

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, JANUARY 2, 2018 AT 7:00 PM IN THE COCHISE COUNTY BOARD OF SUPERVISORS HEARING ROOM, 1415 MELODY LANE, BUILDING G, BISBEE, ARIZONA.

THE MEETING WAS CALLED TO ORDER BY MAYOR SMITH AT 7:00PM.

ROLL CALL

COUNCIL

Councilmember Anna Cline, Ward III
Councilmember Joan Hansen, Ward II
Councilmember Frank Davis, Ward I
Mayor David M. Smith
Councilmember Bill Higgins, Ward I
Councilmember Douglas Dunn, Ward II, Mayor Pro Tempore
Councilmember Gabe Lindstrom, Ward III

STAFF

Ashlee Coronado, City Clerk
Keri Bagley, Finance Director
Dan Duchon, Personnel Director
Albert Echave, Police Chief
George Castillo, Interim Fire Chief

CITY ATTORNEY

Britt Hanson

INVOCATION: Mayor Smith asked for a moment of silence to think of those that have left us in 2017.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Smith said Bisbee was mentioned on Good Morning America; Bisbee being the 4th destination of places to come visit. This morning the Today show spoke about it being a nice 71 degrees in Bisbee, AZ.

CALL TO THE PUBLIC: **None**

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

GENERAL BUSINESS:

1. ACCOUNTS PAYABLE: Subject to availability of funds

- Donna Pulling, Bisbee resident stated that she had missed the report that came from Mr. Smith on local purchasing. She urged the City to purchase locally.

MOTION: Councilmember Cline moved to approve the accounts payable in the amount of \$565,196.36.

SECOND: Councilmember Hansen

Mayor Smith asked if there were any questions from the Council.

Councilmember Lindstrom asked about the fire damage 10-74-46100: Damage Control, LLC \$372,567.12. We were approving it now but would be discussing this later in the agenda. Mayor Smith stated that it was a bill that came to Council because of the amount.

Councilmember Cline asked about 10-51-13500 Subscription and Dues \$360.00; Robert E. Smith Reimbursement. She asked if this was for a conference or what. Ms. Bagley stated that it was for the ACMA Winter Conference.

Councilmember Cline asked for a reminder of what B.A.S.I.C stood for under 10-55-31000 Professional Fees. Ms. Coronado stated that it was a benefit for the employees they receive reimbursement for different health charges.

Councilmember Cline asked regarding Information Services 10-59-24000 Telephone & Fax it references City Hall were we still paying for the vacant building. Mayor Smith stated "No". Ms. Coronado stated that the services were transferred here so we were able to keep our 6000 numbers along with fax numbers.

Councilmember Lindstrom asked if there was something over \$5,000 it had to go to Council for approval. Mayor Smith stated that it does. Councilmember Lindstrom then asked about 21-40-61000 Vehicle Parts & Labor: Titan Machinery-Radiator, Shroud \$7,145.49. Dwayne Wallace, Public Works stated it was for a case loader, this was sole sourced there was no other place in Arizona to buy it. They order it, pay invoice and then at the next meeting you ask for forgiveness.

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Resignation of Paris Gilles from the Transit Advisory Committee.
Ashlee Coronado, City Clerk
- B. Approval of the Resignation of Bob Klein from the iBisbee Committee.
Ashlee Coronado, City Clerk
- C. Approval of the Appointment of Thomas Morehouse to the Planning and Zoning Commission.
Ashlee Coronado, City Clerk

MOTION: Councilmember Cline moved to approve Consent Agenda Items A -C.

SECOND: Councilmember Davis MOTION PASSED: UNANIMOUSLY

OLD BUSINESS

NEW BUSINESS

- 3. Discussion and Possible Approval to Purchase a pump form MiscoWater, Inc., for the San Jose Wastewater Treatment Plant as an Emergency Replacement. Total Cost \$11,832.56
Andy Haratyk, Public Works Director

Mr. Wallace, Public Works stated that a couple of weeks ago they lost the sludge pump at the plant it pumps the sludge from the plant to where its disposed of. He said Misco Water, Inc. was a sole source provider in Arizona for that pump, but that it was still 4 weeks out. They recommended approval for this.

Mayor Smith stated that this had gone before the City Manager and he had indicated that you can't run the plant without this pump. It was authorized for immediate purchase in an emergency situation.

Councilmember Hansen asked if we had the capability / or required to have an additional pump as backup or was the cost of it prohibitive to do that. Mr. Wallace stated their goal was to have a spare on the shelf.

Councilmember Cline spoke regarding leaving us in the red by \$5,544.27 where would it be coming from. Mr. Wallace said that he was concerned about this too, and had been learning about the budget process it was better to let a line item run in the negative so that you know you need more in that line item next year. As long as you budget overall was correct then it would be okay.

MOTION: Councilmember Davis moved to approve the purchase of a pump from Misco Water, Inc. for the San Jose Wastewater Treatment Plant as an emergency replacement. Total cost is \$11,832.56.

SECOND: Councilmember Higgins

MOTION PASSED: UNANIMOUSLY

4. Discussion and Possible Approval to Pay Damage Control, LLC. In the amount of \$372,567.12 to cover demolition, asbestos abatement and cleanup services.

David M. Smith, Mayor

Mayor Smith said that this was the bill that had been submitted to the insurance company and has been approved by the insurance company as correct and appropriate. The insurance company has sent us two (2) checks which roughly totaled 1.5 million. It covers the cost of rebuilding City Hall back to what it was it was not a replacement cost. It also covers demo and some of those other items.

Councilmember Cline spoke regarding the lack of detail to the invoices. Mayor Smith said that the insurance received all of that in order for them to authorize the payment.

Councilmember Cline felt that they should have had more information. Mayor Smith said that it could be supplemented to her.

Councilmember Lindstrom asked what content services was? Mayor Smith said that we were paying roughly \$18,000.00. The company came in removed wet papers and processed them. The content services would be greater than the \$18,000.00 because some of that work we did ourselves and other contractors assisted with that.

Councilmember Lindstrom asked where the \$18,000.00 was paid out of. Mayor Smith said out of the general fund.

Donna Pulling, Bisbee resident questioned the difference between what we are getting from what was being paid from insurance.

Mayor Smith said that the asbestos removal was in excess of \$32,000.00 and our policy covered \$10,000.00 that was \$22,000.00 that we had to pay that was not insured.

Ms. Pulling asked when they evaluated the building they didn't evaluate the total amount of asbestos that was in the building to insure that. Why would that not have been covered? Mayor Smith stated that he had no idea, that was done many years ago. We were under insured for asbestos removal.

Ms. Pulling asked where the money to pay these differences was coming from. Mayor Smith said that it would depend on the end of the year, if there was money in the general fund and if not it would come out of the allocated reserves.

MOTION: Councilmember Hansen moved to approve to pay Damage Control, LLC in the amount of \$372,567.12 to cover demolition, asbestos abatement and cleanup services.

SECOND: Councilmember Davis

ROLL CALL VOTE:

AYES: Councilmember Cline, Hansen, Davis, Higgins, Dunn, Lindstrom, and Mayor Smith

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

5. Discussion and Possible Approval of the Administrative Services Agreement with International City Management Association Retirement Corporation (ICMA).

Daniel Duchon, Personnel Director

Ms. Duchon said that this was an administrative service agreement with the International City Management Association Retirement Corporation for a 457 plan which was comparable to a 401K for local governmental employees. This was part of Mr. Smith's contract the 457 plan of his choosing by agreeing with this would allow contributions for his retirement. It will also be open to all other city employees so they would have a choice between the Nationwide 457 and the ICMA RC Plan.

Mayor Smith asked if this was at no cost to the city. Mr. Duchon stated there was a cost to the city. The annual fee was 0.55% of the total investments. We don't have that cost right now because city employees have not contributed.

Councilmember Lindstrom asked if this came about because of Mr. Smith's contract. Mr. Duchon said correct.

MOTION: Councilmember Higgins moved to approve the Administrative Services Agreement with ICMA Retirement Corporation.

SECOND: Councilmember Davis

ROLL CALL VOTE:

AYES: Councilmember Cline, Hansen, Davis, Higgins, Dunn, Lindstrom, and Mayor Smith

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

6. Public Hearing and Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-17-13; Amending the Zoning Code to allow Special Use application for alternative lodging parks in all Zoning Districts except the Historic District and Clarifying Special Use Permit language by:

1. Amending Article 3.2 to include "Special uses that may be applied for are set forth in the Appendix, designated by blank spaces in the Uses and Zone Matrix and in the chart entitled: Special Use Permit Required."
2. Amending Article 6.7 to allow both manufactured homes and rehabilitated mobile homes to be placed in the RM Zone
3. Amending Article 9.2 to include definitions for Alt Lodging Park, "Tiny Home" and for "Rehabilitated Mobile Home".

Joe Ward, Zoning, Inspector

Mr. Ward said that this was a combination of many months of work by the Planning and Zoning Commission. They started out with him contacting Mr. Hanson, City Attorney regarding whether or not RV parks were accepted in the City of Bisbee. There was no provision for that, but we had the parks here.

The commission expanded the scope to include affordable housing for the RV parks and the winter visitors. What was before council was the culmination of their hard work. Special use permits for each of these proposed parks would be considered on their own merits not by an exhaustive list that we would have to use one size fits all. Mr. Ward stated that this passed 5 to 0 in favor with one abstention and his recommendation was that Council approves the zoning code amendments as submitted.

Mayor Smith asked how many RM zones we had. Mr. Ward stated that there were three (3) places with RM zones; San Jose Headburg town site, the one on Old Douglas Road and part of Saginaw.

Mayor Smith said that this talks about being allowed in two (2) wards with Old Bisbee being exempt that was basically because it was historic. So, what would happen in Warren when it receives its historic status?

Mr. Hanson, City Attorney said it was more a choice that the Planning and Zoning Commission made especially given the esthetic requirements. The Design Review Board requirements you would have a very tough time as a practical matter to get a manufactured / rehabilitated home in Old Bisbee.

Mayor Smith said if we pass this we then have to come and change it again if Warren received historic status.

Mr. Hanson stated he didn't think anything the Council was doing here tonight will negatively impact the historic district or vice versa.

Councilmember Hansen asked if before Warren becomes an historical district somebody does get a special use permit to put in an alternative lodging park would that be grandfathered in. Mr. Hanson said that any kind of use like that would be grandfathered in. He stated that he didn't know the rules of historic districts well enough to know whether or not it affected the application for the historic district status.

Mark Apel, Planning and Zoning Commission vice-chair said that his understanding of the historic designation was that it was based on contributing buildings that are already there. On top of that if we obtained the historic designation it would have a different cultural flavor and different design flavor than what was in Old Bisbee. It was a different historic era. It was an era that allowed for vintage RV's and little motels and possibly a version of a tiny home in that timeframe. It wouldn't necessarily be out of character for the commission or the Council to approve one if it was presented to the city in a way that appealed our cultural historians. He didn't feel the approval of this would impact the designation.

Councilmember Hansen had concern that we were doing this the right way if you wanted to do an alternative lodging she thought that should be regulated as a trailer park. She didn't understand where tiny homes came in. Why was that a concern?

Mr. Apel stated that when the commission was deliberating first they talked about RV's and travel trailers parks. Then they talked about manufactured homes and tiny homes which do come in on wheels there are portable tiny homes they have to meet state standards in terms of transferring them back and forth.

They learned that there were a huge variety of housing options for people out there. As a progressive city that wants to be affordable to our service industry and the people that live here. Not just the people who bring in lots of money these maybe options for people if it was done well meaning all public safety

standards. So, rather than putting the burden on us (us being the City) of having to carve out every different kind of use regulation this particular way of doing this puts the onus on the applicant.

Councilmember Hansen asked how camping plays into this. Mr. Apel stated that they would have to come in and convince Planning and Zoning as well as Mayor and Council that their idea was going to work and fit into the neighborhood. This leaves it open for creativity and innovation on the part of the people looking for affordable housing and alternative housing.

Councilmember Hansen said that we needed to take another look at what regulations we are talking about and what would work. Mayor Smith said that would be appropriate discussion for the Council.

Mr. Apel urged Council to look at the definition very carefully it was essentially a contract that the City has with the person who would be proposing it, if they don't have the minimum of those demonstrated in their site plan and application it shouldn't even get past Mr. Ward.

Councilmember Davis commented that he thought it was a good idea to have some affordable homes for people in Bisbee. With the oversights that Mr. Apel and Mr. Ward talked about he didn't think that it was too much of a risk to make these changes. They would be regulated and reviewed by the code officer, Planning and Zoning Commission and ultimately by the Council before they would come into play.

Councilmember Dunn said that he was the Council liaison for the Planning and Zoning Commission and wanted to commend staff and the Planning and Zoning Commission in terms of their work. He also thanked the County Planning Department for advising them.

Councilmember Dunn asked for a brief definition of what a tiny home was. Mr. Ward stated that the description in the building code was you could go as small as 396 sq. ft. that was with a studio type arrangement with minimum walls it was just a minimal home.

Councilmember Dunn asked if this could be constructed onsite or was this something that was constructed elsewhere and brought in. Mr. Ward stated both.

Councilmember Dunn asked if the inspection done on site would be done by Mr. Ward. Mr. Ward stated, Yes.

Councilmember Dunn wanted to clarify who rehabilitates a mobile home and how was it certified. Mr. Ward stated that it was certified by the State of Arizona the Office of Manufactured Housing (OMH) and that contractors did most of the work.

Councilmember Hansen said that she wasn't against this whole concept, but was concerned about the way we were doing this. She wanted to ensure that we do have that creativity, but was also concerned about the residence and the people in that area that they have the opportunity to talk about it and decide.

Margo McCartney, Bisbee resident requested that the Blue Moon Bungalows be excluded from this.

Mayor Smith opened the Public Hearing.

- Mayor Smith 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.
- Mayor Smith asked if there was a member in the public that would like to speak in opposition of this item.

- Ms. McCartney spoke regarding her objection of the ordinance for the way it was written it should exclude the Blue Moon Bungalows.

- A citizen spoke in opposition of this item.

- Mayor Smith 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 Smith closed the Public Hearing.

Councilmember Cline stated we do need affordable housing here and thought that the tiny homes were great. Her concern was for the rehabilitated mobile homes she didn't feel she got a good definition of that. The concerns about alternate lodging and moving a park where nobody else wanted it really bothered her. She felt there were so many unanswered questions here and would like to have this discussed further in a work session.

Councilmember Hansen stated there were a lot of questions we need to go into more depth. She would like to table this and have a work session.

Councilmember Davis agreed that it would be appropriate to table this and have a work session. He didn't see this affecting the historical designation of Warren.

Councilmember Higgins stated that there was a need for affordable housing here. He understood there was some concern and if Council wanted a work session he was for it.

Councilmember Dunn said that he was comfortable with moving forward right now and felt that the mention of exclusion of Historic districts should be deleted entirely. He thought all areas of Bisbee should have the opportunity to be explored for innovative housing.

Councilmember Lindstrom stated he agreed with Councilmember Dunn. He felt that the Planning and Zoning Commission put a lot of thought into this and didn't think it was always up to the Council to change it. He felt that tiny homes were a big thing now. We need to agree with our commissions.

Councilmember Davis said that if we did take out the exclusion of Historic districts he would go along with taking it out. We do need creativity and this would simplify things.

Mayor Smith indicated that he would really want to stand behind the hard work of our boards and commissions however, even Councilmember Dunn who was talking about wanting to move forward on this has an amendment. That causes a little pause that perhaps we do need to answer a few of these questions in open dialogue with the Planning and Zoning Commission and move forward on this. He thanked the Planning and Zoning Commission for their hard work.

MOTION: Mayor Smith moved to table pending a work session.

SECOND: Councilmember Hansen

Councilmember Higgins said that he was ready to vote on this issue but now we should talk about it.

MOTION PASSED: 5/2 -NAYS: Dunn and Lindstrom

7. Public Hearing and Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-17-17, Amending the Zoning Code Article 8.7 to Provide a Permanent Parking Exemption for Existing Commercial Structures and Existing Residential Uses in CM Zone of the Bisbee Historic Overlay Zone

Joe Ward, Zoning Inspector

Mr. Ward said it was the opinion of the Planning and Zoning Commission that it was time to make this permanent. The conditions in Old Bisbee aren't changing, they would stay the same and why revisit this every few years. This passed 6/0 in favor with the Planning and Zoning Commission. Staff recommends that Council pass this also.

Mayor Smith said that this was for those existing structures that are commercial and residential. Mr. Ward stated, Yes. Mayor Smith said that this was simply making this exemption permanent. Mr. Ward said, Yes.

Councilmember Davis said so he understood this was this allowing Mr. Ward to do inspections in all of these buildings as far as the residential. Mr. Ward said "No" this was just regarding the parking.

Mayor Smith stated clearly for the record that this was not for commercial structures that could be built in the future. Mr. Ward said that it was not, it was only for the existing ones we have no control about what they did in the past, but we have control over the present.

Councilmember Dunn questioned what Mr. Ward was indicating that this only applied to existing structures. His feeling was that it had been applied to the Bisbee Brewing which was built on a vacant spot with a new structure and it was exempt from parking. It could have been a condition that was added with rezoning; he had no part of that so he wasn't sure.

Councilmember Dunn requested clarification on that, when this was first passed referenced specifically to that business. Mr. Ward stated that it was before his time and he didn't know anything about that.

Councilmember Dunn asked about existing structures, does that mean then as the case with Bisbee Brewing since there was something already there you would have permission to expand. Mr. Ward stated that this was only for existing structures not additions to the structures and so on.

Councilmember Dunn stated he would like further investigation on that. He was comfortable with this if it only applies to the existing structures.

Mayor Smith stated that phone calls had come in about specifically the parking lot with a potential that a hotel could be built. It was believed that this was some type of a work around to provide the owner of that particular piece of property the ability in the future to come forward and say you did it for all the others. The point was there was an existing structure on that parking lot right now. The questions was, Council assured right now that there isn't a loop hole that would be deemed a structure that could be improved upon and there by parking allowed.

Mr. Ward stated that they would not be able to build a hotel based on there being a portable building sitting on the dirt. If you were to call it an addition it would be hard to say that you were adding to that shack. Mr. Ward also stated that this was not done for them this was done on a semi regular basis. The only reason they purposed doing this was why keep renewing this when it was permanent and renewed all the time. He stated passing this would not allow anyone to build a hotel in the gateway parking lot without having the parking as it was agreed.

Mr. Hansen, City Attorney said that the Council had already passed an ordinance rezoning that parcel with several conditions one of which they have to comply with all the parking requirements in the zoning code; no exemptions.

Mayor Smith opened the Public Hearing.

- Mayor Smith 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.

- Mayor Smith asked if there was a member in the public that would like to speak in opposition of this item.
- Mayor Smith 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 Smith closed the Public Hearing

Councilmember Dunn stated that he was ready to vote yes on this and had a very strong concern however with the potential for development. He felt that we had to address parking issues in downtown Bisbee.

MOTION: Councilmember Davis moved that we approve the Notice of Intent to Adopt Ordinance O-17-17, Amending the Zoning Code Article 8.7 to provide a permanent parking exemption for existing commercial structures and existing residential uses in CM Zone of the Bisbee Historic Overlay Zone.

SECOND: Councilmember Higgins

ROLL CALL VOTE:

AYES: Councilmember Cline, Hansen, Davis, Higgins, Dunn, Lindstrom, and Mayor Smith

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

8. Public Hearing and Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-17-18, Amending the Zoning Code Article 3.6.1 to insert a reference to the Current International Building Code instead of the Uniform Building Code.

Joe Ward, Zoning Inspector

Mayor Smith stated that this was a housekeeping situation. We were under the "I" Code and not the Uniformed Code.

Mayor Smith opened the Public Hearing.

- Mayor Smith 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.
- Mayor Smith asked if there was a member in the public that would like to speak in opposition of this item.
- Mayor Smith 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 Smith closed the Public Hearing

MOTION: Councilmember Dunn moved to approve the Notice of Intent to Adopt Ordinance O-17-18, Amending the Zoning Code Article 3.6.1 to insert a reference to the current International Building Code instead of the Uniform Building Code.

SECOND: Mayor Smith

ROLL CALL VOTE:

AYES: Councilmember Cline, Hansen, Davis, Higgins, Dunn, Lindstrom, and Mayor Smith

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

9. Public Hearing and Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-17-19, Amending the Zoning Code Matrices to Conform them to the text of the Zone Code.

Joe Ward, Zoning Inspector

Mayor Smith stated that this was a nice easy way to look at how the zoning was laid out and what was allowed on that signified by “X’s”.

Mayor Smith opened the Public Hearing.

- Mayor Smith 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.
- Mayor Smith asked if there was a member in the public that would like to speak in opposition of this item.
- Mayor Smith 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 Smith closed the Public Hearing

MOTION: Councilmember Dunn moved to approve the Notice of Intent to Adopt Ordinance O-17-19, Amending the Zoning Code Matrices to Conform them to the text of the Zoning Code.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Cline, Hansen, Davis, Higgins, Dunn, Lindstrom, and Mayor Smith

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

10. City Manager's Report:

- 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.):

MOTION: Councilmember Higgins moved to adjourn the meeting.

SECOND: Councilmember Davis

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 8:41PM

David M. Smith, Mayor