

MINUTES

MINUTES OF THE REGULAR SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, HELD ON TUESDAY, JULY 19, 2016, AT 7:00 PM IN THE BISBEE MUNICIPAL BUILDING, 118 ARIZONA STREET, BISBEE, ARIZONA.

THE MEETING WAS CALLED TO ORDER BY MAYOR OERTLE AT 7:02PM.

ROLL CALL

COUNCIL

Councilmember Eugene Conners, Ward I EXCUSED
Councilmember Joan Hansen, Ward II
Councilmember Shirley Doughty, Ward III
Mayor Ronald Oertle
Councilmember Anna Cline, Ward III, Mayor Pro Tempore
Councilmember Douglas Dunn, Ward II
Councilmember Serena Sullivan, Ward I

STAFF

Andy Haratyk, Interim City Manager/ Public Works Director
Ashlee Coronado, City Clerk
Sharon Buono, Finance Director

CITY ATTORNEY

Elda Orduno

INVOCATION: Ms. Teri Nuti gave the invocation.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Oertle asked that Council speak into the microphone when speaking.

CALL TO THE PUBLIC

- Cathy Clifton, Bisbee resident said she was reading the City Charter regarding the City Manager. Several people have researched Mr. Marsh, there are concerns and asks that this be re-opened.
- Donna Pulling, Bisbee resident spoke about an event to be held at the Bisbee Royale. The Leap Extravaganza. She also spoke about the different field trips the library provided this summer.
- Matt Cook, Bisbee resident spoke about Mr. Marsh's background. He also spoke regarding the counties way of hiring.
- Cynthia Conroy, Bisbee resident spoke on how she took the time to meet Mr. Marsh.

THE FOLLOWING ITEMS WERE DISCUSSED, CONSIDERED AND/OR DECIDED UPON AT THIS MEETING:

GENERAL BUSINESS:

1. ACCOUNTS PAYABLE: Subject to availability of funds.

MOTION: Councilmember Cline moved to approve Accounts Payable in the amount of \$413,221.76.

SECOND: Councilmember Doughty

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Resignation of Susan Blackford from the Municipal Property Corporation.

Ashlee Coronado, City Clerk

- B. Approval of a Park, Facility, and Right-of-Way Use Permit for the Bisbee Vogue, Inc. for the Use of Various City Streets and Staircases for the Bisbee 1000 Stair Climb on Saturday, October 15, 2016 from 5:00AM to 8:00PM, This Includes Set Up and Breakdown.

Ashlee Coronado, City Clerk

- C. Approval of a Liquor License Application for the House of Secrets located at 54 Brewery Avenue, Bisbee, AZ; Kerri Blankenship, Applicant

Ashlee Coronado, City Clerk

Councilmember Dunn asked that Item B be pulled. Mayor Oertle stated that Item B would be pulled for staff clarification.

MOTION: Councilmember Cline moved to approve the Consent Agenda items 2A, C.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Hansen, Doughty, Cline, Dunn, Sullivan and Mayor Oertle

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

Mr. Haratyk stated that he had reviewed four (4) years of permits and we have permitted this event from 5:00am to 8:00pm for the last four (4) years. He felt that the Bisbee 1000 needed that time to clean up.

MOTION: Councilmember Cline moved to approve Consent Agenda items 2B.

SECOND: Councilmember Sullivan

ROLL CALL VOTE:

AYES: Councilmember Hansen, Doughty, Cline, Dunn, Sullivan and Mayor Oertle

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

OLD BUSINESS

NEW BUSINESS

- 3. Discussion and Possible Approval of the Modification to the Intergovernmental Agreement between the State of Arizona and the City of Bisbee for the Collection and Administration of the Transaction Privilege and Affiliated Excise Taxes.

Sharon Buono, Finance/Personnel Director

Ms. Buono explained the changes to this Intergovernmental Agreement. She went over each item and what had changed.

MOTION: Councilmember Hansen moved to approve the modification of the Intergovernmental Agreement between the State of Arizona and City of Bisbee for the collection and administration of the transaction privilege and affiliated excise taxes.

SECOND: Councilmember Cline

MOTION PASSED: UNANIMOUSLY

4. Public Hearing for Special Use Permit Application 16-02 and Discussion and Possible Approval of a Special Use Permit 16-02, Submitted by Peter Chartrand for the Purpose of Allowing him to operate a Ceramics Studio on a Parcel Zoned R-1..

Joe Ward, Zoning Inspector

Mr. Ward said that the special use permit before council was from Mr. Chartrand and that he had applied for a business license and it came to our attention that the property was not zoned properly. This will straighten this issue out. He stated that it had gone through the Planning and Zoning Commission and that they had unanimously passed it.

Mayor Oertle opened the Public Hearing.

- Mayor Oertle asked if there was a member in the public that would like to speak in support of this item. There were no members in the public that spoke in support of this item.
 - Beth Henson spoke in support of this Special Use Permit
- Mayor Oertle asked if there was a member in the public that would like to speak in opposition of this item. There were no members in the public that spoke in opposition of this item.
- Mayor Oertle asked the City Clerk’s Office if there had been any written communications filed with the Clerk’s Office. Ms. Coronado indicated that there were not.

Mayor Oertle closed the Public Hearing.

Councilmember Hansen asked for clarification on firewall or was it drywall. Mr. Ward said that they were the same.

MOTION: Councilmember Dunn move to approve Special Use Permit 16-02 for the purpose of allowing Mr. Chartrand to operate a ceramics studio on a Parcel Zoned R-1.

1. The Applicants shall install 5/8” drywall to the ceiling of the room containing the kiln.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

5. Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-16-04, Amending the City Code Article 9.6 (B)(2) to Change the time in Which the Cemetery is Closed to the Public.

Andy Haratyk, Interim City Manager

“Luche” Giacomino, Bisbee resident spoke regarding the change. She felt that the hours are important for the people who rest there. She would appreciate it if the council would pass this ordinance to change the time.

Mr. Haratyk stated it was just not safe to have someone after dark looking for people. Since we have citizens volunteering for it we need to accommodate them and this will help.

Mayor Oertle stated that Ms. Giacomino has been opening and closing the gates for about four (4) or five (5) years now and we certainly appreciate that.

MOTION: Councilmember Dunn moved to approve the Notice of Intent to Adopt Ordinance O-16-04, Amending the City Code Article 9.6 (B) (2) to change the time in which the cemetery is closed to the public.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Hansen, Doughty, Cline, Dunn, Sullivan and Mayor Oertle

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

6. Discussion and Possible Approval of the Appointment of Richard J. Marsh Jr. as the City Manager, effective July, 20, 2016 and the Approval of an Employment Agreement with Mr. Marsh.

Ronald Oertle, Mayor

Mayor Oertle stated that Councilmember Connors would be joining them via telephone for item number six (6).

Carole Taylor spoke in opposition of Mr. Marsh. She researched Mr. Marsh and would like to have this item tabled. This needs to be taken seriously.

Kathy Sowden spoke about her concerns regarding Mr. Marsh. She spoke about his resume and discrepancies. Why is he a good fit for Bisbee. He has never worked in cities like Bisbee. She asked that this item be tabled.

Nancy Parana agreed with everyone else but Cynthia Conroy. She gave an analogy of purring lipstick on a pig or are we finding a diamond in the rough. Don't rush this decision. We need to move forward in the right direction.

Peter VonGundlach agreed with Cynthia Conroy. He felt that Mr. Marsh would be a good City Manager. He was a very honest person which was important.

Shawn Hicks spoke in opposition. He was concerned about the inaccurate resume, not being compatible with this town and the land swap with Whirlpool in Benton Harbor. He would like to hire a consulting firm and also to delay the hiring.

Gretchen Baer asked that this item be tabled. She read up on the Benton Harbor deal. She gave some history into the land deal. She asked what if our city government was to be taken over by the state of Arizona. She asked that this item be tabled.

Donna Burke spoke also about the Benton Harbor deal and asked that this item be tabled.

Nicholas Night thanked the Council for the vetting process that had been done. He asked that the offer be retracted and if not that this item be tabled at this point. He stated that they were all here for one reason we all love Bisbee we don't need to rush.

Aileen Weaver stated that she had nothing to add but would urge this to be tabled.

Roger Thoreson said his concerns have been spoken about tonight. He thought it would be prudent to table this until further investigation was completed.

Ben Susman asked to table or pull the offer there was no rush the city was not falling apart. Let's take our time and review this. He urged council to not go forward with this tonight.

Tom Nelson spoke to the state of the internet. As he looked further into Mr. Marsh he didn't come to the same conclusion. He won't be able to say anything to change the minds of these people. He said that we have elected the council to do the job of hiring and firing and knew that the Council had spent some time

with Mr. Marsh and have addressed all of these concerns. We seemed to be a little reactionary in this case.

Risha Druckman stated that most of her concerns have been spoken. She would like to see a professional hired to do a background check.

Mayor Oertle stated that they had spent a considerable amount of time on this and it wasn't a quick decision. He was very proud of council putting in the energy, time and concern into this.

Sharon Buono spoke about the process of hiring positions. She stated that the applications are vetted through council they see the qualified ones and the unqualified ones. She said that council at one point or another went through all the applications and selected all the ones that they would like to interview and narrowed it down to 6 applicants. She explained the process for the background checks and that they are done on all employees. She explained the background check that was done on all three (3) candidates and the information was given to council in executive session. She spoke about using the internet and that you are making decisions about people when you really can't verify the source. She told council about the references she had called.

Mayor Oertle said that the city manager implements the policy that Mayor and Council creates. He spoke about some of the references that he called and gave some history into Mr. Marsh. He also said that he has spent some time with Mr. Marsh and believes that he was the person that needs to be the city manager of the City of Bisbee and was very impressed with him.

Councilmember Dunn said that Mr. Marsh had the right to respond. Mayor Oertle said certainly.

Mr. Marsh said that one of the reasons he applied for Bisbee was for the pride, the community involvement and the out spoken-ness, determination and the ownership that everyone here has of Bisbee. He thanked everyone for coming out and the Mayor and Council for giving him the opportunity to speak. He had heard a lot of things tonight that he would like to address. He believed that Bisbee was a good fit for him. He addressed many of the issues that had been brought up starting with Benton Harbor.

Councilmember Sullivan wanted clarification on some of the concerns about the pollution part. She said that in more than one article on the internet stated that the city swapped sixty (60) acres for the twenty-two (22) acres of their park that was turned into the golf-park/ residential area. It was those sixty (60) acres after the deal was done that was contaminated and couldn't be used.

Mr. Marsh said that there was no swapping of land for twenty-two acres for sixty that did not occur that was an untruth. The sixty (60) acres that was contaminated was cleaned up prior to part of the golf course being put by the pawpaw river.

Councilmember Sullivan asked if the City of Benton Harbor was left with a bad deal over the sixty (60) acres. Mr. Marsh said that was not true at all. Councilmember Sullivan thanked Mr. Marsh for clarifying that.

Mayor Oertle asked about clarification of the golf course it was his understanding that the twenty-two (22) acres from the Jean Park was leased to the golf course at a price of \$30,000 a year to the city. Mr. Marsh stated yes. Mayor Oertle stated that the city will take in twenty (20) percent of the net income from the golf course. Mr. Marsh stated yes.

Councilmember Sullivan stated that not the whole park was a golf course only twenty-two (22) acres of seventy-seven (77) was leased. So, now those people had access to the rest of the park that they didn't have access to before nor was it maintained before. Mr. Marsh said not only that, but now there was a park being used that had not been used over a twenty (20) year period.

Mayor Oertle said that states like Ohio, Michigan, Indiana, Pennsylvania, Illinois especially Ohio and Michigan their cities are under extreme financial distress. He stated that many are not too far away from bankruptcy. Mr. Marsh stated that was the case and in fact the cities that he had the pleasure serving have been on the verge of that.

Mr. Marsh went on to discuss privatizing which was another issue that was brought up. He said that there were different challenges here that you don't find in the cities of Michigan. It was time to rebuild and create new revenue for Bisbee and time to let the team members know they are appreciated and valued. He encouraged Mayor and Council to adopt a strategic plan and charge him to follow those goals. He planned on staying as long as the Mayor and Council would allow him too.

Councilmember Sullivan hoped Mr. Marsh would go into detail on the officer or chief. It was made to seem like it was your fault and thought Mr. Marsh should talk about it.

Mr. Marsh went into the police brutality and the police chief knew that it had happened and hadn't mentioned it to him. Then two (2) months later the video surfaced in the court room. He had requested an internal investigation the investigation was never completed he ultimately fired the officer and he was in jail. The Police Chief resigned and two (2) other officers who stood by they were both suspended.

Councilmember Sullivan thanked the community for their input. She said she gave everything a closer look. She also said he was a professional. She didn't doubt that he would be involved in the community.

Councilmember Hansen echoed what Ms. Sullivan had to say. She said she had some concerns but had the opportunity to meet with Mr. Marsh today and was pleased with his answers. She was convinced he was good for Bisbee.

Councilmember Dunn said that Mr. Marsh had chosen a very difficult career. As a result of that he had a lot of different experiences. We focus on many of the dramatic things not on the day to day things. He said the comment was made why rush. He said we (staff) are stretched we can't delay.

Councilmember Doughty appreciated everyone coming out. She had received many calls in support of Mr. Marsh. She agreed with the rest of council that Mr. Marsh would be a great asset.

Councilmember Cline thanked the public for coming out this has been a long process. She agreed with Councilmember Sullivan, Dunn and Hansen and she thanked Mr. Marsh for staying here and addressing the issues.

MOTION: Councilmember Dunn moved that we appoint Richard J. Marsh Jr. to serve as the City Manager for the City of Bisbee, effective July 20, 2016, and approve the Employment Agreement with Mr. Marsh which includes a salary of \$87,500 with a possible five (5) percent increase.

SECOND: Councilmember Doughty

ROLL CALL VOTE:

AYES: Councilmember Hansen, Doughty, Cline, Dunn, Sullivan and Mayor Oertle

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

7. City Manager's Report:

- Mr. Haratyk thanked the Bisbee Fire Department, Police, Public Works, Library, Councilmember Hansen and everybody that came out at worked on the 4th of July.
- Mr. Haratyk talked about our Building Inspector Mr. Joe Ward doing twenty-eight (28) permits. Moving in a positive direction.

- Mr. Haratyk spoke regarding the Visitor Stats he couldn't print them out, but Ms. Coronado will put them in your mail box tomorrow.
- Mr. Haratyk stated that Jason Macoviak was now the new Library Manager.
- Mr. Haratyk reminded everyone that Finding Nemo was coming to Bisbee at the movies in the park.
- Other current events

COUNCIL COMMENTS OR FUTURE AGENDA ITEM SUGGESTIONS: (Council members may suggest topics for future meeting agendas, but Council will not here discuss, deliberate or take any action on these topics.):

- Councilmember Hansen thanked the Police Department and the Fire Department for all of their efforts on the 4th of July. She also commented on the Monsoon Madness being such a success and wanted to thank Andy, Lorena and her family for being out there. She stated that the 4th was a wonderful day in Bisbee. She thanked everyone that was involved in it.

Mr. Haratyk wanted to remind everyone that at the finance window they are now taking cash payments and you can pay more than just your electric bill.

Councilmember Dunn thanked the acting City Manager Mr. Haratyk for what he has done for us.

MOTION: Councilmember Hansen moved to adjourn the meeting.

SECOND: Councilmember Sullivan

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 8:57PM

Ronald Oertle, Mayor