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

TUESDAY, OCTOBER 14, 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, October 14, 2014.

Present:	Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Pat McKee; Councilmember Lon Turner; Councilmember Don Wojcik
Absent:	Councilmember Linda Hatch
Staff Present:	Town Manager Robert Smith; General Services Director Cecilia Grittman; Town Attorney Phyllis Smiley; Police Lieutenant Vince Schaan; Finance Director Joe Duffy; Town Engineer/Public Works Director Ron Grittman; Development Services Director Ruth Mayday; IT Specialist Spencer Guest; Town Clerk Jami Lewis (recorder)

1) CALL TO ORDER, INVOCATION; PLEDGE OF ALLEGIANCE; ROLL CALL

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

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

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Proclamation declaring October 19-25, 2014 as "Arizona Cities and Towns Week," sponsored by the League of Arizona Cities and Towns.

Mayor Marley read the proclamation.

b) Recognition of General Plan Committee members. (Mayor Marley)

Mayor Marley recognized the members of the General Plan Committee.

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.

Lee Paul, resident, encouraged citizens to vote in November.

Robert McCaullay, resident, spoke about the penalty and enforcement of executive session violations, his belief that Mayor Marley may have breached executive session confidentiality, and his request to have that investigated. Town Attorney Smiley advised that she would need Council's direction to respond to that request.

Ricky Rodriguez, Senior Class President, Chino Valley High School, spoke about the upcoming *Celebrate My Drive* event promoting safe driving for high school students.

Dan Carlson, resident, spoke about a lack of weed control in the new drainage ditches near Road 3 North, Road 1 West, and Gilson.

Gary Pasciak, resident and Planning and Zoning Commissioner, requested an opportunity to comment under item 7e.

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) Request made by former Planning and Zoning Commissioner with regard to executive-session minutes.

Mayor Marley reported that the Commissioner had received access to and read said minutes.

b) Roadway maintenance in Appaloosa Meadows, response to a request from residents posed in 2013, and residents' offer to assist with funding repairs.

Mayor Marley reported that homeowners who desired to fund roadway maintenance could set up a fee through their homeowners association for this purpose; for example, for $4.00 per month per household, Appaloosa Meadows I residents could repave their subdivision every eight years. Town staff offered their assistance to any neighborhood groups wanting to do this.

c) Noise pollution with regard to Prescott Airport air traffic and airport expansion plans and request to place item on agenda.

Mayor Marley reported that this matter was on tonight's agenda under item 7a.

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.

Mayor Marley read a thank you note and commented on his Monthly Mayor's Report.

a) November 4, 2014 election report. (Jami Lewis, Town Clerk)

Ms. Lewis reported on important election dates and statistics regarding the November 4, 2014 election.

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

Mr. Smith reported on Council's approval and execution of the settlement agreement with Fann Contracting on October 7, 2014.

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 Pat McKee to accept Consent Agenda items (a) through (e).

Vote: 6 - 0 PASSED

a) Consideration and possible action to accept the June 24, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to accept the July 8, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)

c) Consideration and possible action to accept the July 17, 2014 study session minutes. (Jami Lewis, Town Clerk)

d) Consideration and possible action to accept the July 22, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)

e) Consideration and possible action to approve Financial Report for the month ended August 31, 2014. (Joe Duffy, Finance Director)

7) ACTION ITEMS

a) Consideration and possible action regarding noise pollution issues with Prescott Airport air traffic and airport expansion plans. (Mayor Marley; Councilmember Best)

Recommended Action: Refer matter to the Public Safety Subcommittee for further research, review, and recommendations.

Councilmember Best reported that:

- On September 23, 2014, during call to the public, resident Al Gibbons submitted a public agenda item request regarding Prescott Airport air traffic noise over the community and airport expansion plans.
- As the FAA had designated the town as a noise sensitive area, he was writing a letter to the FAA for more information.

- He and Mayor Marley were recommending that this matter be referred to the Public Safety Committee for further research, review, and recommendation.

Mayor Marley reported that Mr. Gibbons, who brought this matter to Council's attention, had asked for his position. He stated that the town could visit with the airport and the flight schools and ask them to avoid populated areas, but he did not object to touch and goes over his property, as many of the students were veterans and he valued working veterans more than absence of noise. Regarding the airport expansion, he hoped they would mitigate noise as much as possible, but he was not sure what authority the town had over another municipality. Since the area needed jobs, he was willing to give up some comfort and peace to see people working.

MOVED by Councilmember Mike Best, seconded by Councilmember Pat McKee to move this item to the Safety Subcommittee and report back in a month.

Vote: 6 - 0 PASSED

b) Consideration and possible action to approve the CivicPlus Advantage Contract in the amount of $12,731.00 for three years, effective October 14, 2014, allowing CivicPlus to immediately begin redesign of the Town website and provide ongoing website hosting and support services. Funding to come from non-departmental fund. (Spencer Guest, IT Specialist)

Recommended Action: Approve the CivicPlus Advantage Contract in the amount of $12,731.00 for three years, beginning October 14, 2014 and allowing CivicPlus to immediately begin redesign of the Town website and provide ongoing website hosting and support services.

Mr. Guest reported that:

- For the past year, the Management Information Systems (MIS) division had worked on ideas to overhaul the town's website to accommodate current recommended web design standards, including a new feature that would allow departments to update their own website pages while MIS would continue to control the site's design and management features.
- MIS, Administration and Town Clerk staff participated in several demonstrations and selected four vendors to provide a written quote. Based on the quotes, the two highest cost vendors were eliminated. The two remaining vendors, CivicPlus and EVO Government Websites gave follow-up demonstrations, with Civic Plus being selected as the preferred solution. CivicPlus had a good reputation nationwide among governmental organizations, as well as several municipalities within Arizona.
- CivicPlus' quote included project development and deployment for the website redesign at $29,926.00, and ongoing annual services fees of $4,134.00. Staff recommended the CivicPlus Advantage Payment Plan, which would allow the town to spread the costs over three years at $12,731 for each year. If the town chose to continue with CivicPlus for a fourth year, the maintenance fees will be $4,557.00 for that year with the added benefit of a free website redesign at the end of the year. Maintenance and hosting fees will be billed at an annual rate with a 5% increase per year. The annual renewal services included redundant hosting, daily backups, disaster recovery plans, 24/7 support, continuous software maintenance, unlimited upgrades and continued staff training.
- CivicPlus estimated that the redesign process would take four to six months.

Will Spicer with CivicPlus presented information (via web meeting and conference phone) about their custom website solutions, benefits, and training.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the CivicPlus Advantage Contract in the amount of $12,731.00 for three years, beginning October 14, 2014 and allowing CivicPlus to immediately begin redesign of the Town website and provide ongoing website hosting and support services.

Vote: 6 - 0 PASSED

c) Presentation and discussion regarding Klaus Nietschmann and the Chino Valley Elks request to determine a location for a permanent memorial to the Granite Mountain Hot Shots. (Ruth Mayday, Development Services Director)

Ms. Mayday reported that:

- The Chino Valley Elks were proposing to locate a statue at Town Hall in memory of the Granite Mountain Hot Shots who perished in the Yarnell Hill Fire. The Elks and Chino Valley Fire Department Charities will carry responsibility for installation; the town will have no financial obligation other than use of the land.
- Staff met with Mr. Nietschmann on July 16, 2014 in a pre-application Technical Review Meeting to discuss the proposal and staff was now seeking Council input.

Mr. Nietschmann presented the site plan preferred by the Technical Review Committee, as well as architectural drawings for monument's location and base.

Council asked Mr. Nietschmann to work with Ms. Mayday to develop a couple of alternative locations, ensure that any location site would not block town hall signage, and bring the item back to Council for further review.

d) Consideration and possible action to adopt Ordinance No. 14-789 to rezone approximately 1.53 acres generally located at 734 N. SR 89, from Commercial Light (CL) to Commercial Heavy (CH). Applicant: DogKay LLC/Doug Jones. (Ruth Mayday, Development Services Director)

<u>Recommended Action:</u> Adopt Ordinance No. 14-789 for the rezoning of approximately 1.53 acres generally located at 734 N. SR 89, from Commercial Light (CL) to Commercial Heavy (CH).

Ms. Mayday reported that:

- July 2014, zone change application – The applicants filed the application in order to install a 30' x 34' steel building for the purpose of enclosing two existing car lifts. The property needed to be rezoned to allow for current uses, which years ago was not included in either commercial zoning classification. No additional parking was warranted, as no additional traffic was expected.
- July 30, 2014, neighborhood meeting - One person spoke in support of the application, and one person requested that the town require a screening fence to be installed and a conex container to be removed from the property.
- September 16, 2014, Planning and Zoning Commission public hearing – No one from the public spoke. The Commission voted unanimously to forward the application to Council with a recommendation for approval.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to adopt Ordinance No. 14-789 for the rezoning of approximately 1.53 acres generally located at 734 N. SR 89, from Commercial Light (CL) to Commercial Heavy (CH).

Vote: 6 - 0 PASSED

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to recess at 7:07 p.m.

Vote: 6 - 0 PASSED

Mayor Marley reconvened the meeting at 7:19 p.m.

e) Consideration and possible action to adopt Ordinance No. 14-778 to rezone approximately 16.81 acres generally located at 1460 West Road 4 North from Agricultural/Residential, 5 acre minimum (AR-5) to Commercial Light, Planned Area Development Overlay (CL-PADO) and Multiple Family Residential, Planned Area Development Overlay (MR-PADO). Applicant: La Vacara Trust/Joe Cordovana, Trustee. (Ruth Mayday, Development Services Director)

Recommended Action: Approve the rezoning of 16.81 acres from AR-5 to the CL-PADO and MR-PADO as stipulated in Ordinance No. 14-788.

Ms. Mayday reported that the applicant was requesting rezoning of 16.81 acres from Agricultural/Residential 5 Acre Minimum (AR-5) to the following: 10.26 acres to Commercial Light Planned Area Development (CL-PAD), and 6.55 acres to Multifamily Housing, Planned Area Development (MR-PAD).

Background

- 2003-2006 – Initial approval of a five-year conditional use permit (CUP) for the Windmill House event center was granted and enacted through Ordinance 561 in November 2003; the CUP included several conditions intended to mitigate impacts to the surrounding neighbors. The facility's building permit was issued in January 2005 and finalized in May 2006.
- November 8, 2011 – Over the next 11 years, the Planning and Zoning Commission ("Commission") and Council considered at least eight applications related to the Windmill House alone, culminating in approval of a CUP that would allow continued use of the Windmill House, nursery, western town, and casita for a period of fifteen years, provided that all stipulations were met.
- September 25, 2012, CUP revocation – Despite staff's attempts to bring the applicant into compliance with the terms of the CUP, the town received no right-of-way dedication, one of the stipulations of approval. Council approved Ordinance 12-762, effectively shutting down all activity at the Windmill House.

Current Situation

- February 6, 2014, Zone Change Application – Mr. Joe Cordovana, in his capacity as Trustee for the LaVacara Trust, submitted the subject application requesting Commercial Light, Planned Area Development (CL-PAD) for the parcel of land that included the Windmill House and related uses that had been the subject of the afore-mentioned previous actions. The applicant intended to reopen the Windmill House and associated uses to the public and proposed to restrict the number and type of uses that would be allowed by right in the CL-PAD zoning district.

- August 7, 2014, Neighborhood Meeting – The majority of attendees clearly opposed the proposal, as the increased noise, traffic, and inconvenience would negatively impact their neighborhood and quality of life. A few supported opening the Windmill House with a CUP that gave neighboring property owners the ability to exert more control.
- August 2014, Amendment – The applicant amended his request to include a Multifamily Residential, Planned Area Development (MR-PAD).
- September 16, 2014, Commission public hearing – Several members of the public spoke against the proposal. The applicant submitted petitions with 650 signatures collected throughout town and the adjacent neighborhood in support of reopening the Windmill House. The Commission recommended denial and a requirement for future applications to include a development plan.
- Proposal – The initial CUP issuance in 2003 was predicated upon the assumption that the Windmill House use would serve as an accessory use to a larger residential development, and was allowed as a 'privately owned and operated park and recreation facility.' When it became evident to the applicant that the residential component would not materialize in the short term, he expanded those services to the general public. The current proposal allowed staff to disallow those uses most objectionable to the surrounding neighborhood. Per the UDO, the subject property would accommodate a maximum of 95 units and 143 parking stalls.

<u>Staff Findings</u>

- The proposed rezoning could resolve the long-standing conflict between LaVacara Trust, surrounding property owners, and the town, and provide a means by which the Windmill House could be reopened, providing the town with an additional activity and entertainment facility. The addition of the multifamily housing component will expand the availability of a variety of housing choices in the town.
- The proposed rezoning met the UDO's purpose and objectives for: (i) a PAD overlay district; (ii) flexibility, design innovation, and unique or mixed-use development; (iii) promotion of economical construction and maintenance of streets and utilities without compromising public safety and welfare; and (iv) preservation and use of open space and offering recreational opportunities close to residential uses.
- The proposal also supported a number of goals and policies set forth in the General Plan currently in effect and could easily comply with the proposed General Plan 2014. If the voters ratified the General Plan 2014 in November 2014, staff proposed initiating a Minor General Plan Amendment that would provide for a "senior living core" or "mixed use neighborhood core."
- A town business license would not be issued until the applicant dedicated the required right-of-way, and the required development plan will need Council's approval.

Ms. Mayday reviewed: the site layout that was presented to the Commission; a draft development plan that staff asked the applicant to develop after the neighborhood and Commission meetings; and the proposed conditions of approval, along with some modifications that the applicant had requested.

Town Attorney Smiley clarified that: a PAD allowed the town to provide conditions and modify uses normally in a particular zoning district; the draft development plan was conceptual at this stage; and the specific site plan addressing the details will come back to Council.

Public comment and staff's responses:

Ron Maines, resident, spoke in opposition, citing opposition of the majority of neighbors; lack of mention or plans for multifamily residential at the neighborhood meeting; lack of development plan for the commercial portion; submission of 26 protest letters; the Commission's recommendation of denial; and the proposal's inconsistency with the neighborhood. He preferred a CUP to a rezone, and if Council approved the item, he intended to file a referendum application.

Staff related that per the UDO, the applicant had the right to request a rezoning, a development plan was not required until the Commission/Council review stage, and the town did not request site plans until zoning was secured. Both PAD and multifamily residential overlays were provided for in the General Plan and UDO. Multifamily uses were discussed with the Commission.

Jay Bates, representing Appaloosa 2 HOA, spoke in opposition, citing a lack of disclosure about the applicant's plan at the neighborhood meeting; the applicant's lack of action on previous permits; lack of an impact study; and applicant's petitions having signers from out of town and said petitions addressing only the Windmill House.

Staff stated that the purpose of the neighborhood meeting was to discuss the proposed zone change and it was not unusual for plans to change thereafter; and staff had no control over what was on petitions or who signed them.

Lee Paul, resident, spoke in opposition, as the neighbors did not want multifamily housing in this area, the town was not ready for commercial development in the center of a nice residential area, and nearly 100% of people attending the meetings were against it.

Staff reported that the applicant had the right to develop his property, and there was very limited space for any commercial development.

Dan Carlson, resident, spoke in opposition due to issues historically with the applicant's water company, and asked about the water source for the new development.

Staff related that water company issues needed to be addressed through the corporation commission, and water sources would be discussed at future technical review meetings.

Gary Pasciak, resident and Planning and Zoning Commissioner, spoke in opposition, citing a lack of the Commission minutes in the Council agenda packet; lack of roadway analysis; lack of development plan for the Commission's review, even though it was promised; the request being spot zoning; this area not being designated a "core" area in the General Plan 2014; and the Commission's recommendation for denial.

Staff stated that the draft, unapproved Commission minutes had been available since October 8, and no one had requested them; extensive discussions had been held about the roadway standards; the right-of-way dedication would provide a turning or deceleration lane if needed; the Commission will have the opportunity to review the detailed site plan; the General Plan 2014 allowed for the applicant to propose an amendment and designate the area as a "core."

Mayor Marley added that Council could only deal with issues within their purview, which was to determine if the proposed use made sense for the subject property.

Corey Mendoza, resident and Planning and Zoning Commissioner, spoke in favor of individual property rights, and stated that most of those opposing the matter lived outside the 300 foot distance boundary and a referendum would result in loss of revenue.

Staff explained that the law provided that property owners at a minimum of 300 feet from the subject property be notified of the proposal, and if the town received written protests from 20% of the property owners within 150 feet of the property, such would require a supermajority (75%) vote for Council to approve the proposal. The town received 26 letters requesting denial: two were within 300 feet and one was within 150 feet. Two letters from the 150-foot limit were needed to trigger the supermajority vote.

Mark Sveda, attorney for LaVacara Trust, stated that:

- The neighborhood meeting's purpose was to work out compromises, but while the public had no objections with the Windmill House, they totally rejected any commercial. Thus, the applicant changed his plan to multifamily residential to be used as a buffer between the Windmill House and the residential neighborhood. The Commission had no objections to reopening the Windmill House with limited uses.
- Benefits from the project included reopening a meeting place, jobs for up to 20 persons, and attracting visitors, resulting in increased revenue for local businesses, sales tax, and property tax.
- Regarding the various objections that had been raised: The project was consistent with the community core concept; the Windmill House had been part of the community since 2003; it was not spot zoning per Arizona law; it was only one-half mile from existing CL zoning; it would be subject to the town's noise ordinance, other features could be added to buffer noise; any enhanced property use increased traffic flow and congestion and no traffic backups existed on the road; all lighting would be dark sky compliant; claims of decreased property values were speculative; the Trust did not own the water company; and a CUP will not solve the problem.

Gary Grindstaff, resident, spoke about Council following the General Plan 2014 to keep the community cores on the highway and his belief that Section 8 apartments on the subject property would not be a true community core or be compatible with his property.

Staff reported that both the current and proposed General Plans would support this development and the applicant did not intend to include Section 8 housing.

Robert McCaullay, resident and Planning and Zoning Commissioner, asked for clarification regarding the change from medium to high density, the Commission and Council having different opinions, and which General Plan would need to be amended.

Staff related that there was no density change as the proposed underlying land uses still fit under medium density. It was not unusual to have differences of opinion between staff, commissions, and councils. Staff's responsibility was to review current applicable codes and laws, and recommend approval if there was no rationale for disapproval. The Commission and Council had to look at impacts and try to find a way for both sides to win. The current General Plan did not require an amendment, but Council could require it for either General Plan. Where the General Plan 2014 referred to "cores," the 2003 General Plan referred to "nodes."

Council recessed at 9:05 p.m. and reconvened at 9:16 p.m.

Council asked why they were hearing this item when the Commission recommend denial. Staff related that per state law, once the Commission made its recommendation, Council had to hold a public hearing to take comment and make a decision.

Council reviewed the proposed ordinance. They noted that the ordinance number should be 14-788, not 14-778. Key topics discussed were:

Extension of municipal sewer and water
Staff reported that a septic system would be too large for the subject property. The applicant's first option was to supply water from his own water company. If he could not, he could extend municipal water and/or sewer to the site from its closest termination point. Mr. Sveda stated that he was unaware of this issue.

Council generally agreed that this matter needed more discussion to be resolved.

Permitted uses
Council discussed and modified language pertaining to the permitted uses.

Vice-Mayor Croft called for the question.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the rezoning of 16.81 acres from AR-5 to the CL-PAD and MR-PAD as stipulated in Ordinance No. 14-788, and as amended.

Ms. Mayday pointed out that Council did not address two changes in the list of permitted uses that the applicant requested.

Councilmember McKee stated that, even though she lived beyond the 300-foot notification, she would abstain from the vote to avoid the appearance of a conflict of interest.

Ms. Smiley advised that a person with a conflict of interest should disclose that at the beginning of the discussion and not take part in the discussion or decision. It was the official's responsibility to determine if there was a conflict or not, or to vote or abstain. Councilmember McKee stated that she did not feel she had a conflict of interest.

Ms. Mayday added that she received another protest letter during one of the recesses, triggering the supermajority vote. Ms. Smiley advised that per the statute the supermajority vote required 75% of the total members, not the members present; in this case, approval would require six affirmative votes.

Vote: 5 - 1 FAILED
NAY: Councilmember Pat McKee

f) Consideration and possible action to approve the Strategic Plan 2014. (Ruth Mayday, Development Services Director)

Recommended Action: Approve the Strategic Plan 2014.

Ms. Mayday reported that Council reviewed the most recent draft and made final corrections on September 18, 2014. Those corrections were brought back to Council on September 23, 2014, at which time, Council had no further comments. The Plan was on this agenda for approval.

Vice-Mayor Croft called for question.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the Strategic Plan 2014.

Vote: 6 - 0 PASSED

8) EXECUTIVE SESSION

Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.

9) ACTION ITEMS RESUMED

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

10) ADJOURNMENT

MOVED by Mayor Chris Marley, seconded by Councilmember Don Wojcik to adjourn the meeting at 10:13 p.m.

Vote: 6 - 0 PASSED

Chris Marley, Mayor

ATTEST:

Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 14th day of October, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 18th day of November, 2014.

Jami C. Lewis, Town Clerk