

MINUTES

AGENDA 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 1, 2019 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 7:00PM.

ROLL CALL

COUNCIL

Councilmember Louis Pawlik, Ward III
Councilmember Joni Giacomino, Ward II Arrived at 7:52pm
Councilmember Bill Higgins, Ward I
Mayor David M. Smith
Councilmember Leslie Johns, Ward I
Councilmember Joan Hansen, Ward II
Councilmember Anna Cline, Ward III, Mayor Pro Tempore

STAFF

Theresa Coleman, City Manager
Ashlee Coronado, City Clerk
Keri Bagley, Finance Director
Joelle Landers, Personnel Director
Jesus Haro, Public Works Director
Albert Echave, Police Chief
George Castillo, Fire Chief

CITY ATTORNEY

James Ledbetter

INVOCATION: Mayor Smith said that for tonight's moment of silence he would like everyone to join him in thanks for this incredible weather in Bisbee and how lucky we were to live here.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Smith invited Chief Echave to the podium. Chief Echave announced that they had been awarded a \$200,000 grant from the Department of Justice for the radio infrastructure project. He went on to say that Stephanie Peavey and Danielle Bouchever had been working very hard to make this happen. He said that this funding would go a long way. He thanked Stephanie and Danielle.
Mayor Smith added that for those who didn't know Stephanie Peavey and Danielle Bouchever were our grant writers. They do this completely pro bono and we truly appreciate them.
- Mayor Smith said item 8 would be pulled from the agenda.
- Mayor Smith gave a rundown of what he had been up to:
 - September 18th he went to the wellness clinic in Naco, Sonora. There was a presentation on SolarSpell. Which was an ASU project that they were using in five other countries right now, it was a device that was solar powered and allowed people to tie in via Wi-Fi to the ASU special library.
 - September 20th he attended the Copper Queen Community Hospital ribbon-cutting

- September 21st he attended the copper Queen Community Hospital health fair. It was terrific. They were giving out free flu shots among other things.
- September 25th he met the Arizona Supreme Court justices as well as their entourage. While they were down here we took them on the Mine Tour.
- September 26th they held a Supreme Court Session. It was very good.
- September 26th he attended a Freeport McMoRan Community Partnership meeting.
- September 26th he and the City Manager held their monthly meeting with the Board of Supervisor and County Administrator. The main topic of discussion was the IGA’s that were in place between the city and the county.

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 the accounts payable in the amount of \$425,585.09.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Minutes of the Regular Session of Mayor and Council held on September 17, 2019 at 7:00pm.

Ashlee Coronado, City Clerk

- B. Approval of the resignation of Tori Child from the Committee on Disability Issues.

Ashlee Coronado, City Clerk

- C. Approval of the Park, Facility and Right of Way Use Permit for the Wishing Tree of Cochise County for the use of Vista Park to introduce and educate our younger people to our first responders on Saturday, October 12, 2019 from 8:30am to 3:30pm. This includes setup and breakdown.

Ashlee Coronado, City Clerk

- D. Approval of a Park, Facility and Right of Way Use Permit for the use of Vista Park for a Halloween Bash and Movie in the Park on Thursday, October 31, 2019 from 4:00pm to 11:00PM.

Ashlee Coronado, City Clerk

- E. Approval of a Park, Facility and Right of Way Use Permit for the use City Park for the 31st Annual Festival of Lights and Craft Fair on Friday, November 29, 2019 from 10:00am to 9:00pm.

Ashlee Coronado, City Clerk

- F. Approval of a Special Event Liquor License Application submitted by the Friends of the Bisbee Animal Shelter for an event to be held at the Bisbee Dog Park, 316 N. Washington Ave, Bisbee, AZ on Sunday, October 20, 2019 from 2:00pm to 8:00pm; Kelly Galligan, Applicant.

Ashlee Coronado, City Clerk

G. Approval of a Special Event Liquor License Application submitted by the Friends of the Bisbee Animal Shelter for an event to be held on Subway Street on Saturday, October 26, 2019 from 10:00am to 11:00pm; Kelly Galligan, Applicant.
Ashlee Coronado, City Clerk

H. Approval of a Special Event Liquor License Application submitted by Joseph Lewis for an event to be held at the Bisbee Social Club located at 67 Main Street, Bisbee, AZ on Friday, November 1, 2019 from 8:00pm to 2:00am; Joseph Lewis, Applicant.
Ashlee Coronado, City Clerk

Mayor Smith asked if anyone would like to pull any items from the agenda for discussion.

Councilmember Cline requested that item C and H be pulled.

MOTION: Councilmember Cline moved to approve the Consent Agenda Items A, B and D-G.
SECOND: Councilmember Pawlik

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

2C. Approval of the Park, Facility and Right of Way Use Permit for the Wishing Tree of Cochise County for the use of Vista Park to introduce and educate our younger people to our first responders on Saturday, October 12, 2019 from 8:30am to 3:30pm. This includes setup and breakdown.
Ashlee Coronado, City Clerk

Councilmember Cline asked who the Wishing Tree was and wanted to know if our First Responders were contacted.

Mayor Smith said that our First Responders were contacted and they would be attending along with Border Patrol and the Sheriff's Dept. He explained that this was a group who wanted to give back to the community, headed by an individual who had stage IV cancer and wanted to do something for the community before he left us.

2H. Approval of a Special Event Liquor License Application submitted by Joseph Lewis for an event to be held at the Bisbee Social Club located at 67 Main Street, Bisbee, AZ on Friday, November 1, 2019 from 8:00pm to 2:00am; Joseph Lewis, Applicant.
Ashlee Coronado, City Clerk

Councilmember Cline said this didn't state what it was for so she was wondering was this a club, or individual, or an event.

Mayor Smith said that this was a private individual that rents space at this location. As required by law 25% of his profits for alcohol go to a nonprofit.

Councilmember Hansen said that a concern was brought that there was only one entrance and exit to the street for this building. She asked Fire Chief Castillo if he saw any problem with this.

Chief Castillo said that the applicant had come to him regarding dances that included fire on the stage. He said that he told them he would have to see what they were doing because he did not recommend fire performances indoors.

Mayor Smith said if this was the case he would like a signoff by the landlord that they were going to allow fire in the basement of this building.

MOTION: Mayor Smith moved to table item 2H until all the information was provided.
SECOND: Councilmember Johns

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -6; NAYS -0

MOTION: Councilmember Pawlik moved to approve item 2C
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

3. Discussion and Possible Action/Direction on a petition received from Andrew Laws regarding the use of bullhorns or amplified announcing during the Ice Man portion of the Bisbee 1000 and the impact on the quality of life of the residents of the stairs next to the Vogue headquarters due to signage promoting those stairs permanently and possible removal of that signage.

David M. Smith, Mayor

Mayor Smith said he would be addressing this in two parts. The second part being the removal of signage. He personally was not in favor of removing signage because Bisbee was a town where we liked to promote exercise and healthiness.

Councilmember Hansen asked if the signage was legal.

Mayor Smith responded that he was told that it was legal. Mayor Smith said that portion of the petition had been put to rest. With regard to the first portion it was tabled last time because we did not have a clear definition from the Vogue as to how they wanted to amplify this. One potential was to continue to use the bullhorn but to face it out towards the audience, the other was using the patio of Vogue to set up a microphone and speaker that would project out to the audience and not up the stairs. Mayor Smith said he would allow the people who signed up to speak to talk now.

Kiyomi Foxe, said she lives at 139 Clawson Avenue and has for 16 years with her family. She did not want Cynthia Conroy to target and bully her family and business (jewelry shop). This bullying had been going on since Cynthia bought the building. They have the essential need to make a living at their business. Thus far Bisbee Vogue had not communicated with them in good faith about the bullhorn noise interrupting their business during the Iceman event. Over the years, Cynthia had chased away potential customers that park in front of Vogue unless they were her friends. This was showing Bisbee how she was unable to fairly resolve an ugly situation that she had created. Ms. Foxe said that she had participated in the Bisbee 1000 in the past. The lack of sensitivity to her family gave Bisbee Vogue an unhealthy color. She explained that runners that were attached to the Bisbee 1000 were doing overly exaggerated stretches in front of their business stores, people taking snapshots as soon as they walk out of their doors. This did not happen before she bought the business at the Bisbee Vogue. This was a political garbage game out to hurt them because they speak up and they do not want to be bullied by Cynthia Conroy. She referred to a letter written by her daughter.

Mayor Smith informed her that the letter had been included in the agenda packet.

Andrew Laws, 139 Clawson Avenue said he respected Council's decision on the second half of the item. He spoke on civil engagement best practices. He read various definitions of civil engagement practices. He said there was no input on the sign, and on the race. He explained neighbors got no say on anything that Cynthia did. He referred to the City of Bisbee vision statement, he said first on the list was "Creating a safe family, friendly environment". He said he would like to emphasize they do not have a safe environment at their house. They have a promotion of those stairs to every stranger that wants to come around and they don't know who's out there with their cameras. People think it's a gymnasium. They want to take their clothes off down to their running shorts, do exaggerated weird butt massaging exercises. When he asks them to do that somewhere else they curse at him and threatened him.

Cynthia Conroy, founder of Bisbee Vogue Inc., said that their motto was, "Small town, great prospects". She said that their mission was to design, enhance and support initiatives that create economic vitality health and wellness for citizens in southern Arizona and Cochise County.

Mayor Smith said we were still in a quandary. We did not know what Bisbee Vogue wanted to do. We were addressing the use of the bullhorn at the Iceman challenge.

Cynthia Conroy said that they would be using a sound system. It would be at the bottom of the stairs. She said the only way the bullhorn was used in the past was for safety concerns. They had no intention to use the bullhorn for the Iceman competition. She said that the sound system would not affect his business.

Mayor Smith said that to be clear miss Conroy was indicating to the Council that she would not be using the bullhorn.

Ms. Conroy said no, they had a sound system. It would be to the right of their building at ground level. The other sound system would be up at St. Patrick's property. She said if the bullhorn was used it would be used for a specific safety purpose. The Ironman competition had a sound system.

Mayor Smith said that Mr. Laws petition had to do with the Iceman competition, he believed we are being informed that it would not be used during the Iceman competition unless there was an emergency. Our Police Chief would be there; our Police Department would be there.

Councilmember Pawlik said he grew up in Tucson, Arizona with 60,000 people. That was considered a small town. Everyone knew the sheriff and the sheriff knew them. They had a method called de-escalation and it worked very well. It could work very well in a small community. This Council could not make people get along. They have to do that on their own. All the Council could do was to do their part to help keep the peace between parties that don't agree. We owe it to the individual to do what's best for him as well as everyone. He thought we could get through this next event with the help of the police department and still have a successful event.

Mayor Smith said that he was satisfied that this had been looked at. If there were any repercussions having to do with noise after this understanding, then it could be addressed next time. Mayor Smith asked Council if they had anything further on this item.

NEW BUSINESS

4. Presentation by Old Bisbee Firewise to update the Mayor and Council on a Grant they have applied for and a plan to protect Bisbee from Wild Fires.

Theresa Coleman, City Manger

Al Anderson, president of Old Bisbee Firewise gave an overview of their ongoing efforts to serve Bisbee and their firefighters with their now 400 members. They have pledged to work on their homes and properties to reduce the fire risk. He spoke about funding and grants that they were currently pursuing. He also spoke about various community groups that Old Bisbee Firewise was working with. He said that they were currently applying for a state grant for \$135,000.00 to tidy up certain properties. He said the whole goal was to make Bisbee more resistant to fires. He invited the public to an event on Wednesday, October 30 at 5:30 PM at the Bisbee high school for a town hall meeting. This was for the whole community, there would be speakers talking about fire and how we as individuals can reduce our risk of fire.

Mayor Smith thanked Mr. Anderson for their contributions to the city.

Councilmember Hansen said that she was glad to see that this was extended to the rest of Bisbee. She wanted to remind people that just because you don't live in Old Bisbee you could sign up for Old Bisbee Firewise and become part of that group.

5. Discussion and Possible Approval of a 2019 Wildland Fire Hazardous Fuels Grant Landowner Representative Agreement.

Theresa Coleman, City Manager

Ms. Coleman said that as a participating landowner Old Bisbee Firewise was approaching each of the affected property owners for this agreement.

Mr. Ledbetter said that Old Bisbee Firewise was being represented by Attorney Ann Carl this was different from what the homeowners would be signing. This was modified. The original agreement said that old Bisbee fire ways would provide insurance and have \$1 million in coverage. That does not mean that the city was not insured, it was always nice to have that second tier of insurance. At this junction Ms. Carl explained to Mr. Ledbetter that they did not have the resources or the ability to find a carrier that would write for that risk. Mr. Ledbetter explained that was the reason for the modification.

Mr. Anderson wanted to clarify that the insurance would cover the programs that they were promoting. The crews that would be doing the work from DOC and the forestry department were insured and have insurance.

MOTION: Councilmember Pawlik moved to approve the 2019 Wildland Fire Hazardous Fuels Grant Landowner Representative Agreement

SECOND: Councilmember Johns

ROLL CALL VOTE:

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

NAYS: Councilmember Giacomino

MOTION PASSED: AYES -6; NAYS -1

6. Discussion and Possible Approval of Resolution R-19-13; A Resolution of the Mayor and Council of the City of Bisbee, approving the transfer of budget funds within the City of Bisbee Fiscal Year 2018-2019 budget.

Keri Bagley, Finance Director

Ms. Bagley explained that this resolution would revise the budget estimate by transferring budgeted expense amounts from departments that were under budget to departments that exceeded their estimated expenditures last fiscal year. This would not be moving funds between departments it was only an adjustment to the actual budgeted amount. This was required by the state.

MOTION: Councilmember Higgins moved to approve Resolution R-19-13 approving the transfer of budget funds within the city of Bisbee fiscal year 2018 – 2019 budget.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

- 7. Discussion and Possible Approval of the attached letter to request donations for the 31st Annual Festival of Lights to be held on Friday, November 22, 2-19 from 10:00am to 9:00pm.
Jesus Haro, Public Works Director

Mr. Haro explained that before Council today was a letter accepting donations for the 31st Annual Festival of Lights and from his understanding this was a very popular event. This letter would serve a dual purpose of accepting and requesting donations.

Councilmember Cline said that when this originally started the city provided stockings and candy. It seems to have gotten a little out of hand over the years. She would like to see it go back to a smaller event with just the basics.

MOTION: Councilmember Johns moved to approve the attached letter to request donations for the 31st Annual Festival of Lights to be held on Friday, November 29, 2019 from 10 AM to 9 PM was set up and take down from 7 AM to 10 PM.

SECOND: Councilmember Pawilk

MOTION PASSED: UNANIMOUSLY

- 8. Discussion and Possible Approval of a Contract for Purchase between the City of Bisbee and Melcher Brothers, Inc. for Mine Car Wheels and Axle Sets in the amount of \$65,610.
Doug Graeme, Queen Mine Manager

This Item was Pulled from the Agenda.

- 9. Discussion and Possible Direction to Staff regarding updating the Light Pollution Codes to align with Cochise County.
Theresa Coleman, City Manager

Ms. Coleman explained that she had inquiries that folks in Bisbee were interested in having dark skies. Before we invest staff time and attorney time she wanted direction from the Council.

Mayor Smith said the reason he brought this forward for consideration was because of several things we were listed as a dark sky city but are light code did not fit that. He said that the County’s code did. He said that he received inquiries from the school about the athletic field and it was his understanding that sporting events were not covered under this.

Councilmember Giacomino reminded everyone that there were three athletic fields that needed to be considered the Eddie King Baseball Field, the High School Ball Filled and the tennis courts.

Council directed staff to continue to update the light pollution codes to align with Cochise County’s.

- 10. Discussion and Possible Approval of an Easement Agreement between the City of Bisbee, Bisbee Restoration Association and L.A. Engle, Jr. American Legion Post #16 for the existing pedestrian overpass over Subway Street that connects the Restoration Museum and the Legion Post at the second level of both properties known as the Skybridge.
Theresa Coleman, City Manager

Mr. Ledbetter explained there was a plan to purchase the American Legion. The buyer would like to access and use the skybridge. After research it was found that the City of Bisbee owns the skybridge. This was the easiest option. The American Legion would have the successor interest obligation for future buyers. This was a surprise that a portion of two buildings had been deeded to the city decades ago. He explained that this easement was acceptable to the title company and their underwriters.

MOTION: Councilmember Hansen moved to approve the Easement Agreement between the City of Bisbee, Bisbee Restoration Association and L.A. Engle, Jr. American Legion Post #16 for the existing pedestrian overpass over Subway Street that connects the Restoration Museum and the Legion Post known as the Skybridge.

SECOND: Councilmember Johns

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

11. Discussion and Possible Approval of an Agreement with iWorq for the Community Development Applications and Services Module.

Theresa Coleman, City Manager

Ms. Coleman explained that Dan Coxworth from the County was aware that the city was considering the iWorq module for the Public Works Department work orders and suggested that we take a look at the permit module. This would allow the City to take back the permit application process. This would allow people to go online to apply for a permit. This would provide savings over the current IGA that we have with the County. There would be subsequent IGA's brought to the Council in the future.

MOTION: Councilmember Pawlik moved to approve the Agreement with iWorq for the Community Development Applications and Services module.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

12. Discussion and Possible Approval of a Notice of Intent to Adopt Ordinance O-19-05; Amending the City Code, Article 6.2 Dogs, and providing for repeal and severability.

Theresa Coleman, City Manager

Mayor Smith said that he had received correspondence about this item specifically about the dog park. A dog could not be at large if they were inside of a fence. To make it easier for people he would suggest that when this was published we include dog parks in the ordinance.

Ms. Coleman said that her understanding was that somehow over time the leash section was dropped from the code. This would bring it back. She explained that our city attorney had drafted this language.

Mr. Ledbetter said that at the Mayor's suggestion the draft in front of Council was subject to approval and required the 13 day publication for the city. Mr. Ledbetter read the section of the ordinance:

6.2.5.1 - At large-Exemption.

A. A dog may run at large while participating in field trials, obedience classes, kennel club events, organized school or park-sponsored shows, while assisting its owner or trainer in legal hunting or herding livestock, while assisting a police officer engaged in law enforcement duties, or if it is a service dog assisting its disabled owner, as long as sufficient control is exercised to permit immediate leashing of the dog upon any person's reasonable request.

Councilmember Pawlik said that he had a problem with C.. He felt that it was very poorly written.

Mayor Smith said that this language had been in the ordinance since 1993 and was used by police on occasion where a veterinarian was not available and a dog for example was hit by a car. More often than that it could be wild animals.

Councilmember Pawlik said that he had no issue with that, it was the wording he had a problem with. It needed to be specific. Councilmember Pawlik said that it needed to be specified that an animal was injured and needed to be put down.

Councilmember Giacomino suggested that maybe the whole ordinance needed to be worked over completely taking into consideration the people that run the shelter and our Police Department. Obviously it was an antiquated code and there were a lot of things that were not accurate.

Councilmember Higgins said maybe we were at a point where we should table this. We don't have to rush into this.

MOTION: Councilmember Higgins moved to table this item until it's rewritten to include interested parties.

SECOND: Councilmember Johns

Mayor Smith suggested that the motion be withdrawn because the item would have to be brought up at the next meeting. Will will a you are in& you are what you

Councilmember Higgins withdrew his motion.

13. City Manager's Report:

- Ms. Coleman gave an update on the Fleet Management IGA with the County. This was an ongoing effort.
- Ms. Coleman informed the Council that today a property on Ok Street had to be declared uninhabitable. There and done with the minutes of a given team right now
- 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.):

ADJOURNMENT:

MOTION: Councilmember Higgins moved to adjourn the meeting.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 8:24 PM

David M. Smith, Mayor