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

TUESDAY, DECEMBER 10, 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, December 10, 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; General Services Director Cecilia Watts; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Senior Accountant Cindy Sandlin; Accounting Technician Kat Lordi; Police Chief Chuck Wynn; Officer Cody Johnson; Town Engineer/Public Works Director Ron Grittman; Planner Ruth Mayday; 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 6:00 p.m.

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

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

Mayor Marley introduced Boy Scout Troop #7617 members, who were attending for civic merit badges.

a) Presentation by Jerry Hart, President, Government Finance Officers Association of the Arizona of Distinguished Budget Presentation Award to the Town of Chino Valley. (Joe Duffy, Finance Director)

Mr. Hart presented the Distinguished Budget Presentation Award to the Mayor and Council, and a Certificate of Recognition of Budget Preparation to Finance Department staff.

b) Presentation by Rick Nichols of the Chino Valley Model Aviators' Annual Report. (Mayor Marley)

Mr. Nichols reported on the organization's membership, facility improvements, and activities over the last year.

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.

No one from the public spoke.

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) Final purchase price and cost of improvements related to the Road 4 South extension contract approved on October 22.

Mayor Marley reported that the final cost for this item was $219,062.44 for 8.5 acres of land and improvements, to satisfy the terms of a Pre-Annexation Development Agreement and avoid costly litigation.

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 presentation given by Town staff before the NACOG Economic Development Committee with regard to funding for an industrial park.

Mayor Marley read the Monthly Mayor's Report, which pertained to the year in review, Town accomplishments, and large future projects.

6) CONSENT AGENDA

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

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

Vote: 7 - 0 PASSED

a) Consideration and possible action to approve the October 22, 2013 regular meeting minutes. (Jami Lewis, Town Clerk)

b) Consideration and possible action to approve the November 5, 2013 study session/retreat minutes. (Jami Lewis, Town Clerk)

c) Consideration and possible action to approve the November 12, 2013 regular meeting minutes. (Jami Lewis, Town Clerk)

d) Consideration and possible action to approve Financial Report for the month ended October 31, 2013. (Joe Duffy, Finance Director)

e) Consideration and possible action to declare as public right-of-way Road 4 South from the terminus of the existing Road 4 South across the northern line of Section 1, Township 15 North, Range 2 West, also known as the Deep Well Ranch, to the eastern side of the Peavine Trail. (Ron Grittman, Public Works Director/Town Engineer)

f) Consideration and possible action to approve Change Order Number 1 to contact with Hot AZ Hell Welding in the amount of $7,470.96 for additional potholing required as part of the North Campus gas line replacement project. Funds to come from General Fund Contingencies. (Ron Grittman, Public Works Director/Town Engineer)

g) Consideration and possible action to approve the rental agreements with ECCO Equipment Corporation, for one CAT D-8R/T Bulldozer and one CAT 623 F/G Paddlewheel Scraper, and United Rentals, for one 12-Ton Bomag BW 213 Sheeps Foot, in an amount not to exceed $109,000.00 and $17,644.00, respectively, for construction of Road 4 South Phases 1 and 2. Funds to come from Roads Impact Fees and will be accounted for in the Capital Improvement Fund. (Ron Grittman, Public Works Director/Town Engineer)

7) ACTION ITEMS

a) Consideration and possible action to to approve Ordinance No. 13-779, declaring the document entitled "Amendments to the Unified Development Ordinance of the Town of Chino Valley Unified Development Ordinance Related to Medical Marijuana Facilities, dated December 10, 2013" as a public record; adopting the "Amendments to the Unified Development Ordinance of the Town of Chino Valley, Arizona related to Medical Marijuana Facilities, dated December 10, 2013" by reference, and amending the Town of Chino Valley Unified Development Ordinance, as follows: (1) Chapter 2 Definitions, Section 2.1 Meaning of Words and Terms, to add definitions related to Medical Marijuana and amend the definition of "Greenhouse, Commercial"; (2) Chapter 3 Zoning Districts, by amending Sections 3.5.2 Permitted Uses ("AR-36" - Agricultural/Residential (36 Acre Minimum)), Section 3.5.3 Conditional Uses (Conditional Use Permit Required) ("AR-36" - Agricultural/Residential (36 Acre Minimum)), Section 3.6.2 Permitted Uses

("AR-5" - Agricultural/Residential (5 acre minimum)), Section 3.6.3 Conditional Uses (Conditional Use Permit Required) ("AR-5" - Agricultural/Residential (5 Acre Minimum)), Section 3.7.2 Permitted Uses ("AR-4" - Agricultural/Residential (4 Acre Minimum)), Section 3.7.3 Conditional Uses (Conditional Use Permit Required)("AR-4" - Agricultural/Residential (4 Acre Minimum)), Section 3.15 "CL" - Commercial Light, Section 3.16.2 Permitted Uses ("CH" - Commercial Heavy), Section 3.17.2 Permitted Uses ("I" - Industrial); (3) Chapter 4 General Regulations, by amending Section 4.30 Commercial Greenhouse Standards, and adding Section 4.31 Medical Marijuana Dispensaries, Cultivation Sites, and Infusion Facilities as a public record and adopt Ordinance No. 13-779 by reference. (Ruth Mayday, Planner)

Recommended Action: Approve Ordinance No. 13-779, approving and adopting the amendments to the Unified Development Ordinance by reference, all related to regulating medical marijuana uses and facilities in the Town of Chino Valley.

Mayor Marley recused himself from this item at 6:34 p.m., as he owned agricultural property that will be affected by this ruling, and to avoid the appearance of a conflict of interest.

Ms. Mayday reported that:

- In 2010, Arizona voters approved the use of marijuana for medical purposes. Shortly thereafter, Town staff, the Planning and Zoning Commission ("Commission"), and the Council reviewed different proposals for the regulation of marijuana-related dispensaries, infusion facilities, and cultivation sites throughout the Town. After due consideration, the Council decided not to impose additional restrictions on said uses, but rather rely on state law and Department of Health Services regulations.
- As the Town's climate, elevation, availability of agricultural land, and minimal zoning restrictions made Chino Valley attractive to cultivators of medical marijuana; and in order to better protect the health, safety, and general welfare of the community, on September 10, 2013, Council expressed a desire to reconsider regulation of the manner and placement of medical marijuana related facilities, and directed staff to research the matter.
- Staff reviewed past actions by the Commission and Council, as well as ordinances adopted by adjoining communities and other political subdivisions throughout the state and presented draft amendments to Council for discussion on October 3, 2013.
- During the October 3 study session, Council provided input regarding the proposed regulations, as did several members of the community. Council indicated that it did not want to allow outdoor cultivation of Medical Marijuana, and it preferred to reduce the separation between medical marijuana facilities and certain uses from 500 feet to 200 feet, with the exception of the statutory 500 foot separation from public or private schools.
- On November 12, 2013, staff presented revised amendments based on the study session discussion. Council and staff discussed at length the manner in which commercial greenhouse regulations (UDO Section 4.30) affected the manner and placement of greenhouses in general, and medical marijuana cultivation facilities in particular. Certain structures in varying locations in Town that would lend

themselves well to cultivation activities were unable to be considered as they did not meet the standard set forth in the UDO; furthermore, meeting the increased threshold required for a variance would be nearly impossible to achieve.

- Staff further reviewed the regulations related to commercial greenhouses and determined that modification of those requirements would need to be included in order to provide a set of regulations that did not overly regulate general greenhouse related uses, but provided adequate regulation of medical marijuana related facilities.
- On November 19, 2013, the Commission held a Public Hearing to review these proposed changes and make recommendations to Council. By and large, the amendments were unchanged, except that the Commission was recommending a 500-foot separation from parks, recreation, and like facilities, in addition to the statutory 500-foot separation from public schools.

Ms. Mayday then reviewed the proposed amendments for each section. Discussion was held on the following sections:

- *Section 3.5: Agricultural/Residential (36 acre minimum):* In the proposed ordinance, an infusion facility could obtain a conditional use permit in this district, in which setbacks, separations and the like could be conditions, and the applicant risked denial. Amending the language to prohibit infusion facilities, thereby allowing only cultivation in AR-36, was at Council's discretion.
- *Section 4.3: Medical Marijuana Dispensaries, Off-Site Cultivation Sites, and Infusion Facilities:* The Commission recommended the 500 foot separation to provide a greater buffer between medical marijuana uses and other uses. Staff also eliminated the large SR 89 setback and retained only floor area restrictions like any other commercial building.
- An error in the Ordinance was noted, wherein a 200-foot separation should have been changed to 500 feet.

Bryan McLaren, sustainability professional, asked Council to consider renewable resources when addressing outdoor activities, rather than just limiting the activity.

Charles Aldon, medical marijuana stakeholder, expressed concern about a 500 foot separation eliminating some properties from the use. Ms. Mayday stated that such a property owner could apply for a variance.

Duke Rodriguez, medical marijuana stakeholder in several communities, asked Council to further study outdoor growing.

Robert MacCaullay, Commissioner, reported that the Commission's recommendation for 500 feet was not between commercial establishments, but to separate such facilities from residential neighborhoods and children. They also discussed outdoor growing quite a bit and were concerned about winds moving buds and seeds down the street.

Mike Edmonds, Commissioner, added that after an in-depth and detailed review, the Commission preferred to limit growing to indoors for security and controllability reasons.

MOVED by Councilmember Mike Best, seconded by Councilmember Linda Hatch to accept item 7a as the Commission has designated.

Vote: 6 - 0 PASSED

Other: Mayor Chris Marley (RECUSE)

MOVED by Councilmember Mike Best, seconded by Councilmember Linda Hatch to AMEND their motion to include the correction from 200 feet to 500 feet.

Vote: 6 - 0 PASSED

Other: Mayor Chris Marley (RECUSE)

Mayor Marley returned to the dais at 6:58 p.m .

b) Consideration and possible action to award the construction contract for the Shade Structure at the Police Tactical Shooting Range to Hot AZ Hell Welding in the amount of $60,276.78 for the base bid and $3,000 for alternative number 1 for a total contract amount not to exceed $63,276.78. Funding to come from Police Grants for Law Enforcement Shooting Range, to be reimbursed from the R.I.C.O. seizure funds. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Award the construction contract for the Shade Structure at the Police Tactical Shooting Range to Hot AZ Hell Welding in the amount of $60,276.78 for the base bid and $3,000 for alternative number 1 for a total contract amount not to exceed $63,276.78.

Mr. Grittman reported that:

- The Police Tactical Shooting Range was constructed six months ago to allow law enforcement to have a secure and versatile facility to perform both training and qualification.
- The proposed shade structure will provide shade for shooters underneath it, as well as three variants to the roof structure to facilitate sniper training from differing vantages.
- Hot AZ Hell was the low bidder and the alternative bid will construct an eight foot sidewalk behind the shade structure.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to award the construction contract for the Shade Structure at the Police Tactical Shooting Range to Hot AZ Hell Welding in the amount of $60,276.78 for the base bid and $3,000 for alternative number 1 for a total contract amount not to exceed $63,276.78.

Vote: 7 - 0 PASSED

Mayor Marley recessed the meeting at 7:02 p.m. and reconvened it at 7:14 p.m.

c) Consideration and possible action to approve the Agreement for Professional Consulting Services with California Skate Parks for design of the Town of Chino Valley Community Center Skate Park in an amount not to exceed $34,255.00. Funds to come from Parks Impact Fees. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Approve the Agreement for Professional Consulting Services with California Skate Parks for design of the Town of Chino Valley Community Center Skate Park in an amount not to exceed $34,255.00.

Mr. Grittman reported that:

- Two years ago, the Town's insurance carrier informed staff that it would no longer insure the Town's skate park, due to issues with its design and condition of its apparatuses, which had not been designed in accordance with industry standards and posed a liability.
- Although the Town did not have the funds right now to build a skate park, California Skateparks (CSP), which had developed and constructed hundreds of both skateboard and bicycle parks for many different agencies throughout the world, was willing to develop conceptual and final construction documents for a new skate park in accordance with professional and industry standards.
- The Scope of Work provided for CSP to develop a concept with input from the various interested groups, then develop a final concept, provide sufficient oversight to confirm that construction conformed to their engineering plans, and allow them to issue the final construction certification.
- Once the plans were done, the Town will begin seeking creative construction processes to bring the park to fruition and it will be responsible to make sure construction conformed to CSP's plans. Staff was seeking input from CSP on developing a park that would have ample room for both BMX bikes and skateboards, and the parties were recommending only easy to moderate slopes, as the advanced slope in Prescott was rarely used.
- By shifting construction management from CSP to the Town, some costs proposed earlier had been reduced. Also, although it appeared that the Parks Impact Fee budget had insufficient funds, the account now had an $8,000 credit from the prior fiscal year that was found during the recent audit.

Council suggested that staff run the completed plans by the insurance company to ensure that it will be insurable.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve the Agreement for Professional Consulting Services with California Skate Parks for design of the Town of Chino Valley Community Center Skate Park in an amount not to exceed $34,255.00.

Vote: 7 - 0 PASSED

d) Consideration and possible direction to staff with regard to purchasing a bench for placement at the Community Center Park to honor the 19 Granite Mountain Hotshot Firefighters. Funds to come from General Fund Contingencies. (Ron Grittman, Public Works Director/Town Engineer)

Recommended Action: Direction to staff.

Mr. Grittman reported that staff prepared three purchase options for a four-foot bench as a monument to the 19 Hotshot Firefighters lost this past summer:

- Black granite bench from The Granite Guy, a local granite provider, with a concrete pad, for an estimated \$3,000-\$3,500.
- Granite bench, either black or another color, from Quiring Monuments, a Seattle supplier, with a concrete pad, for an estimated \$3,000-\$4,000.
- Sandstone bench from Cornerstone Materials, a local provider, for an estimated \$500-\$1,000.

Council discussed the options and preferred a six foot flagstone bench with an engraved plaque. They asked staff to check with the supplier on a six foot length, for up to \$1,500.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve purchase of a sandstone bench with engraved plaque.

Vote: 7 - 0 PASSED

e) Discussion and possible action with regard to setting guidelines for Council members to request staff projects. (Mayor Marley)

Recommended Action: None.

Mayor Marley reported that he had received a request from a Councilmember for a fairly large staff project. During Council's November 5 study session/retreat, Council had discussed setting guidelines for what an individual Councilmember could request of staff in terms of staff time and resources. He had suggested that any request requiring two or more hours of staff labor should go through formal Council action, while anything less could be asked of the town manager directly.

Staff noted that Council could codify any such rule in the Council Rules of Procedure and any information generated in response to such requests would be provided to all councilmembers. Staff also reported on what several other municipalities did:

- Prescott Valley and Camp Verde filled such requests with no restrictions.
- Dewey Humboldt filled such requests and advised the town manager.
- Prescott filled such requests with no restrictions and provided the information to all council members.
- Clarkdale codified a procedure in their Public Service Handbook; if the request went above and beyond that, the council member spoke with the town manager and the request went before the entire Council for approval.
- Phoenix codified a procedure in their Rules of Procedure, which required such requests over eight hours of staff work to be approved by the full Council.

Council discussed:

- Using this as a general guideline, but not codifying it.
- Council lacking sufficient information on some agenda items and the public's right to know.
- Other municipalities not having restrictions.

- Council's responsibility for doing their own research, then going to staff for the missing data.

Council generally preferred to use this as a guideline, rather than codifying it.

f) Consideration and possible action with regard to a Council request for a Staff Project related to the Road 4 South extension project. (Councilmember McKee; Mayor Marley)

Recommended Action: Discussion and possible approval of the Staff Project or other direction to staff.

Councilmember McKee reported that she had requested that staff provide detailed information regarding the Road 4 South extension project. Staff estimated that their response would take six to eight hours of staff time to research and create a report, secure additional information from other parties or agencies, and possibly create narrative to address potential or speculative circumstances. She added that while she had done some further research and answered some of her own questions, she still desired spreadsheets with supporting documentation on how the dollar amount was calculated.

Council also asked staff to provide the cost for diesel fuel and moving utility poles, and if anyone on staff was EOD licensed. Town Engineer Grittman stated that there was no EOD-licensed staff and any blasting needed would be outsourced.

MOVED by Councilmember Lon Turner, seconded by Vice-Mayor Darryl Croft to allow Councilmember McKee to turn the rest of her questions over to the town manager.

Vote: 7 - 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:

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 in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town of Chino Valley. (Robert Smith, Town Manager)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Pat McKee to go into executive session to discuss the matter of Cortez v. the Town of Chino Valley at 7:49 p.m.

Vote: 7 - 0 PASSED

9) ACTION ITEMS RESUMED

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

Mayor Marley reconvened the regular session at 9:33 p.m.

a) Consideration and possible action to approve the proposed agreement with Cortez Enterprises, Inc. in settlement of claims and contemplated litigation. (Robert Smith, Town Manager)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to postpone item 9a until a later date.

Vote: 7 - 0 PASSED

10) ADJOURNMENT

MOVED by Councilmember Pat McKee, seconded by Councilmember Mike Best to adjourn the meeting at 9:34 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 10th day of December, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 14th day of January, 2014.

Jami C. Lewis, Town Clerk