept AM1133

www.azliquor.gov JUL 2 Liqu. Lic. #1012
(602) 542-5141**APPLICATION FOR AGENT CHANGE - ACQUISITION OF CONTROL - RESTRUCTURE**Check
Appropriate
Box☒ Agent ChangeComplete Sections 1,2,3,4,6
(See Note 1 on back)☒ Acquisition of Control

Complete Sections 1,2, (3,4 if changing Agent), 6

☐ RestructureComplete Sections 1,2,(3,4 if changing Agent), 5,6
(See Note 2 on back)**SECTION 1 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)**

1. Name (INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER)

Bicker JR

Richard

Glenn

09130026

Last

First

Middle B1629998

Liquor License #

2. ☒ Corporation ☐ L.L.C. ☐ N/A: BICKER ENTERPRISES, INC.

(Exactly as it appears on Articles of Inc. or Articles of Org.)

Corp. File #: 1092403-2

3. Business Name: Liquor Barn

B1623566

4. Business Address: 315 Business Pk Dr. #5 Chino Valley

Yavapai

86323

(Do not use P.O. Box Number)

City

COUNTY

Zip

5. Is the business located within the incorporated limits of the above city or town? ☒ Yes ☐ No

6. Mailing Address: P.O. Box 4723

Chino Valley

AZ

86323

City

State

Zip

7. Business Phone: (928) 636-2989

Residence Phone: (815) 761-2101

8. Does this transaction involve the sale of any portion of the corporate stock? ☒ YES ☐ NO ☐ N/A If yes, submit a certified copy of minutes.9. Has there been any change of officers? ☒ YES ☐ NO ☐ N/A If yes, submit a certified copy of minutes.**SECTION 2 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)**

Each person listed in Section II must submit a personal questionnaire (Form LIC0101) and a Department approved fingerprint card which may be obtained at the Dept. A person appearing in both lists need only submit one questionnaire and fingerprint card.

1. List individual owner or partners or all directors, officers in corp., members in LLC:

Last	First	Middle	Title	Residence Address	City	State	Zip
Bicker JR	Richard	Glenn	Pres/Treas.	2525 N. Apache Dr	Chino Valley	AZ	86323
Bicker	Colton	Andrew	VP/Sec	2525 N. Apache Dr.	Chino Valley	AZ	86323

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

2. List stockholders or controlling members owning 10% or more of Corp/LLC:

Last	First	Middle	% Owned	Residence Address	City	State	Zip
Bicker JR	Richard	Glenn	50	2525 N. Apache Dr.	Chino Valley	AZ	86323
Bicker	Colton	Andrew	50	2525 N. Apache Dr.	Chino Valley	AZ	86323

(ATTACH ADDITIONAL SHEET(S) IF NECESSARY)

Disabled individuals requiring special accommodations please call the Department

LIC0102 4/2009

Date Received 7-2-2014

CSR C. Bejar

1. If the corporation/L.L.C. is owned by another entity, ATTACH AN OWNERSHIP AND DIRECTOR / OFFICER / MEMBER DISCLOSURE for the parent entity. Attach additional sheets as necessary in order to disclose real people.

As an Agent, will you be physically present and operating the licensed premises? ☒ YES ☐ NO

If you answered YES, you must provide proof of attendance of a Department approved Liquor Law Training Course within the last five years before your application for Agent can be submitted. If "no" a manager with approved training must be submitted.

SECTION 4 (COMPLETE THIS SECTION FOR AGENT CHANGE)

To be completed by the INDIVIDUAL OR EXISTING AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER:

1. License Number: 09130026 Date of last renewal: AUG 2013
 2. Current Licensee or Agent: BICKER RICHARD GLENN
 (Exactly as it appears on license) Last First Middle

I, RICHARD GLENN BICKER, hereby consent to the agent appointment named herein and
 (Print full name)

agree to immediately assign a new agent in the event of the death, resignation, or discharge of this agent. I also understand that if the background report shows that I, the corporation, or any officer, director, member, or stockholder have been convicted of a felony in the past five (5) years, I will immediately surrender the license to the Arizona Department of Liquor Licenses and Control and hereby waive all rights to appeal such action.

X Richard Bicker State of Arizona County of Yavapai
 (Signature of INDIVIDUAL / CORPORATE / CLUB OFFICER / MEMBER) The foregoing instrument was acknowledged before me this

My commission expires on 8/24/2017
 Notary Public - Arizona
 Yavapai County
 My Comm. Expires Aug 24, 2017

26 day of June, 2014
 Day Month Year
Shirley L. Furr
 (Signature of NOTARY PUBLIC)

SECTION 5 (COMPLETE THIS SECTION FOR RESTRUCTURE)

Is there more than one licensed premises involved? ☐ YES ☐ NO If yes, SEPARATE APPLICATIONS must be filed and fees paid for each license/location.

Type of current ownership:

- ☐ J.T.W.R.O.S.
☐ INDIVIDUAL
☐ PARTNERSHIP
☐ CORPORATION
☐ LIMITED LIABILITY CO.
☐ TRUST
☐ OTHER Explain _____

Type of new ownership:

- ☐ J.T.W.R.O.S.
☐ INDIVIDUAL
☐ PARTNERSHIP
☐ CORPORATION
☐ LIMITED LIABILITY CO.
☐ TRUST
☐ OTHER Explain _____

SECTION 6 (COMPLETE THIS SECTION FOR AGENT CHANGE, ACQUISITION OF CONTROL OR RESTRUCTURE)

To be completed by INDIVIDUAL OR EXISTING AGENT (if no agent change) OR NEW AGENT OR CORPORATE OFFICER OR L.L.C. CONTROLLING MEMBER as listed in Question 1 Section 1:

I, Richard Glenn Bicker JR, hereby declare that I am the APPLICANT filing this application.
 (Print full name)

have read the application and the contents and all statements are true, correct and complete.

X Rob Bicker State of Arizona County of Yavapai
 (Signature of INDIVIDUAL OR AGENT) The foregoing instrument was acknowledged before me this

My commission expires on 8/24/2017
 Notary Public - Arizona
 Yavapai County
 My Comm. Expires Aug 24, 2017

26 day of June, 2014
 Day Month Year
Shirley L. Furr
 (Signature of NOTARY PUBLIC)

NOTE 1: The fee for an agent change MUST be submitted with this application: \$100.00 for the first application and \$50.00 for each additional application, not to exceed \$1,000.00. (A.R.S. 4-209.H)

NOTE 2: The \$100.00 fee for restructure MUST be submitted with this application (A.R.S. 4-209.A)



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 7. c.

Meeting Date: 08/26/2014
Contact Person: Ruth Mayday, Planner
 Phone: 928-636-4427 x-1217
Department: Development Services
Item Type: Action-Presentation
Estimated length of staff presentation: 5 minutes
Physical location of item: Section 6, Township 15 North, Range 1 West

AGENDA ITEM TITLE:

Consideration and possible action to rezone approximately 438 acres located in Section 6, Township 15 North, Range 1 West from Single Family Residential, Two (2) Acre Minimum (SR-2) to Industrial (I).

RECOMMENDED ACTION:

Staff recommends rezoning the subject property from Single Family Residential, Two Acre Minimum (SR-2) to Industrial (I).

SITUATION AND ANALYSIS:

See Attached

Fiscal Impact

Fiscal Impact?: None
If Yes, Budget Code:
Available:
Funding Source:

Attachments

Ordinance
Staff Report- Cortez Rezone
Cortez Legal Description
Current Zoning Map
Cortez - Location Map

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, APPROVING A CHANGE OF ZONING FOR APPROXIMATELY 438 ACRES OF REAL PROPERTY GENERALLY LOCATED IN SECTION 6, TOWNSHIP 15 NORTH, RANGE 1 WEST, FROM SINGLE FAMILY RESIDENTIAL, TWO (2) ACRE MINIMUM (SR-2) ZONING DISTRICT TO INDUSTRIAL (I) ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR NON-SEVERABILITY; AND PROVIDING PENALTIES.

WHEREAS, the Town Council has determined that this amendment to the Official Zoning Map conforms with the Town of Chino Valley General Plan as amended and any applicable Specific Area Plan, neighborhood, or other plan, and any overlay zoning district; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws; and

WHEREAS, the Planning and Zoning Commission, by a unanimous vote recommends approval of the rezoning;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. In General.

1. The Change of Zoning is hereby approved for property consisting of approximately 438 acres, described in Exhibit 1, attached hereto and incorporated herein by this reference, generally located in Section 6, Township 15 North, Range 1 West, from Single Family Residential, Two (2) Acre Minimum (SR-2) Zoning District to Industrial (I) Zoning District.

2. The Property described in Paragraph 1 of this Section shall be used and developed in accordance with the Town of Chino Valley Unified Development Ordinance.

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Providing for Non-Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then this entire ordinance is invalid and this ordinance shall have no force or effect.

Section 4. Providing for Penalties.

Any person found responsible for violating this Ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 1.10 and 1.11 of the Town of Chino Valley Unified Development Ordinance. Each day a violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Unified Development Ordinance or by the Town of Chino Valley Town Code continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this ____ day of August, 2014 by the following vote:

AYES: _____

ABSENT: _____

NAYS: _____

ABSTAINED: _____

APPROVED this ____ day of August, 2014.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Curtis, Goodwin, Sullivan, Udall &
Schwab, PLC, Town Attorney

I, JAMI C. LEWIS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF CHINO VALLEY ON THE ____ DAY OF _____, 2014, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 2014.

Jami C. Lewis, Town Clerk

The following exhibits are attached hereto and incorporated herein:

1. Legal Description

AGENDA ITEM TITLE Public Hearing: Consideration and possible action to rezone approximately 438 acres located in Section 6, Township 15 North, Range 1 West from Single Family Residential, Two (2) Acre Minimum (SR-2) to Industrial (I).

RECOMMENDED ACTION

The remote location of the subject property minimizes the impact of the permitted industrial uses on the community as a whole. Furthermore, resolution of this long-standing legal matter benefits the Town as this action represents an important obligation set forth in the original Pre-Annexation Development Agreement and subsequent Settlement Agreement, which will likely avoid costly litigation. Therefore, Staff recommends rezoning the subject property from Single Family Residential, Two Acre Minimum (SR-2) to Industrial (I).

MOTION: Motion to approve the rezoning of approximately 438 acres located in Section 6, Township 15 North, Range 1 West from Single Family Residential, Two (2) Acre Minimum (SR-2) to Industrial (I).

SITUATION AND ANALYSIS

Issue Statement

In accordance with the Settlement Agreement (Agreement) reached between Cortez Enterprises (Cortez) and the Town of Chino Valley (Town) on or about March 6, 2014, Cortez submitted an application for a Zoning Change from Single Family Residential, 2 Acre Minimum (SR-2) to Industrial (I), and a parallel application for a Conditional Use Permit (CUP) to operate a portable asphalt batch plant on the subject property. This item was heard by the Planning and Zoning Commission on August 5, 2014 after notice in compliance with ARS 9-462.04, which voted unanimously to forward the application for rezoning the subject parcels to Town Council with a recommendation of approval.

Applicable "Policy"

- Unified Development Ordinance Section 3.17 Industrial (I)
- UDO Section 1.9.2 Amendment
- UDO Section 1.9.5 Citizen Review Process
- Key Result Area 1: Strong Fiscal Health, Goal 3: Resolve Outstanding Legal Issues, Objective A: Reach settlement with Cortez
- General Plan 2003: Industrial Overlay; General Plan 2013/14: Future Growth Areas: Industrial/Agri-business/Contained Planned Community
- Arizona Revised Statutes §9-462.01 Zoning Regulations, §9-462.03 Amendment Procedure, §9-462.03, and §9-462.04 Public Hearing Required

Satisfaction of Policy

- Rezoning the subject property from SR-2 to I will permit the use set forth in the Industrial (I) zoning district as first contemplated in the PADA and the subsequent Settlement Agreement.

- The required posting, publication, and notification of the surrounding property owners is in compliance with the regulations set forth in UDO §1.9.2 Amendment and UDO §1.9.5 Citizen Review Process, as well as ARS §9-462.01 Zoning Regulations, §9-462.03 Amendment Procedure, and ARS §9-462.04 Public Hearing Required.
- Rezoning of the subject property will fulfill one of the Town's obligations as set forth in the Settlement Agreement.
- Rezoning of the subject property will satisfy KRA 1, Goal 3, Objective A: Reach settlement with Cortez, as set forth in the Town of Chino Valley Strategic Plan.
- Rezoning the two parcels of land in this request is in conformance with the General Plan 2003 which designates the subject property as "Industrial Overlay – Amended", and General Plan 2013/14 designating the subject parcels as Future Growth Areas: Industrial/Agribusiness/Contained Planned Community

Summary of Issues and Staff Rationale

In the early part of the 2000's the Town of Chino Valley underwent a number of annexations, increasing the area of the town. Ordinance No. 476 (Annexation 2001-01) annexed the equivalent of approximately thirty-five (35) sections of land, encompassing nearly 22,500 acres. Among those sections annexed was Section 6, Township 15 North, Range 1 West, a large portion of which was owned by Cortez Enterprises (438 acres +/-).

Contemporaneously with the annexation, the Town entered into a Pre-Annexation Development Agreement (PADA) with Cortez Enterprises, as permitted by the provisions set forth in ARS§9-500.05 and ARS§9-500.11. The PADA sets forth a number of obligations assigned to both the Town and Cortez, including a commitment to rezone the subject property from Single Family Residential; 2 Acre Minimum (SR-2) to Industrial (I) for the purposes of mining and processing sand and gravel products, a batch plant for the manufacture of concrete, and an asphalt plant, among other uses. Both the PADA and Ordinance 476 (Annexation 2001-01) were approved by Town Council on September 27, 2001. In accordance with ARS §9-471(L), the subject property was rezoned to Single Family Residential, 2 Acre minimum (SR-2) upon the adoption of Ordinance No. 482 on November 12, 2001. A city or town annexing an area is required to adopt zoning classifications with densities and uses no greater than the county zoning district(s) carried by the annexed lands immediately before annexation. Prior to the annexation of the subject property, it was zoned RCU-2A (Residential; Conditional Use, 2 acre minimum); the comparable district in terms of density at the time of annexation would have been SR-2 (Single Family Residential, 2 Acre minimum), which was the zoning district assigned to the subject property upon the adoption of Ordinance No. 482 on November 12, 2001. Yavapai County's RCU-2A zoning classification allowed mining operations as a use by right; the subsequent Town of Chino Valley SR-2 zoning did not permit mining as a use by right or conditional use permit, thereby requiring the property owners to rezone the subject property to a zoning classification that allowed the proposed use as a matter of right.

Difficulties arose regarding acquisition of right-of-way for the eastward extension of Road 4 South, and after mutually agreeing to extensions of time to acquire said rights-of-way in 2004, 2005, and

2006, Cortez initiated legal action against the Town in December of 2006. The parties have been in litigation until February 28, 2014, when both sides agreed to work towards a resolution; a Provisional Settlement Agreement (Agreement) was approved by Town Council and Cortez Enterprises on March 6, 2014. Among other things, the Agreement obligates Cortez to apply for "I" zoning and a Conditional Use Permit (CUP) for the proposed sand and gravel operation, concrete batch plant, and asphalt plant as originally proposed in the PADA, on or before April 7, 2014; said applications were filed with the Town Development Services Department on March 19, 2014.

After subsequent discussions regarding the terms and potential stipulations of the CUP, the process for consideration and approval of the change of zoning district and the CUP was initiated. The Unified Development Ordinance (UDO) of the Town of Chino Valley sets forth a statutorily required Citizen Review Process in Section 1.9.4, Citizen Review Process. This section of the UDO also authorizes the Zoning Administrator to provide for an alternative Neighborhood Meeting processes. As the subject property is remote (and comprises a portion of the Town's Municipal boundary); the statutory notification of surrounding property owners within three hundred feet (300') includes two (2) private entities and the State Land Department, as well as Yavapai County, with whom the subject property shares a common boundary, the Zoning Administrator, Ruth Mayday caused to be mailed a letter in lieu of a neighborhood meeting, granting the recipients fifteen days (15 days) to respond to the rezoning and CUP requests.

Said letters were mailed on June 18, 2014. Staff received one (1) phone call from the Arizona State Land Department requesting a more detailed site map; no other comments or requests were received by the July 3, 2014 deadline.

At the time of annexation, the appropriate zoning classification for the proposed uses would have been I-1, which, at that time, required a CUP for the sand and gravel mining as well as the asphalt and concrete plant uses. That classification was amended in 2002 upon the adoption and approval of Resolution 629 and Ordinance 494 to allow hot mix (asphalt) and concrete plants as well as quarries and mines as uses by right in the Industrial zoning district.

The Chino Valley Town Council approved Resolution 812 and Ordinance 678 on November 8, 2006, adopting the Unified Development Ordinance. The UDO instituted a single Industrial "I" zoning district, the purpose of which is to "provide for and encourage industrial development within the Town, while insuring that such activities will have minimal impacts on the surrounding districts." This iteration of the zoning districts provided for quarries, and mines with associated batch plants, concrete plants, and similar uses as permitted uses; "hot mix" (asphalt) plants became conditional uses. This ordinance remains in effect today and applies to the subject action.

In conformance with the PADA and the Agreement, Cortez Enterprises has requested the rezoning of its approximately 438.5 acres located in Section 6, Township 15 North, Range 1 West from its current SR-2 residential zoning to Industrial zoning for the purposes of operating a sand and gravel mining operation, a batch plant for the manufacturing of concrete, and a portable "hot mix" asphalt plant.

The mining and concrete plant are permitted uses; the asphalt plant will require issuance of a CUP as a separate action.

This site is ideal for a mining operation and concrete batch plant as it is located approximately 1.75 miles from the nearest residentially zoned property; the bottom of the wash at the site is at 4,840 feet elevation and the boundary of the property at 4,860 feet, further containing noise and dust generated by said activities. Recent completion of the East 4 South extension has provided road access in close proximity to the site; Cortez agrees that it will develop its own access from the subject property to the extension of East Road 4 South through normal administrative processes. Those areas of the site disturbed by the permitted operation will be remediated upon cessation of the mining and related activities by removal or reuse, as appropriate, of all materials, waste, and fines piles. Disturbed areas will be graded to maintain positive drainage. Remediation of the other disturbed area(s) upon which the asphalt batch plant sits will be addressed in the CUP.

Surrounding parcels to the north, east, and west are within the corporate boundaries of the Town of Chino Valley and carry a zoning designation of SR-2. As the public Right-Of-Way terminates at the northwest corner of Section 6, Township 15 North, Range 1 West, access to the adjacent lands is somewhat limited. Additionally, no utility infrastructure is currently available to support residential development in this area; however, there is an ample supply of other lands more suitable for immediate residential development than what is found surrounding the subject property. The south boundary of the subject parcel is shared with an unincorporated portion of Yavapai County that carries a RCU-2A (Residential, Conditional Use; 2 Acre minimum) zoning classification. The County employs this classification as a “holding” district for property that is not yet planned for development and generally used as grazing land.

After proper notice in conformance with ARS 9-462.04, a Public Hearing was held during the regular meeting of the Planning and Zoning Commission on August 5, 2014, at which the Commission voted unanimously to forward the rezoning application to Town Council with a recommendation for approval.

The proposed uses in the application are supported by the 2000 General Plan, adopted upon the passage of Resolution 676 on June 26, 2003, and the 2013 General Plan Update draft, adopted by Town Council on May 13, 2014. The previous plan originally designated the subject property as Industrial Overlay and Low Density Residential; it was amended on March 24, 2005 upon the adoption of Ordinance 598 to designate the subject property as an Industrial Overlay-Amended Area. The 2013 General Plan designates the subject property as a Future Growth Area: Industrial/Agriculture/Contained Planned Community.

Findings of Fact

Staff supports the rezoning request and offers the following findings of fact:

- 1) The proposed rezoning serves the public interest, health, comfort, convenience, safety,

and general welfare of the citizens of Chino Valley as follows:

A) The location of the site will minimize the dust and noise generated by the proposed sand and gravel mining as well as the concrete batch plant and asphalt hot mix plant on residents of the Town.

B) The impact of the sand and gravel mining and related activities on the convenience, safety, and general welfare of the citizens will be reduced by the remote location of the project.

C) It is in the public's interest to resolve the long-standing suit between the Town and Cortez; by fulfilling the provisions of the PADA and rezoning the subject property to Industrial, the applicant will be able to realize the use first contemplated in the executed PADA.

D) The location of the mining and related activities will insure that said activities will have minimal impacts on the surrounding zoning districts, while providing additional resources to the development and construction sectors in the region.

2) That the proposed rezoning is congruent with the previous General Plan adopted by Town Council on June 6, 2003 and the current 2013 General Plan adopted by Town Council on May 13, 2014 for industrial uses.

Exhibit A: Legal Description Cortez CUP14-001 Portable Asphalt Plant Cortez ZC14-002

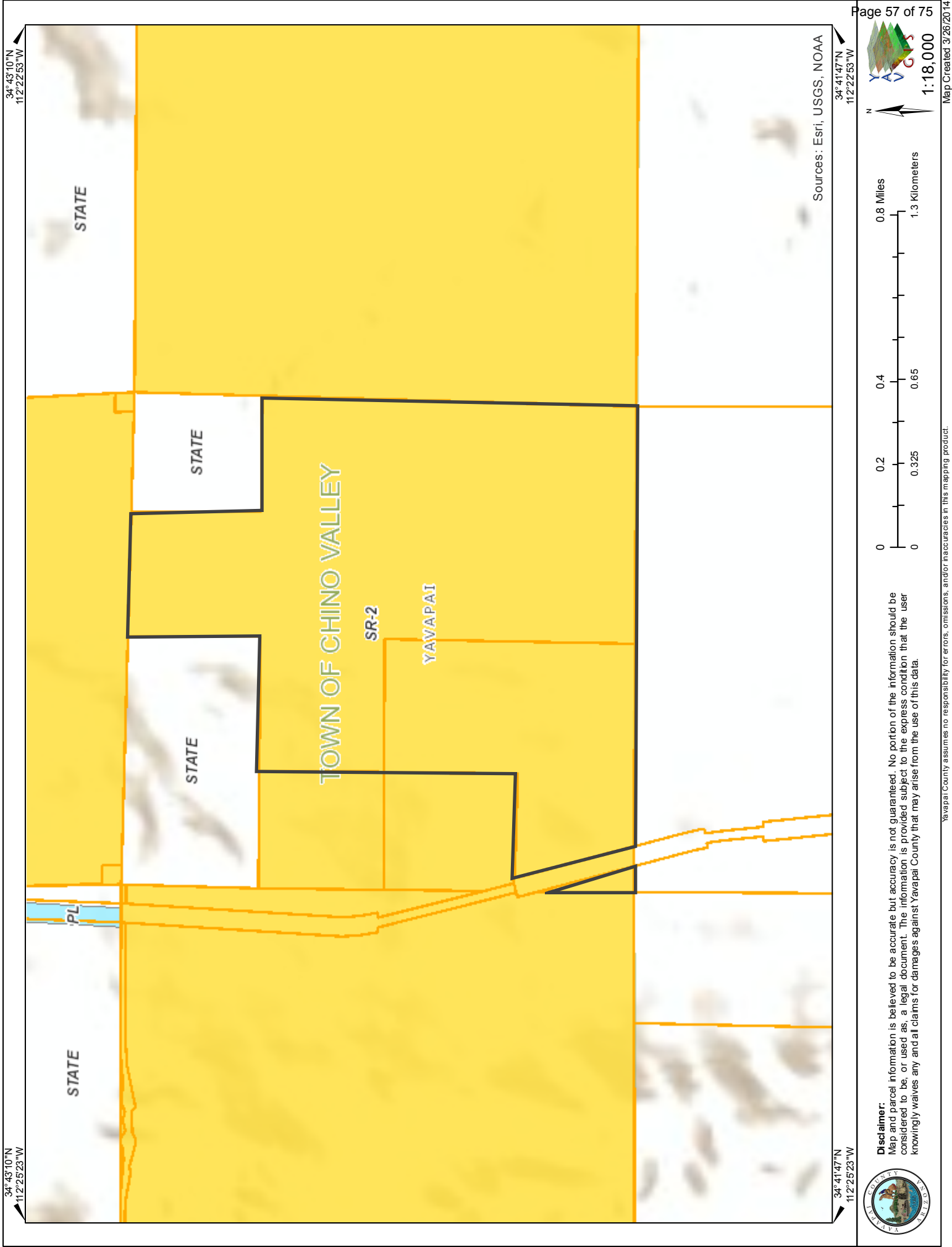
PARCEL I:

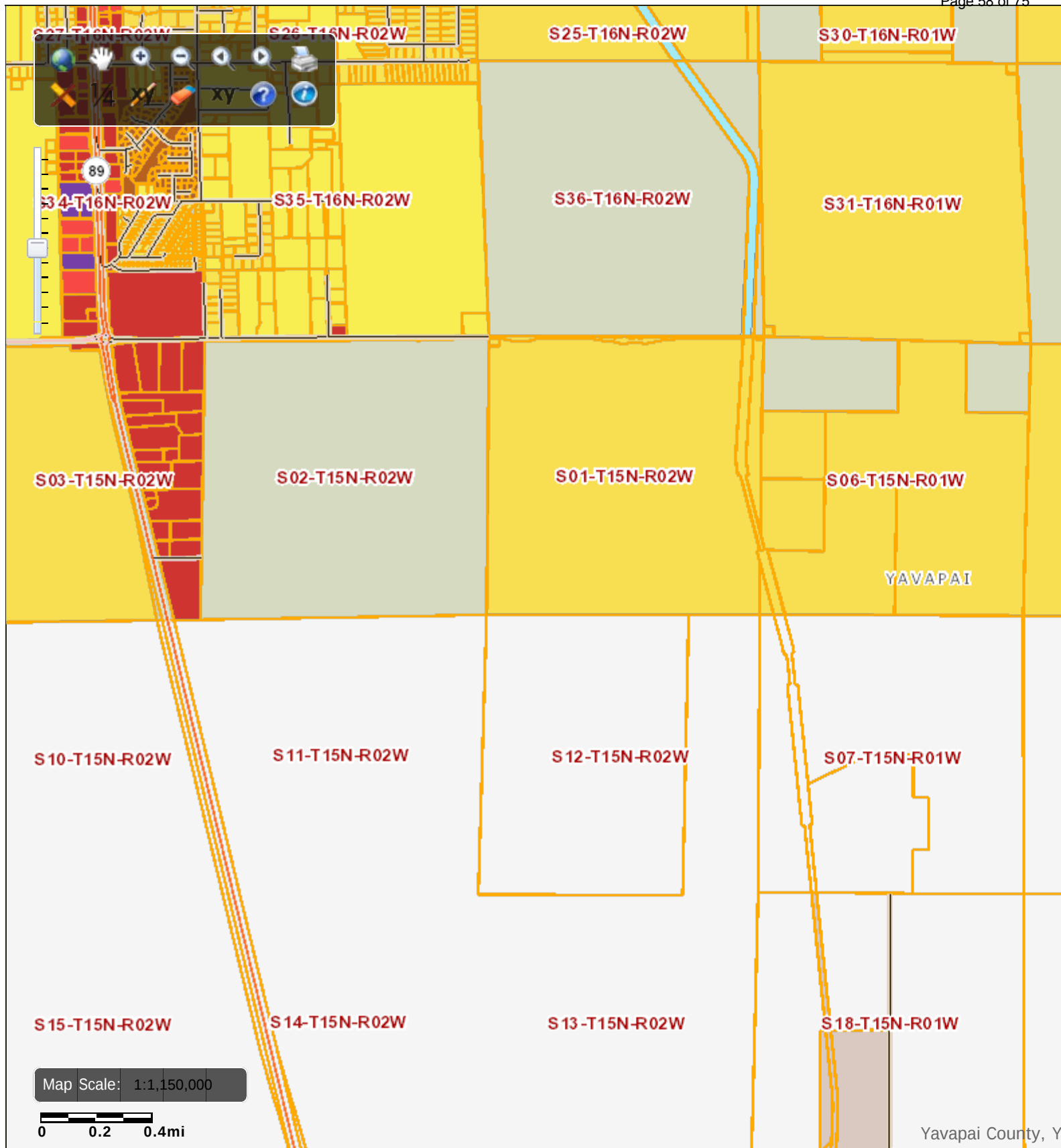
The Southeast quarter; Lot Numbered 2; The South half of the Northeast quarter; and the Southeast quarter of the Northwest quarter of Section 6, Township 15 North, Range 1 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

PARCEL II:

Lot 7 and the East Half of the Southwest quarter of Section 6, Township 15 North, Range 1 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

EXCEPT a strip of land 100 feet wide being 50 feet on each side of the centerline of the Santa Fe, Prescott and Phoenix Railway Company (now The Atchison, Topeka and Santa Fe Railway Company).





 **Disclaimer:**



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **7. d.**

Meeting Date: 08/26/2014
Contact Person: Ruth Mayday, Planner
 Phone: 928-636-4427 x-1217
Department: Development Services
Item Type: Action-Presentation
Estimated length of staff presentation: 5 minutes
Physical location of item: Section 6, Township 15 North, Range 1 West

AGENDA ITEM TITLE:

Consideration and possible action to authorize issuance of a Conditional Use Permit for operating a portable asphalt plant on approximately 438 acres located in Section 6, Township 15 North, Range 1 West.

RECOMMENDED ACTION:

Staff recommends issuance of a Conditional Use Permit for the operation of a portable asphalt plant on approximately 438 acres located in Section 6, Township 15 North, Range 1 West.

SITUATION AND ANALYSIS:

See Attached

Fiscal Impact

Fiscal Impact?: None

If Yes, Budget Code:

Available:

Funding Source:

Attachments

CUP Staff Report
Legal Description - CUP
Zoning Map
Location Map
CUP letter

Exhibit A: Legal Description Cortez CUP14-001 Portable Asphalt Plant Cortez ZC14-002

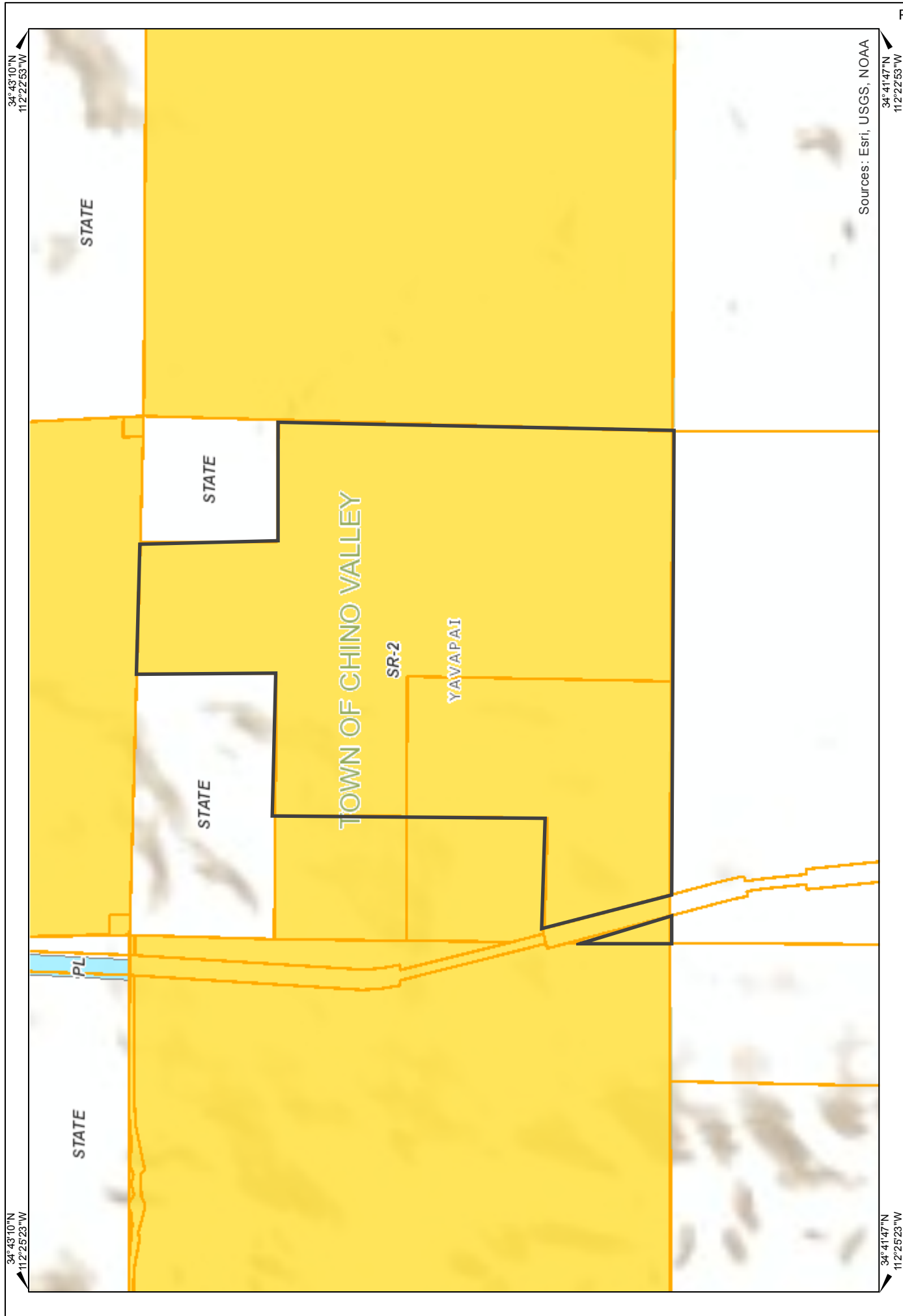
PARCEL I:

The Southeast quarter; Lot Numbered 2; The South half of the Northeast quarter; and the Southeast quarter of the Northwest quarter of Section 6, Township 15 North, Range 1 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

PARCEL II:

Lot 7 and the East Half of the Southwest quarter of Section 6, Township 15 North, Range 1 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

EXCEPT a strip of land 100 feet wide being 50 feet on each side of the centerline of the Santa Fe, Prescott and Phoenix Railway Company (now The Atchison, Topeka and Santa Fe Railway Company).

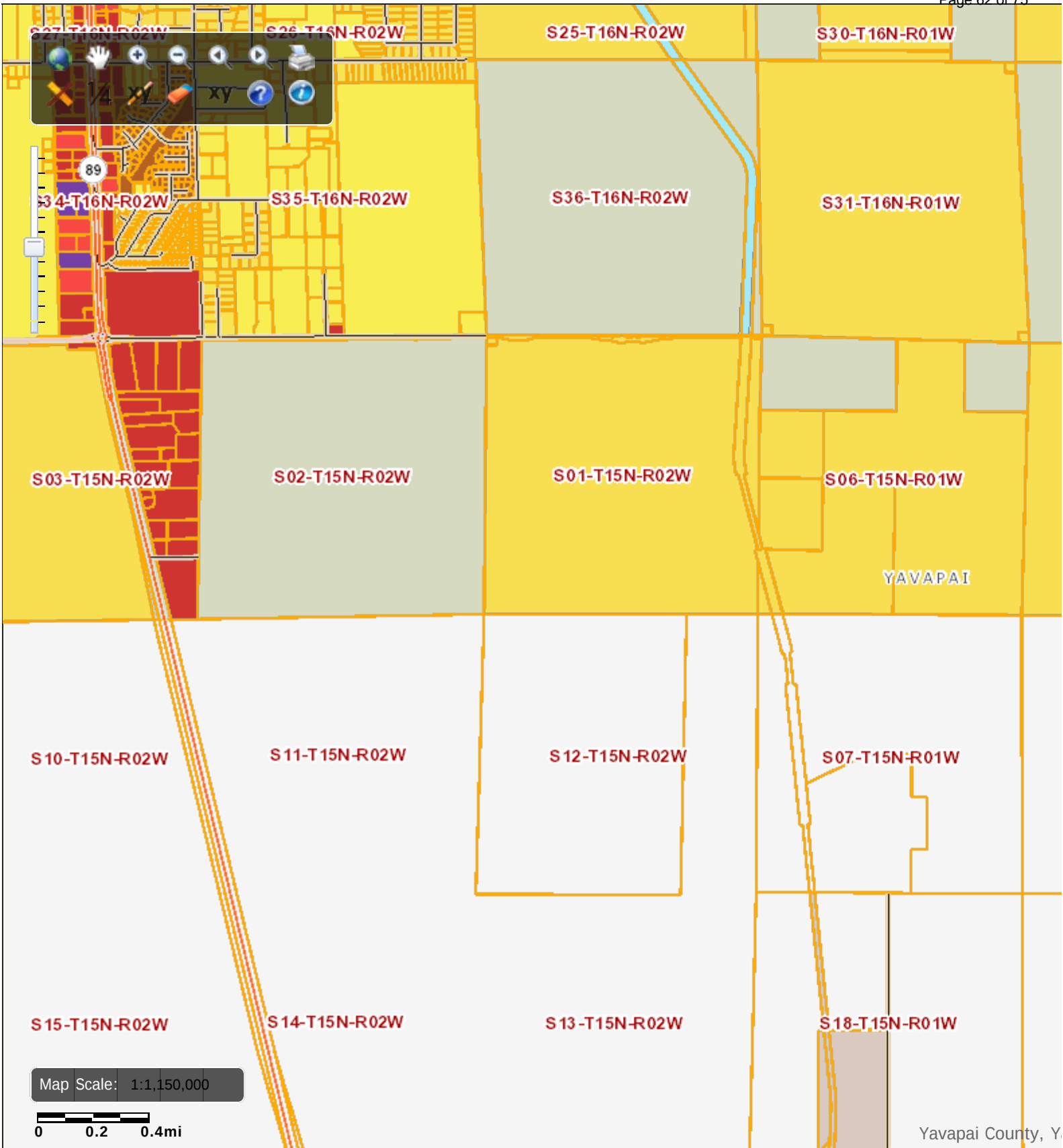


Disclaimer: Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.



Sources: Esri, USGS, NOAA

1:18,000



 **Disclaimer:**



Development Services Department
1982 N. Voss Drive #203
Chino Valley, AZ 86323

928-636-4427
928-636-6937
www.chinoaz.net

Paul Roberts
Cortez Enterprises
239 South Cortez St.
Prescott, AZ 86303

RE: Use Permit No.: CUP14-001
Cortez Portable Asphalt Plant Mix

On August 26, 2014, the Chino Valley Town Council approved a Conditional Use Permit in the above-referenced case for approximately 438 acres of property located in Section 6, Township 15 North, Range 1 West, as shown on Exhibit 1, which is attached hereto and incorporated herein. The minutes from the Town Council meeting are available from the Town Clerk or online at chinoaz.net.

The Use Permit permits a portable hot mix asphalt plant use in the Industrial (I) zoning district. The use and operation permitted by the Use Permit shall substantially conform to the Project Narrative, attached hereto and incorporated herein as Exhibit 2, except as modified below.

This Use Permit is subject to the following conditions:

- A) The areas disturbed on the site of the asphalt hot mix plant will be remediated upon cessation of the manufacture of asphalt by removal or reuse, as appropriate, of all materials, waste, and fine piles, and disturbed areas will be graded to maintain positive drainage. Reseeding areas of disturbance will be required only for those areas that have not reverted to natural vegetation.
- B) Completion of a Phase 1 Environmental Impact Assessment upon same to ensure that the site of the asphalt hot mix plant is not contaminated.
- C) The term of the Conditional Use Permit shall be fifty (50) years from the date of approval.
- D) The Town will not require any reclamation that is contrary to the rules and regulations of any other agencies with regulatory jurisdiction over Cortez's mining activities within the State of Arizona.
- E) Prior to the commencement of mining or asphalt production activities, Cortez will provide to the Town of Chino Valley evidence of any required regulatory approval for said activities.



Development Services Department
1982 N. Voss Drive #203
Chino Valley, AZ 86323

928-636-4427
928-636-6937
www.chinoaz.net

This Use Permit is subject to all limitations set forth in the Chino Valley Unified Development Ordinance and in this Use Permit, including termination and/or revocation. If either commencement of the use or commencement of construction, pursuant to a valid building permit, has not occurred within 2 years of the effective date of this Use Permit, this Use Permit will automatically expire. The effective date is the 11th day after approval.

Please ensure that all public hearing notice signs installed on the site, if any, are removed immediately.

If you have any questions regarding this Use Permit, please contact Ruth Mayday at 928-636-3319 or by email at rmayday@chinoaz.net.

Sincerely,

Ruth Mayday
Development Services Director

Enclosure (Exhibits):

1. Legal Description
2. Map
3. Project Narrative/Site Plan



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. 7. e.

Meeting Date: 08/26/2014
Contact Person: Liz Hart, Deputy Town Clerk/Records Technician
 Phone: 928-636-2646 x-1210
Department: Town Clerk
Item Type: Action
Estimated length of staff presentation: 15 minutes
Physical location of item:

AGENDA ITEM TITLE:

Discussion and possible action to address a complaint filed by Vice-Mayor Croft pursuant to Town Code Chapter 35 Code of Ethics Section 35.04 Conduct in Public Office paragraph (D).

RECOMMENDED ACTION:

Call upon Councilmember Hatch to publicly apologize to Ms. Schimikowsky, President/CEO, Chino Valley Area Chamber of Commerce, and to refrain from conversing in an intimidating manner when discussing Town business with visitors and staff.

SITUATION AND ANALYSIS:

See Attached

Fiscal Impact

Fiscal Impact?: no

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Town Code of Ethics
ORD 13-768 Code of Ethics
Formal Complaint

TOWN CODE – CODE OF ETHICS AND COMMUNICATIONS WITH STAFF

As Updated By Ordinance No. 13-768, Dated April 9, 2013

CHAPTER 31: OFFICERS

§ 31.20 TOWN MANAGER

(G)(4) Except for the purpose of inquiry, the Council and its members shall deal with the town's administrative functions solely through the Town Manager. Neither the Council nor any member thereof shall give orders directly to, or discuss job performance directly with, any subordinates of the Town Manager either publicly or privately, but may discuss the same directly with the Town Manager. No individual member of the Council shall direct or request of the Town Manager the appointment of any person to office or the removal from office of any employee or any subordinates.

CHAPTER 35: CODE OF ETHICS

Section

- 35.01 Generally
- 35.02 Responsibilities of public office
- 35.03 Conflict of interest
- 35.04 Conduct in public office

§ 35.01 GENERALLY.

(A) **ETHICS** is defined here as the rules or standards governing those persons functioning as representatives of the town. These rules and standards are based upon a set of values judged to be moral to the extent that they enhance society and an individual's relationship to others.

(B) A representative of the town is defined here as a public official, elected or appointed, salaried or unpaid, including the Mayor, Council members and any board or commission member.

(C) The purpose of this code is to establish ethical standards of conduct for these public officials acting in their official public capacity.

§ 35.02 RESPONSIBILITIES OF PUBLIC OFFICE.

(A) By oath of office each representative is responsible to uphold the Constitution of the United States, the Constitution of the State of Arizona and the ordinances and regulations of the town. The public official shall perform his obligations in a manner that is impartial and responsible to all people.

(B) The public official shall not use his position for personal or monetary gain.

(C) The public official shall not disclose confidential information concerning the property, government or affairs of the town without proper legal authorization.

§ 35.03 CONFLICT OF INTEREST.

(A) This code shall reinforce any existing affirmation regarding conflict of interest contained in the public official's oath of office. When acting in a public capacity, the public official shall abstain from participating in discussion and vote on any pending matter that would result in his or her financial or private gain.

(B) The public official shall not directly or indirectly solicit, accept or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise or any other form that could be reasonably inferred to influence the performance of his or her official duties and actions or serve as a reward for any official action.

§ 35.04 CONDUCT IN PUBLIC OFFICE.

(A) The public official shall not discuss or divulge confidential information acquired by him or her in the course of his or her official duties nor shall he or she use this information for his or her own personal interest or aggrandizement.

(B) The public official shall respect the rights, privileges and opinions of his or her fellow officials, staff and the public at large. Council members shall exhibit respect for the public, other governmental units and agencies, and the professional and ethical conduct of the town manager and staff. Propriety dictates that the public official be sensitive to the possible confidential or personal nature of directives addressed to other individuals.

In bringing honor to the title and in recognition of the weighty respect due the role of Public Official, those elected to public office shall:

- (1) Lead by example.
- (2) Demonstrate civil and courteous conduct at all times.
- (3) Seek and speak the truth.
- (4) Respect all people.
- (5) Accept respectful dissent as a civic right.

(C) In his or her dealings with town employees, the public official shall maintain professional conduct with respect to the employee's work assignments and obligations, and shall refrain from directly influencing the professional management of the town's administration by any means other than direct communication with the Town Manager. The office of the public official shall in no situation be used to wrongfully obtain information or administrative outcomes either by intimidation or by deliberately violating the privacy of an employee's work station.

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(D) All public officials are expected to honor the mandates set forth in this code of ethics. Complaints alleging violations to this chapter shall be received in writing by the Mayor and/or Vice Mayor, unless they are named in the complaint and in that circumstance, such written complaint shall be received by the Town Attorney. Complaints will be addressed by the Council within 60 days of receipt.

ORDINANCE NO. 13-768

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE TOWN OF CHINO VALLEY, ARIZONA, TOWN CODE, CHAPTER 31: OFFICERS, SECTION 31.20: TOWN MANAGER AND CHAPTER 35: CODE OF ETHICS, SECTION 35.04: CONDUCT IN PUBLIC OFFICE

WHEREAS, the International City Management Association ("ICMA") recognizes the month of March as 'Ethics Month' and aspires to enhance and promote ethical conduct among professional administrators and political leadership engaged in the conduct of the public's government; and

WHEREAS, ICMA, its Code of Ethics for Management Professionals, and related support materials have become a global resource for communities seeking to enhance the ethical conduct and operation of local governments; and

WHEREAS, on March 26, 2013, the Town Council discussed and deliberated on amendments to the Chino Valley Town Code ("Town Code") provisions with regard to the office of Town Manager and Code of Conduct for public officials; and

WHEREAS, the Council voted to approve the proposed amendments to the Town Code, with additional revisions to Section 35.04(D) thereof pertaining to the protocol for reporting complaints concerning public officials; and

WHEREAS, for purposes of memorialization and archiving amendments to the Town Code, it has been the practice of the Town Council to adopt changes to the Town Code through a written, numbered Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The text of Town Code, Chapter 31: OFFICERS, Section 31.20: TOWN MANAGER, paragraph (G)(4) is hereby amended as follows:

CHAPTER 31: OFFICERS

§ 31.20 TOWN MANAGER

(G) (4) Except for the purpose of inquiry, the Council and its members shall deal with the town's administrative functions solely through the Town Manager, ~~and neither.~~ Neither the

Council nor any member thereof shall give orders directly to, or discuss job performance directly with, any subordinates of the Town Manager either publicly or privately, but may discuss the same directly with the Town Manager. No individual member of the Council shall direct or request of the Town Manager the appointment of any person to office or the removal from office of any employee or any subordinates.

Section 2. The text of Town Code, Chapter 35: CODE OF ETHICS, Section 35.04: CONDUCT IN PUBLIC OFFICE, paragraphs (B), (C), and (D) are hereby amended as follows:

CHAPTER 35: CODE OF ETHICS

§ 35.04 CONDUCT IN PUBLIC OFFICE

(B) The public official shall respect the rights, privileges and opinions of his or her fellow officials-, staff and the public at large. Council members shall exhibit respect for the public, other governmental units and agencies, and the professional and ethical conduct of the town manager and staff. Propriety dictates that the public official be sensitive to the possible confidential or personal nature of directives addressed to other individuals.

In bringing honor to the title and in recognition of the weighty respect due the role of Public Official, those elected to public office shall:

- (1) Lead by example.
- (2) Demonstrate civil and courteous conduct at all times.
- (3) Seek and speak the truth.
- (4) Respect all people.
- (5) Accept respectful dissent as a civic right.

(C) In his or her dealings with town employees, the public official shall maintain professional conduct with respect to the employee's work assignments and obligations-, and shall refrain from directly influencing the professional management of the town's administration by any means other than direct communication with the Town Manager. The office of the public official shall in no situation be used to wrongfully obtain information or administrative outcomes either by intimidation or by deliberately violating the privacy of an employee's work station.

(D) All public officials are expected to honor the mandates set forth in this code of ethics. Complaints alleging violations to this chapter shall be received in writing by the Mayor and/or Vice Mayor, unless they are named in the complaint and in that circumstance, such written complaint shall be received by the Town Attorney. Complaints will be addressed by the Council within 60 days of receipt.

Section 3. All other Chapters and Sections of the Town Code, not herein amended or abrogated, shall remain in full force and effect.

Section 4. If any provision of this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 9th day of April, 2013.


Chris Marley, Mayor

ATTEST:


Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:


Musgrove Drutz & Kack, P.C.
Town Attorney

Darryl L. Croft
1055 Parkside Village Drive
Post Office Box 5579
Chino Valley, Arizona 86323

DATE: August 17, 2014

FROM: Darryl Croft, Vice Mayor, Town of Chino Valley

TO: Chris Marley, Mayor, Town of Chino Valley

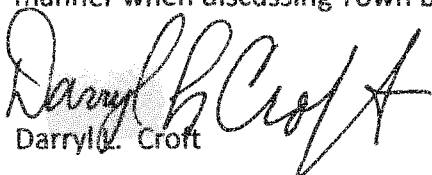
SUBJECT: Formal Complaint Concerning Town Council Member Linda Hatch.

During the August 12, 2014 Town Council meeting, Tracie Schimikowsky, President/CEO, Chino Valley Area Chamber of Commerce (Chamber) made an informational presentation concerning Chamber activities conducted for the Town of Chino Valley (Town). Later in the meeting, Ms. Schimikowsky presented information concerning the Accountability Contract between the Town and Chamber which described services to be rendered to the Town by the Chamber for which the Chamber would be compensated by the Town. This working relationship has been in force for several years.

As Ms. Schimikowsky presentation proceeded Council Member Hatch asked some pertinent questions about the Accountability Contract which were answered by Ms. Schimikowsky. When Council Member Hatch continued to question Ms. Schimikowsky her demeanor and tone changed becoming rude and abusive. The setting in the meeting room seemed to morph from a council chamber to a courtroom and Ms. Shimikowsky was the person on trial, rather than a professional member of this community conversing about offering services that support the goals of the Town of Chino Valley. Council Member Hatch continued to pose questions, such as what is Ms. Schimikowsky salary, which were not germane to the subject of the discussion. Her manner of dealing with visitors and staff in open meetings has come into question in the past.

Council Member Hatch's behavior was embarrassing to me as both a council member and a member of the board of directors of the Chino Valley Area Chamber of Commerce. Since this incident I have been approached by both chamber members and business owners concerned about the lack of professionalism displayed by members of this town council. If it is viewed as such by our citizens, it must also be evident to any person or business that is looking to Chino Valley as a place to build a future.

RESOLUTION: A reasonable resolution to my complaint is for Council Member Hatch to publically apologize to Ms. Shimikowsky and to refrain from conversing in an intimidating manner when discussing Town business with visitors and staff.


Darryl L. Croft



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **8. a.**

Meeting Date: 08/26/2014
Contact Person: Robert Smith, Town Manager
 Phone: 928-636-2646 x-1201
Department: Town Manager
Item Type: Executive
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

An executive session pursuant to A.R.S. § 38-431.03(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 a Settlement and Release Agreement that is the subject of negotiations related to the Construction Manager at Risk Contract between the Town of Chino Valley and Fann Contracting, Inc. dated June 12, 2003 and all amendments thereto.

RECOMMENDED ACTION:

None

Fiscal Impact

Attachments

No file(s) attached.

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TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

Item No. **8. b.**

Meeting Date: 08/26/2014
Contact Person: Liz Hart, Deputy Town Clerk/Records Technician
 Phone: 928-636-2646 x-1210
Department: Council
Item Type: Executive
Estimated length of staff presentation: None
Physical location of item: N/A

AGENDA ITEM TITLE:

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 Attorney.

RECOMMENDED ACTION:

None.

Fiscal Impact

Attachments

No file(s) attached.