

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, FEBRUARY 16, 2021 AT 7:00 PM VIA ZOOM.

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

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
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
George Castillo, Fire Chief

CITY ATTORNEY

Joseph Estes

INVOCATION: Mayor Budge asked for a moment of silence in remembrance of Judge David Morales.

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Budge announced that item 15 would be pulled from the agenda.

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 \$208,445.41.

SECOND: Mayor Budge

Councilmember Cline asked about the replacement of outdoor lighting at the Police Department.

Ms. Bagley said that she would find out what it was and follow up with Council.

Councilmember Giacomino asked what the reimbursement to Ms. Coleman was.

Ms. Coleman responded that it was a mileage reimbursement for the conference in Sedona.

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 2, 2021.

Ashlee Coronado, City Clerk

- B. Approval of the Resignation of Deborah Phagan from the Evergreen Cemetery Committee.

Ashlee Coronado, City Clerk

- C. Approval of the Appointment of Lisa Holland Maddern to the Evergreen Cemetery Committee.

Ashlee Coronado, City Clerk

MOTION: Councilmember Davis moved to approve the consent agenda item 2 A through C.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

OLD BUSINESS

- 3. Discussion and Possible Approval of Ordinance O-21-01 to Rezone APN 103-62-489; 60 Main Street Owned by Maria Asaro, from R-1 to CM-2.

Joe Ward, Staff Liaison to the Planning and Zoning Commission

MOTION: Councilmember Hansen moved to approve Ordinance O-21-01 to Rezone APN 103-62-489; 60 Main Street Owned by Maria Asaro, from R-1 to CM-2.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 4. Discussion and Possible Approval of Ordinance O-21-02 to Rezone APN 102-15-057; 302 S. Washington Avenue Owned by the City of Bisbee, from C-2 to RM.

Joe Ward, Staff Liaison to the Planning and Zoning Commission

MOTION: Councilmember Hansen moved to approve Ordinance O-21-02 to Rezone APN 102-15-057; 302 S. Washington Avenue Owned by the City of Bisbee, from C-2 to RM.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: Councilmember Cline

MOTION PASSED: AYES -6 NAYS -1

- 5. Discussion and Possible Approval of Ordinance O-21-03; Amending Article 5.3.2, Special Provisions for the Historic District by adding 5.3.2 (B)(1)(d) Establishing the right to rebuild, utilizing the setbacks of a demolished or burnt structure on the same parcel in the Bisbee Historic District.
Joe Ward, Staff Liaison to the Planning and Zoning Commission

Mayor Budge explained that this would clear up some of the ambiguity on the Zoning Code.

MOTION: Councilmember Pawlik moved to approve Ordinance O-21-03; Amending Article 5.3.2, Special Provisions for the Historic District by adding 5.3.2 (B)(1)(d) Establishing the right to rebuild, utilizing the setbacks of a demolished or burnt structure on the same parcel in the Bisbee Historic District.

SECOND: Councilmember Johns

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 6. Discussion and Possible Approval of Ordinance O-21-05; Accepting the transfer of real property from Southeast Arizona Renovations LLC, located at 1 Cochise Row. Bisbee.
Theresa Coleman, City Manager

Councilmember Johns said that she went to visit this property and spoke to the man at the property who said it was almost completely demolished. She wanted to know what the plans for this property was.

Ms. Coleman said that Step Up Bisbee/Naco would prototype a structure for this. This could be a site built or a container house.

Councilmember Giacomino was concerned about how much money would be put into something like this.

Ms. Coleman discussed that Step Up Bisbee/Naco had funds through a legacy funds that they were awarded.

MOTION: Councilmember Davis moved to approve Ordinance O-21-05; Accepting the transfer of real property from Southeast Arizona Renovations LLC, located at 1 Cochise Row. Bisbee

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Davis, Johns, Hansen and Mayor Budge.

NAYS: Councilmember Giacomino and Cline

MOTION PASSED: AYES -5 NAYS -2

NEW BUSINESS

- 7. Presentation of Personnel Announcements.
Joelle Landers, Personnel Director

Ms. Landers recognized Jason Macoviak, Library Manager who had reached his 5th year of longevity with the City.

Cathy Clifton of the Friends of the Copper Queen Library spoke about Jason and thanked him for his accomplishments and service.

Ms. Landers recognized Alison Williams, Library Services Coordinator who had also reached her 5th year of longevity with the City.

Jason Macoviak, spoke about Alison and recognized her for her accomplishments and service.

Chief Castillo announced that Firefighter Gustavo Campillo had successfully completed his probation with the department.

- 8. Presentation and Discussion on the year to date financials for the City.
Keri Bagley, Finance Director

Ms. Bagley presented the year to date financials and gave estimates of how the General Fund could possibly end the year if we didn't watch it closely. She noted that the revenues were still behind projections.

- 9. Public Hearing on Notice of Intent to Increase Transient Room Tax (Bed Tax) Rate.
Keri Bagley, Finance Director

Mayor Budge opened the public hearing. He asked if there had been any communication or comments that wished to speak in opposition of this item or in support of this item.

Ms. Coronado responded that nothing had been received in opposition or in support of this item.

Mayor Budge closed the public hearing.

- 10. Discussion and Possible Approval of Ordinance O-21-04; An Ordinance of the Mayor and City Council, City of Bisbee, County of Cochise, State of Arizona, Increasing the Transient Room Tax (Bed Tax) from 2.5% to 5.0%.
Keri Bagley, Finance Director

MOTION: Councilmember Hansen moved to approve Ordinance O-21-04; An Ordinance of the Mayor and City Council, City of Bisbee, County of Cochise, State of Arizona, Increasing the Transient Room Tax (Bed Tax) from 2.5% to 5.0%.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 11. Discussion and possible approval of an application for an Extension of Premises/Patio Permit submitted by the Bisbee Grand Hotel & Saloon for Permanent change to their areas of service by adding the adjacent first floor space (2,094 sq.ft.) and upstairs area (4,389 sq.ft.), Kevin Kramber, Applicant.
Ashlee Coronado, City Clerk

Ms. Coronado explained that this item had come before Council with no action taken. This item died for lack of a motion. It had been requested that it be placed on the agenda again for consideration.

Councilmember Hansen said that the last time this had come before Council the opinion was that it required a change of liquor license.

Ms. Coronado explained that she had received a call from the liquor board and they explained that this application was not an uncommon request.

MOTION: Councilmember Davis moved to approve the application for an Extension of Premises/Patio Permit submitted by the Bisbee Grand Hotel & Saloon for Permanent change to their areas of service by adding the adjacent first floor space and upstairs area, Kevin Kramber, Applicant.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 12. Discussion and possible approval to go into the Board of Appeals for the Building Code with a Public Hearing to render a decision on appeal BBA01-21 filed by Richard Sanders, property owner of 502 Powell Street and Discussion and possible approval to come out of the Board of Appeals for the Building Code.

Joe Ward, Building Inspector/Code Enforcement

Mayor Budge opened the Board of Appeals for the Building Code public hearing.

Mr. Ward explained that these were unfortunate circumstances. He explained that the building code was based on experience and if not followed it could be a liability for the City. He went on to say that Mr. Sanders chose not to get a building permit. If we had talked prior to this, we would not be here. He requested that Council uphold the findings of staff. Mr. Ward discussed the setbacks in the building codes

Mr. Sanders explained that he never got around to find out what the rules were about setbacks. He said that living in Warren he had seen a number of people who had built right up to their property line. If it was any smaller he would not be able to fit a car under it. He said he was willing to do whatever he could to keep it where it was. He had already painted it with fire-retardant paint and was also willing to hang 5/8 - inch drywall. He was also willing to do fire sprinklers under it.

Mayor and Council discussed and asked questions.

MOTION: Councilmember Pawlik moved to uphold the determination of the Building Inspector.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

MOTION: Councilmember Davis moved to come out of the Board of Appeals for the Building Code

SECOND: Mayor Budge

MOTION PASSED: UNANIMOUSLY

- 13. Discussion and possible approval to enter into a professional services agreement with Souder, Miller & Associates for the design of drainage and roadway improvements to the Tintown Area.

Jesus Haro, Public Works Director

Mr. Haro explained that this professional services agreement with Souder Miller who was on our on call list. They had already deigned phases I, II, and III. This was all reimbursable through the Community Development Block Grant.

MOTION: Councilmember Cline moved to enter into a professional services agreement with Souder, Miller & Associates for the design of drainage and roadway improvements to the Tintown Area.
SECOND: Councilmember Hansen

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

14. Discussion and possible approval of Resolution R-21-01; Amending Public Works Section; Park and Facility Use of the City Fee Schedule.

Theresa Coleman, City Manager

Mayor Budge said that this was discussed at the last meeting and had requested that staff bring something back to Council for consideration.

Ms. Coronado read a letter submitted by Sheri Van Horsen. Ms. Van Horsen wrote that the loss of the Farmers Market from the Vista Park had a negative impact. She said that the market was a way to bring the community together. She asked that Council work and sponsor the Farmers Market and to bring it back to the Vista Park.

Ms. Coleman explained that they had looked at the portion of the permit that applied weekly. This would not address the business licenses which are addressed in a different part in the Fee Schedule. This included an estimate for electricity, water and access to the restrooms.

Mayor and Council discussed different scenarios with these types of permits.

MOTION: Mayor Budge moved to approve Resolution R-21-01; Amending Public Works Section; Park and Facility Use of the City Fee Schedule.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

15. Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-07; Amending Article 9.1.5 C of the City Code regarding Sanitation Service Rates and Fees.

Theresa Coleman, City Manager

This item was pulled from the agenda.

16. 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)(4) DISCUSSION OR CONSULTATION WITH THE ATTORNEY 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 ON A NOTICE OF CLAIM FROM ANNIE ROBBINS.
2. AN EXECUTIVE SESSION PURSUANT TO A.R.S. § 38-431.03(A)(4) DISCUSSION OR CONSULTATION WITH THE ATTORNEY 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 ON A NOTICE OF CLAIM FROM KENNETH AND MARY ALICE BUDGE.

- 3. AN EXECUTIVE SESSION PURSUANT TO A.R.S. § 38-431.03(A)(7) DISCUSSIONS OR CONSULTATIONS 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.

Per ARS § 38-431.03(A4)(A7), 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 Discussions or consultations 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.

Joe Estes, City Attorney

MOTION: Councilmember Davis moved to enter into executive session for the purpose of discussion and consultation with the City Attorney to provide legal guidance on pending matters, per ARS § 38-431.03(A4) (A7).

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Davis moved to come out of executive session.

SECOND: Councilmember Pawlik

MOTION PASSED: UNANIMOUSLY

- 17. Discussion and possible action regarding the settlement terms on the Annie Robbins Notice of Claim discussed in Executive Session.

Joe Estes, City Attorney

MOTION: Councilmember Davis moved to direct legal counsel to take action as directed in executive session.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY (Mayor Budge recused himself)

- 18. Discussion and possible action regarding the settlement terms on the Kenneth and Mary Alice Budge Notice of Claim discussed in Executive Session.

Joe Estes, City Attorney

MOTION: Councilmember Pawlik moved to direct legal counsel to take action as directed in executive session.

SECOND: Councilmember Davis

MOTION PASSED: UNANIMOUSLY (Mayor Budge recused himself)

- 19. City Manager's Report:

- Update on 300 Campbell Street- Ms. Coleman said that the City's offer was accepted by USDA and escrow had been opened.
- Other Current events (No Discussion) – Ms. Coleman said that the city had purchased 10 tax certificates totaling \$10,124.62.

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 Johns

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 10:20 PM

Ken Budge, Mayor