

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD MAY 2, 2017, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

Mayor Elinski called the meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Tim Elinski, Mayor
Ruben Jauregui, Vice Mayor
Tosca Henry, Council Member
Kyla Allen, Council Member
Karen Pfeifer, Council Member
Deb Althouse, Council Member
Linda Norman, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Matt McLean, Deputy Clerk
Steve Horton, City Attorney
Morgan Scott, Development Services Manager
Roger Biggs, Utility Manager
Jeff Cook, Purchasing Manager
Robert Winiecke, City Engineer
Douglas LaSota, City Magistrate

PLEDGE OF ALLEGIANCE

Mayor Elinski led the Pledge of Allegiance.

SUMMARY OF CURRENT EVENTS

The council and staff announced past and current events that they attended.

PRESENTATIONS

INFORMATION REGARDING "BIKE-TO-WORK WEEK" EVENTS WILL BE PRESENTED

Karla Hoover and Nancy Gottschalk, from Yavapai County Health Services Department, reviewed the Bike-To-Work Week events scheduled for May 13-20, 2017.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES OF REGULAR MEETING OF APRIL 4, 2017

Council Member Allen moved to approve the minutes of April 4, 2017. The motion was seconded by Council Member Norman, and carried unanimously.

UNFINISHED BUSINESS

RESOLUTION NUMBER 2889 APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH ARIZONA STATE PARKS AND TRAILS (FORMERLY ARIZONA STATE PARKS) FOR THE TRANSFER OF A WASTEWATER LIFT STATION, DEDICATION OF A PERMANENT PUBLIC UTILITY EASEMENT, AND OTHER MATTERS

Mr. Biggs stated in 2011 Arizona State Parks and the City of Cottonwood entered into an intergovernmental agreement (IGA) in which the city provided assistance for the operation of Dead Horse State Park's water and wastewater infrastructure. In October of 2015, we came back to council to approve Resolution Number 2815 renewing that IGA for another 10 years. The city wishes to facilitate potential commercial development outside of Dead Horse State Park. In order to make this happen, the city requires a permanent easement and control of the lift station. The proposed new IGA transfers ownership of the park's lift station, provides for a permanent easement for the sewer main, continued maintenance of the park's water and wastewater infrastructure, and street sweeping within the park.

Mr. Bartosh stated this was an item that was formally brought to you and approved. The problem was the length of the agreement, which allowed for an initial 10 years, and then a second 10 years. That doesn't provide the amount of the kind of permanency that development needs to go get funding or financing to do a project. As you will recall, this was a project that involved the Blazin' M Ranch and their desire to provide overnight lodging facilities and the need for wastewater treatment in that area.

Mayor Elinski stated he is excited to see the agreement come forward, and it will give the green light to some positive development. He was concerned about the street sweeping requirement since we don't have a street sweeper.

Mr. Bartosh stated we do have a street sweeper. It will make it a lot easier as opposed to a bunch of guys with brooms.

Council Member Norman moved to adopt Resolution 2889, approving the proposed Intergovernmental Agreement with Arizona State Parks and Trails. The motion was seconded by Council Member Pfeifer, and carried unanimously.

Mayor Elinski requested the Deputy Clerk read Resolution Number 2889 by title only.

RESOLUTION NUMBER 2889

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA STATE PARKS BOARD, TO OPERATE AND MAINTAIN THE

DEAD HORSE RANCH STATE PARK POTABLE WATER AND WASTEWATER COLLECTIONS SYSTEMS AND TO ALLOW THE CITY TO UTILIZE THE PARK'S LIFT STATION TO EXPAND AND IMPROVE THE CITY'S WASTEWATER COLLECTION AND TREATMENT CAPABILITIES.

AWARD OF CONTRACT FOR VEHICLE MAINTENANCE AND REPAIR SERVICES TO REESE & SONS TIRE & AUTOMOTIVE, INC

Mr. Cook stated as directed, staff reissued the proposal with the normal channel of advertising, and he emailed it to all the local shops. We conducted another pre-proposal conference, and we had a higher turnout than in the past. At the end of the day, we still only received the same three proposals. We had a committee consisting of Public Works, Transit, Utilities, and the Police Department. He performed the reference checks himself and they conducted the site visits. Reese and Sons was the highest score of the vendors.

Council Member Althouse moved to award the contract for City Fleet Vehicle Maintenance and Repair Services to Reese & Sons Tire & Automotive, Inc. The motion was seconded by Council Member Pfeifer, and carried unanimously.

CONSENT AGENDA

RESOLUTION NUMBERS 2884-2887, APPROVING INTERGOVERNMENTAL AGREEMENTS WITH SEDONA FIRE DISTRICT, VERDE VALLEY FIRE DISTRICT, COPPER CANYON FIRE AND MEDICAL AUTHORITY, AND THE TOWN OF JEROME FOR EMERGENCY DISPATCHING SERVICES; AND APPROVING AN EMERGENCY DISPATCH SERVICES AGREEMENT WITH THE VERDE VALLEY AMBULANCE COMPANY

RESOLUTION NUMBER 2890 - MINGUS AVENUE RIGHT-OF-WAY DEDICATION

Vice Mayor Jauregui moved to approve the consent agenda as presented. The motion was seconded by Mayor Elinski, and carried unanimously.

Mayor Elinski requested the Deputy Clerk read Resolution Numbers 2884-2887 and 2890 by title only.

RESOLUTION NUMBER 2884

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE SEDONA FIRE DISTRICT FOR EMERGENCY SERVICES DISPATCHING.

RESOLUTION NUMBER 2885

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT

WITH THE VERDE VALLEY FIRE DISTRICT FOR EMERGENCY SERVICES DISPATCHING.

RESOLUTION NUMBER 2886

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COPPER CANYON FIRE AND MEDICAL AUTHORITY FOR EMERGENCY SERVICES DISPATCHING.

RESOLUTION NUMBER 2887

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF JEROME FOR EMERGENCY SERVICES DISPATCHING.

RESOLUTION NUMBER 2890

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DEDICATING CITY-OWNED LAND AS A PUBLIC RIGHT-OF-WAY.

AWARD OF BID AND APPROVAL OF AGREEMENT WITH KINKAID CIVIL CONSTRUCTION FOR THE MINGUS AVENUE WATERLINE REPLACEMENT PROJECT

Mr. Biggs stated this was for the approval of a contract for Kinkaid Civil Construction in the amount of \$1.25 million for the construction of the Mingus Avenue waterline.

Mayor Elinski moved to award the contract for the Mingus Avenue waterline replacement project to Kinkaid Civil Construction, LLC in the amount of \$1,125,614.38. The motion was seconded by Council Member Norman and carried unanimously.

AWARD OF CONTRACT FOR COTTONWOOD STREET SIDEWALK IMPROVEMENTS

Mr. Winiecke stated this award of contract to Pima Paving was for sidewalk improvements on Cottonwood Street that is grant funded at \$175,000. The city received 5311 grant funding to make capital improvements to existing bus stops to make them ADA compliant. However, to complete the bid work in the entirety, it would exceed the funds of the grant by over \$39,000. Staff is proposing to shorten the extent of the sidewalk improvements along the south side of Cottonwood Street. They would still improve the city's bus stops and make them ADA compliant. We would like to complete the project with the funds available, and then look for other funds to complete the full sidewalks on both sides of the street.

Council Member Henry asked if the grant requires the work be completed by the end of June.

Mr. Winiecke stated the work needs to be started by the end of June.

Council Member Henry asked if there are any other feasible options within this time frame, other than shortening the sidewalk.

Mr. Bartosh stated they are going back to ADOT to ask for any available funding to help us get this done. The other alternative is, if they don't have available funding, is to use some of the sidewalk money the city has set aside. If we did that, we would separate it out as a separate project because this is a federally funded project. If we don't get anything from ADOT, we will bring it back to council for consideration of using some of those dollars that are allocated for next year. We have \$100,000 allocated for funding sidewalk improvements.

Council Member Henry stated she is concerned about starting a project without an end date.

Mr. Bartosh stated we can probably bring that back relatively quickly. If ADOT doesn't come up with something, probably the quickest opportunity would be to tap into those sidewalk funds to finish this up.

Mr. Horton stated staff discussion earlier today also included the possibility that you could authorize staff, without coming back to council, to accept grant funding and match it up to 20 percent as part of this motion, which would keep us from having to come back to you to do that if staff found the funding. There was a discussion about a range of different funding opportunities and the maximum match we think among those possibilities would be a 20 percent match.

Mr. Bartosh stated the current match on the current project is 10 percent. It could end up to about \$7,800 matching to finish the entire project.

Council Member Henry stated she is a little hesitant at this time without addressing other areas where we might want to spend those funds.

Council Member Allen stated because we are making the bus stops ADA accessible, she is okay with moving forward with this project.

Council Member Henry stated she is fine with the recommendation, but she is concerned about the second portion.

Council Member Allen stated she has faith in our staff that it is something they will get done.

Mayor Elinski stated he is concerned about having a half finished project, and we have a lot of half-finished sidewalks around town. If we are going to pull money from the sidewalk funds, there might be more important streets that need to be done, and this street might not make the cut, but if we can secure some ADOT funding he would be comfortable with authorizing staff to get that funding up to a 20 percent match.

The council agreed.

Mayor Elinski moved to award the contract to perform the sidewalk improvements along Cottonwood Street between Sawmill Road and a point approximately 150 feet west of Cove Parkway through the use of a federal grant, and authorize staff to seek another federal grant up to 20 percent match to continue the other improvements on the south side, or state, or any kind of money. The motion was seconded by Council Member Althouse, and carried unanimously.

AGREEMENT WITH JEROME PROPERTIES LLC FOR THE ABANDONMENT OF A PORTION OF CITY RIGHT-OF-WAY ON PIMA STREET IN EXCHANGE FOR THE CONSTRUCTION AND DEDICATION OF ADDITIONAL PUBLIC PARKING AND OTHER CONSIDERATION

Mr. Scott stated city staff was approved by Jerome Properties, L.L.C., to rezone a parcel on Pima Street from residential to commercial to put in some parking for the public and their business. They would need the city to abandon right-of-way in exchange for the developer to build more public and private parking. The developer would construct the south half of Pima Street from Cactus Street. They are looking to construct about 43 parking spaces, with 13 public parking spaces and 32 private parking spaces. They are asking us to allow back out parking to the street. Staff is okay with this, since Pima Street right now will not have a lot of traffic on that street. A neighboring property owner had a surveyor say his property is further south, however the city and the developer's surveyor stated their property is further north. Any lighting in the area will be dark sky compliant. Mr. Scott then reviewed the plan for the street improvements and parking spaces. In regards to the neighboring property owner complaints about his property being further south, as it stands the entire project is not on his property with about a two foot buffer space. If the surveyor is incorrect, then there is about a 10 foot buffer. Either way the project is not on their property. The developer offered to install a 6 foot wall, but the neighbor is requesting a three to four foot wall.

Council Member Althouse stated if Mr. Roscoe's surveyor was correct, then all the properties in that area would be off.

Mr. Scott stated that is correct. Basically all the properties would be off with the property lines basically within the middle of the buildings.

Council Member Althouse asked Mr. Horton how these things get resolved.

Mr. Horton stated often times through private litigation. As Mr. Scott said, we are not qualified to make a final determination. Courts would have to make a final determination over the property lines and property corners. We are making our best judgment of where the property line is.

Mr. Bartosh stated the suggestion from Dr. Roscoe was to just split the difference, and that is really not an option here.

Mr. Scott continued to review the plan and stated the abandonment of city right-of-way is just a tiny sliver, and there will still be 50 feet of right-of-way for the street to meet city standards. The developer will be dedicating part of their property, since it is part of the street. There is a wall proposed on the north end of the property. The sidewalk is not on his property, however, if Dr. Roscoe's surveyor is correct, the wall would be on his property. We believe the surveyor is incorrect.

Mr. Horton stated we can have another conversation with Dr. Roscoe about what his preference might be with respect to the wall. We want to remove the possibility of an encroachment of a public improvement on his property. Mr. Horton thinks we can work out the wall with Dr. Roscoe.

Mayor Elinski stated the wall is really a screen to protect from headlights and noise from the parking lot, and he is curious if that can be a live wall with vegetation.

Mr. Scott stated there is some flexibility there.

Council Member Henry stated if we are not required to have a wall, wouldn't it be better

Mr. Horton stated at first Dr. Roscoe didn't want a wall, and Mr. Horton told Dr. Roscoe that it would be advantageous to him since it would shield headlights from shining into a residence should there be a residence there. Dr. Roscoe stated he would want a wall, but he doesn't want to be fortified in. So he would prefer it not be six feet and solid. He would rather it be three to four feet.

Council Member Henry asked if Dr. Roscoe is willing to provide some sort of release or agreement in writing to not later bring litigation.

Mr. Horton stated the way to avoid that is to make sure the wall doesn't encroach on the property.

Council Member Henry stated she is concerned about the wall being right next to the sidewalk.

Mayor Elinski stated it might be alleviated if we just put up a shrub.

Council Member Allen stated two feet is enough to get a vegetative wall, and we don't have to determine that right now.

Mr. Scott stated he just spoke with the developer and they would more than willing to put in more vegetation in exchange for a wall.

Mr. Bartosh stated he would like to caution the council about a vegetation wall like that. That is probably going to be maintenance intensive.

Mr. Horton stated Dr. Roscoe is getting substantial value from this project, among which is his property will receive a waterline right up to his property line. A reasonable, but favorable, interpretation of the requirements (costs) to bring sewer to his property. Right now, he has undevelopable property without spending substantial amounts of money.

Mayor Elinski stated he thinks this is a great project, and has concerns about that public section of public parking because of the headlights.

Mr. Bartosh stated to not put that wall where we want to put the wall is kind of being held hostage by one surveyor. We have three surveyors saying this is what it is, and if his surveyor is right, then every piece of property down there is misaligned. If push came to shove and we had to move that wall because of a court decision, which is something that could be done. He would prefer the wall be behind the buffer.

Mr. Scott asked Mr. Horton to explain how they will allow the developer to have back up parking.

Mr. Horton stated the city cannot, will not contract to pay for a zone change. It is unlawful, and it is a legislative process. This agreement would be contingent on the successful rezone. Prior to the rezoning there would need to be some legislation to allow for the back out parking situation. The development code provision that prohibits it doesn't have any exceptions and it doesn't have a mechanism for an administrative exception. There are two options to allow the back in parking. One is to allow the development to become a Planned Area Development and then there can be modifications and waivers to existing development standards. At this point, Mr. Jurisin would prefer not to do that and continue with a C1 rezoning application. The other legislative solution to this would be a text amendment to that development standard. The council would be adopting some kind of administrative ability to waive the back in prohibition for dead end streets at or near the end of the dead end.

Eric Jurisin, owner of Jerome Properties, stated this by far is the most difficult project that he has tried to do. There is a lot of moving pieces. We are adding parking for the hotel, and trying to line up Pima Street.

Mayor Elinski stated he would like to see a bike rack and an electric car charger station.

Council Member Althouse moved to approve the proposed agreement with Jerome Properties L.L.C., to abandon a portion of city right-of-way along the Pima Street alignment west of Cactus Street in exchange for construction of public parking spaces and other considerations, subject to approval of the final terms and form of agreement by the City Manager and City Attorney. The motion was seconded by Council Member Pfeifer.

Mayor Elinski asked the council if we are going to have any discussion about where to place that buffer wall. He is leaning on moving the wall away from the sidewalk. If it winds up that this one surveyor is correct, the least of our worries will be removing a four foot tall block wall.

Council Member Allen stated she agrees, and the closer you have the wall to the sidewalk you will end up with skate boarders messing with it.

Council Member Henry stated she would prefer we moved 10 feet away from the sidewalk.

Mr. Jurisin stated it will probably be some kind of block wall with textured block to match the hotel.

Mayor Elinski called for a vote on the motion, and it carried unanimously.

RESOLUTION NUMBER 2888--DISCUSSION, CONSIDERATION, AND POSSIBLE LEGAL ACTION TO RE-APPOINT PRESIDING CITY MAGISTRATE A. DOUGLAS LASOTA TO A NEW TWO-YEAR TERM COMMENCING ON APRIL 13, 2015. PURSUANT TO A.R.S. §38-431.03.(A)(1) THE COUNCIL MAY VOTE TO CONVENE INTO EXECUTIVE SESSION TO DISCUSS THIS MATTER, SUBJECT TO THE MAGISTRATE'S RIGHT TO REQUIRE THE COUNCIL TO DISCUSS THIS MATTER IN OPEN SESSION, AND PROVIDED THAT NO LEGAL ACTION MAY BE TAKEN IN EXECUTIVE SESSION

Mayor Elinski moved to convene into executive session. The motion was seconded by Vice Mayor Jauregui, and carried unanimously.

After discussing the magistrate's review under executive session, Mayor Elinski moved to resolve back to regular session. The motion was seconded by Council Member Pfeifer, and carried unanimously.

Mayor Elinski stated we had a discussion with the magistrate, and decided at this point to ask the magistrate to holdover in office, while the council does some homework on ways to increase efficiency with the court and reduce the cost to run the municipal court. We have also asked Judge LaSota to provide a proposal to council on other ways to reduce the court budget overall. Council will be looking at opportunities to reduce the magistrate to a part time position, and look at other opportunities to combine services with other courts, including the justice court.

Mayor Elinski moved to table the item and bring this matter back in one month.

Judge LaSota asked the council if he could look at doing part time here and part time in Sedona, would that satisfy the council.

Council Member Allen stated she can't answer that question since she doesn't have all the information provided to her.

The motion was seconded by Council Member Allen, and carried unanimously.

CLAIMS/ADJUSTMENTS

Mayor Elinski moved to pay the claims. The motion was seconded by Council Member Allen, and carried unanimously.

ADJOURNMENT

Mayor Elinski moved to adjourn. The motion was seconded by Council Member Norman and carried unanimously. The meeting adjourned at 9:00 p.m.

Tim Elinski, Mayor

ATTEST:

Matt McLean, Deputy Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on May 2, 2017. I further certify that the meeting was duly called, and that a quorum was present.

Matt McLean, Deputy Clerk

Date