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

TUESDAY, NOVEMBER 12, 2013
6:00 P.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, November 12, 2013.

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

Staff Present: Town Manager Robert Smith; Planner Ruth Mayday; General Services Director Cecilia Watts; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Police Lieutenant Vince Schaan; Polce Officer Jeff Pizzi; Magistrate John Walker; Town Engineer/Public Works Director Ron Grittman; Utilities Supervisor Chris Bartels; I.T. Specialist Spencer Guest; Town Clerk Assistant Liz Hart; Town Clerk Jami Lewis (recorder)

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

Mayor Marley called the meeting to order at 6:01 p.m.

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

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

a) Presentation by Kay Lauster, President, Chino Valley Historical Society, regarding the 150th anniversary of the governor's arrival in Chino Valley.

Ms. Lauster spoke about an upcoming event in January 2014 to commemorate the 150th anniversairy of the Governor's party arrival at Del Rio Springs to establish the Territorial Government.

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.

Michael Edmonds asked about the final purchase price and cost of improvements related to the Road 4 South extension contract approved on October 22.

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.

There was 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.

Councilmember Best reported on a recent Safety Subcommittee meeting with Police and Fire officials.

Town Manager Robert Smith reported on: new mics in the Council Chambers; paintings from local artists in the Town Hall building; the status of the Granite Mountain Hot Shots memorial bench; and a slight increase in residential development.

Mayor Marley read his monthly Mayor's Report, which pertained to the Veteran's Day "Remembrance Day National Roll Call."

a) Quarterly update on Municipal Court operations by Town Magistrate, John Walker.

Magistrate Walker reported on:

- a staffing shortage during the last quarter;
- savings from using nCourt for credit/debit card payments;
- upcoming Court audit;
- final disbursement in June of $46,000 in unaccounted funds;
- potential benefits to the Court from Finance's online banking proposal;
- upcoming Magistrate Evaluation Subcommittee (MES) meeting to review Court policies and procedures;
- initiation of new Life Skills program used in sentencing; and
- new Prosecutor, Cody Johnson.

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 item 6c.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Consent Agenda items 6a, b, d and e.

Vote: 7 - 0 PASSED - Unanimously

a) Consideration and possible action to approve the October 17, 2013 study session minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to approve the October 17, 2013 special meeting minutes. (Jami Lewis, Town Clerk)

c) Consideration and possible action to approve Financial Report for the month ended September 30, 2013. (Joe Duffy, Finance Director)

Council asked about a negative figure in the Parks and Recreation Impact Fees. Mr. Duffy explained that it was a credit that overaccrued last year from the prior fiscal year.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to approve Consent Agenda item 6c.

Vote: 7 - 0 PASSED - Unanimously

d) Consideration and possible action to approve Agreement for Professional Consulting Services with Four-D LLC, for email server migration scope of work and ongoing professional services, in an amount not to exceed $15,000.00, through June 30, 2015. Funds to come from the current MIS/GIS budget. (Spencer Guest, IT Specialist)

e) Consideration and possible action to approve the revised Intergovernmental Agreement between the Town of Chino Valley and the Arizona Department of Transportation in the amount of $100,000 for the Town's contribution to the construction of the proposed roundabout at Highway 89 and Kalinich Avenue, and to assign construction and maintenance responsibilities as defined in the Agreement. Funds to come from Roadway Impact Fees. (Ron Grittman, Public Works Director/Town Engineer)

7) ACTION ITEMS

a) Review and discussion of proposed text amendments to the Unified Development Ordinance related to regulating medical marijuana dispensaries, as well as cultivation and infusion facilities, as revised, pursuant to input from the Council study session held on October 3, 2013. (Ruth Mayday, Planner)

Mayor Marley recused himself at 6:43 p.m. to avoid the appearance of any conflict of interest, as he owned agricultural property within 500 feet of SR 89.

Acronym used in this item:
UDO (Unified Development Ordinance)

Ms. Mayday reported that:

- On October 3, 2013, Council held a Study Session for the purpose of discussing potential amendments to the UDO that would further regulate medical marijuana cultivation and infusion facilities, as well as dispensaries. After considerable input from Council and affected citizens, staff refined the proposed text amendments to reflect those comments.
- The Commercial Greenhouse Regulations (UDO § 4.30) provided a significant hurdle in terms of minimum lot size and allowed lot coverage, as well as a required 500-foot separation from State Route 89, eliminating a number of properties that would otherwise be ideally situated for cultivation and dispensary uses. Therefore, staff recommended striking § 4.30 in its entirety, and including the floor area restrictions for retail, restaurant, entertainment, and sales of produce in the property development standards for the appropriate zoning districts. This would also remove the locational restrictions on non-marijuana commercial greenhouses while keeping the secondary use restrictions in place.
- Other changes made were:
    - Added language to ensure cultivation activities took place within a structure and specifically excluded outdoor cultivation.
    - Reduced separation requirements to 200 feet, with the exception of schools, which was regulated by the state.
    - Changed language regarding dust, fumes, odor, or vapors to require mitigation to minimize impact on surrounding properties.
- A public hearing before the Planning and Zoning Commission will take place November 19, 2013.

Ms. Mayday reviewed more detailed changes made to the proposed text with regard to conditional and permitted uses, commercial greenhouse regulations, and cultivation facilities and water.

Council asked about proposed changes to setbacks, building height, and contiguous acres. Ms. Mayday related that staff could not find the original rationale for the current standards, either in written documents or from the greenhouse growers themselves. A 50-foot setback was standard for commercial properties, and she could change building height back to 35 feet if Council so desired.

Mayor Marley returned to the dais at 6:54 p.m.

b) Consideration and possible action to approve Ordinance No. 13-776, amending the Unified Development Ordinance, Chapter 4: General Regulations, Section 4.8: Fences and Walls, related to the standards for erection of fences and walls. (Ruth Mayday, Planner)

Recommended Action: Approve Ordinance No. 13-776, amending the Unified Development Ordinance, Chapter 4: General Regulations, Section 4.8: Fences and Walls.

Ms. Mayday reported that:

- Unified Development Ordinance § 4.8 regulated heights and materials for walls and fences in the Town. The following changes to this section were being proposed:
  - Amend provisions allowing CUPs to be used to grant relief to the regulations by eliminating references to a CUP for fences, as the current regulation circumvented the duties and responsibilities of the Board of Adjustment as set forth in ARS 9-462.06(G)(2) et. seq.
  - Strike provisions that allowed fees to be waived, for the same reason as mentioned above.
  - Add language that would subject non-conforming fences to the regulations set forth in § 4.2 Non-Conforming Uses and Structures.
  - Amend height requirements, pools, spas, and hot tubs to reflect building codes.
- On September 15, 2013, the Planning and Zoning Commission voted to recommend that Council approve the proposed text amendments.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Ordinance No. 13-776, amending the Unified Development Ordinance, Chapter 4: General Regulations, Section 4.8: Fences and Walls.

Vote: 7 - 0 PASSED - Unanimously

c) Consideration and possible action to approve Ordinance No. 13-778, amending the Unified Development Ordinance, Chapter 4: General Regulations, Section 4.21: Sign Regulations, Subsection 4.21.7: Temporary Signs, related to permitting political signs in Town rights-of-way. (Ruth Mayday, Planner)

Recommended Action: Approve Ordinance No. 13-778, amending the Unified Development Ordinance, Subsection 4.21, related to permitting political signs in Town rights-of-way.

Ms. Mayday reported that currently, UDO § 4.21.7 Temporary Signs, Subsection (C) Political Signs was not in compliance with A.R.S. §16-1019. The proposed amendments will bring this section into full compliance. The Planning and Zoning Commission discussed this matter on August 20, 2013 and September 17, 2013, and held a public hearing on October 15, 2013. There were no comments or objections by the public or the Commissioners, and the Commission voted unanimously to forward the proposed text amendments to the Town Council with a recommendation for approval.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Ordinance No. 13-778, amending the Unified Development Ordinance, Subsection 4.21, related to permitting political signs in Town rights-of-way.

Vote: 7 - 0 PASSED - Unanimously

d) Consideration and possible action to approve proposal from Xpress Bill Pay to allow Town of Chino Valley Customers to make online payments; and approve Caselle Clarity Software & Services Proposal in the amount of $5,000, to integrate the Xpress Bill Pay system with the Town's accounting system. Funding for the Caselle Software portion will be split between Water and Sewer Enterprise Funds, system maintenance and repair lines. (Joe Duffy, Finance Director)

<u>Recommended Action:</u> Approve proposal from Xpress Bill Pay and approve Caselle Clarity Software & Services Proposal in the amount of $5,000, to integrate the Xpress Bill Pay system with the Town's accounting system.

Mr. Duffy reported that:

- The Town desired to offer its customers the ability to make payments online, providing an enhanced level of customer service and reducing the time spent processing payments each month.
- Staff solicited proposals to provide electronic bill pay services that integrated with the Town's Caselle accounting system. Xpress Bill Pay and Payments Service Network, Inc. submitted proposals and provided demonstrations to staff. The Finance Subcommittee also attended a demonstration and reviewed both proposals. The Subcommittee was recommending Xpress Bill Pay, as it was Caselle's authorized preferred vendor.
- Each company charged small monthly base fees for their service and earned the majority of their fees based on the number of transactions processed every month; there was also a one time fee of $5,000 from Caselle to integrate with Xpress Bill Pay.
- Staff projected savings of $2,500-$5,000 per year in direct costs and significant savings in labor hours.

Council asked about using Pay Pal. Mr. Duffy stated that Pay Pal did not integrate with Caselle and staff was researching related fees and other issues.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve proposal from Xpress Bill Pay and approve Caselle Clarity Software & Services Proposal in the amount of $5,000, to integrate the Xpress Bill Pay system with the Town's accounting system.

Vote: 7 - 0 PASSED - Unanimously

e) Consideration and possible action to approve the Agreement for Professional Consulting Services with Civil Tec Engineering, Inc. for the construction staking and surveying of the Road 4 South project, in an amount not to exceed $23,856.00. Funds to come from Roads Impact Fees and disbursed from the Capital Improvement Fund. (Ron Grittman, Public Works Director/Town Engineer)

<u>Recommended Action:</u> Approve the Agreement for Professional Consulting Services with Civil Tec Engineering, Inc. in an amount not to exceed $23,856.00.

Mr. Grittman reported that:

- Per law, the Town could select the best qualified firm for professional services.
- As Civil Tec Engineering had already developed construction plans for this project and possessed the Town's data points, staff was recommending them for this phase of the project. In addition, Civil Tec will stake the right-of-way as requested by Deep Well Ranches.
- No specifications had been prepared for the project. The Town Engineering Department, working with Civil Tec and the Public Works Department, will field engineer the project in order to assure that it was in compliance with the design engineer and industry standards.
- Road 4 South was to be constructed as two projects, each with two phases, keeping the projects under the state's project expenditure limit. This was also being done so that fill dirt from Phase 1 could be used for Phase 2.

Council asked about the Letter of Intent and specifications for the road, as well as electric poles in the right-of-way. Mr. Grittman explained that staff would work off Civil Tec's 50% plans, as in-house compliance did not typically include engineering plans. The Town had to pay for utility relocations, as APS had prior rights. Town Attorney Phyllis Smiley added that the Letter of Intent concerned only purchase of right-of-way, not construction of the roadway.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the Agreement for Professional Consulting Services with Civil Tec Engineering, Inc. in an amount not to exceed $23,856.00.

Vote: 7 - 0 PASSED - Unanimously

f) Consideration and possible action to make the finding that there is a reasonable basis for constructing the Road 4 South capital project in-house, and that this project is not being constructed in-house to avoid the bidding requirements, pursuant to the Town's Procurement Policy, with approval to be effective as of November 21, 2013. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Make the finding that there is a reasonable basis for constructing the Road 4 South capital project in-house pursuant to the Town's Procurement Policy, with approval to be effective as of November 21, 2013.

Mr. Grittman reported that:

- Under the newly adopted procurement policy, Town Code § 32.05(D)(1)(g), a capital project could be constructed as an in-house project using primarily regularly employed Town personnel and volunteers. Council must make findings that there was a reasonable basis for doing so and that the project was not being constructed in house to avoid the bidding requirements. Staff was requesting that Council make such findings with respect to the construction of Road 4 South and declare this as an in-house project.
- Doing this as an in-house project will facilitate the resolution of pending litigation by getting the work done expediently at a presumably lower cost, as well as allow the Town to use donated materials and/or labor. Also, the Town was in the unique position of having many Public Works employees with extensive heavy

equipment and road construction experience. Due to these factors, staff believed these factors provided a reasonable basis to support such findings.

- Staff had secured approximately 50% construction plans for the project and intended to field engineer the project using the expertise of the two professional engineers on staff, who will provide the construction oversight to assure that the project was constructed in accordance with industry standards. Civil Tec, the design engineer, will provide construction surveying and staking and additional oversight of construction.
- Pursuant to A.R.S. § 34-201(D), a street, road, bridge, water or sewer work may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work did not exceed approximately $216,000 in 2013. Adding the estimated costs for construction of the components of this project, the total estimated cost was $199,975.00.
- As the new procurement policy adopted via Ordinance No. 13-775 will not be effective until November 21, 2013, approval of this item will be effective as of that date, as long as no referendum on the Ordinance was filed.

Council asked for more details about the cost estimates and expenses that were included in the state limit calculation. Mr. Grittman, Mr. Duffy, and Ms. Smiley reported that:

- Per state law, labor did not have to be included in estimates for in-house projects, and in their experience, it was not done that way; if the Town opted to charge for in-house labor, it would reduce the amount of funding for the rest of the project.
- Staff estimated $350,000 total on both phases for an AB road to be built out 60 feet per day and completed in 3.5 months.
- The statute referenced the "total cost of work for the project," but did not give a definition for "work." She was unsure about staking and surveying, but she would include equipment rental, since that was usually included in a bid.

Council comments:

- Staff's creativity to cut expenses for the project were one reason to support the proposal.
- There was concern about possible cost overruns and the town attorney was researching that.
- A reason to not support the proposal was that labor costs would be included in a bid and it should be included here.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to make the finding that there is a reasonable basis for constructing the Road 4 South capital project in-house pursuant to the Town's Procurement Policy, with approval to be effective as of November 21, 2013.

Vote: 5 - 2 PASSED

NAY: Councilmember Linda Hatch
Councilmember Pat McKee

g) Consideration and possible action to authorize staff to secure contracts to bring back to Council for consideration for rental of a D-8 bulldozer and a paddlewheel scraper from ECCO Equipment Company for an amount not to exceed $109,000.00 and a 12-ton sheepsfoot compactor from United Rentals in an amount not to exceed $17,644.00. Funds to come from Roads Impact Fees and accounted for in the Capital Improvement Fund. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Authorize staff to secure contracts to bring back to Council for consideration for rental of a D-8 bulldozer and a paddlewheel scraper from ECCO Equipment Company for an amount not to exceed $109,000.00 and a 12-ton sheepsfoot compactor from United Rentals in an amount not to exceed $17,644.00.

Mr. Grittman reported that:

- Yavapai County had publically bid various pieces of equipment, and under the Town's procurement policy, the Town could piggyback on other agencies' bidding processes. Two low bidders on Yavapai County's list, ECCO Equipment and United Rentals, notified the Town that they would honor the prices quoted to Yavapai County.
- While staff estimated that the equipment should be needed for only three months, the approval amounts will secure the rental equipment for four months if needed for the vertical cut through the hills.
- Should Council approve this item, staff will bring back a contract with each vendor for Council's approval.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to authorize staff to secure contracts to bring back to Council for consideration for rental of a D-8 bulldozer and a paddlewheel scraper from ECCO Equipment Company for an amount not to exceed $109,000.00 and a 12-ton sheepsfoot compactor from United Rentals in an amount not to exceed $17,644.00.

Vote: 7 - 0 PASSED - Unanimously

Mayor Marley recessed the meeting at 7:51 p.m. and reconvened the meeting at 8:00 p.m.

h) Consideration and possible action to approve the purchase of two sets of basketball equipment for installation at the Community Center Park from Exerplay, Inc. in an amount not to exceed $3,040.14; and update on negotiations with California Skateparks for design of a new skate park. Funds to come from Parks Impact Fees. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Approve the purchase of two sets of basketball equipment for installation at the Community Center Park from Exerplay, Inc. in an amount not to exceed $3,040.14.

Mr. Grittman reported that:

- On March 13, 2011, at the recommendation of the Town's insurance carrier, Council directed staff to remove old and antiquated skate park equipment from a flat slab of concrete that had historically been used as a basketball court. At that time, Council did not direct staff to install basketball equipment on the vacant concrete because of the appearance that the Town was not going to replace the skate park.
- Because there was now an effort to develop a new skate park, the Parks and Recreation Advisory Board were proposing to replace two basketball standards on the vacated concrete, as most youth wanting to play basketball lived behind the park and were not close enough to use the courts at the high school. While this agenda item was requesting equipment for two courts, the Board intended to ask Council for an additional two courts later.
- Staff had been working with California Skateparks on the design of a new skate park in a different location. The fees for this design were not part of this agenda item, nor were they budgeted. Staff estimated a total cost of $50,000 for design and construction management of the skate park; however, staff believed they could reduce that amount by using in-house labor.
- Both of these projects would require the use of the last of the parks impact fees, as the state had eliminated further collection of said impact fees. Any impact fees used for basketball courts would reduce the amount available for the skate park, and there were not enough impact fees to construct the skate park.

Councilmember Best recommended that Council use impact fees for the skate park design, as the Town had an opportunity to apply for a Tony Hawke grant, for which a completed design would give the Town's application better standing. Then the Town could use the in-house process for construction and solicit donated materials.

Council discussion: Council generally supported one set of basketball standards at this time.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to approve the purchase of two sets of basketball equipment for the Community Center Park from Exerplay, Inc. in an amount not to exceed $3,040.14.

Vote: 7 - 0 PASSED - Unanimously

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 an intergovernmental agreement with the City of Prescott related to payments for the transportation of water that is the subject of negotiations. (Robert Smith, Town Manager)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to go into executive session to discuss those things outlined.

Vote: 7 - 0 PASSED - Unanimously

9) ACTION ITEMS RESUMED

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

Mayor Marley reconvened the regular meeting at 8:42 p.m.

a) Consideration and possible action to approve an Intergovernmental Agreement with the City of Prescott related to Payments for the Transportation of Water. (Robert Smith, Town Manager)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the Intergovernmental Agreement with the City of Prescott related to Payments for the Transportation of Water.

Vote: 7 - 0 PASSED - Unanimously

10) ADJOURNMENT

MOVED by Councilmember Mike Best, seconded by Councilmember Pat McKee to adjourn the meeting at 8:43 p.m.

Vote: 7 - 0 PASSED - Unanimously

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 12th day of November, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 10th day of December, 2013.

Jami C. Lewis, Town Clerk