

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, MARCH 21, 2017, AT 7:00 PM IN THE BISBEE MUNICIPAL BUILDING, 118 ARIZONA STREET, BISBEE, ARIZONA.

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

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 Arrived at 7:03PM

STAFF

Ashlee Coronado, City Clerk

Keri Bagley, Finance Director

Andy Haratyk, Public Works Director – Acting City Manager

Albert Echave, Police Chief

Marc Burneleit, Fire Chief

CITY ATTORNEY

Britt Hanson

INVOCATION: Mayor Smith asked for a moment of silence to think of what we could do to make the world better.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Smith read the Water Wise Proclamation and presented it to Mary Ann Capehart from University of Arizona Water Wise program.
- Mayor Smith presented the Employee of the Month award to Nina Williams.

CALL TO THE PUBLIC

- Leslie Lambert, Bisbee resident spoke about the City's recycling system and the standards of the recycling program. She had noticed that the recycling bins are piling up and wondered what could be done to help the situation. She didn't want the City to be dependent on the use of inmates for labor.
- Margo McCartney, Bisbee resident requested that the Council discuss a requirement for any Special Event planning to include a shuttle from the Pit to downtown. She was a business owner and when there are events there was no parking available. People from Old Bisbee are not able to do anything downtown during events because there was no parking. There was no reason that people could not park at the Pit and be shuttled. She offered her help to work on this, it was a huge problem.

- John Viverto, Naco resident spoke about the possibility of Naco being annexed to the City being explored that he had read about in the paper. He hadn't seen any other information on the plan. He had hoped that a committee be formed to talk about this. He offered his services.

THE FOLLOWING ITEMS WERE BE 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 the accounts payable in the amount of \$260,386.03

SECOND: Councilmember Dunn

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda
 - A. Approval of the Minutes of the Regular Session of the Mayor and Council held on February 7, 2017 at 7:00PM.
Ashlee Coronado, City Clerk
 - B. Approval of the Minutes of the Regular Session of the Mayor and Council held on February 21, 2017 at 7:00PM.
Ashlee Coronado, City Clerk
 - C. Approval of the Minutes of the Regular Session of the Mayor and Council held on March 7, 2017 at 7:00PM.
Ashlee Coronado, City Clerk
 - D. Approval of the Minutes of the Work Session of the Mayor and Council held on January 11, 2017 at 5:30PM.
Ashlee Coronado, City Clerk
 - E. Approval of the Minutes of the Work Session of the Mayor and Council held on January 31, 2017 at 5:30PM.
Ashlee Coronado, City Clerk
 - F. Approval of the Minutes of the Work Session of the Mayor and Council held on February 28, 2017 at 5:30PM.
Ashlee Coronado, City Clerk
 - G. Approval of the Appointment of Alice Hamers to the Police and Fire Advisory Committee with a Residency Waiver.
Ashlee Coronado, City Clerk
 - H. Approval of the Appointment of Sarah Rose to the Evergreen Cemetery Committee.
Ashlee Coronado, City Clerk
 - I. Approval of the Special Event Liquor License Application submitted by the Central School Project for an Event to be held at Central School, 43 Howell Ave., Bisbee, AZ on Saturday, May 6, 2017 from 5:00PM to 11:00PM, Laurie McKenna, Applicant.
Ashlee Coronado, City Clerk

- J. Approval of a Liquor License Application for Bisbee Beverage & Liquor Located at 1202 W. Highway 92, Bisbee, AZ; Jack Linden, Applicant.
Ashlee Coronado, City Clerk

Councilmember Higgins requested to pull item G from the Consent Agenda.

MOTION: Councilmember Cline moved to approve items A-F and H-J from the Consent Agenda.
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

Item 2G . Approval of the Appointment of Alice Hamers to the Police and Fire Advisory Committee with a Residency Waiver.

Ashlee Coronado, City Clerk

Councilmember Higgins said that he had pulled this item during the last meeting because he had a few questions. He said that the application says that she lives in McNeal, but Bisbee was where she does her socializing, shopping and attends some Council meetings and meetings with the City Manager. Councilmember Higgins said that normally waivers are given to those that have a connection to the town or an area of expertise. He was concerned that her application stated that she was deeply concerned about the strange relationship between law enforcement and the community. He said that he thought very highly of the Police Department and their model was community policing and he didn't think there was a strange relationship between officers and the community. He said that during the StoneGarden hearing a couple of years ago, Ms. Hamers testified to be against it due to the militarization of the boarder. He explained that the StoneGarden program had been extended for another year. This gives our officers an opportunity to make a little extra money funded from the Federal Government.

Mr. Hamers said she does live in McNeal, but she spends a lot of time here in Bisbee. She was a political activist and she was fair. Most communities have citizen input into the Police Department. She was not interested in pushing her agenda; she was interested in the community. When someone steps forward to volunteer why not accept it.

MOTION: Councilmember Dunn moved to approve Consent Agenda Item G.
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

OLD BUSINESS

3. Discussion and Possible Approval of the Mental Health Section of the Bisbee Police Department Manual and Implementing it into the Bisbee Police Department's Manual that was Approved.
Lauri Owen, City Attorney

Chief Echave explained that they were coming back with the Mental Health Section of the Police Manual. After reviewing the Manual with City Attorney Lauri Owen there were two small wording corrections made. They were now requesting approval.

Judy Lutgring, Bisbee resident explained that she had been a Public Defender for many years and knew that ugly things are done to people and that there were three sides to every story. She said that we don't know about what we don't know about. She was very passionate about mental health issues. She appreciated Chief Echave taking the time to meet with her this past week. She requested that community policing policy be enforced because there were other changes that needed to be made.

Tom Reardon, Co-Chair of the Bisbee Homeless Taskforce, gave some history into the Homeless Taskforce. He said during the Taskforce existence which included over 50 volunteers, the last deliverable was the Taskforce recommendation to the mental health section of the Bisbee Police Departments Manual. He said that of March 15th Taskforce members, Donna Pulling, Judy Lutgring, and he met with Chief Echave and Lauri Owen to encourage adoption of the Taskforce recommendations. This meeting failed to resolve the Taskforce's concerns over the mental health section. However, several members of the Taskforce are now associated with the Healthy Community Initiative driven by the Cochise County Department of Health and Human Services. This would include the examination of systemic issues related to mental health and substance abuse. This examination would also include the local nexus between law enforcement and mental health best practices. He strongly encouraged that Mayor and Council consider future recommendations from the Cochise County Department of Health and Human Services to improve procedures and interactions with mentally ill persons.

Councilmember Hansen thanked Mr. Reardon for his words. This was a start. We would be able to gradually look into what else needed to be put into the manual.

MOTION: Councilmember Higgins moved to approve the Mental Health Section of the Bisbee Police Manual and implementing it into the Bisbee Police Department's Manual.

SECOND: Councilmember Davis

MOTION PASSED: UNANIMOUSLY

NEW BUSINESS

4. Discussion and Possible Approval of the City of Bisbee Credit Card Use Policy and Travel Policy.

Keri Bagley, Finance Director

Mrs. Bagley explained that this Policy was a recommendation from the Auditors. This was pieced together with the State of Arizona Accounting manual along with input from the Department Heads.

Mayor Smith said that this was an attempt for more transparency. This was a policy that was easy to follow.

Councilmember Hansen said that as a federal employee for many years she was very familiar with these types of policies, Mrs. Bagley did a very good job putting this together. It was very easy to understand.

MOTION: Councilmember Dunn moved to approve the City of Bisbee Credit Card Use Policy and the Travel Policy.

SECOND: Councilmember Cline

MOTION PASSED: UNANIMOUSLY

5. Discussion and Possible Approval of a \$5,000 Mini Grant Partnership Agreement from SEAGO for a Voucher Program for the Bisbee Bus.

Andy Haratyk, Public Works Director

Mr. Haratyk explained that approval of this mini grant would supply 200 bus passes to the homeless/ low income at no cost to them or the City of Bisbee. People who are unable to prove they are low income would now have a bus pass.

Councilmember Hansen asked how it would be determined who would get the passes.

Mr. Haratyk explained that these would go to those who may not meet the documentation requirement. They would no longer be turned away.

Donna Pulling, Bisbee resident said that this was a result of the work of the Homeless Taskforce. Randy Heiss the Director of SEAGO, sat on the taskforce. He saw that there was a need and said that he could possibly help. People may not have a diagnosed disability, and therefore could not get a pass. Now they could.

MOTION: Councilmember Hansen moved to approve the \$5,000 Mini-Grant partnership agreement from SEAGO for a Voucher Program for the Bisbee Bus.

SECOND: Councilmember Davis

MOTION PASSED: UNANIMOUSLY

6. Discussion and Possible Approval of Resolution R-17-02 Approving a 5 Year Lease with the United States Postal Service for the Facility in Old Bisbee at a Rent of \$58,405 per year.
Britt Hanson, City Attorney

Mr. Hanson explained that almost a year ago the City of Bisbee was approached by the leasing agent for the US Postal Service to renew the lease that expires in December of 2017. The initial proposal from the leasing agent was for the same amount in rent of \$46,000 per year. After many discussions a rent was negotiated at \$58,405 per year, this was a five year contract.

MOTION: Councilmember Higgins moved to approve Resolution R-17-02 Approving a 5 year lease with the United States Postal Service for the Facility in Old Bisbee at a Rent of \$58,405 per year.

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

7. Discussion and Possible Approval of a Ground Lease and Transition Agreement with Freeport for the Mine Tour Facility.
Britt Hanson, City Attorney

Tom Wheeler, Bisbee resident gave some history into the Mine Tour. He stated that former Mayor Chuck Eads started the Queen Mine Tour in 1975. The revenues went into the City coffers. The City was facing some tough times and has always been a big help in hard times. Everyone knows we are in trouble right now and he didn't see giving the revenue up right now. He didn't want to see the City give this up.

Mr. Hanson explained that there were two parts to this agreement. The lease renewal was the same as the old lease. The only differences were Freeport wanting to tighten up some safety issues, such as calling for Mine inspections and another training program for employees. The part that had generated more discussion was the part of the lease that calls for the eventual transition of the Mine Tour from the City to a Foundation with a board to be made up of members of the City Council members, Freeport members and members of the public. Those terms have not been decided. He said that one thing that was not part of the agreement but Freeport very much understood that when a transition did occur employees would not be affected.

Councilmember Lindstrom said that the new safety measures were not discussed during the Work Session. He said that the age limit of 6 years old to enter the Mine Tour seemed odd.

Mayor Smith said that that specific item was negotiated with Freeport. It had a lot to do with safety.

Mr. Hanson said that they tried to eliminate the age limit and Freeport would not budge past the 6 year old age limit.

MOTION: Councilmember Lindstrom moved to table this agenda item until the next council meeting.

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Cline and Lindstrom

NAYS: Councilmember Hansen, Davis, Higgins, Dunn and Mayor Smith

MOTION FAILED: AYES -2; NAYS -5

MOTION: Councilmember Davis moved to approve the Ground Lease Transition Agreement with Freeport Minerals Corporation for the Mine Tour Facility.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

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

NAYS: Councilmember Cline and Lindstrom

MOTION PASSED: AYES -5; NAYS -2

8. Discussion and Possible Action regarding sending a Letter to Huachuca City Town Council offering to take over Sponsorship of Camp Naco.

David M. Smith, Mayor

Mayor Smith said that this item came up several years ago and it fell into a problem area where it would ultimately be abandoned and lose it and its history. The only place that stepped up was Huachuca City. He then turned the presentation over to Becky Orozco.

Ms. Orozco explained that this property was owned by the Newell Family at the time of their purchase it was thought that Phelps Dodge would build their smelters on the property but ultimately built them in Douglas. She went on to give some history of Camp Naco. She explained that in 1910 the Mexican Revolution began and Naco became the primary focus because people could cross the border and obtain the supplies they needed for the revolution. Three major battles took place in Naco, Sonora. The final one was the longest battle of the revolution that went on for 119 days. A temporary tent camp was built at that time. In 1919 following the war, the US Government decided to make the post permanent. Naco was the only post built out of adobe and is the only post that was still standing. By 1924 the US no longer needed the post and it was given back to the Newell family. The Newell family again leased the Camp to the US Government as a CCC Camp in the 1930's. The US Government kept control of the Camp until after World War II. In 1950 it was turned back to the Newell Family. The Newell Family moved into the hospital building and rented out other buildings to families. The Newell family then sold it to Vision Quest. It sat abandoned until Ms. Orozco decided to get involved in restoration. She spoke about fires that took place at Camp Naco. Huachuca City saved Camp Naco. She then talked about the Naco Heritage Alliance and that they had obtained \$600,000 in grants that had fenced the site, mitigated the asbestos and completed the Master Plan. They want a long term idea for the Camp. Huachuca City would like to turn the Camp over as long as there was a guarantee of preservation.

Mayor Smith said that the fiscal impact would be insurance and electricity. He said he and Mr. Marsh had talked to the insurance carrier and it would not increase our insurance at all. The electricity would run about \$800.00 per year.

Councilmember Higgins asked if the City was to take this over would we promote this as a tourist destination or what would the City use it as.

Ms. Orozco replied that there were 4 different scenarios one of which was supporting tourism. She said the others were for Art and retail space, rehab the small housing as long term low income housing/ rental property for vacation rentals or a library or community space. All of the ideas could be combined.

Councilmember Cline asked if we were guaranteed that the amount would not exceed \$800.00 per year.

Mayor Smith responded that APS could raise the rates at any time.

MOTION: Councilmember Lindstrom moved to send a letter to Huachuca City Town Council offering to take over Sponsorship of Camp Naco.

SECOND: Councilmember Higgins

MOTION PASSED: AYES:6 NAYS: 1

9. Discussion and Possible Motion regarding a Special Action by Emily Anderson, Carole and Dan Beauchamp, et.al. V City Board of Adjustment Regarding Trailers at 205 Douglas Street.

Pursuant to A.R.S. § 38-431(A)(3) and (A)(4), the Council may go into executive session for legal advice with the attorney of the public body and to consider its position and instruct its attorney regarding the public body's position regarding pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation

Britt Hanson, City Attorney

Angelina Smith said that she was here to encourage the City to address the suit, because someone's live was in the balance.

Richard Obenchain, said that he owns the property at 205 Douglas Street. He said that he and his partner bought the property back in 2001. They purchased the property with the idea of supporting their retirement. Besides his social security the rent he receives from this property was his only income. He asked that Council address this suit and not let it go. It would deprive two women of their homes and deprive him of his income. The suit would be easy to win. He asked the City to please consider this and he thanked everyone for their support.

Tom Wheeler said that he attended the Board of Adjustment (BOA) meeting. He spoke in support of the trailer. The reason for the BOA was to take decisions out of the political agenda. The Board decision was unanimous and Council should support it.

Kenny Stewart, spoke in support of the trailer. He said that it supports the tourist industry.

William Arlt, he was glad to see the City had a Board of Adjustment. The members were very competent. He was bothered that the City would overturn the BOA's decision. He said that he was here in support of the BOA. He then referred to a case that occurred in the City of Phoenix. Was the City prepared to set the precedence of not supporting the local BOA.

Ann Morey spoke in support of the Board of Adjustment.

Jennifer Schmidt, said that she lived in the blue trailer across from the yellow trainer. She wanted to show respect but respect had not been shown to her. Her character as a person had been attacked. She had been reported to the City for illegal activity. All these things had a negative effect on her. This whole thing needed to stop. The City needed to support the BOA.

Kelly Humphrey said that our economy was fueled by people seeking out nostalgia. Tiny homes and repurposed trailers offered sustainable choices because they are an economically viable alternative to traditional homeownership and to those who choose to live in a smaller carbon footprint. Bisbee should be the forefront of the Tiny Home Movement. She urged the Council to support the BOA.

Ed Smith explained that there has been a lot of talk about the legality of the mobile home. He wanted the Council to uphold the BOA. He did not want the City to default on the judgment. It would cost us nothing. We pay a flat rate for attorneys. He said that he spoke to former Mayors and they confirmed that the City had never defaulted on a lawsuit. If the City defaults they would be negating the BOA, depriving a property owner of the right to use his property and evict two single women of their homes.

Kristine Gale said that she was the owner of the trailer at 205 Douglas St. She asked that the City back the BOA.

Cynthia Conroy said that tonight the Council would vote on an item that had political, moral and financial ramifications. She explained some history on the property. She requested that the City consider responding to the law suit. She said that this had always been a mobile home park.

Dan Simonis felt that these trailers add to the perception of what it means to live in Bisbee. They will not lower property values, they will raise them. These trailers are the spark that will revitalize Warren to the next level.

David Rose came to the City of Bisbee because of things like the trailers and Shady Dell. It was important that the Council support the BOA. They are not an eye sore. We win awards because Bisbee has "Eye Candy" like these trailers. He urged the Council to support the BOA.

Mr. Hanson explained he would ultimately recommend going into executive session on this item. He also gave history into the uses and the Notice of Violation. He said that 23 people had filed a Special Action in court. He said that the BOA was a quasi-judicial body. He said they decide cases like a judge. He explained that there were comments made about what the Zoning Code should be, not what it was. He said that the attorney had drawn up a memo stating the laws and facts they also advised the BOA during the hearing that the trailer was not allowed at 205 Douglas under the facts. They would not be able to represent the City in a lawsuit. The City would have to obtain outside council.

MOTION: Councilmember Higgins moved to enter into Executive Session.

SECOND: Councilmember Davis

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Hansen moved to come out of Executive Session

SECOND: Councilmember Cline

MOTION PASSED: UNANIMOUSLY

MOTION: Mayor Smith moved to table this matter until the next regular session of Mayor and Council.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

Mr. Hanson said that there was possible non litigation resolution to this that would be discussed with the property owner and the attorney representing the litigants. There may be another way to resolve this.

10. City Manager's Report:

- None

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.):

NONE

MOTION: Councilmember Higgins moved to adjourn the meeting.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 9:54PM

David M. Smith, Mayor