

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD FEBRUARY 6, 2024, AT 6:00 P.M., AT THE COUNCIL CHAMBERS--RIVERFRONT LOCATED AT 1083 E. RIVERFRONT ROAD, COTTONWOOD, ARIZONA.

Mayor Elinski called the meeting to order at 6:01 p.m.

Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Tim Elinski, Mayor
Debbie Wilden, Vice Mayor
Stephen DeWillis, Council Member
Lisa DuVernay, Council Member
Helaine Kurot, Council Member (via Zoom)
Michael Mathews, Council Member
Derek Palosaari, Council Member

STAFF MEMBERS PRESENT

Tami S. Mayes, City Clerk
Amanda Wilber, Human Resources Director
Tom Whitmer, Utilities Director
Rudy Rodriguez, Deputy City Manager
Gary Davis, Senior Planner
Kirsten Lennon, Financial Services Director
Kristina Hayden, Planner
Scott Ellis, Community Development Director

PLEDGE OF ALLEGIANCE

Mayor Elinski led the Pledge of Allegiance,

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION

Mayor Elinski and Vice Mayor Wilden announced their participation in current community and City events.

CALL TO THE PUBLIC

Michael Nisito addressed the Council regarding his invitation to many, via email and Facebook, to monitor what goes on in the City, and to compare what they hear and see tonight with what they might read in the papers tomorrow. He continued to address Council regarding

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the request to place on the agenda, via Section 2.08.110 of the Cottonwood City Code, an agenda item that would address placing age restrictions on drag queen entertainment as adult entertainment.

Molly Heckman addressed the Council regarding the physical tolls trauma places on one's body, as well as alleged misconduct of Council Member Palosaari.

Sharon Bonney addressed the Council regarding Cottonwood City Codes and the balance of power.

Shauna Martin addressed the Council regarding her concerns with the City Council and their alleged actions or inactions.

Rachel Collins and Michael Willis-Chase addressed the Council regarding the dangers of the Cottonwood slag pile and their perceived corruption of the City of Cottonwood Government.

Joseph Giulietti addressed the Council regarding Call to the Public, the state of the City Council, and the best interests of the City and residents of Cottonwood.

Council Member DuVernay made the following statement in response to Call to the Public comments:

"I'd like to address the person that stated that I'm a vulgar person, which everyone has the right to have their own opinion. And, yes, I did show a video at the August 8th meeting, but if you would care to go back on YouTube you will actually see that, when I showed it, I clearly stated that the video being shown was not one that was shown in the Clubhouse of Cottonwood. I showed it for the purpose that it was labeled a family-friendly show. It was promoted as a family-friendly show. So although the show that came here last year was not that, I was illustrating that any show labeled family-friendly could come to the town of Cottonwood. And if you'd like the video link, I'd be happy to share it with you. And, also, there -- if you think that because now that there is -- apparently I can get the votes on Council, no one can pass an ordinance that Supreme Courts in other states are not allowing. So that is a misnomer that, I guess, there's a rumor about.

"And, secondly, you spoke about someone freezing to death, which is really horrific, and you asked about the homeless and what the City is doing about it. What you might want to do, like I do, is I look at the budget -- I try to actually analyze what our City is spending -- and you will see that there is a lot of money that is spent in places where I don't feel that they should be spent, and I ran for Council so I could oppose some of those spending. If you have objections to the way the City is spending their money, I ask you -- implore you -- to run for Council, seeing as I'm going to be recalled. Thank you."

UNFINISHED BUSINESS

ORDINANCE NUMBER 740--AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING ORDINANCE BY

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AMENDING SECTIONS 201 AND 404, TO ADD A DEFINITION OF REASONABLE VISUAL ACCESS, AND AMEND REQUIREMENTS FOR FENCE PERMITTING AND OUTDOOR STORAGE; SECOND AND FINAL READING

Mayor Elinski stated we went over this during the last regular meeting.

Mr. Rodriguez stated we have not received any comments from the public on this.

There were no comments or questions from the Council or the public.

Mayor Elinski moved to approve Ordinance Number 740. The motion was seconded by Council Member Mathews.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis	X		Council Member Palosaari	X	
Council Member DuVernay	X		Vice Mayor Wilden	X	
Council Member Kurot	X		Mayor Elinski	X	
Council Member Mathews	X				

The motion unanimously carried.

Mayor Elinski requested the City Clerk read Ordinance Number 740 by title only.

ORDINANCE NUMBER 740

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING ORDINANCE BY AMENDING SECTIONS 201 AND 404 TO ADD A DEFINITION OF REASONABLE VISUAL ACCESS, AND AMEND REQUIREMENTS FOR FENCE PERMITTING AND OUTDOOR STORAGE

ORDINANCE NUMBER 741--AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING ORDINANCE BY AMENDING SECTION 407 REGARDING LANDSCAPING REQUIREMENTS ON STREET FRONTAGES, AND CALCULATION OF REQUIRED LANDSCAPE MATERIALS; SECOND AND FINAL READING

Mr. Rodriguez stated there have been no comments from the public on this particular item.

There were no comments or questions from the Council or the public.

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Vice Mayor Wilden moved to approve Ordinance Number 741, amending Section 407 of the Zoning Ordinance regarding landscaping requirements on street frontages, and calculation of required landscape materials. The motion was seconded by Council Member Palosaari.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis	X		Council Member Palosaari	X	
Council Member DuVernay	X		Vice Mayor Wilden	X	
Council Member Kurot	X		Mayor Elinski	X	
Council Member Mathews	X				

The motion unanimously carried.

Mayor Elinski requested the City Clerk read Ordinance Number 741 by title only.

ORDINANCE NUMBER 741

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING ORDINANCE BY AMENDING SECTION 407 REGARDING LANDSCAPING REQUIREMENTS ON STREET FRONTAGES, AND CALCULATION OF REQUIRED LANDSCAPE MATERIALS

CONSENT AGENDA

Mayor Elinski requested the City Clerk read the consent agenda by title only.

RESOLUTION NUMBER 3257--A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AUTHORIZING A COOPERATIVE USE PURCHASING AGREEMENT FOR THE PURCHASE OF JOB ORDER CONTRACTING SERVICES FOR REPAIRS AND IMPROVEMENTS TO WASTEWATER AND WATER TREATMENT PLANTS AND SYSTEMS FROM FANN ENVIRONMENTAL, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS WELL AS JOB ORDER NUMBER ONE TO SUCH AGREEMENT IN AN AMOUNT NOT TO EXCEED \$451,649.00

NEW SERIES 006 (BAR) LIQUOR LICENSE APPLICATION SUBMITTED BY ERIC SYLVESTER JURISIN, AGENT FOR BOCCE LOCATED AT 1060 NORTH MAIN STREET

NEW SERIES 012 (RESTAURANT) LIQUOR LICENSE APPLICATION SUBMITTED BY RYAN JOSEPH STADELMAN, AGENT FOR PIZZERIA BOCCE LOCATED AT 1060 NORTH MAIN STREET

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

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NEW BUSINESS

RESOLUTION NUMBER 3258--A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, VACATING A PORTION OF THAT PUBLIC RIGHT-OF-WAY OF PIMA STREET IN WILLARD ADDITION FRONTING PROPERTY OWNED BY THE JOSÉ MANUEL REVOCABLE TRUST DATED APRIL 6, 2022; AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED; AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ALL FURTHER ACTIONS NECESSARY TO CARRY OUT THIS RESOLUTION

Mr. Davis presented a PowerPoint presentation regarding Resolution Number 3258. This is a proposal to abandon and sell approximately 1,500 square feet of City right-of-way for \$9,000. The Willard Addition Subdivision was platted in 1917. It is basically the western half of Old Town extending from Main Street west to what's now Kindra Heights. It is an old-fashioned grid pattern street subdivision, and the City owns all the City rights-of-way. Only a few of them were actually built, and the reason why is topography. There are some hills and gullies toward the west. Those streets were never built except for Cactus Street, Pinal Street, and a few side streets. On one of the side streets, at the end of Prickly Pear Road, there are a couple lots owned by the applicant who has a house on that property that was built many decades ago. He went to do some renovations, and he came to find out that it was partially built in the City right-of-way. The proposal is to abandon about 15 feet in addition to the lots. That is about a 33-foot right-of-way; 15 feet would take about half of the right-of-way. The rest would remain with the City. There is a waterline in that area. We have checked with Public Works and Utilities. The 15 feet on the northside is not needed. We can still get at the waterline.

Council Member Mathews asked if the recipient knows what it means to get a Quit Claim Deed, and he asked why we are only offering a Quit Claim Deed.

Mr. Davis stated that is what our attorney at the time put together for us.

Council Member Mathews stated that for many years title companies will not deal with Quit Claim Deeds. If he tries to sell the property, he'll have to come back to the City to get some kind of a deed. There will be more paperwork to be done. Title companies will not accept Quit Claim Deeds and do transfers on those. Just something to consider and he should know that. It is not a big deal in this situation, but it's a real pain if you buy a property and somebody dies and are no longer available. However, they will be coming back when that property is sold or transferred at some point to try to clear up that deed.

Mr. Davis stated we will pass that along and keep it in mind.

There were no further comments or questions from the Council.

Vice Mayor Wilden moved to approve Resolution Number 3258, vacating the 1,501-square-foot portion of that public right-of-way of Pima Street and Willard Addition fronting property owned by the Jose Manuel Revocable Trust dated April 6th, 2022, and authorizing the Mayor

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to executive a Quit Claim Deed and to take all further actions necessary to carry out this Resolution. The motion was seconded by Mayor Elinski.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis	X		Council Member Palosaari	X	
Council Member DuVernay	X		Vice Mayor Wilden	X	
Council Member Kurot	X		Mayor Elinski	X	
Council Member Mathews	X				

The motion unanimously carried.

Mayor Elinski requested the City Clerk read Resolution Number 3258 by title only.

RESOLUTION NUMBER 3258

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, VACATING A PORTION OF THAT PUBLIC RIGHT-OF-WAY OF PIMA STREET IN WILLARD ADDITION FRONTING PROPERTY OWNED BY THE JOSÉ MANUEL REVOCABLE TRUST DATED APRIL 6, 2022; AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED; AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ALL FURTHER ACTIONS NECESSARY TO CARRY OUT THIS RESOLUTION

DISCUSSION AND DIRECTION TO STAFF REGARDING FILLING THE CITY MANAGER POSITION:

- INTERIM PUBLIC MANAGEMENT
- GOVHR
- RALPH ANDERSEN
- WBCP

Mayor Elinski stated that items 2 and 3 are related. The item after this is an item that was co-sponsored by Council Members DuVernay and Mathews to appoint an Interim Manager, but I wanted to give Council the opportunity to step back and maybe look at some other options that we have available to us as well. Ms. Wilber will present those options to see if we want to consider any of these other options. I am prepared to appoint, tonight, an interim manager so that we do have an interim manager in place. This first process we’re going to discuss will take time, but I wanted Council to have the opportunity to discuss it.

Ms. Wilber stated I am here this evening to talk about the City Manager position. There are two main items on this topic. First it is focused on an option for an Interim City Manager. There is an item following this regarding appointing a staff member as an interim manager. This discussion is meant to be a little bit broader. Council can decide to do this and appoint a staff member; Council can decide to not use an interim firm and find someone external and

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only go with a staff member. This is just an option on the table for Council to discuss and make an informed decision.

Ms. Wilber presented a PowerPoint presentation regarding options for filling the City Manager vacancy with an Acting City Manager.

Ms. Wilber stated before moving on to options for a permanent process, I would like to pause to see if this is Council wants me to proceed or not to proceed, and, if you would like to move forward, which firm would you like to move forward with.

Vice Mayor Wilden stated you have worked with some of these firms or people before, and asked if they have they done work that is appropriate, good, bad, or where they stand.

Ms. Wilber stated I have only worked with Interim Public Management previously, and we were satisfied with the candidates that they had. They provided a few candidates to choose from. The general process is, they would provide resumes for people that they think would fit our needs. In this particular case, I would provide that to Council. Council could review them all, set up the interview for the candidates you choose to interview, and you select the candidate. If you are not happy with any of the candidates, you don't have to choose someone from them.

Vice Mayor Wilden stated we have a cost savings, obviously, since we don't have an attorney or a City Manager. She asked if it would cost more money to go with a firm.

Ms. Wilber stated it depends on the candidate. You have to base it off of whatever their experience is as to how much the firm is going to charge us. It is hard to tell exactly, but I can tell you our baseline salary for our previous City Manager was 180,000, and you generally calculate benefits at about 45 percent. If you look at that lumpsum amount, it is probably a little bit more expensive for the firm, but probably not a lot.

Vice Mayor Wilden asked if we pay them benefits (firm candidates).

Ms. Wilber stated we don't, but the firm does. That is calculated into their hourly rate. The hourly rate that you would look at would already have some of that built in.

Vice Mayor Wilden asked if the candidates are from Arizona or if they pull from anywhere.

Ms. Wilber stated they could pull from anywhere. Interim Public Management does a lot of work in Arizona. That is the firm that Camp Verde used to hire Gayle Mayberry for their interim city manager the first time around. She is not through that firm this time around because Camp Verde contracted with Ms. Mayberry directly this time. Clarkdale uses them as well periodically. From what I hear and know, Interim Public Management does the most work in Arizona and probably has the most candidates in Arizona, but I don't know what the candidate pool is in any of the firms.

Vice Mayor Wilden stated what I like about using a firm, or whoever, is that it brings out some expertise that maybe we don't have now, and a different viewpoint. They start from scratch

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in that sense. The money is not that big of an issue. They have the expertise to do City Manager work, plus I hate to see our City staff do more work. They are already, in my opinion, stressed.

Council Member Mathews stated this is a bit premature with the next agenda item that is going to be considering placing somebody in that position. It has been a month. It should have been done within days of losing our City Manager. I am really reticent to consider throwing somebody who has no knowledge of what's been going on, no knowledge of the players involved, and throwing them into that right now. This is something we can consider later if, for some reason, the internal candidate doesn't work out and we think we need to do this. I am a little disappointed to see that these are only interim city manager firms when also on that agenda item is a possible discussion item about moving forward with hiring a permanent City Manager, which is what we should be talking about. I'm not ready to talk about bringing in somebody from the outside contract as an interim city manager when the next agenda item is probably going to end up with somebody to be in that position. I want to see how they do before considering moving forward with doing something like this. It is not completely off the table. If it doesn't work out, then that's something we need to consider.

Mayor Elinski stated I tend to agree with the Vice Mayor in that we're down one position, and that's hard with a City as busy as ours. I don't want to put any additional stress on staff. I am prepared to appoint an interim from the list on the next agenda item, but in the bigger picture, it is important that we do move forward with bringing in a professional City Manager to manage our organization and get us through the elections. It is an election year. It will be very challenging for us to go out and try to attract a permanent City Manager. There is the potential for a pretty significant change on Council, and that makes any executive/professional a little bit nervous when they are coming into an organization like that. There is so much potential for change. If we get a professional manager to get us through the election, we would greatly benefit from it. It wouldn't put more strain and stress on staff. It would relieve that. Furthermore, we have an option to get a really high-caliber, professional City Manager. These are typically folks that have managed cities across the nation. They are sometimes retired but want to come back to help out and earn a little extra income in their retirement. Our last four City Managers, that I'm aware of, have not been city managers prior to coming to the City of Cottonwood. We have a really good opportunity to get somebody who is seasoned, can get our organization well managed through the elections. While I am prepared to appoint an interim tonight, we should also move forward with hiring one of these firms to bring us some options for a professional interim manager.

Council Member Palosaari stated moving forward with an interim, and then utilizing this as a backup, is my belief.

Mayor Elinski asked if Council Member Palosaari wants to move forward with any of the firms for an interim manager at this time.

Council Member Palosaari stated no. We should keep them on the backburner and give the interim, that we hopefully will appoint tonight, the opportunity to succeed.

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Council Member DeWillis stated that we put this on the backburner and get somebody appointed tonight. We can get this re-addressed.

Council Member DuVernay stated I agree with that.

Council Member Kurot stated I am definitely all for appointing somebody tonight, but I would like to have a backup list going. She then asked Ms. Wilber if we get an interim from one of the agencies and we want to keep them, do we have that option.

Ms. Wilber stated the majority of them have that option. It depends on which firm you choose and the specific language in their agreement. Some have provisions where you can lease to hire, and then others aren't as clear or do not have it addressed. I can't give you a good black-and-white answer without knowing which one you would like to do. That is not stressed in Interim Public Management's short retainer agreement that we have, but it is in one of the others. Most of the time when people are working for an interim firm, they tend to want to have the interim jobs and move around. If you found somebody you really like, my guess is, you would likely be able to make that happen.

Council Member Kurot stated I want to get somebody appointed tonight, but I would like to have that list of names and options just in case and go from there.

Ms. Wilber stated what I am hearing is we are not moving forward with an external firm today, but, in the future, if Council wishes to revisit this and not utilize the staff member, we will talk about it again and move forward at that point.

Mayor Elinski stated that is what I am hearing, too. He then asked what would trigger wanting to bring this back up for discussion.

Council Member DuVernay asked how Ms. Wilber found the firms.

Ms. Wilber stated I knew of Interim Public Management already because we've used them in the past. I asked for the help of our Procurement Team to search on the cooperative agreements that they have access to, to see who already had an agreement. I used that list to reach out to all of the people, and those that responded back made the list.

Council Member DuVernay asked Ms. Wilber who asked her to get the list together and if Council asked.

Ms. Wilber stated this was my intention a while ago, and it just didn't get here yet.

Council Member Mathews stated to clarify that and to backup what the Mayor says, we will move forward to the next agenda item, and then we will see what we get for an Acting City Manager and how it goes. If Council determines that is a problem, we can revisit this and start looking for other options.

Ms. Wilber then presented a PowerPoint presentation regarding long-term options in recruiting for the permanent position of City Manager.

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Ms. Wilber stated the City used Ralph Andersen within the last year to recruit for our last City Manager. That contract has a guarantee provision in it that if the candidate that was hired, within a one-year period, resigned or was dismissed for cause, they would do the recruitment at just the hard expenses. That means the City would not be paying the recruiter for her time. It would be all the advertising costs, travel costs, and the actual bills they receive that they have to pay. That is one of the options available for Council.

Mayor Elinski asked, if we move forward with appointing an interim Manager who is internal with the City, will Ralph Andersen still honor that guarantee.

Ms. Wilber stated I don't know what their timeframe is. I didn't ask how long Council has to take advantage of this piece of the contract. I do have a call set up with them tomorrow to let them know what our plan looks like. You can be recruiting for however long you want the recruitment to last. My last question to Council will be what you want the timeline to be. You don't have to expedite the process, especially if you know you have an interim in place that you are comfortable with. Unlike the last time where we did an internal search and did not find the right candidate, then we tried an external search again with Rudy as our interim and we were trying to expedite the process and get someone in as fast as we can, you don't have to do it that way, either. Council can give me any direction you want for me to take this. My recommendation would be that you start fairly soon at least talking to the recruiter, if this is the direction you want to go with Ralph Andersen, so that they can start preparing what that looks like.

Council Member Mathews stated I want to go with an external search. I do not expect our HR Department to be prepared and qualified at the level of going out and doing a national search for a City Manager. That is a compliment. It is not expected of you. I don't want to just look at one outfit. Looking at this process, I would like to see several choices in recruitment outfits. I would like Council to have time to do their own research. Bring a list of people to look at to Council; give us time to do our own research on those people; and then we can meet again and start moving in that direction of choosing somebody and what that will look like moving forward. It will take a while. This did not work out well last time. From what I understand, Council was not given all the background information. They were kept half out of the process, and I don't want to see that happen again. I want to take our time and be slow and methodical. If we don't have any candidates in the first round, we pass it up and we go with what we've got. We move on and keep looking. We need to be very careful not to get in the same situation we've been in before.

Council Member DeWillis stated I like the Andersen guarantee. That is nice. We need an external recruitment. On the timeline question, within six to eight weeks, let's find someone. Eight weeks is two months, and I don't think that's pushing it. We need to get somebody right now. That is what we need for this next agenda item.

Mayor Elinski asked if Council Member DeWillis wants to have an external, professional recruitment company in the next eight weeks or a new City Manager in the next eight weeks.

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Council Member DeWillis stated a new City Manager in the next six to eight weeks is what I'd like for on a permanent basis. If it doesn't happen, it doesn't happen. We are being asked for a desired timeline, and that's where I am at. We definitely need to go with an external recruitment. I like the Ralph Andersen's contractual guarantee. We don't need to spend money if we don't need to.

Ms. Wilber stated, typically, when you use an external firm, from the very start to when your person is in the door working, is usually more than three months. When we looked at the last recruitment, we really started working with Ralph Andersen in November, and Scotty started on May 15th. That was one of the faster recruitments. Some of the things that you can control on the timeline is how long you want it to be advertised and posted. If you want it to be a more expedited process, you would have a shorter window, maybe a month or so; if you wanted it to be a little bit farther, usually it is closer to six to eight weeks that you leave it open to accept applications.

Vice Mayor Wilden stated I'm 100 percent for Ralph Andersen. They did a great job last time. They know us and what we want. It will be very difficult for us to get a new City Manager given what's been going on. Even if it was going to cost us more money, I would be in favor of it. Ralph Andersen is a professional organization, and I was very happy with them last time. They got us an excellent candidate. I would go with Ralph Andersen, and we can start the process.

Mayor Elinski stated my concern with starting so soon is just, again, we're coming into an election year. If we could delay it until after the primary would be even better. We'd have a better sense of who will likely be sitting up here. During our last process, it was important to me to involve the Council that was coming in during that process, even though they weren't seated yet, so they could be part of that. I don't want to make decisions for a future Council. I'd like to have a little bit more certainty on who is going to be here before we move forward with either Ralph Andersen or with a completely different recruiter. This is another reason why I feel it is important to hire a professional management company to bring us a professional interim manager for the duration. This is going to take time, and if we're going to appoint a staff member to fill in as interim, they will be in that role for quite a long time before we can get the next manager seated. Again, we're coming up on an election year. That's going to make all that, that much more challenging.

Vice Mayor Wilden stated I agree; however, by the time we get names, we will probably have a new Council close to being seated.

Mayor Elinski stated a lot of what the professional managers think when they are coming into a community is who their seven bosses are. It will be challenging when they really don't know. They know the community and the community profile, and that's great, because that goes a long way to attracting good, high-quality candidates, but without knowing who the Council is or is likely to be, most people are going to be a little bit hesitate to follow-through.

Vice Mayor Wilden stated I agree with that. I'm asking how long it would be before we had candidates.

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Ms. Wilber stated, again, it depends on how long we say we want it open. If you say you want it open at the longer end, eight weeks, for example, by the time we bring back to Council which firm we want to use, we won't be starting until March sometime. We would give them about four weeks to get everything ready for you, all your materials and everything. By the time you choose someone, you probably won't have candidates for three months, if you're going to do it on the long side.

Mayor Elinski asked if that is three months from March.

Ms. Wilber stated, yes, from whatever time it comes back to Council and you decide which firm.

Council Member Mathews stated I would agree with them. Maybe what we need to do, then, because the timeline will be pretty close to knowing who those elected people are, is work that timeline backwards. Give us time to look at outfits to hire for recruitment, and then try to decide when to start that process to time it with the elections so that those newly elected Council Members, Mayor, or whatever, will be able to weigh in and be part of that process. I totally agree with that. It looks like it will be that way anyway. I would not expect to get a good, qualified candidate that we could agree on and hire before that timeline anyway. This should be a slow and methodical process, even if we have to go back to the well again.

Council Member DuVernay stated I tend to agree with that, too, because in the last process, not only were we not happy with the first lot of candidates, we will have to cast a broader net and make some adjustments on what we're looking for. It will end up taking a long time anyhow. It is not going to be a quick process.

Council Member Palosaari stated I agree with what is going on: Get an interim and get this lined up with the election. It's only fair to the new Council and it allows them to be part of the process and get off on the right foot.

Council Member Kurot stated I would like to go with a different company than what we had last time. By the time we pick a company and they get us candidates, we're going to be probably pretty close to the primary, if not past it, anyway. I would like to start the process sooner than later so we're not rushing it.

Mayor Elinski stated what I am hearing is we don't want to rush this. We have some time in front of us. We want to try to line it up closer to the primary election. What I am not clear on is if you want to move forward with Ralph Andersen or if you want to consider other firms.

Council Member DuVernay stated I would like to look at several firms.

Council Member Mathews stated we want some choices and some time to vet them.

Mayor Elinski stated so we will bring that back sometime in March.

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Ms. Wilber stated I will work on getting a variety of different options to bring back to Council; give Council a longer time to vet them than just the normal agenda process; then we can discuss at that time.

COUNCIL MEMBER REQUEST FOR AGENDA ITEM--INTERVIEW AND APPOINTMENT OF AN ACTING CITY MANAGER:

- RUDY RODRIGUEZ
- TOM WHITMER
- KIRSTEN LENNON

Mayor Elinski stated next up on the agenda is Item 3. It was co-sponsored by Council Members DuVernay and Mathews.

Council Member DuVernay stated first and foremost it is very crucial for the community at large to fully comprehend the efforts it took to include this item on the agenda. Despite both Council Member Mathews and I making a request for this to be on the January 16th meeting, it was pulled prior to the 24 hours by the Mayor unilaterally deciding to remove it. We had to actually resort to hiring a private attorney for ourselves whose last resource before legal action was issuing cease and desist orders on the Mayor, the City Clerk, and the Deputy City Manager. Let's all reflect on that for a minute. All of these measures would be in order to ensure that the Mayor abided by the law. And then we have the local newspapers with headlines such as 'Mathews, DuVernay pushes new interim City Manager.' It is important to clarify that neither Council Member Mathews nor myself are pushing for a replacement of an Acting Interim City Manager. Presently there is no person in that position who has been legally appointed. Our actions are clearly aligned with the City Code which explicitly states, "In the event of the City Manager's extended absence or disability, the Deputy City Manager will act as the Acting City Manager subject to the approval of the City Council." When Mr. Rodriguez assumed those responsibilities as the Acting City Manager on January 9th as reported by the Verde Independent, he did so in violation of the Code. Today, our efforts are focused on adhering to the Code.

The Mayor and the Deputy City Manager have been exceeding their authorities with the Mayor improperly directly staff, a function beyond his or Council's purview without a Council-Appointed City Manager. Additionally, the Deputy Manager assumed this role as Acting City Manager without Council appointment. What is particularly concerning about this is neither showed any inclination to rectify the situation despite their extensive 17 and 20-plus year experience indicating that they were well aware of the illegitimacy of their actions. It is one of the prescribed duties of the Mayor to enforce these laws, and obviously that has been neglected woefully. The state of affairs has led to chaos within the organization with Department Heads posturing in quasi-leadership roles and ad hoc committees are forming to act as what is supposed to be an Acting City Manager in response to the leadership vacuum. This prolonged situation has been a disservice to our City. Tonight marks its resolution.

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Council Member Mathews stated in order to rectify that as soon as we possibly could, you heard what we had to do to bring this to the agenda tonight. It was going to be pushed off to what was probably going to be another few weeks. For the appointment of the Acting City Manager, we thought it would be appropriate to invite the three employees who submitted their applications for that position last year. We have had no communication from anybody on this in that time period. This is the communication that we're dealing with in working together. Those three persons are invited to stand up here if they are willing to be considered for that position. I have no idea. It is Mr. Rudy Rodriguez, Kirsten Lennon, and Mr. Tom Whitmer. I would like to know if they are interested in being considered for that position, and then we'll go on from there.

Mayor Elinski stated Mr. Rodriguez is first on the list.

Mr. Rodriguez stated first of all, I'm honored that I'm on the short list on this group of three. I had applied initially, before Scotty was appointed; however, I will decline the invitation to interview.

Mayor Elinski stated Mr. Whitmer is next on the list.

Mr. Whitmer stated first off I'd like to thank you for the opportunity to be considered for this position. When I first saw my name pop up on the agenda, I kind of said you got to be crazy to consider something like this with everything that is going on. Upon thinking about it, I think, with certain conditions, I definitely would entertain this position.

Mayor Elinski stated Ms. Lennon is next on the list.

Ms. Lennon stated I have to agree with Tom. I was a little shocked to see my name on the list. I didn't really think about it in being appointed as an interim. With the current situation, I would consider an appointment only if we were planning on filling it with someone from the Interim Public Management or one of the firms in a relatively short period of time. I wouldn't want to be Interim City Manager for six months or eight months. I would want it to be a shorter period of time.

Council Member DeWillis asked Mr. Whitmer, if appointed, is he looking at six months or if he wants shorter or longer.

Mr. Whitmer stated I would entertain staying in that position until you found yourself a permanent one if I was meeting your expectations. In other words, I would want some kind of a timeframe in there where I could stand before you and say am I meeting your expectations or not. If I'm not, at that point in time I would be more than happy to go back to being the Natural Resources and Utilities Director. But if I'm living up to your expectations and you still haven't found a permanent one at that point in time, then I'd be willing to stick around.

Council Member DuVernay stated I do think it is not going to be a short-term position with the elections and whatnot and finding a recruitment firm that we like, and then finding a candidate, going on the history that we had trying to find our last City Manager.

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Mayor Elinski asked Council, knowing that Ms. Lennon would like a shorter duration of being the Interim Manager, and knowing that she would like us to pursue a professional manager, does that change whether or not you would consider her for appointment this evening.

Council Member DuVernay stated just the timeline, I think it is going to be longer. I don't mean a year or something, but if you think about we are here in February, you've got the election in August, I think that will already exceed her time limit.

Council Member Mathews stated I would assume that anybody stepping up for this is going to probably need to commit for six to nine months.

Ms. Lennon stated my reasoning behind it is just that it is a lot of work on top of all the other work, and then we would have to be moving people to backfill some of that work. That puts a burden on others as well, not just me moving into the role, but others having to move up in roles that they are not currently in. That is a long time to be just interim. You would want to think that maybe that would be a more permanent appointment or an interim appointment.

Mayor Elinski stated of the three on the list, I would like to see Kirsten Lennon be considered. She has been with the City the longest and has certainly balanced our budget for almost her entire tenure here and has done an exceptional job. I wouldn't want to burn her out, either. I really do feel like if we went with Kirsten, we would need to, on an almost parallel track, work on getting an Interim Manager service in place so it relieves the burden from staff. That is going to be the same even if we chose Whitmer. He is busy managing his department. He already took on an extra burden. He was just our Natural Resources Director, which kept his plate full for a lot of years. When Corbin came on board, he upped the ante and made him Director of Utilities as well. He is serving double duty. He is stretched at the gills. We are down one position, and it was a critical executive position. We can't just easily take somebody else from another department and place them in that position.

Council Member Mathews stated I would like to hear from Tom Whitmer on that same thing. He's had some time to consider this, obviously, and how that would work and what he thinks his plan would be regarding bringing people in to cover for what he is doing now.

Mr. Whitmer stated we've had three or four days to think about this. I am already putting 12 to 14-hour days in anyways, so what's one more duty. I have the luxury of having somebody underneath me right now that can take on at least the lion's share of the operation side of utilities, which is fortunate for me. Not that I would totally offload everything to her, but I definitely would ask her to step up to the plate a little bit more on some of the things on the operations side. On the natural resources side, there is a whole lot going on at this very moment. We have a possible Yavapai-Apache settlement that is in the works, and we're very close to getting something to Congress on that. Hopefully, if they meet their timelines, we're looking at March for that. That would offload at least some of that from what I'm doing at this point in time. There is always stuff going on in the natural resources side on the legislative side, but I've gotten to where I can do most of that in my sleep. Would it take an outstanding effort to take this on; absolutely. I don't have a life at this point in time, so what the heck.

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Mayor Elinski stated, regarding the Gila River adjudication settlement, that does concern me because I know things are ramping up.

Mr. Whitmer stated they are.

Mayor Elinski stated I see the bills coming in from our water attorney, so I know they are hard at work.

Mr. Whitmer stated, yes, they are.

Mayor Elinski stated you've been the front person representing the organization with that. I am really concerned about taking you off of that when that adjudication is ramping up.

Mr. Whitmer stated I'm not asking you to take me off that.

Mayor Elinski stated but the organization would be asking to take you off that with all your additional duties as Interim Manager.

Mr. Whitmer stated fortunately, as you all know, one of the top water attorneys in the State who is representing us on that takes on the lion's share of that. I just provide input and direction to him in terms of what we are seeking here. That takes a lot of the burden off of me in terms of being engaged on a daily basis like I have been prior to taking on Utilities. That shouldn't be much of an issue at this point in time. As far as the adjudication itself, there is a lot going on, but most of the things that are going on right now are having to do with the settlement more so than the adjudication. That is why you've seen the escalation of those bills over the last few months. It is simply because of the weekly meetings that we're having with the Yavapai-Apache Nation and the Salt River Project, because we're trying to get a settlement between the two parties ourselves.

There was no further questions or discussion from Council.

Council Member Mathews moved to appoint Tom Whitmer Acting City Manger in accordance with Cottonwood Municipal Code Title 2, Chapter 2.16, Section 040. This appointment is to take effect immediately, and will continue upon successful negotiation of the terms and remuneration no later than 30 days after securing a legal firm or attorney to represent the City of Cottonwood. The motion was seconded by Council Member DuVernay.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis	X		Council Member Palosaari	X	
Council Member DuVernay	X		Vice Mayor Wilden	X	
Council Member Kurot (Absent)			Mayor Elinski		X
Council Member Mathews	X				

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The motion carried by a vote of five to one, with a dissenting vote from Mayor Elinski.

Mayor Elinski stated I want to explain my reasoning. I don't want Mr. Whitmer to take offense. I feel like the best move is to hire an interim firm to relieve the already burdened load on staff. That is why I voted the way I did. Because it was brought up, I had put this originally on the agenda for the 16th, prior to our City Attorney and City Manager leaving. I felt it was appropriate to wait until we had legal counsel for the City of Cottonwood to represent us with moving forward with any kind of appointment, either internal candidate or an external firm to represent us. That is why I postponed it. The other thing was, when it was initially co-sponsored by Council Members Mathews and DuVernay, is it just didn't have enough clarity and it needed to have a little bit more transparency to it; specifically, names of those that they wanted to appoint. They needed to go back and dust that up a little bit before it was put on the agenda.

DISCUSSION OF LEGAL SERVICE PROPOSALS AND POTENTIAL AWARD OF CONTRACT:

- GUST ROSENFELD
- TIMOTHY A. LA SOTA

Ms. Wilber stated I am here to talk about legal services. As you know, we discussed a process to obtain some legal services for the City on January 9th of this year. We put out a request for qualifications which were due last Thursday, February 1st. Council received those packets on February 1st, shortly after it closed, and tonight is our discussion on the submittals. We received proposals from two firms; Gust Rosenfeld, PLC, and Timothy A. LaSota, PLC. The City also received a letter of explanation from Musgrove, Drutz, Kack, and Gautreaux about why they didn't apply this time, but what they could do for us moving forward. Council has the full proposals of both of the firms being considered, and staff would just need to know, after Council's discussion, who you would like to proceed with. There are three options in the suggested motion; two are based on Gust Rosenfeld with two options for the cost provisions that they laid out, and the third is for Timothy A. LaSota. There are representatives from both firms present this evening if there are questions for them.

Mayor Elinski stated I was pleased to see that we had two folks respond to our solicitation. We have the two firms with us this evening. Mr. Gaylord is present from Gust Rosenfeld, and Mr. LaSota is here as well. Mr. Gaylord was invited to the podium to address Council.

Mr. Gaylord stated we appreciate the opportunity to propose on this. We are happy to answer any questions that you have. If you're not familiar with our firm, we're a full-service law firm. Our largest office is in Phoenix, but we also have significant offices in Flagstaff and Tucson. The firm has been practicing public law for 103 years, collectively. This is a core area of practice for our firm. We have a couple dozen attorneys who practice public law. We represent school districts, cities, towns, counties, special taxing districts, really all of Arizona's public entities. We are very comfortable with it, and we would appreciate the opportunity to serve you. I am here for any questions you might have.

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Council Member Mathews stated this is just for temporary services until we determine and find someone to deal with permanently. If, for some reason, you're not chosen tonight, I've looked you up and it looks like you're well qualified, would you consider coming back for that permanent position.

Mr. Gaylord stated we are willing to consider any level of assistance that the Council needs or that the City needs. We are happy to help. If you mean will we be slighted if you don't go with us tonight, absolutely not. We'll always watch for other proposals or other announcements that you put out, and we'd be happy to talk to you about that.

Council Member Mathews stated you have done some work for the City before.

Mr. Gaylord stated for the last year we've helped a little bit. Mr. Horton brought us in to help with the new City Hall contract. When he was transitioning out, he could see that that was going to be a long project. He wanted someone to stay around and have that continuity. I understand it is still going, so that was a good decision by him. We also provided a little bit of assistance to Ms. Winkler when she came on. We've been in touch on a couple projects through the last year.

Council Member Mathews stated it doesn't sound like it has been too extensive, which is good because anybody that we need to consider right now for what we're doing shouldn't have much of a relationship with the City previously. We do have some serious internal issues we'll need to deal with, which may be a little uncomfortable dealing with those and maybe considering being a long-term position. Just so that you are aware of that.

Mayor Elinski asked if Mr. Gaylord would be able to commit to having somebody represent us that is consistent; one person, one point of contact for Council.

Mr. Gaylord stated I would propose to be your primary point of contact. I would attend your Council meetings. I'll tell you it is possible that I'll be sick or have some other conflict, in which case one of the other attorneys from our firm will come. We'd like to keep even that limited. In your packet you've got the two other attorneys who we expect would primarily work on your matters. I would do the bulk of your work, and Mr. McGuire or Mr. Goodman would backfill that. If you were receiving services from other attorneys besides the three of us, it would probably be because it was a specialized issue; for example, we have water law attorneys, education attorneys, or public finance specialist attorneys. Mr. McGuire is one of those, but we might have a unique issue that we brought someone else on. You wouldn't have a different person every time you pick up the phone. It would mostly be me, and if it wasn't me, it would probably be Mr. McGuire or maybe Mr. Goodman.

Vice Mayor Wilden stated that is my same question. You do have a bank of other attorneys that could help us on specifics, or if you are ill or whatever.

Mr. Gaylord stated yes. We would make an effort to be consistent. I would make an effort to consistently be here at the meetings.

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Vice Mayor Wilden asked what other cities they have worked for.

Mr. Gaylord stated the firm has worked for almost all of the cities in Arizona.

Mayor Elinski asked if the firm provides, currently, municipal legal services for towns or cities currently as their sole provider.

Mr. Gaylord stated we do. Well, as the sole provider, most cities are like Cottonwood. You have contracts for specialty things. It sounds like you've got a specialty water attorney. Most cities have that. We do serve as the city attorney or the town attorney in multiple jurisdictions right now. We also serve as district attorney for a couple of special districts. To the spirit of your question, we are the primary attorney in several jurisdictions right now.

Mayor Elinski asked if they represent rural communities as well; smaller municipalities up to larger municipalities.

Mr. Gaylord stated that's right. We currently serve as the city or town attorney for several rural communities.

Mayor Elinski asked if there are 12 other attorneys at the firm or is the bench even deeper.

Mr. Gaylord stated I don't know the exact number of attorneys. We're usually in the low 60s. Our public law group is usually in the low 20s. We have several public law attorneys in Flagstaff. We have a public law section in Phoenix.

Mayor Elinski stated you mentioned in your application that if we needed outside counsel, we wouldn't have to go far beyond your firm if we had to go out at all.

Mr. Gaylord stated, in our experience, we do have someone at the firm with most specialty areas of expertise. Like I said, this is what we do. When there are specialty items, chances are we've had to find someone for another municipality if we really don't have it. For temporary services, I wouldn't expect that that would come up a lot, but if it would, no problem. One thing worth mentioning, if it is relevant to you, is we do provide long-term services to a lot of municipalities. Some of those rural communities we've been with for decades. We also provide interim services regularly. Whichever way the Council charts its course moving forward here, we're happy to provide whatever assistance you need for the period you end up needing it.

Mayor Elinski then invited Mr. LaSota to the podium to address Council.

Mr. LaSota stated I am happy to be here and to apply for this contract. Obviously, hopefully, you've read my application. One thing in particular I would note is my time with the Arizona Corporation Commission. I was there fulltime, interim general counsel at what I would consider a very difficult time considering all of the in-fighting that was going on among the commission. Specifically, we were sued by one of the members over a subpoena of APS. It was a very difficult situation for a general council for all of staff, and I was brought in by the

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Chairman, Tom Forese, but just because I was brought in by one person didn't mean I could only cater to him. That is one of the things I'm most proud of. Hopefully, you saw the letter of recommendation from Andy Tobin. He's a long-time Yavapai County resident, but he was not the one that brought me on there. I've represented a number of governmental entities over the years, both internally and externally. I call them like I see them when it comes to legal issues. That is all there is to it. I have represented large entities and small entities. The Corporation Commission is obviously a huge state agency with hundreds of employees, but I've represented smaller ones, too, individuals, all kinds of different elected officials and public bodies. I've now been in two Council meetings. I know they are rancorous, but one of the reasons I applied is, because of my unique experience, I do have something to offer. Not something to offer for one individual Council Member, but a skillset to offer that I think would be helpful for the members of this body and for the City as a whole.

Mayor Elinski asked if Mr. LaSota currently represents any cities for public law, general law, just the city; not individual council members.

Mr. LaSota stated, a municipality itself, no. I do not represent any particular cities, but I've worked at the City of Scottsdale. I've obviously represented different governmental entities. My experience in land use is very extensive. Frankly, I sue a lot of cities over zoning cases, but what that means, obviously, is I've developed an expertise in that regard that can just as easily be applied on behalf of a municipality as it is against a municipality. As it happens, I've been on the other side. Throughout my career, I've been on the opposite side of government. I've done government work. I do enjoy government work. I served four years as the Deputy Maricopa County Attorney; two years at the City of Scottsdale. I do very much enjoy public law.

Council Member DeWillis stated Mr. LaSota is not a firm, but an individual.

Mr. LaSota stated I am a firm, but I am a sole practitioner. I was a sole practitioner when I was the Interim General Counsel at Arizona Corporation Commission as well. I did not give up my practice when I went to work for them. As it was, at the Corporation Commission, I did not really do much utility work, so I didn't really have conflicts. The General Counsel position often involves, as the name suggests, sort of a general legal background.

Council Member DeWillis asked, if you get the contract, would you be available to sit here when we have our meetings and phone calls or whatever from City staff and employees, and so on and so forth.

Mr. LaSota stated absolutely. As I said, that was never an issue. I went to every Corporation Commission meeting. I took their calls. I would have office hours, and I would be there pretty much full time. To the extent I didn't have Corporation Commission things to work on, I would just have my laptop and I would work on other things. It worked out well.

Mayor Elinski asked if Mr. LaSota is looking to branch out or break into municipal legal services. On your resume I don't see that you've done this before. It seems like there is an awful lot more of providing general counsel for a municipality. If it is just you, I'm just curious

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how we will stretch you out so far to do all the things that we need done to keep the City moving from day-to-day.

Mr. LaSota stated I wouldn't characterize it as breaking into municipal law. This is a contract I want. Frankly, I hope it is not the last municipal contract I get. Given my resume, given my public law background, given I was the Chief of Staff for the Mayor of Scottsdale, I don't consider it breaking in to municipal law.

Mayor Elinski stated we had an attorney fulltime, and she worked more than fulltime. She was newer, so she was getting up to speed. We also had a firm behind her that provided a lot of services at the City of Cottonwood as well. We've lost both of those. The firm, and I don't know how many attorneys they have – we dealt with four or five of their attorneys as they represented us in different matters – they were fairly busy with the work the City has. Ms. Winkler was also very busy. I want to be clear it is not just like representing a Mayor or a Council Member, an individual on Council. What we need is the full breadth of legal services to run the entirety of the organization; not just advise or consult with Council.

Council Member Mathews stated I've got some questions for some clarification.

Mayor Elinski stated that is a question. If I could get an answer, that would be great.

Mr. LaSota stated I understand that. I understand what it takes to represent a governmental entity, and you don't have an attorney here now. As someone who is only bidding for this contract, that makes me nervous. The answer is, yes, I had no problem serving in this role for six months at a large State agency. I don't anticipate difficulty. In my application, I mentioned I do plan to hire an associate, but I would be the contact person for this contract. I am fully capable of performing, and I've done it before. I was also the parliamentarian for the Maricopa County Community College District. We did have a general counsel also, but that involved going to every meeting, advising them on basically every, single First Amendment issue possibly, and guiding them so that they didn't get into Civil Rights violations and things like that.

Council Member Mathews stated this will bring some clarification, too. If things go well, we may only need you for weeks, and that's really the plan. I've done a lot of research on you. I've got a lot of highlights, and it looks like you've extensively touched on everything that we would need. I really like what you did with the Corporation Commission, because that seems to be exactly where we're at now – we are a much smaller organization than that – to come in and help us get through this time, do what we need to do, and also guide us and direct us on finding permanent legal counsel. You have been all over Arizona. You're familiar with most of the firms out there that we would consider, and that's what we're looking for. No offense, but the shorter period of time that we have you, the better. That is our intent here. If you could elaborate on that Corporation Commission experience that you had, and how you think that might relate to us. Anybody we get, and I don't think I made that clear with Mr. Gaylord, is as short of a term as possible until we get somebody permanent. We need somebody experienced to help us with that. I'd rather have an attorney, no matter who it is, help us with that permanent solution rather than a recruitment firm. I'll give an example of what we have

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dealt with. We had an attorney who was asked a question from the dais on what would happen if a Council Member abstained from voting. He then asked if Mr. LaSota could answer that question easily. We had a question to our previous City Attorney. A Council Member asked what would happen if I was sitting at the dais, forming a quorum, but I abstain from voting, how would that affect the vote that was taken.

Mr. LaSota stated it wouldn't, that I can see, if you've got a quorum and that doesn't affect your quorum.

Council Member Mathews stated it is very simple. In fact, I happen to know that when she asked that question she already knew the answer from just a quick Google search. Our attorney at the time couldn't answer that question. She kicked it up to the contract attorney we had, and that answer came back with a \$700 bill, something that you just answered there and anybody up here or anybody familiar with Robert's Rules of Order (could answer). You would be more than qualified to fill that position.

Mr. LaSota asked if he could elaborate on the question that Council Member Mathews posed at the beginning. In terms of the duration, when I was at the Corporation Commission, we had parted ways with our General Counsel, my job was to assume that role, to sit in the chair during meetings, to make sure that everything stayed as it should, and that we were protected legally. Even Commissioner Burns' interests, who sued the Commission. That would have looked poorly on me if he would have wandered into an Open Meeting Law violation, even though he was adversarial to the Commission. We handled all those things, and the Commission went out and found Andy Kvesic, who was a tremendous General Counsel for the Commission. It did not take a ton of time. It was a rancorous thing. There were some of the same challenges that I see this body facing, and that much is true. It is going to be a little bit more challenging than what it might otherwise be. That was basically always intended to be a short-term gig. I was never interested in the fulltime position, and we got him. He came in before I left, but I helped show him the ropes a little bit, maybe a month or two overlap. They essentially kept me on to handle the Bob Burns litigation, which, ultimately, I represented the Commission and we won that in Superior Court. I hope that helps answer your question.

Council Member DuVernay stated I'd like to point out, you've seen some meetings, and when you're coming in, there are several issues that are going to be needing to be taken care of internally. I'd also like to point out that the firm that we had was extremely busy. After investigating every invoice, a lot of the questions and a lot of the money that was spent on issues that were kicked up to that firm, as Council Member Mathews illuminated already, they were very basic questions that – and we'll actually be showing the entire Council – cost the City a lot of money for questions that should have been answered by our internal attorney. Saying it kept her busy – which it did, it's a very busy job, and we used the external firm a lot – but if you analyze what we used the external firm for, it was undoubtedly unnecessary.

Vice Mayor Wilden asked if Mr. LaSota has talked to any of the Council Members on the dais before and, if so, who they are.

Mr. LaSota stated I have talked to Council Member DuVernay previously.

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Vice Mayor Wilden asked if there is anybody else.

Mr. LaSota stated no.

Vice Mayor Wilden stated I am afraid this is going to be going down to one person, and I think it is blatantly obvious that the larger firm, Gust Rosenfeld, is over qualified, if anything. I would fully support them because they can provide all of the services that we need, and they have more than one attorney that can help us. They have worked with us in the past, so they have some idea of what Cottonwood is all about. Hopefully, that will go our way.

Council Member DuVernay stated they have worked with us. Regardless of if there were ten other people or firms here applying for the job, with what has been going on in the City and what needs to be dealt with, in the short term, having a firm that has actually dealt with us is a detriment. Those issues are, obviously, issues that you don't think we'll find an issue. There are many things that need to be investigated coming in as an attorney, and with someone who has a previous relationship with the City, that would not work well with them. That firm is really good, and if they want to come work fulltime once we hire someone, that would be great. You need a total, impartial person that doesn't know the workings of the City. Yes, I have talked to Mr. LaSota, but it was on our own personal situation.

Vice Mayor Wilden asked if it had anything to do with the City.

Council Member DuVernay stated no.

Vice Mayor Wilden stated that's not true.

Council Member DuVernay stated I had originally asked to talk about the City, but we have continued business on a different level.

Mayor Elinski stated I'm hearing Mathews and DuVernay allude to some investigation or goings on at the City that we need a special attorney to look into. I was under the impression we were looking for a firm on an interim basis to represent the municipality, the organization, for legal services.

Council Member DuVernay stated I agree.

Mayor Elinski stated it looks like you are looking for more of a tool to get a job done, and then move on after that.

Council Member DuVernay stated, no, to get City business done. Like, for instance, I had to give you a cease and desist order to have our item put on the agenda. And for you to say it required more details, the attorney actually told you why it didn't require more details, because you are in violation of Open Meeting Law. If you'd like, I can get the attorney's letter out. What I'm saying is, there are things that have been going on at the City, which you have been a part of and other people have been apart of, people in the community want issues brought

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forth. We're voting no on a proclamation, but even when we asked for those things to be brought forth so the City can actually hear what happened, why we're voting no, why we're voting yes, given an opportunity, you, Mr. Mayor, do not let those things come on the agenda. Actually, you aren't supposed to direct staff, just like you directed Mr. Rodriguez. When he was not supposed to be the Acting City Manager, you, personally, broke the law and directed him to put the last Police Chief on administrative leave. It was in the newspaper. I have the email, so no need to furl your brow.

Vice Mayor Wilden asked if we can just take a vote.

Council Member Mathews asked, if there are no more questions, can I put an end to this by making a motion, please.

Council Member Kurot stated not having an attorney has been making staff unable to function. We should bring in the firm so that at least staff can get done what they need to get done. Then, if we want to bring in LaSota to help us out with some housekeeping, let's do that. To just bring in one person when, at this point, staff is already backlogged, and we're holding staff up because we can't make decisions or function, we need to get out of the way so staff can function. Then if we want to use the other guy to do some cleanup, then let's do that. Let's get it to where at least everybody else can do what they need to do.

Mayor Elinski stated it is clear that Gust Rosenfeld is the firm that is most qualified and has the deepest bench, has a long history of representing municipalities our size and larger. The fact that they've done a little bit of work for the City means we already have a working relationship with them. The organization would be better represented by their firm.

Vice Mayor Wilden stated I agree with what you're saying. It is obvious.

Council Member Mathews moved to enter into an agreement with Timothy A. LaSota to perform legal services for the City of Cottonwood as proposed, utilizing an hourly billing schedule, and authorizing the Acting City Manager, or Mayor, or other designee to accept the firm's retainer for a letter for services. The motion was seconded by Council Member Palosaari.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis		X	Council Member Palosaari	X	
Council Member DuVernay	X		Vice Mayor Wilden		X
Council Member Kurot		X	Mayor Elinski		X
Council Member Mathews	X				

The motion failed by a vote of three to four, with dissenting votes from Council Members DeWillis and Kurot, Mayor Tim Elinski, and Vice Mayor Wilden.

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Mayor Elinski moved to enter into a contract with Gust Rosenfeld to represent the City for municipal legal services. The motion was seconded by Vice Mayor Wilden.

A roll call vote on the motion was taken as follows:

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Council Member DeWillis	X		Council Member Palosaari		X
Council Member DuVernay		X	Vice Mayor Wilden	X	
Council Member Kurot	X		Mayor Elinski	X	
Council Member Mathews		X			

The motion carried with a vote of four to three, with dissenting votes from Council Members DuVernay, Mathews, and Palosaari.

MONTHLY FINANCIAL REPORT—OCTOBER, 2023

There were no questions or concerns from Council regarding the monthly financial report.


CLAIMS AND ADJUSTMENTS—FEBRUARY 6, 2024

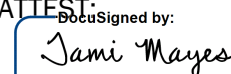
Mayor Elinski moved to pay the claims and adjustments as presented. The motion was seconded by Council Member Kurot and unanimously carried.

ADJOURNMENT

Mayor Elinski moved to adjourn the regular meeting. The motion was seconded by Vice Mayor Wilden and unanimously carried.

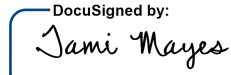
The regular meeting was adjourned at 8:03 p.m.

DocuSigned by:

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Tim Elinski, Mayor

ATTEST:
DocuSigned by:

2C75EB0A021C41B...
Tami S. Mayes, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of the regular meeting of the City Council of the City of Cottonwood held on February 6, 2024. I further certify that the meeting was duly called, and that a quorum was present.

DocuSigned by:

2C75EB0A021C41B...
Tami S. Mayes, City Clerk

3/15/2024
Date