

MINUTES
TOWN OF QUARTZSITE
REGULAR MEETING OF THE COMMON COUNCIL
TUESDAY, OCTOBER 13, 2015, 7:00 PM

CALL TO ORDER: 7:01 p.m.

INVOCATION: Led by Audrey Berger.

PLEDGE OF ALLEGIANCE: Led by Mayor Foster.

ROLL CALL:

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

Staff Present: Skylor Miller, Town Manager; Susan Goodwin, Town Attorney; and Tina Abriani, Town Clerk

CALL TO THE PUBLIC AND COMMUNICATIONS FROM CITIZENS:

Terry Frausto spoke regarding rumors around Town.

Rita Mill, a winter visitor and a crafter, said she had been coming to Quartzsite for 17 years. She spoke out regarding a rumor regarding a rumor of the Town imposing a tax on crafters.

Jennifer Jones spoke to clear up two rumors she had just heard in the meeting during the Call to the Public. She reported that she had no deal on the table, at the time, with the Town or the Town Council. She stated her court cases had not been lost; rather, they were still in process.

Jennifer Jones spoke regarding the unfinished business of the Council, specifically regarding requests to Town staff. She listed: a policy amendment regarding the signing of checks; accountability for every purchase; an inventory list; case law concerning the primary purpose test as it relates to occasional sales; three RFQs; domestic violence and completion of Council requests.

Carolyn Henshaw spoke about the great job the Youth Council was doing, the leadership of the Youth Council and the leadership by the Youth Council.

ANNOUNCEMENTS:

Shanana Rain GoldenBear announced that on Saturday, October 24, 2015, there would be a Quartzsite-opoly game at the Community Center. The funds raised would be used

to support the Quartzsite Business Chamber of Commerce. There will be a \$10.00 charge to enter and to receive a ticket for the 6:00 p.m. raffle.

PROCLAMATIONS:

1. PROCLAMATION – World Food Day, October 16, 2015.

The Mayor read the World Food Day proclamation aloud for all to hear.

PRESENTATIONS:

2. PRESENTATION – Presentation by the Youth Council providing updates of their activities.

Youth Council President Rhiyanna Timberlake spoke of the Town's Labor Day Event, Youth Council meetings, the Halloween Haunted House, and a winter dance. The next Youth Council meeting will be held October 20, 2015, at 5:30 p.m.

Council Member Davidson asked that President Timberlake supply him with a request for a donation. He explained that the foundation that he was affiliated with was fully organized and ready to help the Youth Council.

CONSENT AGENDA:

3. LEDGER OF ACCOUNTS PAID – Consider approval of check series 39398 - 39469, totaling \$68,708.27.

Council Member Orgeron moved to approve the ledger of accounts paid check series 39398 - 39469 and Council Member **St. Germain seconded** the motion.

Vice Mayor Simpson stated he would like to remove 39437 and 39466.

Council Member Orgeron withdrew his motion.

Council Member Orgeron moved to approve the ledger of accounts paid check series 39398 – 39469 minus check 39437 and 39466. **Council Member Warner seconded** the motion. The vote was six in favor and one nay from Council Member Davidson. **Motion Passed.**

Vice Mayor Simpson stated both the checks that he removed from the list of approved checks were made payable to John Andoh and both were for \$1,249.98. He noted that one check was paid from a local transit transportation budget that was created with only \$200 in the working budget. He noted further that the other check was paid from the Administration budget.

Town Manager Miller stated that both checks were taken from Other Services for two different periods with two separate invoices.

Vice Mayor Simpson said other Other Services only has \$200 in the budget.

Town Manager Miller said that on page 18 of the FY 15-16 Budget, under Transit Services, Outside Service Providers shows \$5,000, which is for Mr. Andoh, Transit Services consultant for the full year.

Town Manager Miller concluded that the funding for Mr. Andoh is there, but the account coding was listing on the ledger incorrectly.

Vice Mayor Simpson moved to approve check 39437 for \$1,249.98 and check 39466 for \$1,249.98 payable to John Andoh. **Council member Orgeron** seconded the motion. The vote was unanimous. **Motion Passed.**

ADMINISTRATIVE ITEMS:

4. **MINUTES – Consider approval of the minutes of the Regular Meeting of September 22, 2015.**

Vice Mayor Simpson moved approval of the minutes as presented and **Council Member Kelley** seconded the motion. The vote was unanimous. **Motion Passed.**

5. **COMMUNITY OUTREACH FUNDING APPLICATIONS Review, consideration and possible action to approve applications for Community Outreach Funding as forwarded by the Health and Development Services Board for award of the 2016 Town Promotional Funds. Upon Council's decision, accountability contracts will be prepared for the selected organizations, in the amounts set by Council.**

The five applicants:

- **Proud Neighbors of Quartzsite**
- **Quartzsite Area Chamber of Commerce and Tourism**
- **Quartzsite Business Chamber of Commerce**
- **Quartzsite Historical Society**
- **Quartzsite Senior Citizens Center**

Town Manager Miller stated that Council would normally receive, on an annual basis, a recommendation from the Health and Development Services Board to fund applications with merit for the financial aid to promote economic development and outreach within the community.

Town Manager Miller explained that this year there might have been an actual or perceived conflict of interest regarding some of the applications.

The Board decided they could not ethically make a decision on any of the applications, so all applications were forwarded to the Council. The Board did note, in their motion, that there was one applicant that did not meet the technical requirements of the Town Code because the applicant did not yet have their non-profit status, their 501(c)(6).

Council Member Orgeron stated that if that were the case, anyone could have applied.

The Mayor asked which applicant was not qualified, and Town Manager Miller answered that the Area Chamber of Commerce and Tourism were still in the process of filing for their 501c6 status at the time of submittal of their application and at the time of the Health and Development Services Board meeting.

The Mayor said that in the past three organizations had received funds: the Business Chamber, the Senior Center, and the Historical Society.

Town Manager Miller said all the non-profit organizations that were funded last year had fulfilled their reporting requirements.

Town Manager Miller said that from the Council's determinations, based on the applications, the Town would draft accountability contracts for each recipient.

Council Member St. Germain spoke of Town Code requirements. He said the Town Code requires a non-profit status in order to apply for Town funds. He also noted that the Town Code states that those that received funds last year are required to provide a detailed accounting of all the funds previously received from the Town of Quartzsite.

Council Member St. Germain asked if those receiving Town funds had indeed sent in all those financial details.

Town Manager Miller said that the Town Clerk had received the reports and reported to the Health and Development Services Board that all recipients were in compliance with their financial reporting.

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

Town Manager Miller suggested that everyone keep in mind that the applications before the Council were financial aid documents. He said this was the first year applicants had a regimented application form with instructions. He said in the past applicants submitted what they thought were appropriate.

Town Manager Miller said the new applications are an attempt to approach the selection process with an 'apples to apples' review. He recommended that the Council consider the applications on their merit, as submitted.

Council Member Warner asked what the budget was for the year's Community Outreach Funding.

Town Manager Miller replied that Council budgeted \$8,000 in Promotion of Town under Economic Development, but \$1,000 was disbursed to Focus Future's Passport Program, leaving \$7,000.

Council Member Kelley moved to open the item for public discussion, and **Vice Mayor Simpson seconded** the motion. The vote was unanimous. **Motion Passed.**

Sally Ford, Chair of the Health and Development Services Board, said the Board was not given all the information to make a decision. She said they were not permitted to review how 'they' spent their money. She explained the Board had four Board Members that were associated with the Senior Center, due to the Council's appointments, which caused the Board not to be able to make a recommendation to the Council.

Council Member Orgeron asked Town Manager Miller if the Council could find out how the applicants planned to use the money.

Town Manager Miller replied that answer would be in the application.

Monica Timberlake, of the Health and Development Services Board, said it was true that there were four Board Members associated with one application. She went on to say that the Board could have made a recommendation to the Council on the other applications. She said that since the Board did not have access to the records of the previously awarded funds and their claimed usage by the awardees, the Board did not have enough information to make a decision on the applications for this year's Community Outreach Fund award.

Council Member Orgeron asked Ms. Timberlake, based on the information the Health and Development Service Board was given, what would she recommend. He also said he would like to pose the same question to Chair Sally Ford.

Town Manager Miller said he wanted to note two things before Ms. Timberlake made any recommendations. He said it was Ms. Timberlake and other members that had conflicts of interest, and they felt that they could not make recommendations. He explained that all members of the Board were told that the organizations that signed accountability contracts last year had complied with their contractual requirements. Town Manager Miller instructed that if new applicants were to be compared to old applicants, it would need to be done based on the merits of the current applications.

Ms. Timberlake responded to Council Member Orgeron saying she willingly recused herself from any discussion regarding Proud Neighbors, because although she was not a member of their board, she was very heavily involved in their organization. Ms. Timberlake went on to say that there were still six members of the Health and Development Services Board that could have made a decision on that.

Ms. Timberlake said she did not feel as though she could speak on behalf of the Health and Development Services Board and make a recommendation to the Council. She said that she thought that last year's recipients should have provided copies of their utility bills from last year so that the Board would know where the awarded funds went. Ms. Timberlake said she would like the Council to ask for documents proving where the awarded monies were spent.

Council Member Orgeron asked Chair Sally Ford the same question as he asked Ms. Timberlake, what her recommendation would be for which organizations should receive Town funds.

Chair Sally Ford said the Board had no idea how any of the Town's Community Outreach Fund award monies were spent.

Sue MacCracken, Treasurer of the Senior Center, said she wanted everyone to know that the Senior Center had sent in its application along with an accounting for every cent. She said the Board did not receive that accounting.

Shanana Rain BearCat, with the Proud Neighbors of Quartzsite, said since they submitted their application, they had already purchased quite a few items. She said she sent a presentation providing updates of what Proud Neighbors had expended their funds on to, "all of your Town e-mails."

Rain said Proud Neighbors attended the AZ Off-Road Expo on September 21 - 23, 2015. She said the Expo was at WestWorld in Scottsdale, AZ. She said the measurable outcome was that they were showcasing Quartzsite in venues that had never been reached before resulting in a hoped-for increase in restaurant patronage, fuel sales, general tax revenue, overnight stays in RV parks and BLM campgrounds.

Rain spoke of the organization's expenditures that had been adjusted from the requested \$2,800 to \$4,264.11. She said that included booth space. She pointed out that Proud Neighbors spent that much money promoting the Town and were not requesting that amount. She said they would attend the Sand and Off-Road Expo in Lake Havasu City in November. Proud Neighbors purchased 600 'Humpy' camels and other gifts that would be handed out at the booth. She also listed the purchase of a table coverings, marketing materials, travel, lodging, and food. Rain noted that Mark Goldberg designed a beautiful banner for their purpose.

Town Manager Miller said he meant no disrespect to anyone, applicants or Board Members and that what had gone on at the meeting regarding the agenda item had only tainted the financial aid, grant-style review process. He noted that in any other process, an application is received, and decisions are made based on the merits of the application. He explained that ancillary information is not part of the process. He explained that the process needed to handle the applicants on an equal basis, in an impartial way; with parity and equality.

Council Member St. Germain said the Town Code states what must be submitted and that the documents the Town received should be available for the Council to screen.

The Mayor explained that the Council did not review, in the past, the details of the documents required after the award of funds.

There was further discussion regarding the review of how award monies had been spent and non-profit status. There was also discussion regarding possible bias, comparing old applicants with new applicants, that comes with the knowledge of how monies were spent.

The Mayor spoke about "quantifiable return." He reviewed how some applicants produced a quantifiable return for their awarded funds.

Council Member Orgeron said some applications did not include all that was required. He suggested that another question be added to the application, 'If you got money last year, rate yourself on how you used it?'

Health and Development Services Chair Sally Ford asked since when does a Town employee decide what the Board is supposed to use to make their decisions.

Linda Goldberg asked if the discussed funding was a grant. Upon learning that it was called financial assistance, she said it was her recommendation, based on previous experience, that any kind of application for this type of funding should require accountability. She suggested quarterly reports be provided to the Council.

Pam Caskey said that at an earlier Council meeting, the Council voted to hire a firm to promote the Town. She asked what is the difference was between what the firm is doing and what Proud Neighbors are doing.

The Mayor asked if the Council wanted to table the matter and change the procedure for choosing which organizations are awarded funds; or, if the Council wanted to review and vote on the applications.

Council Member Davidson moved to table the item.

Council Member St. Germain moved to table the Community Outreach Funding applications at this time until Council has the opportunity to review the financial reports on where the donated money goes until the next regular Council meeting. Council Member Davidson seconded the motion. The vote was unanimous. Motion Passed.

6. PROPOSED TOWN CODE UPDATE – Discussion and possible action regarding proposed Town Code update for Vendor Permits and their issuance.

Town Manager Miller said he had been working with a very pro-active community member, who was representing various community groups, Mr. Mark Goldberg. Town Manager Miller said that prior to the meeting, Mr. Goldberg had requested that the item be opened to the public and that he be given the opportunity to give a presentation on some of his findings.

Council Member Orgeron moved to open the item for public discussion, and Vice Mayor Simpson seconded the motion. The vote was unanimous. Motion Passed

Mark Goldberg stated he appreciated the opportunity to address the Council on the issue. He stated he had no personal stake in the issue as he did not sell his crafts and did not have a local business. He said he was a year-round resident that was concerned about the impact on the Town's economy. He added that he represented businesses and organizations that are affected by taxing crafters.

Mr. Goldberg explained the regulatory role of the two involved bodies of government, the State of Arizona and the Town of Quartzsite. He pointed out that the State of Arizona imposes the tax requirements, regulations, and enforcement. He noted the State also does the collections for the Town of Quartzsite for a fee.

Mr. Goldberg said the Town's role was primarily land use regulation.

Mr. Goldberg discussed casual sales and the fact they are not taxable. He reviewed the term 'regular basis,' and Section R15-5-151 of the Arizona Administrative Code. The definitions of 'regularly' and 'occasionally' were reviewed.

Mr. Goldberg recommended three amendments to the Zoning Ordinance, Article III, Rules of Construction and Definitions, Section 2, to codify crafters. The first proposed amendment was to the definitions section of the ordinance. One proposed added definition was for the word 'crafter' defined as, "a hobbyist making or hand-assembling items or artworks for sale on an occasional basis at a local craft sale." The second proposed amendment added a definition for the term 'craft sale' defined as, "a gathering of crafters for the sale of handmade or hand-assembled items, or artworks organized and held by a bona fide local club or non-profit organization."

Mr. Goldberg's third proposed amendment was to the Zoning Ordinance, Article VII, General Provisions, Section 22, Yard Sales, Swapmeets, and Rummage Sales. He recommended adding a Paragraph 3 for 'Craft Sale' to say two days in any thirty (30) day period.

The Mayor suggested that the 'Craft Sale' definition use a three-day time limit.

The Mayor said that the Council asked Town Attorney Goodwin, at a previous, meeting to seek any case law on these issues of craft sales.

Town Attorney Goodwin said if there is a casual sale, then it would be exempt from sales tax. She said she would look for case law regarding craft sales. Ms. Goodwin commented that she found nothing remiss with Mr. Goldberg's presentation and thought it provided good direction to solve the issue of whether or not crafters must pay Arizona Transaction Privilege Taxes

Jennifer Jones spoke regarding arts and crafts sales and said you thought the issue was one of jurisdiction. She suggested the matter could be solved with only the addition of a clear definition of craft sales. She commented that further change to the Zoning Articles might be like painting oneself into a box.

Council Member Warner said she learned, at the League of Arizona Cities and Towns Annual Conference, there is at least one other town that has similar definition in their Town Code to describe artwork and crafters. She thought the other town it might have been Glendale or Phoenix. She expressed her support for codifying a firm definition of the difference between a vendor and a crafter.

The Mayor directed Town staff to proceed with Planning & Zoning's review of relevant Town Code definitions.

The Council thanked Mr. Mark Goldberg.

7. BUSINESS LICENSES – Review and discussion of the Town's business licenses (BLs).

- **Current business license fee - \$25.00**
- **385 BLs issued in FY 13-14, totaling \$10,040**
- **371 BLs issued in FY 14-15, totaling \$9,735**
- **70 BLs issued so far in FY 15-16, totaling \$1,795**

Item requested by Council Member St. Germain.

Council Member St. Germain noted that in light of the current tough economic times, he wanted to hear what the Council thought of changing the fee of a Business License. He noted that the Town's vendors pay \$50.00 for a six-month Vendor's Permit and the business owners pay \$25 annually. He suggested it would be fair to charge a \$50.00 fee for Business Licenses.

The Council Members spoke of their agreement with the idea.

The Mayor directed staff to put changing the Business License fee to \$50.00 on the next agenda.

Town Manager Miller said that ordinance would be prepared for the next meeting.

8. EXECUTIVE SESSION

An executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the Town Attorney regarding the application of Article 3-7 Indemnification and Defense of Officers and Employees Acting within the Scope of their duties, and 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 possible litigation related to Article 3-7 of the Town Code:

- **Jennifer Marie Jones v. Quartzsite (Ninth Circuit Court of Appeals, Case No. 15-CV-16261) (appeal of U.S. District Court, Case No. CV2013-02170);**

- **Jennifer Marie Jones & John Lavern Jones v. Quartzsite (U.S. District Court Case No. CV2013-01770);**
- **Jennifer Marie Jones v. Quartzsite, et al. (Ninth Circuit Court of Appeals, Case No. CV15-16279) (appeal of U.S. District Court CV2012-01383);**
- **Derrick Johnson v. Robert Brady, et al. (U.S. District Court Case No. CV14-01875);**
- **Jennifer Jones v. Parker, et al. (Ninth Circuit Court of Appeals Case No. 15-16709) (appeal of U.S. District Court, Case No. CV14-01907).**

Item requested by Mayor Foster.

The Mayor announced there was a problem with the agenda. He stated there were actually two parts to the executive session; however, the referenced A.R.S. for the second item was incorrect. He explained the only item that would be discussed in the executive session would be that of the Indemnification Clause to discuss the indemnification of officers and employees. The Mayor tabled the discussion of the lawsuits.

ADJOURN TO EXECUTIVE SESSION - 8:29 p.m.

Council Member Orgeron moved to adjourn to Executive Session and Vice Mayor Simpson seconded the motion. The vote was unanimous. Motion Passed.

RETURN TO OPEN SESSION - 8:58 p.m.

ROLL CALL:

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

COMMUNICATIONS:

9. Reports from the MAYOR on current events.

None

10. Reports from the COUNCIL on current events.

Council Member Kelley announced that one of the bread companies in Parker had partnered with the Friends of the Quartzsite Food Bank to pick up the bread and feed anyone. The Food Bank restrictions will not apply to that donation. Council Member Kelley expressed her joy that she would be able to feed those that came back for more food because they were still hungry.

11. Reports from the TOWN MANAGER to the Council.

Town Manager Miller announced that last month the Town held a suicide prevention luncheon attended by Cenpatico, Arizona Counseling and Treatment Services (ACTS), the Quartzsite Police Department, Gunny's Angels, and the members of the public. He said it was a very good kick-starter meeting. He explained what really came from the meeting was some good networking and a decision to hold quarterly meetings. Also, the meeting attendees agreed to broaden the scope of the next meeting to behavioral health services. He said other organizations, such as the schools might want to attend the meetings in the future. The next meeting will be held in December 2015.

Town Manager Miller informed everyone that ACTS said they would modify their hours of operation in Town make their services more available to the public. He said Cenpatico was interested in participating more in Town again. He said Cenpatico had already scheduled a suicide prevention training for the Quartzsite Police Department and had offered the training to other Town staff members, as well as to the public.

Town Manager Miller reminded everyone that the Council, as part of the budgetary process, said they were still committed to moving forward with a review of the expansion of the wastewater treatment plant. He explained that updated construction costs and budget figures were submitted to the USDA sometime in the last week. Town Manager Miller said the Town will receive their new loan-grant package offer after the USDA's review. He said the package would be submitted to the Council for their review.

Town Manager Miller advised the Council that Town staff are working with the property owners at the west end of B-10 / Main Street in the Main Event / Carl's Jr. area. He explained there was a mess at Exit 17 and that it was brought to his attention by Council Member Orgeron and the Mayor.

Town Manager Miller said Town staff are looking to get some cooperation from those property owners and ADOT to get the area cleaned up.

Town Manager Miller told of his meeting in Yuma with ADOT earlier that day at which there was discussion regarding transportation improvement projects. The Moon Mountain project was pushed back until late spring of 2016. Town Manager Miller remarked that this delay would have a positive impact because the construction would not take place at the height of the season as previously planned.

Town Manager Miller reported that the Exit 17 project was pushed back to the summer of 2016 because there is a funding gap. Town Manager Miller said representatives from ADOT believed the issue will be resolved by the summer of 2016. Four-way stops on Main Street and Quartzsite Boulevard, as well as Kuehn and Quartzsite Boulevard, had been proposed in order to improve the radii on some of the right turns. It is planned to have more dedicated right turn lanes. ADOT will not be expanding or widening of the bridge that will still be a two-lane crossing. There will be a continuous, or dedicated right the north end. He explained this meant if you were coming from the highway or Kuehn

onto Quartzsite Boulevard, you would be able to make a right onto Main Street without having to stop and only yielding to pedestrians when necessary.

Town Manager Miller reported the first Quartzsite Movie Night was held on Friday, October 9, 2015. Jurassic World was the movie presented and approximately one hundred people attended. The Quartzsite eighth graders sold concessions as a fundraiser for their eighth-grade trip. The next date for Quartzsite Movie Night is Friday, October 30, 2015. The presentation will be a Halloween-themed movie yet to be determined.

Town Manager Miller announced the Quartzsite Police Department had a vacant sergeant position and the process to fill that would begin later in the week. He explained an officer would be promoted to fill that needed leadership position. Town Manager Miller added there was a vacant budgeted officer position for which a lateral candidate was awaiting AZ POST final approval and the AZ POST waiver. The candidate had already completed the background check. Town Manager Miller explained that once the AZ POST part of the process was completed, the applicant would be presented to the Council for funding approval. He said the Chief would give a complete departmental report to the Council in the near future.

Town Manager Miller said he had been working on two applications for the Federal Bureau of Land Management (BLM). He listed the following two applications: the right-of-way on Mockingbird and the park amendment to include the dog park. He believed he would complete and submit the applications by the end of the week.

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

ADJOURNMENT: 9:08 p.m.

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of October 13, 2015, of the Town Council of Quartzsite, Arizona, held on October 13, 2015.

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

DATED this 27th day of October 2015



Tina M. Abriani, Town Clerk

On behalf of the Common Council

Approved:



Ed Foster, Mayor