

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

**TUESDAY, OCTOBER 28, 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 28, 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; General Services Director Cecilia Gritman; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Lieutenant Vince Schaan; Officer Jody Villalobos; Town Engineer/Public Works Director Ron Gritman; Deputy Town Clerk Liz Hart; Town Clerk Jami Lewis (recorder)

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

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

Mayor Marley gave the invocation and led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a) Proclamation declaring November 2014 as *American Diabetes Month*, sponsored by the American Diabetes Association, Phoenix, Arizona. (Mayor Marley)

Mayor Marley read the proclamation.

- b) Proclamation declaring November 2014 as *Tax Credit Giving Month*, sponsored by Yavapai Big Brothers Big Sisters. (Mayor Marley)

Mayor Marley read the proclamation and presented it to a Yavapai Big Brothers Big Sisters representative.

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.

Tracie Schimikowsky, President/CEO, Chino Valley Area Chamber of Commerce, spoke about the organization's upcoming Winter Wonderland fundraising event.

Robert McCaullay, resident, spoke about illegal removal of political signage.

Dan Carlson, resident, spoke about the Town's fast response to his comments at the previous meeting regarding weed abatement.

Lee Paul, resident, spoke about the importance of being informed voters.

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) Response to a request from Dan Carlson regarding failure in maintaining drainage ditch and weed control along Road 3 North, Road 1 West, and Gilson Street as a condition of easement granted.

Mr. Carlson addressed this item under Call to the Public.

5) CURRENT EVENT SUMMARIES AND REPORTS

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.

Councilmember Hatch reported on a recent City of Prescott Water and Wastewater Rate Study Report.

Mayor Marley reported on early balloting and read the Monthly Mayor's Report, which pertained to the history of the GO Bond ballot measure.

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

Mr. Smith reported that the Town received the \$250,000 grant from the Arizona Commerce Authority.

- b) Status report on the Community Development Block Grant, special survey requested by the AZ Department of Housing.

General Services Director Gritman reported that the Department of Housing was requiring a new survey for the upcoming CDBG project. Staff sent out 70 surveys and had received 27 responses thus far.

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.

Council set down items 6a through 6e and 6g.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to accept Consent Agenda items a, b, c, d and e.

Vote: 6 - 0 PASSED

Other: Councilmember Linda Hatch (ABSTAIN)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to authorize the Mayor to sign the right-of-way dedication agreement from Tony Karcic for the dedication of Road 1 East south of Road 4 South.

Vote: 7 - 0 PASSED

- a) Consideration and possible action to accept the August 12, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)
- b) Consideration and possible action to accept the August 26, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)
- c) Consideration and possible action to accept the September 9, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)
- d) Consideration and possible action to accept the September 18, 2014 study session minutes. (Jami Lewis, Town Clerk)
- e) Consideration and possible action to accept the September 23, 2014 regular meeting minutes. (Jami Lewis, Town Clerk)
- f) Consideration and possible action to authorize the Mayor to sign the right-of-way dedication agreement from Tony Karcic for the dedication of Road 1 East south of Road 4 South. (Ron Gritman, Public Works Director/Town Engineer)
- g) Consideration and possible action to approve Financial Report for the month ended September 30, 2104. (Joe Duffy, Finance Director)

Mr. Duffy reported on the first three months of the fiscal year:

- *Positive notes:* The Town was on track with the budget; construction sales tax receipts and HURF revenues were up; and the Town had used no Contingency Funds thus far.
- *Negative notes:* Retail Sales Tax receipts were flat; building permits and water service fees were down; and no water or sewer buy-in fees had been received.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Financial Report for the month ended September 30, 2104.

Vote: 7 - 0 PASSED

7) ACTION ITEMS

- a) Consideration and possible action to authorize issuance of a Conditional Use Permit for operating a private airport/landing strip on approximately nine (9) acres generally located at 849 East Road 1 South in the northeast quarter of the southeast quarter of Section 27, Township 15 North, Range 1 West. (Ruth Mayday, Development Services Director)

Recommended Action: Issue Conditional Use Permit 14-003 for the operation of the airstrip owned by Chino Valley Airpark LLC, as a conditional use rather than a legal nonconforming use.

Ms. Mayday presented this item:

History and Current Status

- The Robin Airport had lawfully been in existence and active use as a private airport prior to the Town's incorporation in 1970. It was comprised of a 1,500 foot gravel/dirt runway and an older structure used as a hangar. The hangar had no plumbing or electricity, and did not meet current building codes.
- Before August 22, 2002, the Town's Zoning Code allowed airports as a permitted use in the Industrial (I) zoning district. That was amended on August 22, 2002 upon the adoption of Ordinance No. 521, which changed the use from a permitted use to a conditional use, rendering the subject property a legal non-conforming use.
- The applicant acquired the property in September of 2012 and has continued to use the airport, reinforcing its legal non-conforming status. On July 31, 2014, the existing hangar structure was destroyed in a windstorm.

Analysis

- Per Unified Development Ordinance (UDO) Section 4.20.3, because the non-conforming structure on the subject parcel was destroyed and as a result lost 50% of its value, the owner could not rebuild the hangar unless the use came into conformance with the UDO.
- The subject parcel was currently zoned CH/I, availing it to all permitted uses and conditional uses in both the Commercial Heavy (CH) and Industrial (I) zoning districts. Therefore, in order to reconstruct a hangar, the applicant must obtain a Conditional Use Permit (CUP). The applicant proposed to build a 60' x 80' hangar.
- Issuance of a CUP was predicated on two findings of fact: (i) that the proposed use *will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and (ii) the proposed use was reasonably compatible with uses permitted in the surrounding area.*
- The landing field had been used by Mr. Coury and previous owners without incident for at least 45 years. Use of the private airport was inherently restricted by the lack of available land to extend the length of the existing airstrip, thereby limiting the size of plane that could use the landing field. While the use of the airport may create occasional dust and noise, the inconveniences did not rise to the level of material detriment.
- Because the use was in existence prior to the surrounding residential development, those constructing or purchasing homes in the neighborhood were aware (or should have been aware) that the airport was present. Therefore, staff found that the use was reasonably compatible with the surrounding area.
- Both General Plan 2003 and General Plan 2014 designated the subject property as Commercial rather than Industrial. Given the small size of the subject landing field, its private status, the state regulating authority defining it as not an airport, and the inability of the owner to significantly increase the length of the landing strip itself, staff found that the

landing strip was compatible with the current commercial land use designation.

- Should the CUP not be issued, Mr. Coury will be entitled to continued use of the landing field for the purposes of take-off and landing as that aspect of the legal non-conforming use had not been extinguished.

Recommendations

- October 7, 2014, Planning and Zoning Commission public hearing: There no comments by the public, and the Commission voted unanimously to forward the application to Council with a recommendation for approval.
- Staff recommended approval with the conditions noted in the subject CUP.

Council questioned staff about:

- complaints from citizens in the area about not knowing about the airfield use and fuel storage, and the use not being specified in the 2003 General Plan;
- sewer service for the proposed restroom in the new hangar;
- improvements to airstrip, including extensions;
- larger, louder planes being used than previously,
- nighttime use and landing lights; and
- storage and type of fuel;
- number of property owners in 300 foot area;
- who regulated airfields in Arizona;

Andrew Federhar, attorney for the applicant, related that:

- The applicant intended to run sewer to the facility and make only minor improvements, such as dust abatement. There was a legal constraint in expanding the non-conforming use, and the applicant could not do it without going to Council.
- The 1,500-foot runway did not allow most planes to land there.
- The airstrip had very few landing lights.

Town Engineer Gritman reported that the nearest sewer line was at Road 1 North just north of Shelby Court; there was another to the west of the property, which would probably require a lift station.

Scott Freitag, Chino Valley Fire Chief, added that:

- The fuel being used was not much more volatile than gasoline.
- The Fire District was equipped to handle any issues with the fuel tank and they had access to equipment from the airport as well.
- Local fire codes restricted a fuel tank's location relative to the structure, the amount within the structure, and the type of container. A larger tank would require a permit through the town.

Ms. Mayday stated that:

- There were 18 properties within the 300 foot notice limit.
- The runway could not be extended due to its current proximity to property lines.
- Any FAA certified airstrip could be used unless the FAA de-certified it.

- Two entities regulated airfields in Arizona—the FAA and ADOT; ADOT only regulated airport location and design.

Mr. Coury, applicant, stated that no nighttime use would occur.

Public Comment:

Area residents Paul Eguina, Sue Grundy, Bill Barlow, and Mark Reinhold opposed the proposal, citing the following reasons:

- neighbors not being informed about the airfield;
- lack of stipulations regarding allowable uses and planes;
- huge fuel tank;
- larger planes being used and flying too low over homes;
- neighbors being told the hangar was temporary and the proposed hangar being larger to possibly house larger planes;
- incorrect airplane numbers;
- many neighbors not receiving notice letters from the Town;

Mr. Reinhold also submitted a letter of protest signed by five neighbors within the 300 foot radius.

Mr. Federhar reported that:

- The airfield was on the map in 1970 and had been used continually since then. The applicant did not intend to abandon the use, no one had claimed that the use was abandoned and the use had never been challenged.
- The fuel tank held 500 gallons of AV fuel, not jet fuel; it met all FAA specifications and would be approximately 500 feet from the permanent structure.
- The 1,500 foot unpaved runway could only accommodate single engine prop planes.
- The applicant sent notice letters to all 18 properties in the required notice area, which were provided by the Town.
- Council's action pertained to replacing the hangar, not the airfield's use.

Town Attorney Smiley advised that notice requirements applied to public hearings before the Planning and Zoning Commission and this item was not a formal public hearing. In addition, letters of protest forcing a supermajority vote only applied to zone changes, not CUPs. Council's decision pertained to whether or not they believed the proposal met the criteria for a CUP.

Council comments:

- Out of concern for safety issues, one preferred only the original grandfathering.
- Incorrect plane numbers, reckless flying, and aircraft size were not in the Town's purview.
- Due to building height regulations around an airfield, the use could affect future development in the general area.
- The airfield had been there since 1973; even though it had not seen a lot of use, the neighbors knew it was there, and it's use would continue no matter what Council decided.

Vice-Mayor Croft called for the question.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to issue Conditional Use Permit 14-003 for the operation of the airstrip owned by Chino Valley Airpark LLC, as a conditional use rather than a legal nonconforming use.

Vote: 4 - 3 PASSED

NAY: Councilmember Linda Hatch
Councilmember Pat McKee
Councilmember Don Wojcik

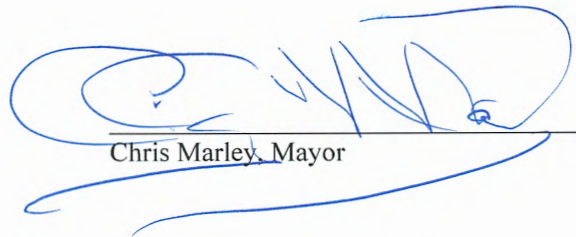
8) EXECUTIVE SESSION

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.

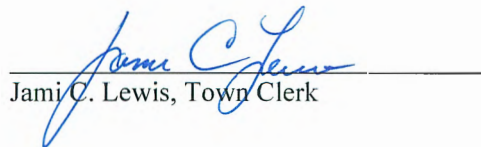
9) ADJOURNMENT

MOVED by Councilmember Linda Hatch, seconded by Vice-Mayor Darryl Croft to adjourn the meeting at 7:49 p.m.

Vote: 7 - 0 PASSED


Chris Marley, Mayor

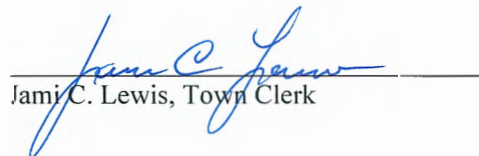
ATTEST:


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 28th 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