

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, OCTOBER 18, 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

Councilmember Joan Hansen, Ward II

Excused

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

Richard J. Marsh Jr., City Manager

Ashlee Coronado, City Clerk

Keri Bagley, Interim Finance Director

Andy Haratyk, Public Works Director

CITY ATTORNEY

Elda Orduno

INVOCATION: Ms. Teri Nuti gave the invocation

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Oertle read the National Business Women's Week Proclamation. He presented the proclamation to former Mayor Laverne Williams.

Ms. Williams said that Christine Rhodes was in her Sunday school class when she was a kid at the Warren Community Church just across the street from here. She had watched her grow up. When Christine Rhodes came back to Bisbee after college, she ran for the Cochise County Recorder Office and won her first term in 1972. She ran again and won in 1976. Ms. Williams stated that the National Business Women's week was always the third week in October. Mrs. Rhodes won the Woman of Achievement in 1977. Christine Rhodes was the youngest person ever elected to a Cochise County office in her history there had not been a younger person elected to any of the Cochise County offices. Ms. Williams stated that 39 years later the Bisbee Business and Professional Woman are naming Christine Rhodes for her 44 years of service to Cochise County as the Woman of Achievement.

Ms. Williams also named the Woman of the year as Cathy Wright. She stated that the recipients would be honored at a luncheon at Café Roka Saturday, November 19th. Everyone who knows them was invited.

CALL TO THE PUBLIC

- Cynthia Conroy, Bisbee resident stated that it was with gratitude and happiness that she was here to thank the many who made the 26th annual Bisbee 1000 the great stair climb, the Ironman Ice competition and the Craft beer festival a success. She also, thanked all her sponsors.
- Cassie Ruffo/ Cynthia Aspengren, work for the cooperative extension at the University of Arizona wanted to inform the public that they provide nutrition education within the city. The spoke about all the expansion programs.
- Alison Williams, Library employee informed the public of all the ongoing projects at the Library.
- Keith Dennis, Planning and Zoning Chair informed the public of a public hearing, Thursday, October 20th on the rezoning of the parking lot owned by the BCLC (Border Cities Land Corporation) from a parking lot to a hotel. He stated that there would be many public hearings on this issue.

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 \$365,422.86.
 SECOND: Councilmember Doughty MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Appointment of Sharon Stetter to the Bisbee Arts Commission.
Ashlee Coronado, City Clerk
- B. Approval of the Appointment of Alexandria Phillips to the Youth Council.
Nina Williams, Deputy City Clerk
- C. Approval of the Park, Facility, and Right-of-Way Use Permit for the Use of Vista Park for a Halloween Bash and Movie in the Park on Saturday, October 29, 2016 from 3:00PM to 11:00PM.
Ashlee Coronado, City Clerk
- D. Approval of a Special Event Liquor License Application Submitted by the Bisbee Radio Project, Inc. (KBRP) for an Event to be held at the Bisbee Royale, 94 Main Street, Bisbee, AZ on Friday, November 4, 2016 from 4:00PM to 11:59PM; Ryan Bruce, Applicant.
Nina Williams, Deputy City Clerk
- E. Approval of a Special Event Liquor License Application Submitted by the Bisbee Radio Project, Inc. (KBRP) for an Event to be held at the Bisbee Royale, 94 Main Street, Bisbee, AZ on Friday, November 11, 2016 and Saturday, November 12, 2016 from 4:00PM to 11:59PM; Ryan Bruce, Applicant.
Nina Williams, Deputy City Clerk
- F. Approval of a Special Event Liquor License Application Submitted by the Friends of Warren Ballpark for an Event to be held at 300 Ruppe Avenue, Bisbee, Arizona on Saturday, December 10, 2016 from 11:00AM -5:00PM.
Ashlee Coronado, City Clerk

Councilmember Cline requested that 2D and 2E be pulled for discussion.

MOTION: Councilmember Cline moved to approve the Consent Agenda items 2A, B, C and 2F

SECOND: Mayor Oertle

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

Councilmember Cline asked what the events were for and how many people they are expecting. Ms. Alison Williams said that Friday, November 11th and Saturday, November 12th are for the Side Pony Music Festival that will be taken place all around town and that the November 4th was the night before the Mariachi festival.

Councilmember Conners stated that it was to raise money for the non-profit to keep funds coming in. Ms. Williams stated that they were trying to open the doors to many community events.

MOTION: Councilmember Conners moved to approve the Consent Agenda items 2D and 2E.

SECOND: Councilmember Sullivan

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

OLD BUSINESS

NEW BUSINESS

3. Presentation to Step Up Bisbee/ Naco on Clean Up Efforts.
Elda Orduno, City Attorney

Ms. Orduno explained that the city had been looking for ways to clean up Bisbee residences, buildings and things of that nature. She introduced Mr. Grady Meadows who had led this effort through Step Up Bisbee/ Naco, as well as Joe Ward, the cities liaison for Step Up Bisbee/ Naco.

Mr. Grady Meadows explained that Step Up Bisbee helped fix up homes in Bisbee for the elderly and disabled. They have a grant from Cenpatico in the amount of \$25,000. They do one large build day per year. This year it was on October 1st. They plan to do a smaller build day in May. He said that they were now accepting applications. He stated that they work with Joe Ward from the city along with the Bisbee High School shop. Their mission was to make people comfortable in their homes.

Mayor Oertle stated that this was a noble effort Mr. Meadows was involved in. On behalf of the Mayor and Council, staff and the community he wanted to thank Mr. Meadows very much.

Councilmember Dunn stated that he and Mr. Meadows had been talking about an opportunity to expand funding with this effort dramatically. Many people didn't know that the Arizona legislature had created a tax credit for donations to qualified charitable organizations to benefit the low income. He explained in detail the tax credit.

4. Discussion and Possible Approval of the Appointment of Finance Director Keri Bagley as City Treasurer.

Richard J. Marsh Jr., City Manager

Mr. Marsh stated he was coming before council to ask for their consideration in appointing our Finance Director Keri Bagley as City Treasurer. Mrs. Bagley has been the lead accountant with the City of Bisbee since 2013. He listed her qualifications;

- Master of Science, In Accounting, University of Phoenix, Graduated Magna Cum Laude.
- Bachelor of Science, Accounting with a minor in Business Administration, University of Maryland University College, Graduated Summa Cum Laude.
- Associate of Science, Liberal Arts, Corning Community College, NY
- Over 13 years of experience in Business Management, to include Accounting, Budget Management. Over 3 of these years have been working for the City of Bisbee as lead Accountant, and Interim Finance Director in the previous Director's absence.

He said finally and more importantly Mrs. Bagley fits in to the culture. We are trying to make sure that people, our staff and team feel appreciated, validated and respected. He stated that Mrs. Bagley was well respected and a valuable asset to the City of Bisbee team.

Donna Pulling, Bisbee resident had a few questions regarding the appointment of Keri Bagley to the office of City Treasurer. She recommended that the Council vote against appointing Mrs. Bagley as Interim City Treasurer and instead direct the City Manager to explore the options of preparing an Intergovernmental agreement with the County or perhaps the City of Douglas to act as Interim City Treasurer until a new permanent Finance Director was hired.

Councilmember Connors asked if Sharon Buono and Dee Flannigan were both the Finance Director and Treasurer and also asked if anyone else had been considered for the Treasurer that was currently employed by the City of Bisbee.

Mr. Marsh stated that he looked at the urgency of having this position filled with the audit preparation, the five (5) year budget forecast and the budget projections for this year's budget. He felt that we needed to monitor this very closely and he felt that Mrs. Bagley was the one within the department that had been doing that. He stated that within the job description for the Finance Director clearly states that the Finance Director shall be the chief financial officer and be City Treasurer and yes the charter does say with the approval of the council.

MOTION: Councilmember Sullivan moved to approve the appointment of Finance Director Keri Bagley as City Treasurer.

SECOND: Councilmember Doughty

MOTION PASSED: UNANIMOUSLY

5. Discussion and Possible Approval of an Agreement between Arizona Department of Housing Office of Manufactured Housing and the City of Bisbee to Enforce Installation Standards.
Joe Ward, Building Inspector

Mr. Ward said that every five (5) years our Intergovernmental Agreement between the City and the Arizona Office of Manufactured Housing expires and we sign a new one and it was that time now. He stated that we make very little money off of it, but it does give us a little control.

Councilmember Connors asked if this was for installation of brand new homes. Mr. Ward stated that if someone were to move a used manufactured home into the City it would be for that also. Mr. Ward said this was for the enforcement of installation standards.

MOTION: Councilmember Dunn moved to approve the Agreement between Arizona Department of Housing Office of Manufactured Housing and the City of Bisbee to Enforce Installation Standards.

SECOND: Councilmember Cline

MOTION PASSED: UNANIMOUSLY

6. Discussion and Possible Approval of a Notice of Intent to Adopt Ordinance O-16-05 Amending Chapter 11 of the Bisbee City Code Entitled Parkes and Recreation; Library and Providing for Repeal and Severability.

Andy Haratyk, Public Works Director

Mr. Haratyk explained that they were requesting council's permission to accept food for fines and donate that food to the Fire Department for their Christmas food baskets.

MOTION: Councilmember Doughty moved to approve the Notice of Intent to Adopt Ordinance O16-05; Amending Chapter 11 of the Bisbee City Code Entitled Parks and Recreation; Library and Providing for Repeal and Severability

SECOND: Councilmember Conners

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

7. Discussion and Possible Approval of a Notice of Intent to Adopt Ordinance O-16-06 Amending Chapter 9, Article 9.5 of the Bisbee City Code Entitled Fluoride in City Water System and Providing for Repeal and Severability.

Joan Hansen, Councilmember Ward II

Eugene Conners, Councilmember Ward I

Councilmember Conners thought we had spoken in length on this two weeks ago and if anybody else would like to speak to this agenda item he would defer to them.

Mayor Oertle stated that no one else had signed up to speak on item number seven (7).

Councilmember Sullivan asked the Mayor if they could move this item until after item number eight (8). Mayor Oertle said that he was okay with the current order.

Maggie Kohanik said that there was some confusion that they had come to discuss item number eight (8) the petition and it might affect what you are deciding on item number seven (7).

Mayor Oertle asked City Attorney Ms. Orduno if she had any thoughts on that. Ms. Orduno said that it was completely up to council.

Mayor Oertle said to Mr. Harris and Ms. Kohanik that this was the first reading of this Ordinance there had to be two (2) readings. He asked the council their thoughts to move item number seven (7) till after item number eight (8). Mayor Oertle stated that he would keep it in the order that it was in.

Councilmember Sullivan moved to table this item. Mayor Oertle stated we had a motion to table the item but it fails because of a lack of a second.

MOTION: Councilmember Conners moved to approve the Notice of Intent to Adopt Ordinance O-16-06; Amending Chapter 9, Article 9.5 of the Bisbee City Code Entitled Fluoride in the City Water System and Provide for repeal and severability.

SECOND: Councilmember Cline

Ms. Orduno clarified the issue before council was to reduce the amount of fluoride. She wanted to get that motion clearer.

Mayor Oertle stated that we needed to restate the motion.

Councilmember Connors moved to dismiss the previous motion. Mayor Oertle stated that the previous motion was withdrawn.

MOTION: Councilmember Connors moved to approve the Notice of Intent to Adopt Ordinance O-16-06; Amending Chapter 9, Article 9.5 of the Bisbee City Code Entitled Fluoride in the City Water System to reduce the amount of fluoride added to the City water from one part of fluoride per million parts of water to 0.7 (seven-tenths) of a part of fluoride per million parts of water

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Connors, Doughty, Cline, Dunn, and Mayor Oertle

NAYS: 0

ABSTAIN: Councilmember Sullivan wished to abstain.

MOTION PASSED: AYES -6; NAYS -0

8. Discussion and Possible Direction to Staff on a Petition Received from Jeff Harris Regarding Article 9.5 of the City Code; Fluoride in City Water System.

Ronald Oertle, Mayor

Mr. Harris said that now you have addressed the issue of lowering the mandated levels of fluoride he wished to stress that the 400 or so signers of the petition had not requested to debate the methods of fluoridating the City's tap water supply. Rather they had a simple requested that mandatory universal fluoridation be suspended until such time as residence are given a means of opting out. That was until such time the Mayor and Council respect the fundamental right of every individual to make one's own decision over one's choice of medication. They want a choice.

Mayor Oertle commented on Mr. Harris petition on the removal of the fluoride from the water with an alternative he suggested that the fluoridation be lowered to the Department of Health and Human Services current standard of 0.7 (PPM).

Mr. Harris stated that his petition asked for a means of opting out and in the absence to suspend the fluoridation of the water.

Mayor Oertle stated his position on this item regarding the lowering of the fluoridation to current standards. He said that even though this did not meet Mr. Harris's request to resend article 9.5 of the City Code the action the City Council was taking did incorporate Mr. Harris's alternative.

Mr. Harris requested that a means be provided for opting out especially by those whose who run the risk of harm from supplemental fluoride. They want a means of opting out and if you have no means of doing that then suspend fluoridation all together.

Councilmember Connors asked if we knew what the natural occurring level of parts per million of fluoride was in the water that shows up at the tank prior to the introduction of this public health. Mayor Oertle stated that it was very, very low here however, in the upper watershed in the Sierra Vista area it comes to about a level of about 0.4 parts per million, but here it was extremely low.

Mr. Harris stated in a survey done in 2006 it was 0.1 parts per million

Mr. Joe Mauzy, Arizona Water Company stated that the level of the natural occurring in the water was 0.18 and ranges up to 0.24.

Councilmember Sullivan asked Mr. Mauzy what the naturally occurring water fluoridation level was in Sierra Vista. Mr. Mauzy stated that at this time he didn't know, but could find out what it was.

Mayor Oertle thanked Mr. Mauzy for being here tonight.

Maggie Kohanik, Bisbee resident said that we had seen that this whole issue on fluoride was very controversial and people don't know what to vote on sometimes, but we have signatures (400 people). She asked the Council wasn't that a large number of signatures to come from our community and to be asking for something to be done. They would like to have an option to opt out. This was an issue about poison in our water. She asked that Council to not let this fall.

Councilmember Cline said that Mr. Harris comparing this to medication was wrong, it was not medication. When you go around and talk to people and say they are putting medication in our water sure people are going to sign it, but of these 400 signatures there were a lot that don't even live here in Bisbee.

Councilmember Connors said that 400 people was a lot of signatures, but Ms. Kohanik didn't persuade him with her presentation. He listened to all of the presentations he was persuaded to lower it and zero may at some point be the number and he felt we were going in the right direction.

Mayor Oertle encouraged the public to listen to the meeting from October 4th on the presenters that spoke on this issue. He spoke regarding all the experts that support this.

Councilmember Sullivan stated that the FDA does classify fluoride as a drug (medication). She said that we are imposing mass medication for all people in Bisbee and not all Cities did this. She felt that the Mayor was looking at this from one side; she had been looking at this from both sides. She also stated that naturally occurring fluoride was not the same thing as the chemical substance that we are applying to our water.

Councilmember Connors asked how it was not. Councilmember Sullivan said that for one thing the bag of fluoride had other contaminants in it and we had not had proof from the company that it was 100% pure sodium fluoride.

Mayor Oertle asked Mr. Mauzy if he wanted to come back up and stated that he thought the concentration was about 45% fluoride and 55% sodium. Mr. Mauzy stated that was correct and explained it.

Councilmember Sullivan wanted it on record that she was totally opposed to fluoride.

Councilmember Cline asked since we all get our water from one source how would certain families be able to opt out. Mr. Mauzy stated that they had that already it was called Reverse Osmosis.

Mayor and Council had an exchange of opinions regarding the issue of fluoridation.

Ms. Kohanik stated that she didn't believe in experts and gave her reasons why.

Mayor Oertle asked if Ms. Kohanik was an expert on fluoridation. Ms. Kohanik stated she was an expert on her own body and reserves the right to take into her body what she wants.

Councilmember Connors and Ms. Kohanik had an exchange of opinions.

Mayor Oertle said that without objection from the Council this petition would be filed away for possible future reference.

9. Discussion and Possible Direction to Staff on a Petition Received from Kelly Galligan Regarding the Request to install Speed Bumps on Subway Street or Determining an Alternate Method of Effectively Slowing Down Traffic.

Ronald Oertle, Mayor

Mr. Haratyk thought that there was merit in the request with the speed bumps, but Subway was kind of a complicated street. This would take some further research with Public Safety. He highly recommended that we spend some time with this and thought that there was more to do on Subway than just speed bumps. This opens the gate for a conversation.

Councilmember Cline said that in this petition it stated that business owners had witnessed speeds of forty (40) plus and asked how can you do that on Subway. Mr. Haratyk stated that he didn't know, he did know that people speed.

Mayor Oertle stated that he had, had a conversation with Mr. Haratyk and perhaps a Work Session would be in late November or early December.

Councilmember Dunn stated that one of the more common complaints from his constituents was how can we slow down traffic. He said that if we are going to have a work session we need to look at all parts of Bisbee and other alternatives.

Mr. Haratyk stated that a speed bump was \$500.00 no matter if we put it in or we buy one. We want to make things safer, but we really need to look at how many we need and where we need them.

10. Discussion and Possible Direction to Staff on a Petition Received from Donna Pulling Regarding City Manager Richard Marsh.

Ronald Oertle, Mayor

Ms. Pulling stated that the petition she submitted addresses three (3) items; the firing of the finance director, appointment of Monica Flores as his personal executive assistant and the loss of the ambulance revenue. She addressed each one of these items in detail and read into the record memos from Mr. Marsh and Ms. Buono and all the back and forth that came with those memos. (Memos are available upon request)

Mayor Oertle interrupted Ms. Pulling and stated that she needed to wrap this up she had been redundant and had spoken at length.

Ms. Pulling continued speaking.
Mayor Oertle called for a point of order.

Councilmember Cline stated she had a question for City Attorney Ms. Orduno; Ms. Pulling was talking about another employee without that employee's knowledge. Ms. Orduno stated that the document's Ms. Pulling was reading from was provided through a public record request. The documents are public record there was nothing that prevents Ms. Pulling from reading them into the public record. She stated that in this proceeding here it in no way impacted that employees job status or anything like that, this was about her petition. She had decided to request these documents to read into the public record and she was able to do that.

Mayor Oertle stated his thoughts regarding the City Manager; Mr. Marsh had done a fabulous job in the three (3) months he had been here an example was the MOU that was done with the hospital and Arizona Ambulance. Mr. Marsh works hard often in his office after 8:00pm. Employee morale was very good. He looked at Mr. Marsh in the highest regard and he had his 100% support and was very impressed with his efforts.

Councilmember Doughty stated that she had talked to the employees and all that she had spoken with have given very favorable comments on Mr. Marsh, they all like him. They had said that the morale had increased.

Councilmember Dunn stated that he was saddened when Ms. Buono was fired. He was sad that things like this had to happen. He also agreed that Mr. Marsh had the united support of this council.

Councilmember Conners stated that he loved Ms. Sharon Buono, but he didn't run the City and at the end of the day Mr. Marsh was the boss. He referenced an email from Mr. Peter Von Gundlach describing the City Manager that we have. He stated that he supported Mr. Marsh.

Councilmember Cline stated that we do have the Charter form of government which clearly laid out what our duties were and the City Managers. She spoke of several department heads that were let go with our previous City Manager and the public did try to appeal to council however, we had no say so in any of that because that was not the councils job or duty. It was the City Manager's job to run the City.

Mayor Oertle said that without objection from the Council this petition would be filed away for possible future reference.

11. City Manager's Report:

- Mr. Marsh gave an update on a meeting he had with Congresswoman Martha McSally.
- Mr. Marsh thanked the Mayor and Council for their support, staff for doing what they do to keep the City of Bisbee moving and the citizens for continually engaging us. We appreciate you.
- Other current events (No Discussion)

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 Doughty recognized one of our Public Works Sanitation workers Sergio Rivera.

MOTION: Councilmember Sullivan moved to adjourn the meeting.

SECOND: Councilmember Cline

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 9:32PM

Ronald Oertle, Mayor