

**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 5, 2021 AT 7:00 PM VIA ZOOM.

THE MEETING WAS CALLED TO ORDER BY MAYOR BUDGE AT 7:01PM.

**ROLL CALL**

**COUNCIL**

Councilmember Louis Pawlik, Ward III  
Councilmember Joni Giacomino, Ward II  
Councilmember Frank Davis, Ward I  
Mayor Ken Budge  
Councilmember Leslie Johns, Ward I  
Councilmember Joan Hansen, Ward II       Excused  
Councilmember Anna Cline, Ward III, Mayor Pro Tempore

**STAFF**

Theresa Coleman, City Manager  
Ashlee Coronado, City Clerk  
Keri Bagley, Finance Director  
Jesus Haro, Public Works Director  
Jason Macoviak, Library Manager

**CITY ATTORNEY**

Joseph Estes

INVOCATION: Mayor Budge said that January was Firefighters Cancer Awareness month. He thanked them and all the first responders working through this pandemic. He asked for a moment of silence for our first responders and public safety.

**PLEDGE OF ALLEGIANCE**

**MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:**

- Mayor Budge announced how letters from the public would be handled. He said that although he would like to read every letter submitted, we have time restraints. He has requested that all comments be submitted by noon on the Tuesday of the meeting. He will go through them and if there are a lot of the same he would choose some to read. He wanted to ensure that everyone was recognized and their names would be read.

**CALL TO THE PUBLIC**

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 \$256,730.47.

SECOND: Councilmember Davis

Mayor Budge asked about the charge for the Power Cell. He requested more information on that.

Mr. Haro responded that it was a solar powered generator for the Christmas Tree on the Circle. It could be used for other purposes throughout the City.

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Appointment of Cynthia Conroy to the Streets and Infrastructure Committee.

Ashlee Coronado, City Clerk

- B. Approval of the Liquor License Application for L.A. Engle Jr American Legion Post #16 Located at 1422 Highway 92, Bisbee, AZ; Kendall Mack Tilghman, Applicant.

Ashlee Coronado, City Clerk

MOTION: Councilmember Cline moved to approve the consent agenda item A and B

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Davis, Johns, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES -6 NAYS -0

**OLD BUSINESS**

**NEW BUSINESS**

- 3. Discussion and Possible Approval of a SEAGO (Southeastern Arizona Government Organization) bus voucher sale agreement.

Jesus Haro, Public Works Director

Mr. Haro explained that SEAGO was awarded a grant and they felt the most appropriate way to spend the grant was to purchase bus vouchers. During the last year we had not been charging for bus rides due to Covid. He noted that this agreement values a one-way adult trip at \$2.00, the increase in fee would help cover the cost of administration fees.

MOTION: Councilmember Pawlik moved to enter into an agreement with SEAGO to sell bus vouchers for one-way trips.

SECOND: Councilmember Davis

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Davis, Johns, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES -6 NAYS -0

4. Discussion and Possible Approval of a procedure for approval of Public Events in compliance to Executive Order 2020-59.

Theresa Coleman, City Manager

Ms. Coleman explained that this was similar to the item at the last meeting on Extension of Premises. This item was specific to events larger than 50 people or more, for example the Farmers Market. Going forward anyone who would like a permit for over 50 people would go through this process. Ms. Coleman recommended adding administrative approval to the motion.

MOTION: Mayor Budge moved to approve the procedures for approval of public events in compliance to Executive Order 2020-59 with administrative approval.

SECOND: Councilmember Davis

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Davis, Johns, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES -6 NAYS -0

5. Discussion and Possible Approval to Enter into an Agreement to provide Animal Care Services with the Friends of the Bisbee Animal Shelter.

Theresa Coleman, City Manager

Mayor Budge said that there was nothing in this agreement for utilities for the building. He asked if that was because it was provided before and would be continued.

Mr. Estes responded that had been addressed with their attorney. The concern with including utilities into the agreement was not having any real control or ownership with regard to the cost of the utilities and that they were used wisely.

Councilmember Pawlik said that was his concern with the agreement, there was no mention of City property being made available for shelter operations. He thought it would be appropriate to add that to this contract.

Mr. Estes responded that the agreement did provide for the facility as a defined term in paragraph 2. He also addressed the issue with regard to the utilities. There were no questions or concerns from the Friends of the Animal Shelter's attorney.

Councilmember Giacomino said that this was a 25% cut from their original contract. She understood that we were in dire circumstances, but it would be more fair if there was a 10% cut across the board for all departments. It was going to be even more of a cut if utilities were paid for by the Friends.

Councilmember Johns agreed with Councilmember Giacomino. She felt it needed to be fair across the board and they should receive \$72,000 per year.

Mr. Estes said that the agreement was effective February 1<sup>st</sup> of this year and ended June 30<sup>th</sup> of this year, and it had an automatic renewal for five consecutive years. Mr. Estes said that this contract had been negotiated and had gone back and forth with their attorney. Their attorneys have approved and signed off on this contract with the monthly amount and with the utilities.

Mayor Pro Tempore Cline wondered if we could compromise and make it a 15% cut instead.

Mayor Budge wanted to come to some sort of middle ground. He suggested \$70,000 per year and also to include the utilities.

Councilmember Pawlik thanked the Friends of the Bisbee Animal Shelter for submitting a responsive bid and secondly he thanked everyone for working out an agreement. He wanted to see the Council approve what had been brought to Council by the City Manager.

MOTION: Mayor Budge moved to approve entering into an agreement to provide Animal Care Services with the Friends of the Bisbee Animal Shelter with the amendment of \$5,500 per month for 5 months plus utilities.

SECOND: Councilmember Giacomino

ROLL CALL VOTE:

AYES: Councilmember Giacomino, Davis, Johns, Cline and Mayor Budge.

NAYS: Councilmember Pawlik

MOTION PASSED: AYES -5 NAYS -1

- 6. Discussion and Possible Approval of a Professional Services Agreement for a Historic Building Structure Report between the City of Bisbee and Poster, Mirto, McDonald Architecture Planning Preservation.

Jason Macoviak, Library Manager

Mr. Macoviak explained that they were impressed with their proposal and work throughout the state. They included a historic overview of the property which was exciting. Mr. Macoviak said that 6 proposals had been received and that was narrowed down to 2. Those two companies were interviewed and Poster, Mirto, McDonald was selected.

MOTION: Councilmember Davis moved to approve the Professional Services Agreement for a Historic Building Structure Report with Poster, Mirto, McDonald.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Davis, Johns, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES -6 NAYS -0

- 7. Discussion and Possible Direction to City Attorney regarding preparation of a Zoning Code amendment related to Recreational Marijuana.

Joe Estes, City Attorney

Mr. Estes explained that there were three basic recommendations that come out of a working group with the League. He said that no licenses had been issued yet and that won't happen until later this month. The rules and regulations had not been finalized. This raised the question of how the City would like to regulate recreational marijuana facilities. There were some cities who banned it altogether. The second way would be to regulate the facilities and require them to be dual licensees, having to have a medicinal marijuana license to operate a recreational license. The third would be to allowing facilities to operate without the medicinal license. Mr. Estes said he brought this to Council so they could have discussion as to how to address this new law to the zoning regulations we had.

Councilmember Giacomino said that we would be shooting ourselves in the foot if we didn't take advantage of the potential tax revenue that could be generated off of these businesses within our city limits.

Councilmember Davis agreed with Councilmember Giacomino. He said that it was typically done through the medical marijuana facilities and that may be a way for us to start.

Councilmember Johns also agreed. She said we depended on those dollars and needed the revenue.

Mayor Budge said that if people wanted to come here and buy; it would help the tax revenue drain that goes to Sierra Vista.

Mr. Estes said that he would prepare something and get it back to Council. It would also go before Planning and Zoning for their recommendation to Council.

#### NO ACTION TAKEN

#### 8. Possible Approval of a motion to go into Executive Session for the following matters:

1. An executive session pursuant to A.R.S. § 38-431.03(a)(3) for discussion or consultation with the city attorney to provide legal advice on a notice of claim from Nolan Gouguet.
2. An executive session pursuant to A.R.S. § 38-431.03(a)(3) for discussion or consultation with the city attorney to provide legal advice on a lawsuit filed by Christianne Bovee.
3. An executive session pursuant to A.R.S. § 38-431.03(a)(3) for discussion or consultation with the city attorney to provide legal advice on an employment claim filed by Ramon Borbon.
4. An executive session pursuant to A.R.S. § 38-431.03(a)(3) for discussion or consultation with the city attorney to provide legal advice on a notice of claim from Carolyn Sue Harris.

***Per ARS § 38-431.03(A3)(A4), the City Council may vote to go into executive session for discussion or consultation for legal advice with the attorney or attorneys of the public body and for Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.***

Joseph Estes, City Attorney

MOTION: Councilmember Pawlik moved to enter into Executive Session for the purpose of discussion and consultation with City Attorney to provide legal guidance on pending matters per ARS § 38-431.03(A)(3) and (A)(4).

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Cline moved to come out of Executive Session

SECOND: Councilmember Giacomino

MOTION PASSED: UNANIMOUSLY

#### 9. City Manager's Report:

- Other Current events (No Discussion) – Ms. Coleman informed the Council that two memorandums would be going out to employees. The first regarding proposition 207, recreational marijuana in the work place. This would reiterate to employees that our drug and alcohol policy was still in effect. The second was on the Family First Covid Response Act for sick leave. The City was not eligible for reimbursement on this. This had expired at the end of the year. Employees would be allowed to use their Extended Illness Bank.

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.):

ADJOURNMENT:

MOTION: Councilmember Davis moved to adjourn the meeting.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 8:32 PM

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Ken Budge, Mayor