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

TUESDAY, SEPTEMBER 27, 2011
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, September 27, 2011.

Mayor Marley called the meeting to order at 6:04 p.m.

Council Present: Mayor Chris Marley, Vice-Mayor Carl Tenney, and Councilmembers Mike Best, Darryl Croft, Dean Echols, Linda Hatch, and Lon Turner.

Staff Present: Town Manager Michael Scannell, General Services Director Cecilia Watts Town Attorney Tom Kack, Police Chief Chuck Wynn, Commander Mark Garcia, Development Services Director Pat Clingman, Town Engineer/Public Works Director Ron Grittman, IT Technician Spencer Guest, Town Clerk Assistant/Records Technician Liz Hart, and Town Clerk Jami Lewis (recorder).

Vice-Mayor Croft gave the invocation; Mayor Marley led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

2a) Proclamation declaring October 22, 2011 as "Yavapai Big Brothers Big Sisters Day," sponsored by Yavapai Big Brothers Big Sisters.

Mayor Marley read the proclamation and presented it to Kanan Childers with Big Brothers Big Sisters, who spoke about the organization's activity in the Town and an upcoming 40-year reunion.

2b) Chino Valley Model Aviators' Annual Report to Council by Rick Nichols, Model Aviators Secretary/Treasurer.

Rick Nichols, Secretary/Treasurer of Chino Valley Model Aviators, presented the organization's annual report. Highlights included 101 members, $18,000 in improvements, airshows attended and held, and local event statistics.

3a) CALL TO THE PUBLIC

Dick Melick, Bob Anderson, and Bill O'Hagan, spoke about Joe Foss, a World War II Marine pilot, and the Joe Foss Institute, whose members spoke to young people about patriotism and free society.

Duane Noggle, Chino Valley Unified School District Superintendent, commended the Joe Foss Institute for their work with students; spoke about his resignation as superintendent; introduced the new superintendent, James Merlesque; and encouraged further partnership between the Town and School District.

3b) RESPONSE TO THE PUBLIC

Abandoned property with unhealthy and unsafe conditions – Mayor Marley read a letter from the Town's code enforcement officer describing the situation and the Town's efforts to place a lien on the property and turn the matter over to the town attorney.

4) CURRENT EVENT SUMMARIES AND REPORTS

Councilmember Echols reported on the Vintage Chevy Club's 6th annual fall tour including a stop in Chino Valley.

Councilmember Croft reported on the Roads and Streets Advisory Board name change to the Roads and Streets Committee; and his request to schedule an executive session for the town manager's performance evaluation.

Mayor Marley read his Monthly Mayor's Report, which pertained to the state of the Town, transit, the Chamber contract, and the agreement with towing companies.

CONSENT AGENDA

5) Consideration and possible action to adopt Resolution No. 11-970 endorsing the Arizona Cattle Growers' Association's "Save Arizona's Forest Environment (SAFE) Plan." (Jami Lewis, Town Clerk)

6) Consideration and possible action to approve First Amendment to Professional Services Agreement dated November 1, 2010, between the Town of Chino Valley and the Town Prosecutor, Marc E. Hammond, to correct a scrivener's error by extending the term of the Agreement to October 31, 2012. Funding to come from Prosecutor Department's professional services expenditure line in the General Fund. (Cecilia Watts, General Services Director)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to accept Consent Agenda items 5 and 6. The motion PASSED unanimously 7-0.

ACTION ITEMS

7) PUBLIC HEARING, followed by consideration and possible action to take administrative action to extend, remove or determine compliance with Ordinance No. 09-719 or adopt Ordinance No. 11-752 to repeal Ordinance No. 09-719 and thereby cause the property's zoning to revert from Planned Area Development ("PAD") along with underlying zoning consisting of "CL" Commercial Light, "MR-1" Multiple Family Residential 1 Acre Minimum, "SR-1" Single family Residential 1 Acre Minimum, and "OS" Open Space to "AR-5" Agricultural Residential 5 Acre Minimum. The zone change previously approved by Ordinance No. 09-719 was done within the context of an approximately 170-acre "PAD" for JC Ranch Retirement Community, which includes Assessor's Parcel Numbers 306-05-030R, 306-05-030U and 306-05-030V, and is generally located on the northwest corner of W. Road 4 North and N. Road 1 West, and includes the Windmill House events facility which is located at 1460 W. Road 4 North. Owner/Applicant: La Vacara Trust/ Joe Cordovana, Trustee. (Pat Clingman, Development Services Director)

Councilmember Hatch reported that staff had requested that Council refer item 10 back to the Planning and Zoning Commission, and continue items 7, 8, 9, and 11, so that all items pertaining to these properties could be heard together.

Councilmember Hatch MOVED, seconded by Vice-Mayor Tenney, to continue public hearing to the November 8, 2011 Council meeting. The motion PASSED 6-0, with 1 abstention by Councilmember Echols.

8) PUBLIC HEARING, followed by consideration and possible action to take administrative action to extend, remove or determine compliance with Resolution No. 09-899 or adopt Resolution No. 11-968 to repeal Resolution No. 09-899 and thereby cause the Future Land Use Designation of the 2003 General Plan to revert from Commercial to Medium Density Residential 2 acres or less. The Minor General Plan Amendment previously approved by Resolution No. 09-899 was for approximately 39 acres and was done within the context of an approximately 170-acre Planned Area Development (PAD) for JC Ranch Retirement Community, which includes Assessor's Parcel Numbers 306-05-030R, 306-05-030U and 306-05-030V, and is generally located on the northwest corner of W. Road 4 North and N. Road 1 West, and includes the Windmill House events facility which is located at 1460 W. Road 4 North. Owner/Applicant: La Vacara Trust/Joe Cordovana, Trustee. (Pat Clingman, Development Services Director)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to continue public hearing to the November 8 Council meeting. The motion PASSED 6-0, with 1 abstention by Councilmember Echols.

9) MGPA 11-001: PUBLIC HEARING, followed by consideration and possible action to adopt Resolution No. 11-969 approving a Minor Amendment to the 2003 General Plan to change the Future Land Use Designation from Medium Density Residential 2 acres or less to Commercial for an approximately 28-acre portion of Assessor's Parcel Number 306-05-030V, located at 1460 W. Road 4 North, which currently includes the Windmill House events facility. Owner/Applicant: La Vacara Trust/Joe Cordovana, Trustee. (Pat Clingman, Development Services Director)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to continue public hearing to the November 8, 2011 Council meeting. The motion PASSED 6-0, with 1 abstention by Councilmember Echols.

10) ZC 11-003: PUBLIC HEARING, followed by consideration and possible action to adopt Ordinance No. 11-753 for a Zone Change from "AR-5" Agricultural Residential 5 Acre Minimum to "CL" Commercial Light for an approximately 28-acre portion of Assessor's Parcel Number 306-05-030V, located approximately at 1460 W. Road 4 North, which currently includes the Windmill House events facility. Owner/Applicant: La Vacara Trust/Joe Cordovana, Trustee. (Pat Clingman, Development Services Director)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to send this item back to the Planning and Zoning Commission for a public hearing in order to comply with State Statutes and the Town's Unified Development Ordinance, and continue the subject public hearing before Council to the November 8, 2011 meeting. The motion PASSED 6-0, with 1 abstention by Councilmember Echols.

11) CUP 11-002: PUBLIC HEARING, followed by consideration and possible action to adopt Ordinance No. 11-754 approving a Conditional Use Permit (CUP) to continue operation of the Windmill House Events Facility and its present uses in the "AR-5" Agricultural Residential 5 Acre Minimum zoning district for an approximately 28-acre portion of Assessor's Parcel Number 306-05-030V, located at 1460 W. Road 4 North, which currently includes the Windmill House events facility. (Pat Clingman, Development Services Director)

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to continue public hearing to the November 8, 2011 Council meeting. The motion PASSED 6-0, with 1 abstention by Councilmember Echols.

Mayor Marley reported that staff requested that Council address Executive Session item 15 at this point on the agenda. He also reported that although he lived near the subject development, he did not have a technical conflict of interest; but to avoid an appearance of one, he recused himself from all discussion on this topic.

12) PUBLIC HEARING regarding Retail Development Tax Incentive Agreement between the Town of Chino Valley and Jack Tuls, Jr., including:

12a) Consideration and possible action to make the findings required by A.R.S. § 9-500.11 and other findings as set forth in Recommended Action below. (Tom Kack, Town Attorney)

(This item was heard after item 15 but is retained here for clarity.)

Councilmember Hatch MOVED, seconded by Councilmember Croft, to open the public hearing. The motion PASSED 6-0.

Mr. Kack reported that:

- The subject agreement provided that the KOA developer: upsize its sewer and water lines for future commercial development; pay for additional right-of-way acquisition; pay for one-half the cost of legal expenses related to condemnation; and construct a gravity feed line, rather than a force main.
- The first two provisions entitled the developer to reimbursement from the Town for the upsize and additional rights-of-way. Reimbursement would come from one-third of the sales taxes collected on the property for up to 20 years.
- State statute required that the Town pay for an independent third party ("specialist") opinion to verify that such reimbursement meet certain fiscal criteria.
- Statute also required that Council make certain findings in order to approve a tax incentive agreement. If they made such findings, they could adopt the resolution now, approving the form and content of the document, but the vice-mayor could not sign it until the specialist provided the opinion. If the specialist's opinion was negative, the agreement would not be signed.

Dan Wood, resident, did not object to the general agreement, but expressed concern over certain language and apparent errors in the agreement.

Susan Tobey, non-resident, and John Langdon, resident, voiced concern about how long it was taking to get the project started.

Rick Nichols, resident, spoke about public perception that the project was suffering from continual roadblocks.

Chris Marley, resident, related that this process was prescribed by state law and the Town was moving as quickly as it could.

Vice-Mayor Tenney reviewed the negotiating process and stated that the developer hoped to open in the spring.

Mr. Kack and Town Manager Scannell advised that:

- It was common for such developments to take this length of time. The agreement was complex and needed to be negotiated. The Town did not receive the draft agreement from the developer until August and staff could not engage the specialist until the agreement was in final form.
- Staff retained the specialist the day after Council approved it, and the target completion date was October 17.
- There was no legal reason to change anything in the proposed agreement, unless Council determined to add more stub-outs to the utilities plan, which would require additional reimbursement and modifications to the agreement.

Councilmember Hatch MOVED, seconded by Councilmember Echols, to close the public hearing. The motion PASSED 6-0.

Councilmember Croft called the question.

Councilmember Hatch MOVED, seconded by Councilmember Turner, to expressly find that: (a) a Notice of Intent to enter into a Retail Development Tax Incentive Agreement ("Agreement") was adopted by the Town Council on September 13, 2011, a copy of which is attached to the Retail Development Tax Incentive Agreement as Exhibit B and incorporated therein by this reference; (b) the tax incentive to the Developer contemplated by this Agreement is anticipated to raise more revenue than the amount of the incentive during the duration of this Agreement; (c) the Town has hired an independent third party to review the Agreement and the facts and to verify the findings under (b) above as required by A.R.S. §9-500.11.F; (d) that Developer did not finance such independent third party verification or have input into the selection of the independent third party verifying the findings; and (e) that in the absence of the tax incentive offered to Developer, neither Developer nor a similar retail business facility would locate in the Town in the same time, place or manner as contemplated by the Project, which includes but is not limited to the following, Commercial Retail, Overnight Stay RV Park with or without cabins, located on part of the approximately 60 acre master parcel. The motion PASSED unanimously 6-0.

12b) Consideration and possible action to approve the Retail Development Tax Incentive Agreement with Jack Tuls, Jr. through adoption of Resolution No. 11-971. (Tom Kack, Town Attorney)

Councilmember Hatch MOVED, seconded by Councilmember Croft, to adopt Resolution No. 11-971 approving the Retail Development Tax Incentive Agreement with Jack Tuls, Jr. as to form and content and that the Town shall enter into it and the vice-mayor shall sign it conditioned upon receipt. The motion PASSED unanimously 6-0.

Mayor Marley returned to the dais.

13) Discussion and possible action to reinstate a 40-hour workweek for non-exempt sworn police officers in the Chino Valley Police Department, with the exception of the PANT Officer, effective immediately; and approve a $13,994 budget transfer from Non-Departmental Contingencies to the Police Department budget. Funding matters associated with this item are detailed in the Council Agenda Item Staff Report. (Chuck Wynn, Police Commander; Cecilia Watts, General Services Director)

Chief Wynn reported that:

- Now that neighboring agencies were once again hiring, the Town's 10 percent hourly/wage reduction had resulted in officers leaving the Town's employ, dropping the department's staffing levels below the minimum and requiring overtime to cover shifts.

- In order to provide appropriate coverage and reduce overtime expenses, staff and the Council Finance Committee proposed to eliminate the positions of the two officers who had recently resigned and use the savings to reinstate the 40 hours for the remaining 17 patrol officers and two detectives.

Town Manager Scannell added that:

- This proposal was more cost effective than paying overtime, but did raise the challenge of inequity, in that the Town did not have the needed $500,000 to restore the 40 hours for all employees.
- Other departments were also experiencing turnover due to the Town being the only neighboring municipality furloughing its people, and those departments might be looking at a similar situation.

Council discussion:

- Although there was a general concern for fairness across the organization, some pointed out that the employees receiving this benefit would not see an increase in pay, as they would exchange overtime for the additional hours and it was one step toward restoring the hours to all employees.
- As hiring new officers would be counterproductive to the budget and coverage was needed for public safety, the proposal in general made good fiscal sense.
- They desired to work on reinstating hours during the budget process.

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to approve reinstatement of a 40-hour workweek for non-exempt sworn police officers in the Chino Valley Police Department, with the exception of the PANT Officer, effective immediately, and approve a $13,994 budget transfer from Non-Departmental Contingencies to the Police Department budget. The motion PASSED unanimously 7-0.

14) Consideration and possible action to approve the purchase of an Avaya IP Office 500 Communications System from CDWG through the National IPA Cooperative purchasing program, including all hardware, software, licensing, network assessments, programming, support, onsite installation and training in an amount not to exceed $131,461. Said system will be located at the 1020 W. Palomino building and will service every department utilizing the Town's computer network connections. Preliminary cost estimates through National IPA Cooperative purchasing program indicate a lower actual cost of $122,281.22, providing a good buffer for any unanticipated necessary project adjustments. Funding to come from a variety of sources as outlined in the Council Agenda Item Staff Report, with the expense to be offset by savings realized by replacing current Qwest analog service lines with 2 Primary Rate Interface (PRI) digital service connections, fax line reductions, Police call recording service reductions, and staff hour savings, which cost savings have been reflected in the fiscal year 2011/2012 Tentative Budget. (Spencer Guest, IT Technician)

Mr. Guest and Town Attorney Kack reported that:

- Council considered this item on July 26th and asked staff to research CDWG selling their hardware through the Mohave contract, as well as better warranty options.
- The Mohave specialist concluded that CDWG selling components through Mohave was a gray area, but they should not sell the complete system on the Mohave contract. There were, however, several state and national cooperative purchasing options, such as IPA, which was not restrictive for CDWG, and fully met the Town's procurement requirements.
- CDWG also offered a full warranty, as well as extended warranties and support options. Staff also found that CenturyLink was able to cover catastrophic failures.
- Staff was still working to bring the total cost in under $122,281.22.

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to approve the purchase of an Avaya IP Office 500 Communications System from CDWG through the National IPA Cooperative purchasing program including all hardware, software, licensing, network assessments, programming, support, onsite installation and training in an amount not to exceed $131,461. The motion PASSED unanimously 7-0.

EXECUTIVE SESSION

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

15) Council may vote to hold an Executive Session pursuant to A.R.S. §38-431.03(A)(4) to obtain legal advice from its attorneys and to consider its position and instruct its attorneys, or other designated representatives regarding a Retail Development Tax Incentive Agreement between the Town and Jack Tuls, Jr., in connection with the proposed development of a KOA. (Tom Kack, Town Attorney)

(Council heard this item after item 11 but is retained here for clarity. Mayor Marley previously recused himself from this item.)

Councilmember Hatch MOVED seconded by Councilmember Croft, Councilmember Hatch to go into Executive Session pursuant to A.R.S. §38-431.03(A)(4) to obtain legal advice from its attorneys and to consider its position and instruct its attorneys, or other designated representatives regarding a Retail Development Tax Incentive Agreement between the Town and Jack Tuls, Jr., in connection with the proposed development of a KOA. The motion PASSED 6-0 at 6:51 p.m.

Vice-Mayor Tenney reconvened the regular meeting at 7:16 p.m.

16) Council may vote to hold an Executive Session pursuant to A.R.S. §38-431.03(A)(4) to obtain legal advice from its attorneys and to consider its position and instruct its attorneys, or other designated representatives regarding discussions and potential agreement with Sun Edison regarding dedications of property and/or related matters.

Vice-Mayor Tenney MOVED, seconded by Mayor Marley, to go into executive session. The motion PASSED unanimously 7-0 at 8:11 p.m.

Mayor Marley reconvened the regular meeting at 9:04 p.m.

17) ADJOURNMENT

Vice-Mayor Tenney MOVED, seconded by Councilmember Hatch, to adjourn the meeting. The motion PASSED unanimously 7-0 at 9:04 p.m.

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 September, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 8th day of October 2015.

Jami C. Lewis, Town Clerk