

This meeting was closed to the public due to Covid19

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, APRIL 21, 2020 AT 7:00 PM AT THE CITY HALL BUILDING, 915 S. TOVREAVILLE ROAD, BISBEE, ARIZONA.

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

ROLL CALL

COUNCIL

Councilmember Louis Pawlik, Ward III, Mayor Pro Tempore
Councilmember Joni Giacomino, Ward II Excused
Councilmember Bill Higgins, Ward I
Mayor David M. Smith
Councilmember Leslie Johns, Ward I
Councilmember Joan Hansen, Ward II
Councilmember Anna Cline, Ward III

STAFF

Theresa Coleman, City Manager
Ashlee Coronado, City Clerk
Joelle Landers, Personnel Director

CITY ATTORNEY

James Ledbetter

INVOCATION: Mayor Smith asked for a moment of silence to reflect on the ongoing situation in our City, County, State and World.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Smith informed the Council that the new stimulus bill passed today excludes our town and others from being reimbursed for the extra expenses in relation to the Covid 19 situation. He explained that he along with other Mayors would be continuing to lobby for this.
- Mayor Smith gave an update on Covid 19 numbers. He said right now we were still listed as having no cases in the 85603 ZIP Code. He said to act like it was here in Bisbee and please take the proper precautions.

CALL TO THE PUBLIC - Public Comments were submitted by email and read aloud by Joelle Landers due to social distancing requirements.

- Meggen Connolley encouraged Council to reopen the farmers market. She also said that it was in the city's best interest to develop a food resiliency plan. She also requested that Council eliminate fees that the farmers market has to pay to the City. She suggested that the Council look into the possibility of contracting a professional grant writer to assist in grant writing on an as-needed basis.
- Fred Miller urged Council to vote against putting the 1% TPT raise onto the ballot. He explained that there was not enough information on this item to move it forward. He requested that this wait until the budget talks.

- Jackie Watkins, encouraged Council to pass the right-of-way use permit for the Bisbee Farmers Market at the Vista Park. She said that the Covid 19 risk to residents was no greater or less than shopping at any business that was still open to the public.
- William Crow, commented on the agreement for Airport Operations Manager and Maintenance Services. He encouraged Council to consider requiring training for anyone designated as an Airport Operations Manager.
- Jeff Harris, spoke on item number 14. He said that all Mayor and Council had to do to avoid such litigation would have been to timely comply with their duty to hear and consider the appeal submitted by Pulling and Harris.

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 \$275,173.34.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Minutes of the Regular Session of Mayor and Council held on March 17, 2020 at 7:00 pm.

Ashlee Coronado, City Clerk

MOTION: Councilmember Pawlik moved to approve the consent agenda items 2A

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

OLD BUSINESS

NEW BUSINESS

3. Public Hearing and Discussion and Possible Approval of Resolution R-20-10; Regarding the Community Development Block Grant Set-Aside Funds for Fiscal Year 2019-2020 to Select a Project and Submit Application.

Theresa Coleman, City Manager

Mayor Smith opened the public hearing. He asked Ms. Coronado if she had received any communication in favor or in opposition of this item.

Ms. Coronado responded, No.

Mayor Smith closed the public hearing.

Ms. Coleman explained that Keith Dennis from SEAGO had been assisting the city with the colonias set-aside funds for you specifically in the Tintown neighborhood. This was an existing Colonia within the City of Bisbee. She said that Phase 3 of the Storm Water Project was already engineered, ready to go and could be applied for right away.

MOTION: Councilmember Hansen moved to approve Resolution R-20-10 and select the project Tintown Phase 3 to be submitted for the Community Development Block Grant Set-Aside funds FY 2019 – 2020.

SECOND: Councilmember Pawlik

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

- 4. Discussion and Possible Approval of Resolution R-20-07; Designating the Saginaw Neighborhood as a Colonia.

Theresa Coleman, City Manager

Ms. Coleman explained that we were seeing many advantages to having Colonia neighborhoods and having access to funds that have been set aside for them. These funds were available to the four counties served by SEAGO. We would be able to use this program to do improvements in other neighborhoods. Ms. Coleman also addressed the next resolution for Zacatecas Canyon. If approved these applications would be submitted to the state tomorrow.

MOTION: Councilmember Johns moved to approve Resolution R-20-07; Designating the Saginaw Neighborhood as a Colonia.

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

- 5. Discussion and Possible Approval of Resolution R-20-08; Designating the Zacatecas Canyon as a Colonia.

Theresa Coleman, City Manager

MOTION: Councilmember Hansen moved to approve Resolution R-20-08; Designating the Zacatecas Canyon as a Colonia.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

- 6. Discussion and Possible Approval of a Park, Facility, and Right-of-Way Use Permit for the Bisbee Farmers Market for the use of Lower Vista Every Saturday from May 1, 2020 through December 26, 2020 from 7:00AM to 2:00PM; this includes set-up and breakdown.

Theresa Coleman, City Manager

Ms. Coleman explained that it was the time of year to renew this permit and Ms. Smith had given consideration to the current health and safety situation in our City. Ms. Coleman said that she made a few suggestions such as a maximum of 24 patrons at a time, and a separate entrance and exit.

Mayor Smith explained that one of the reasons for shutting the park down was there was no control of ingress or egress. People could come from everywhere. This agreement would help greatly. He requested that an additional clause be added due to issues that had come up in the past. He requested that Council require a clause that no animals will be sold or given away at the Farmers Market unless by a recognized rescue society and the animal must be spayed or neutered.

Councilmember Hansen asked if someone would be monitoring the entrance and exit.

Mayor Smith responded yes that there would be volunteers who would monitor.

Councilmember Pawlik requested clarification on the date the farmers market would be allowed to open. Would it be May 2nd?

Mayor Smith responded that was the intent assuming that we reach the peak of this virus.

MOTION: Councilmember Pawlik moved to approve the park facility and right of way use permit for the Bisbee Farmers Market for the use of lower Vista every Saturday from May 1, 2020 through December 26, 2020 from 7 AM to 2 PM this includes set up and breakdown this is pursuant to the agreement with Laura Smith and the added clause that no animals will be sold or given away at the Farmers Market unless by a recognized rescue society and the animal must be spayed or neutered.

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

7. Discussion and Possible Approval of Resolution R-20-09; Approving Application for and Possible Administration of Grants Written by Volunteer Grant Writers.

Theresa Coleman, City Manager

Ms. Coleman explained that for about a year now there was a resolution in place that allowed volunteer grant writers to write grants for the City, but it was more specific to grant writers for Old Bisbee Firewise. This takes that basic premise but expands it to other needs that the City has.

Councilmember Cline thanked Ms. Coleman for this resolution. This is what they requested during the last meeting.

MOTION: I move to approve Resolution R-20-09; approving application for and possible administration of grants written by volunteer Grant writers.

SECOND: Councilmember Pawlik

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

8. Discussion and Possible Approval of Resolution R-20-05; Submitting to the Electors at the General Election of November 3, 2020, a Proposition to make permanent the Transaction Privilege Tax levied by the voters in 2014 dedicated to Streets and Infrastructure.

Theresa Coleman, City Manager

Ms. Coleman explained that this was part of the request from the last meeting to divide up the two concepts regarding sales tax. This would make permanent the 1% that would otherwise expire in 2023.

Mayor Smith asked if this would still be earmarked for streets and infrastructure.

Ms. Coleman responded that it would not change the purpose for which the voters implemented the tax.

Councilmember Hansen requested clarification on whether these funds would be available to fix streets along with infrastructure that impacts the streets.

Mayor Smith said that was correct.

Councilmember Cline asked why we were doing this now if it did not sunset until 2023. She said that the bed tax would be included on this ballot, and given the fact the situation everyone was in right now we may not even have the chance to continue this tax. She was concerned that all people would see was tax after tax.

Ms. Coleman responded that Councilmember Cline was correct we did have time.

Mayor Smith said unfortunately the time was rather poor with everything going on. We really needed to make sure that this gets done in the future.

Councilmember Pawlik said that this was a very popular tax. He said that unfortunately the timing was bad especially because we would be requesting an additional 1% to cover critical needs. He said after Tombstone Canyon was paved this will become an even more popular tax and have a better chance of being re-established by the voters. He did object to making this tax permanent. He requested that it have a sunset to be able to reevaluate it in the future.

MOTION: Councilmember Hansen moved to delay Resolution R-20-05 until a later date.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

9. Discussion and Possible Approval of Resolution R-20-14, Submitting to the Electors at the General Election of November 3, 2020, A Proposition to Permanently Increase the Transaction Privilege Tax by an Additional One Percent (1%) Dedicated to Essential Services.

Theresa Coleman, City Manager

Ms. Coleman said that the financial impact on this would be \$240,000 because this would go into effect in March. This was a small portion of what was being proposed in the budget at this time. She said that this could also be discussed during the budget sessions.

Mayor Smith said that this item had a timing issue if it was going to be included on the ballot. This needed to be decided on by June.

Councilmember Cline said that she would like to wait until after budget discussions to have a clearer picture. She also requested that it be more specific than essential services. The majority of Council agreed.

MOTION: Councilmember Hansen moved to delay resolution R-20-14 to a later date after budget discussions.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

10. Discussion and Possible Approval of an Agreement for Airport Operations Manager and Maintenance Services.

Theresa Coleman, City Manager

Ms. Coleman explained that the agreement with Mr. Teran had expired and it was good timing to re-evaluate the situation at the airport. It had been discovered that the property required a lot of maintenance. Matt Gurney who is the Operations Manager expressed interest in occupying the property and providing the services that were provided by Mr. Teran.

Mayor Smith asked if any of the job duties would fall within the area that was brought up by Mr. Crow in the comments. He said that this was more of a property manager. Perhaps we didn't want to call him something that may have liability with it.

Ms. Coleman asked if Airport Property Manager would be better. She requested that Council make that part of a motion and we could make that correction.

Councilmember Cline questioned Mr. Gurney's experience in relation to Mr. Crow's comments. She said that if the description was changed it would be okay. Ms. Cline then asked if this was opened up to other city employees. There would be a lot of employees that could benefit from this.

Ms. Coleman said that the initial discussion was with the Police Chief to provide housing for new officers and firefighters, but given the condition of the house at the time it was not habitable.

Councilmember Pawlik asked Mr. Ledbetter for purposes of income tax reporting how would this in-kind agreement be handled or was this something that needed to be considered.

Mr. Ledbetter said that from the City's perspective no, but that would be Mr. Gurney's individual decision that he should be making.

MOTION: Councilmember Pawlik moved to approve the agreement for Airport Property Manager and Maintenance Services.

SECOND: Councilmember Hansen

MOTION PASSED: AYES: 5 NAYS: 1

11. Discussion and Possible Direction to staff to schedule a Work Session for Easements.

Theresa Coleman, City Manager

Ms. Coleman explained that this was a carryover from when our meetings were open to the public. We had a couple of requests regarding easements on the agenda and Council requested a work session before a determination or decision was made. There were folks still interested in obtaining portions of easements. A work session was still appropriate. She requested Council's input.

Mayor Smith said that this was something that was necessary but to be calendared a few months from now. It was important to have the public in attendance.

12. Discussion and Possible Direction to staff to mitigate Sewer Cost and to possibly eliminate late fees and interest on all accounts during the stay at home order.

Theresa Coleman, City Manager

Ms. Coleman said that we had received calls primarily from business owners who were not currently operating but still receiving city bills. The rate study was based on 5000 gallons of usage but it did not break out what portion of the rate covered the infrastructure or what portion covered usage. She explained she completed some research of cities that do charge per thousand gallons and they were charging three dollars per thousand gallons. Our rate was based on 5000-gallon usage which would be a \$15 credit to anyone that was not currently using water. She said we would not be able to eliminate the charge completely. Another mechanism that was used in the past was no charge for interest and late fees. This will allow folks time to get through the disaster.

Councilmember Cline said that she was glad we were doing this, but wished it could be more.

Councilmember Hansen asked if this was either or, or could we do both. She felt we could do both.

Mayor Smith discussed how this would be handled with staff. Mayor Smith also discussed that this would be for those months that were affected and not for the habitually past due people that owe thousands of dollars in penalties and interest. He also requested that this included a timeframe to catch up. Mayor Smith requested that it be brought back with these items clarified.

- 13. Possible Approval of a Motion to go 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)(4)(7) , the City Council may vote to go into executive session 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 and for Discussion or consultation with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property

David Smith, Mayor

MOTION: Councilmember Higgins moved that the Mayor and Council go into Executive Session pursuant to ARS § 38-431.01(a)(4)(7) for the Purpose of Discussion and Consultation with City Attorney to provide legal Guidance on pending matters and real property.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Pawlik moved to come out of Executive Session.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

- 14. Update on the Harris Litigation to include defense costs due from the City.

James Ledbetter, City Attorney

Mr. Ledbetter explained that one of the pending cases involving the City of Bisbee relief was being sought that was not your standard general liability relief. This was being brought against the City of Bisbee with respect to an underlying contractual challenge. He explained that this had been assigned to Southwest Risk. He explained that the invoice in the packet was funds that were due to Southwest Risk, also because this was an equitable relief claim that type of claim was not covered at 100% by our policy. Mr. Ledbetter explained the percentages that the City of Bisbee would be billed for. The status of this case was in appeal status. He went on to explain that the City would in fact receive another bill on this.

- 15. Discussion and Possible Approval of a Notice of Intent to Adopt Ordinance O-20-06, Authorizing the Acquisition or Exercise of Interest in Real Property Located within the City of Bisbee.

Theresa Coleman, City Manager

Ms. Coleman explained that the city had sewer and garbage liens on several properties within the city. In some cases, there were two or three liens because bills had gone unpaid for quite some time. She said that she would like to start pursuing an avenue by which we either foreclose on the liens we have or work with the other lienholders to acquire an interest in the property many of which were vacant. She would then come to the Council with an Ordinance to take ownership of the real property. That property would then be used as affordable housing initiatives within the City.

MOTION: Councilmember Johns moved to approve the Notice of Intent to adopt Ordinance O-20-06, authorizing the acquisition or exercise of interest in real property located within the City of Bisbee.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

16. Discussion and Possible Approval of Notice of Intent to Adopt Ordinance O-20-07, Authorizing the Acquisition of Real Property Located within the City of Bisbee.

Theresa Coleman, City Manager

Ms. Coleman explained that she had been working with the Chief of Police and had discussions with the Fire Chief regarding housing for newly hired firefighters and police officers. Affordable rentals was a bit of a challenge. They were currently looking for real estate that may be suitable for housing them. One piece of property was located at 121 Ft. Huachuca Lane. This property was currently available and up for auction. She requested approval to pursue the acquisition of that property.

MOTION: Councilmember Pawlik moved to approve the Notice of Intent to adopt Ordinance O-20-07, Authorizing the Acquisition of Real Property Located at 121 Ft. Huachuca Lane.

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Johns, Hansen, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

17. City Manager's Report:

- Draft Budget- Ms. Coleman said that Council had their draft budgets and had already been receiving comments and questions. She encouraged Council to send any questions they had before the budget sessions.
- Grade Plan- Ms. Coleman said that when she interviewed for this position the pay structure was discussed. She explained how they came up with the plan. She said that Employee Council had approved this plan. She explained how pay disparity was being addressed.
- MOU with Fire Department - Ms. Coleman said that the MOU in place was quite dated. Ms. Coleman and Ms. Landers had met with representatives from the Fire Department Union and this was the results. She said this would be coming back as an agenda item.
- Other Current events (No Discussion) - Ms. Coleman also informed Council that the Police Department had gone to a company called Pro Force where they would be able to do an exchange of current service weapons for new ones. She said with this exchange there would be no cost to the City.

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 Higgins moved to adjourn the meeting.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 9:02 PM

David M. Smith, Mayor