

MINUTES
TOWN OF QUARTZSITE
REGULAR MEETING OF THE COMMON COUNCIL
TUESDAY, MARCH 10, 2015, 7:00 PM

CALL TO ORDER: 7:17 p.m.

Vice Mayor Simpson called the meeting to order due to Mayor's physical absence.

INVOCATION: Pastor Bruce said the prayer.

PLEDGE OF ALLEGIANCE: Allegiance to the flag was pledged.

ROLL CALL:

Present: Vice Mayor Simpson, Council Member Kelley, Council Member Warner, Council Member Orgeron, Council Member Davidson, Council Member St. Germain, and Mayor Foster appeared telephonically.

STAFF PRESENT: Skylor Miller, Town Manager; Susan Goodwin, Town Attorney; and Tina Abriani, Town Clerk

ANNOUNCEMENTS:

Council Member Kelley announced there will be a Town of Quartzsite booth at the La Paz County Fair this weekend. She invited townsfolk to attend to promote Quartzsite.

Council Member Kelley announced a fund-raiser at Tyson, in the tin building, Puff will be out front, on Thursday, March 19, 2015 from 3:00 p.m. – 6:00 p.m. Chili cheese steak sandwiches, macaroni salad, chips, dessert and a drink will be served for a five dollar donation. She asked that everyone come out to help the food bank get through the summer.

Council Member St. Germain announced that on April 4, 2015, the first annual All Fools' Rally is coming to Town. There will be an ATV, four-wheeler, and dune buggy run that is about twenty to twenty-five miles long. First, second, and third prizes will be \$500, \$300, and \$100.00 It will start at Gunny's Military Museum and end up at the VFW. The VFW will have the new building open by then, the old Palo Verde restaurant. There will be events going on all day long, including breakfast, lunch and supper.

Council Member St. Germain also announced a very special event scheduled for 3:30 p.m. on Saturday, April 4, 2015. The Quartzsite Improvement Association, QIA, has raised over \$11,000 to buy a track wheelchair, which will be donated to a wounded warrior at 3:30 p.m. It will be awarded to a young man who lost his leg and partial use of his arm while serving our country in Afghanistan.

It will be a national event. Council Member St. Germain encouraged everyone to attend. There will be an egg eating contest and a pie eating contest. He said to dress like a 'fool' because there will be a plaque given out for the best-dressed female fool and another plaque for the best-dressed male fool.

Chinese lanterns with the names of a loved one on it will be released at 8:30 p.m. for which donations will be taken. There will be two live bands and event coordinators are trying to get KFLG to do a live remote broadcast. He encouraged everyone to attend, especially around 3:30 p.m. to thank the young wounded warrior.

CALL TO THE PUBLIC AND COMMUNICATIONS FROM CITIZENS:

Jennifer Jones spoke regarding open meetings and the call to the public. She referenced the auditor's report, the Town's debt and the Town's need for money. She suggested the use of HURF monies to repair Kuehn by Vito's because it is in a terrible state of disrepair. She commented on keeping public works busy. She suggested that the Town go to a four day work week for about nine months out of the year with no full-time employees and no benefits. She said the Town could shut the air conditioning off and noted that Blythe does it. She advised that she contacted the new State Attorney General to report the Town's misuse of HURF monies.

Carolyn Wirtzberger advised that for the at least a second month in a row, she did not receive her paper water bill. Town Manager Miller will investigate.

PROCLAMATIONS:

- 1. RECOGNITION OF JONATHAN DAVID McELWAIN – Proclamation paying tribute to Jonathan David McElwain as an outstanding representative of the youth of the Town of Quartzsite and recipient of the earned honor of achieving the highest rank in Boy Scouts, attained by only two percent of all Scouts, the Eagle Scout badge.**

Vice Mayor Simpson read the proclamation aloud.

Town Manager Miller stated Jonathan David McElwain will be receiving his Eagle Scout badge at a ceremony in late March. Town Manager Miller announced all Council Members have been invited to attend, as well as some Town staff members. Town Manager Miller advised that once he knows who plans to attend, plans can be made to have a formal presentation of the proclamation.

Vice Mayor Simpson read the invitation aloud, stating the ceremony will take place on Saturday, March 28, 2015 at 4:30 p.m., at the LDS Church, 455 Riggles Road, Quartzsite, AZ, with a reception with desserts and drinks following the ceremony. Vice Mayor Simpson said he hopes to see a big crowd there.

PRESENTATIONS:

ARIZONA PEACE TRAIL – JC Sanders, Arizona Peace Trail Committee Member, will provide information regarding the 680 mile OHV trail connecting 3 Counties: Mohave, La Paz, and Yuma from Bullhead City to Yuma. The non-profit organization's mission statement is: *To develop a loop trail system utilizing existing trails and roads in Western Arizona connecting Bullhead City to Yuma and assist the land managers in maintaining the trail system. Work with city, county, state and federal agencies to keep the desert roads and trails open for public use. Work on projects for our community, our highways and our public lands. Promote the sport of Off Highway Vehicle (OHV) riding safety, with awareness and respect for the environment.*

JC Sanders gave a PowerPoint presentation regarding the loop trail system. He gave an overview of the origin, growth, long term goals and support of the Arizona Peace Trail and how it benefits the area and will promote winter recreation in Western Arizona. You can visit arizonapeacetrail.com and find it on Facebook.

CONSENT AGENDA:

- 2. LEDGER OF ACCOUNTS PAID – Consider approval of check series 38599 - 38645, totaling \$126,872.53.**

Vice Mayor Simpson stated the consent agenda is a list of items believed to be non-controversial and any Member of Council can remove any item for separate discussion and action.

Town Manager Miller noted that he reviewed the list of checks and found no items that warranted being pulled for further discussion at this time.

Council Member St. Germain moved to accept the consent agenda as is and Council Member Warner seconded the motion. The vote was unanimous. Motion Passed.

ADMINISTRATIVE ITEMS:

- 3. MINUTES – Consider approval of the minutes of the Work Session of February 24, 2015; the Special Meeting of February 24, 2015; and the Regular Meeting of February 24, 2015.**

Council Member Orgeron moved to approve the minutes of the Work Session of February 24, 2015; the Special Meeting of February 24, 2015; and the Regular Meeting of February 24, 2015. Council Member Warner seconded the motion. The vote was unanimous. Motion Passed.

- 4. APPROVED VENDOR LIST FOR CONSENT AGENDA - Discussion regarding establishing an approved vendor list for future consent agendas.**

New vendors and purchases not on the vendor list are to be listed separately. Justification for each expenditure and the correlating budget information, as well as the name of the person or department requiring each expenditure, should be listed for each and every expenditure not on the approved vendor list for the consent agenda. *Item requested by Vice Mayor Simpson.*

Town Manager Miller said moving forward, the Town could establish a list of previously used vendors which would serve as a baseline to be listed on the consent agenda. Each new vendor listed for payment, would be a separate agenda item for Council's review and possible approval.

Council Member Warner asked to be advised of when payments are due, new and baseline vendors, how often they are paid and when the payments will hit in the budget cycle.

Council Member Orgeron noted that he thinks everyone would like to speed up the process.

Council Member Warner asked that she be advised of any contracted vendors and of when the contracts expire.

The Council agreed to direct staff to construct a list of vendors.

5. COUNCIL TO APPROVE ALL NEW HIRES - Discussion and possible action to require all proposed new hires, either budgeted or not, be approved by Council before the applicant is hired. *Item requested by Vice Mayor Simpson.*

Vice Mayor Simpson explained his thinking on this matter and why he requested the agenda item.

Council Member Orgeron stated his concern regarding redundancy and the possibility of the Council micromanaging the Town Manager.

Council Member Orgeron asked that the agenda item be opened to the public.

The Mayor said the agenda item is not a concern of the public and its participation may cloud the issue. He stated that it is an administrative item between elected officials and Town staff.

Council Member Orgeron stated everything is of interest to the public.

The Mayor stated Council Members oversee the finances of the Town which includes the payroll.

Council Member Kelley wanted to see the item open to the public. She asked why the Town has a Town Manager if the Council is going to micromanage him.

Council Member Kelley suggested that when each department head goes before the Council during the budget process, that department head should tell the Council if they need more or less staff.

Council Member Davidson moved to approve Item 5 as read.

The Town Attorney recommended the motion read: that the Council approve filling a position before a new employee is hired by the Town Manager.

Council Member St. Germain seconded the motion.

Town Attorney Goodwin read the proposed motion: that the Council approve filling a position before a new employee is hired by the Town Manager and Council Member Davidson moved that. Council Member St. Germain seconded the motion.

Council Member Orgeron moved to open the agenda item to the public and Council Member Kelley seconded the motion.

ROLL CALL VOTE:

Vote: Motion passed (summary: Yes = 4, No = 3, Abstain = 0).

Yes: Council Member Kelley, Council Member Warner, Council Member Orgeron, Council Member St. Germain. **No:** Mayor Foster, Vice Mayor Simpson, Council Member Davidson.

Mike Jewitt spoke about micromanaging and the Council's responsibilities.

Jennifer Jones spoke about the La Paz County Board of Supervisors' process for approval of personnel hiring, firing and promotions. She also talked of financial control of public funds and checks and balances.

Elmer London, resident, stated he was trying to take a practical look at the situation from the standpoint of the people who would be hired, in asking why the applicants must appear before the Council.

Town Manager Miller stated it was his understanding that he would need to go before the Council for approval to begin the recruitment process. The Town staff would complete the recruitment process, and then the Town could offer the applicant the position contingent upon fiscal approval of Council.

Vice Mayor Simpson stated the motion is that the Council will have final say on filling a position not screening individuals.

ROLL CALL VOTE:

Vote: Motion Passed (summary: Yes = 5, No = 2, Abstain = 0).

Yes: Mayor Foster, Vice Mayor Simpson, Council Member Warner, Council Member Davidson, Council Member St. Germain. **No:** Council Member Kelley, Council Member Orgeron.

Town Manager Miller asked if Town staff needs to first go to the Council for approval of the recruitment process, or if the Council can be notified via memorandum or the Town Manager's individual contact with the Council Members.

Town Manager Miller proposed that when there is a staffing need he will make Council immediately aware of that need and if there is a concern it can be addressed on an individual basis. He went on to say that if he begins the advertisement to solicit applications and Council has a concern, they should bring it to the rest of the Council's attention at a formal meeting and he will suspend the process. He will operate under the assumption that he has consent of Council if he has notified them and does not hear from them. Council agreed. No dissenting opinions were offered.

- 6. REZONE 010615-1 - Discussion and possible action to adopt an ordinance to Rezone property located at 4225 Mockingbird Street, Quartzsite, AZ 85346. APN: 306-20-014 from SR to C-2 for the purpose of placing a commercial sign.**

Council Member Orgeron moved to open the agenda item to the public.

Town Manager Miller advised that the Planning and Zoning Commission held a public hearing on this case on February 17, 2015, at which the public was given an opportunity to speak. The case was continued and formally approved by the Planning and Zoning Commission on February 23, 2015.

Town Manager Miller advised that approving the rezone modifies a property zoning district. He explained the focus and the action requested is for the purpose of the rezoning, not the consent of any use.

Town Manager Miller stated this zone change is not compliant with the Town's recently adopted General Plan. He said in order for the zone change to be compliant with state law, the Planning & Zoning Commission needs to initiate an immediate study of the Mockingbird corridor to review the General Plan as it relates to this area.

Vice Mayor Simpson stated his concern regarding a possible improper notice in the matter. There was only one public notice regarding the Planning & Zoning Commission's public hearing regarding the rezone. The notice listed the hearing date as February 17, 2015 and a regular Council Meeting for February 24, 2015, at which the Council would review the Planning & Zoning's recommendation to grant the rezone or to deny it. On the Planning & Zoning Commission's Agenda for February 17, 2015, no possible action was listed, so the Commission could only review the matter and not vote

to recommend or deny. Another meeting was held on February 23, 2015 at which the Commission voted to recommend the rezone.

Town Attorney Goodwin recommended that a new notice be posted, stating when the Council may take action on the item. She said that was in addition to the Town Manager's concern regarding the General Plan, which needs to be addressed.

Town Manager stated he is proposing to continue this item to the next Council Meeting with a new posted notice.

7. COLORADO RIVER ALLOCATION - Discussion and possible action to amend and supplement the contract with the U.S. Department of the Interior, Bureau of Reclamation for delivery of Colorado River water through January 28, 2029.

Town Manager Miller stated this is a continuation of the process of something that hasn't been utilized by the Town in the past, but is certainly a resource that the Town is not prepared to give up. The original allocation was set to expire in 2012; however, Town staff and Council took action to secure an extension.

He stated that in order to continue this process the Town must review the document and finalize it so that the process can move forward to secure the Colorado River allocation through 2029.

Town Attorney Goodwin stated this is a binding contract and the Town is agreeing by contract not to disincorporate.

Council Member Orgeron moved to approve the amendatory and supplemental contract with the U.S. Department of the Interior Bureau of Reclamation for delivery of Colorado River water through January 28, 2029. **Council Member Kelley seconded** the motion. The vote was unanimous. **Motion Passed.**

8. TOWN VOLUNTEER BOARDS - Preliminary review, discussion and possible direction regarding existing Boards, Committee, Commission, Corporation and their status.

Town Manager Miller stated this is a fairly broad discussion of existing boards. He advised there are a number of vacancies. He asked if the Council had a threshold of how many applicants they must have for a vacancy before they review the applications.

Council Member Kelley and Council Member Orgeron would like to see the volunteer interest statements brought to the Council when they come in to the Town Hall, both for new volunteers and for those that wish to continue in their current position after the term expires.

Vice Mayor Simpson stated he wants to see a concerted effort to advertise vacancies and the need for new volunteers.

Town Manager Miller said the vacancies will be advertised for a thirty day time period and he will bring the results to the Council.

Richard Thompson spoke regarding volunteerism and said it sounds like recruitment and advertising are needed. He suggested starting with the Council Members having applications with them when they are out in the community.

Jennifer Jones spoke of work sessions in the past with the prior administration and contractual obligations. She suggested that the primary concern be to fill statutorily governed boards. She also spoke of citizens groups.

Bruce Swart, Chairman of the Cemetery Board, said that awhile back the Board was asked if it wanted to stay a board of the Town and remain accountable and the answer was yes. He spoke of the boards recruiting for volunteers and said word of mouth is the best advertisement.

He talked of ways the Council could advise the board members that the Council appreciates them and knows the boards are doing something important.

9. SALES TAX DISCUSSION - Discussion and possible action to review vending practices within Town during special craft show events and compliance with State laws. *Item requested by Council Member Warner.*

Town Manager Miller advised the Council that he had three requests to speak from the public.

Council Member Orgeron moved to open the item to the public and Council Member Kelley seconded the motion. The vote was unanimous. Motion Passed.

Town Manager Miller stated that he believed the intent of the agenda item was to ensure that the Town's current practices for how all vendors and retail establishments are regulated are fair and in accordance with state law.

Council Member Warner spoke regarding crafters that do not have the proper sales tax ID for the State of Arizona.

There was some discussion of private transactions.

Bert Day, a crafter, spoke regarding crafters not being willing to buy a license to sell crafts. She said she would not personally be willing to buy a license to sell her crafts.

The Mayor suggested the Council direct staff to check with other communities throughout the state to see how they handle this situation.

Council Member Warner advised that the woman she spoke with at the Arizona Department of Revenue stated the Lake Havasu City Town Code had excellent verbiage regarding this issue.

Town Attorney Goodwin advised there are two issues, one is the obligation to pay sales tax which is state law and part of the Town tax code; the other issue is that of Town Code provisions for vendor and business licenses.

She stated the Town can regulate crafters and other vendors through the Town Code and there is an obligation to pay the state transaction privilege tax.

Council Member Kelley spoke regarding how the issue was handled in the past.

Starr BearCat spoke regarding various ways of collecting taxes.

Council Member Warner advised she is not trying to attack the crafters. She stated she has the same stance with anyone in Quartzsite regarding state laws and lost Town revenue.

Starr BearCat spoke regarding generating income by checking properties that act as RV parks that are not paying the proper sewer and water rates.

Jennifer Jones spoke regarding weekend exemptions, yearly exemptions, yard sales, primary purpose, artists and the definition of a yard sale and its parameters.

Howard Andreasen, President of the QIA for four years, spoke regarding the loss of revenue to the Town by not collecting permit fees or taxes and compared that amount to the amount that will be lost if the crafters stop selling.

Cathie Landon, the current Craft Chairman for the QIA, represents 150 crafters. She advised there are a total of five craft fairs and they are not full-time people. She asked the Council be considerate and not make the crafters be businesses when they are not business people. She suggested that the Council look into a blanket or an umbrella permit for the crafters.

Charles Weinheimer, he and his wife are crafters, stated he gathers the discussion is not about vending, but about commerce. He talked about the crafters paying sales tax for the project materials before the product is made and the fact crafters make so little money.

Town Manager Miller spoke regarding the need to update the Town Code with a process to accommodate an activity as light as the craft shows.

Marilyn McFate, spoke regarding the beginnings of Quartzsite and the draw of the hand-crafted items that bring business to Quartzsite. She asked that the Town find a way to make the crafters happy and make the craft shows work.

Council Member Warner said all she is saying that there is a tax already in place that should be paid.

Town Attorney Goodwin read a short *definition of what is not taxable* for sales tax and noted that everything else is taxable. She read: a *casual activity or a casual sale – a transaction of an isolated nature made by a person who neither represents himself to be nor is engaged in a business subject to the tax*, such as the 'one-time yard sale', or 'I own a car and I sell it to my neighbor'. She explained that usually that definition captures people who regularly sell crafts. She suggested staff take a look at the matter and go back to the Council with a recommendation. She advised that the Town is in control of the amount it charges for business licenses; but, it is a state requirement to pay the sales tax. She said staff could look at an adjustment to make it fairer to the small craftsmen.

Elmer London said it seems to him that there have been so many ways to try to destroy the embodiment of Quartzsite and the Town Attorney has found the solution. Mr. London thanked Town Attorney Goodwin.

Tony Carnevale spoke regarding craft fairs and how craft sales may be ruined and there must be a way to avoid treating crafters as businesses.

Staff was directed to look into the matter.

10. COMMUNITY EVENTS – Discussion and possible direction to utilize town resources for planning, coordinating, and executing special events throughout the year. Item requested by Council Member Kelley.

Council Member Kelley spoke regarding community events for the residents and their importance. She said there was a lot of participation in past Town events. She asked the Council that on Memorial Day the Town be permitted to use the Town Park to have a picnic in the park, movies and water toys. She advised that the volunteers provide everything else. She asked if the Town can set up the water equipment.

Town Manager Miller said Council Member Kelley brought up a great issue. He stated when spending Town money, it should be on value added services and one of the things the Town wants to do is community outreach.

He said there is not a specific line item in the budget for events. He explained there have been appropriations made for Fourth of July's fireworks only, no other items for that event. He advised there have been no funds earmarked for Easter activities; but, there is money in line items that meet the criteria for use on Easter activities.

Town Manager Miller suggested moving forward, with consent from Council, have a special events line item in the budget and actually appropriate money for these events.

There was more discussion of the costs of events. Town Manager Miller said the Town would set up the water toys for the Easter event.

Council Member Orgeron asked the approximate cost for each event. Town Manager Miller advised each event could be up to \$500.

11. **EXECUTIVE SESSION - An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position regarding amendments to a Power Purchase Agreement for Wastewater Project with SunEdison Origination1, LLC that is the subject of negotiations.**

ADJOURN TO EXECUTIVE SESSION - 10:01 p.m.

Council Member Orgeron moved to adjourn to executive session and Council Member St. Germain seconded the motion. The vote was unanimous. Motion Passed.

RETURN TO OPEN SESSION - 10:25 p.m.

At 10:25 p.m., Vice Mayor Simpson called the regular session back to order.

ROLL CALL:

Present: Vice Mayor Simpson, Council Member Kelley, Council Member Warner, Council Member Orgeron, Council Member Davidson, and Council Member St. Germain.

Absent: Mayor Foster.

12. **CONTRACT AMENDMENT - SUNEDISON ORIGINATION1, LLC - Consideration, discussion and possible approval of an amendment to the Power Purchase Agreement for Wastewater Project with SunEdison Origination1, LLC.**

Council Member Warner moved to approve the power purchase agreement for wastewater project with SunEdison Origination1, LLC with the provision that the Town Manager is allowed to make non-substantial changes to Amendment 1 to the power purchase agreement. Council Member Orgeron seconded the motion. The vote was unanimous. Motion Passed.

COMMUNICATIONS:

Reports from the MAYOR on current events. - None

Reports from the COUNCIL on current events. - None

Reports from the TOWN MANAGER to the Council. - None

Town Manager Miller spoke regarding the Magistrate Court Judge's resignation. Town Manager Miller recommended a special meeting be held early next week regarding this matter.

ADJOURNMENT: 10:29 p.m.

Council Member Orgeron moved to adjourn and **Council Member Warner seconded** the motion. The vote was unanimous. **Motion Passed.**

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of March 10, 2015, of the Town Council of Quartzsite, Arizona, held on March 10, 2015.

I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 24th day of March 2015



Tina M. Abriani, Town Clerk

On behalf of the Common Council

Approved:



Ed Foster, Mayor