

**TOWN OF PAYSON
TOWN COUNCIL MEETING
MINUTES OF THE REGULAR MEETING
October 7, 2010**

CALL TO ORDER

Mayor Evans called the meeting to order at approximately 5:30 p.m. in the Town Hall Council Chambers, 303 North Beeline Highway, Payson, Arizona.

INVOCATION

Rev. Ken Lentz, Mount Cross Lutheran Church.

PLEDGE OF ALLEGIANCE

PRESENT: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

ABSENT: Council Member Su Connell.

STAFF PRESENT: Debra Galbraith - Town Manager, Tim Wright - Town Attorney, Don Engler - Police Chief, and LaRon Garrett - Public Works Director.

OTHERS PRESENT: Tracie Bailey - Deputy Town Clerk, Gaye Stidham - Deputy Town Clerk, Ray Erlandsen - Community Development Director, and Toni Balestrere - Paralegal II.

A. PUBLIC COMMENTS (SPEAKER'S REQUEST FORM SUBMITTED)

Ed (Hollywood) Holyoak, Rim Country District MMA District Manager, did not feel the noise ordinance should pertain to motorcycles. Mr. Holyoak believed motorcycles that make enough noise have a better chance of being seen than quiet motorcycles. Mr. Holyoak disagreed with item number 4.

Dick Mumma asked Council that when they go into executive session to remember that he was not seeking personal gain. Mr. Mumma believed the Payson Regional Airport Authority was not properly constituted and therefore could cause harm to the Town.

Shirley Collin thanked the gentleman who spoke in support of the bikers. Ms. Collin was unaware that she couldn't rent a room out before reading the headline in the Payson Roundup. Ms. Collin asked what lawful authority the Town thinks it has over people's property and how the Town of Payson intends to enforce these rules. Ms. Collins asked for the names of people who were contributing to the ASU campus and if they were part of special interest groups and if state tax payers will have any say. Ms. Collin thanked the Council.

B. CONSENT AGENDA

Items listed on the agenda with an asterisk are considered to be routine in nature and will be enacted by one motion.

Motion: to approve all items listed on the Consent Agenda.

Moved by Council Member Ed Blair, seconded by Council Member John Wilson.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

C. CURRENT EVENTS PRESENTATION BY THE TOWN MANAGER, MAYOR, AND/OR COUNCIL MEMBER

1. Brief presentation of current events by the Town Manager, Mayor, and/or Council Members. The Arizona Open Meeting Law specifies that the Town Council may not discuss or take action on any matter mentioned during this presentation or on the attached materials unless the specific matter is properly noticed for legal action.
2. Documents, materials and information for Council review. (The Council will not discuss or take action on the attached; they are provided for information only)

There were no documents for Council review.

Debra Galbraith, Town Manager, did not have any announcements.

Council Member Blair commented that suicide had been prevalent because of bullying and announced the Suicide Prevention Walk at Green Valley Park on October 17, 2010.

Vice-Mayor Hughes asked for volunteers to serve on the various Town Boards and Commissions.

D. CEREMONIAL; ANNOUNCEMENTS; PRESENTATIONS; INTRODUCTIONS

1. Comments, Commendations, and Presentations by Mayor, Council Members, and/or Town Staff.
2. **Proclamation.** Council Member Carpenter read into the record a proclamation declaring October 24, 2010 as World Polio Day. Glenn Smith, District Governor, Cindy Smith, Rim Country Rotary member, and Scott Dyer, Rotary Club of Payson President, were present to accept the proclamation.

Glenn Smith thanked the Mayor and Council and citizens. Mr. Smith explained they were trying to control Polio in other countries.

3. **Proclamation.** Council Member Wilson read into the record a proclamation declaring October 17-23, 2010 as Friends of Libraries Week. Sue Wilson, Member at Large, and Susan Campbell, Membership Database, Library Friends of Payson, were present to accept the proclamation.

Susan Campbell thanked the Council and invited everyone to stop by the library

book store.

E. MINUTES

1. * Council Meeting Minutes:
09-16-10 Regular Meeting Minutes Pages 1 -8
***CONSENT* APPROVAL**

BOARDS/COMMISSIONS MEETING MINUTES (Note: Minutes of various boards/commissions/committees are for Council information only and may or may not have been approved by the respective board/commission.

2. * Planning and Zoning Commission Minutes:
06-14-10 Regular Meeting Minutes Pages 1 -6
***CONSENT* INFORMATION ONLY**
3. * Design Review Board Minutes:
08-24-10 Regular Meeting Minutes Pages 148 -149
***CONSENT* INFORMATION ONLY**

F. HEARINGS AND APPEALS

1. **Public Hearing** concerning an application for a Special Event Liquor License from Audrey Jean Wilson, agent, Soroptimist of Zane Grey Country, for an annual holiday wine and cheese fundraiser to support charities in Payson to be held Friday, December 10, 2010 from 3:00 p.m. to 10:00 p.m. at 801 North Beeline Highway, Payson, Arizona.

Mayor Evans opened the Public Hearing. There were no public comments. Mayor Evans closed the Public Hearing.

Motion: to Approve an application for a Special Event Liquor License from Audrey Jean Wilson, agent, Soroptimist of Zane Grey Country, for an annual holiday wine and cheese fundraiser to support charities in Payson to be held Friday, December 10, 2010 from 3:00 p.m. to 10:00 p.m. at 801 North Beeline Highway, Payson, Arizona.

Moved by Council Member John Wilson, seconded by Council Member Richard Croy.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

G. RESOLUTIONS AND ORDINANCES

1. * As Council, staff, and the audience have the titles to all resolutions and ordinances, authorization to forego verbal title readings.
***CONSENT* APPROVED**

2. *** Resolution No. 2576.** Council approved, on the Consent Agenda, Resolution No. 2576, captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED FOR ASSESSOR'S PARCEL NUMBER 302-38-014B, GENERALLY LOCATED AT 502 NORTH VISTA ROAD, TO MICHAEL F. BEHRENS AND MARY LYNN BEHRENS.
***CONSENT* APPROVED**

3. *** Resolution No. 2578.** Council approved, on the Consent Agenda, Resolution No. 2578, captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING DEBRA A. GALBRAITH, TOWN MANAGER OF THE TOWN OF PAYSON, TO EXECUTE CERTAIN DOCUMENTS CHANGING SIGNATORIES RELATING TO THE VARIOUS ACCOUNTS MAINTAINED AT JPMORGAN CHASE BANK, AND DECLARING AN EMERGENCY.
***CONSENT* APPROVED**

4. **Resolution No. 2580.** Mayor Evans opened discussion/possible action concerning Resolution No. 2580, captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, GRANTING A UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY, AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE INSTRUMENT TO CONVEY SAID EASEMENT (FIRE STATION NUMBER 13).

LaRon Garrett, Public Works Director, explained that in order to get APS lines in an easement was required.

Motion: to Approve Resolution No. 2580, captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, GRANTING A UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY, AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE INSTRUMENT TO CONVEY SAID EASEMENT (FIRE STATION NUMBER 13).

Moved by Council Member Ed Blair, seconded by Council Member John Wilson.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

5. **Ordinance No. 790.** Mayor Evans opened the First Reading and Public Hearing concerning Ordinance No. 790, captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 130.20 (NOISE) OF THE CODE OF THE TOWN OF PAYSON AND MAKING CONFORMING CHANGES TO SECTIONS 73.05, 90.04, 111.09, 130.18, AND 130.99 OF THE CODE OF THE TOWN OF PAYSON AND SECTIONS 15-02-013 AND 15-11-002 OF THE UNIFIED

DEVELOPMENT CODE. (NOISE AMENDMENTS)

Gary Harkins had worked with audio most of his life. Mr. Harkins lived near the high school which used public address systems that were very loud. He had complained to the schools and his neighbors had also complained. Mr. Harkins objected to the noise ordinance avoiding decibel measurements.

There were no more public comments. Mayor Evans closed the public hearing.

Council Member Carpenter asked if an ice cream truck would be able to play amplified music. Tim Wright, Town Attorney, believed Council Member Carpenter was concerned about section C.3 which was taken from the current code. Mr. Wright stated the Town could put an exception in for ice cream trucks. Council Member Carpenter would like to see it exempted.

Council Member Blair asked if number 1, gathering and entertainment, should be looked at and perhaps changed to 100 feet from the edge of the property. Under number 8, outdoor construction, refuse collection vehicles were exempt. Council Member Blair had talked to the trash companies and felt they started too early and that they should not be exempt.

Council Member Croy felt somebody could do a political campaign in the same way an ice cream truck plays music. Council Member Wilson believed an ice cream truck would not be disturbing. Council Member Hughes noted the noise ordinance was complaint driven. Don Egler, Police Chief, stated his department had not had any complaints about the ice cream truck. Council Member Hughes felt if ice cream trucks were excluded then someone who wants to sell tamales or anything else would do the same thing. Council Member Blair agreed that C.3 should be there. Council Member Carpenter felt they should still be exempt. Ray Erlandsen, Community Development Director, noted that vendor had a peddlers license and that could be written in.

Mayor Evans noted C.1 was specific to a distance and needed to come back to Council and Council would make a decision on C.1. Mr. Wright believed the primary concern was that it was in a residential area and C.1 refers to activities at the Ox Bow when it was disturbing the public peace. He felt this could be handled under A.1 or B.3.

Council Member Carpenter asked if the Town had control over the school. Mr. Wright responded no the school was a separate governmental entity. Mayor Evans noted there can be discussions with them about public nuisances.

Council Member Blair asked if enforcement, F.2, conflicted with G.3 minimum fines. Mr. Wright clarified that the officer needs sufficient evidence to resolve the problem. There is a minimum penalty if the matter did go to court.

Council Member Carpenter asked if temporary exemptions for activities such as Relay for Life would have to come to the Town for an exemption. Mr. Wright responded they could if they felt they would violate the ordinance. They could come to the Council and say they were going to have this late event and ask to be louder than the ordinance allowed.

Council Member Croy asked do motorcycles need mufflers. Chief Engler replied yes by state law they are required to have an operable muffler, there is no decibel requirement.

Council Member Carpenter noted the Town had tried to measure decibels before. Mr. Wright explained it was hard to measure the decibel level and used Sedona as an example. Mayor Evans stated Sedona has had a hard time with this.

Mayor Evans opened the public hearing to allow Colleen Johnson to speak. Colleen Johnson was the owner of the ice cream truck and was confused about the ordinance. Ms. Johnson asked if her truck was in violation now and if it should have an exemption written in. Mayor Evans shared her concern and would like to see the exemption written in. The Mayor asked Ms. Johnson to contact Council Members before the next meeting. Council Member Wilson believed it could be governed through the peddlers license. Mayor Evans closed the public hearing.

H. UNFINISHED BUSINESS

There were no items in this section.

I. NEW BUSINESS

1. **Council Decision Request** filed by LaRon Garrett, Public Works Director, to award the 2010 Pavement Maintenance Slurry Seal Project to Southwest Slurry Seal, Inc. and authorize the Mayor to sign all necessary contract documents.

LaRon Garrett, Public Works Director, explained the Town had received bids and recommended to award the bid to Southwest Slurry Seal, Inc.

Motion: to award the 2010 Pavement Maintenance Slurry Seal Project to Southwest Slurry Seal, Inc. and authorize the Mayor to sign all necessary contract documents. Moved by Council Member Fred Carpenter, seconded by Council Member John Wilson.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

2. **Council Decison Request** filed by Ray Erlandsen, Community Development Director, to direct staff to prepare an ordinance amending the Unified Development Code provisions concerning automated signs as recommended by the Planning and Zoning Commission.

Ray Erlandsen, Community Development Director, explained the Council Decision Request. Mr. Erlandsen felt this was a safety issue and a 20 second display was a safe amount of time. The Planning and Zoning Commission had voted to recommend approval. Council Member Hughes asked if the 20 second display was

the minimum or maximum. Mr. Erlandsen responded it was the maximum.

Mayor Evans asked Mr. Erlandsen to also look at doing animated signs. Mr. Erlandsen replied currently they are not allowed. Mayor Evans asked Mr. Erlandsen to look at other Town's Codes. Council Member Blair noted the sign at the McDowell Casino was animated and it did not bother his driving.

Motion: to look into animated signs and bring further information to Council and to direct staff to prepare an ordinance amending the Unified Development Code provisions concerning automated signs as recommended by the Planning and Zoning Commission.

Moved by Council Member John Wilson, seconded by Council Member Fred Carpenter.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

Mr. Wright asked if Council wanted a report. Council Member Wilson replied an ordinance on the first one and a report on the second one.

3. Consideration of a motion to retire to executive session for the following: Millennium Campus, Payson, Arizona

(A) Discussion or consultation for legal advice with the attorneys for the Town of Payson including negotiations with Arizona State University relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(3); and

(B) Discussion or consultation with the attorneys for the Town of Payson in order to consider the Town's position and instruct its attorneys regarding contracts that are the subject of negotiations, relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(4); and

(C) Discussion or consultation with the designated representatives of the Town of Payson, in order to consider the Town's position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, commonly known as the Forest Service Administrative Site in the 1400 block of East Highway 260, relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(7).

4. Consideration of a motion to retire to executive session for the following: Lease with the Payson Regional Airport Authority ("PRAA")

(A) Discussion or consultation for legal advice with the attorneys for the Town of Payson regarding current issues with PRAA and the lease between PRAA and the Town, pursuant to A.R.S. § 38-431.01(A)(3); and

(B) Discussion or consultation with the attorneys for the Town of Payson in

order to consider the Town's position and instruct its attorneys regarding threatened or potential litigation involving PRAA, PRAA's Governing Board, and/or persons claiming to be members of PRAA's Governing Board, pursuant to A.R.S. § 38-431.01(A)(4).

5. Discussion/possible action regarding the Town's relationship with the Payson Regional Airport Authority.

Motion: to retire to executive session for the following: Millennium Campus, Payson, Arizona

(A) Discussion or consultation for legal advice with the attorneys for the Town of Payson including negotiations with Arizona State University relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(3); and

(B) Discussion or consultation with the attorneys for the Town of Payson in order to consider the Town's position and instruct its attorneys regarding contracts that are the subject of negotiations, relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(4); and

(C) Discussion or consultation with the designated representatives of the Town of Payson, in order to consider the Town's position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, commonly known as the Forest Service Administrative Site in the 1400 block of East Highway 260, relating to the Millennium Campus, pursuant to A.R.S. § 38-431.01(A)(7). and to retire to executive session for the following: Lease with the Payson Regional Airport Authority ("PRAA")

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(B) Discussion or consultation with the attorneys for the Town of Payson in order to consider the Town's position and instruct its attorneys regarding threatened or potential litigation involving PRAA, PRAA's Governing Board, and/or persons claiming to be members of PRAA's Governing Board, pursuant to A.R.S. § 38-431.01(A)(4). and

Discussion/possible action regarding the Town's relationship with the Payson Regional Airport Authority.

Moved by Council Member Fred Carpenter, seconded by Council Member John Wilson.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

Mayor Evans recessed the meeting at approximately 6:43 p.m.

Mayor Evans reconvened the meeting at approximately 8:02 p.m.

Council Member Blair asked if there was a provision in State law that addressed if a director's term expires. Tim Wright, Town Attorney, replied if a term was up the person would remain in the position until a successor was appointed. Council

Member Blair asked for a copy of that statute.

Motion: to ratify the letter of September 21, 2010 to Payson Regional Airport Authority from the Town; and to direct staff and Vice-Mayor Michael Hughes, Payson Regional Airport Authority Liaison, to meet and return a recommendation to the Council concerning the lease between Payson Regional Airport Authority and the Town.

Moved by Council Member John Wilson, seconded by Council Member Richard Croy.

Vote: Motion carried 6 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Richard Croy, and Council Member John Wilson.

Absent: Council Member Su Connell.

J. CLAIMS

1. * **List of checks.** Council approved, on the Consent Agenda, a list of checks paid from September 10, 2010 through September 27, 2010, Check Nos. 011467 through 011658, and authorization to file the checks for audit.
***CONSENT* APPROVED**

K. MISCELLANEOUS

1. * Council approved, on the Consent Agenda, the acceptance, with regrets, of the **resignation of Bruce Van Camp** from the Transportation Advisory Board with thanks for a job well done.
***CONSENT* APPROVED**
2. * Council approved, on the Consent Agenda, the acceptance, with regrets, of the **resignation of Tyler Cline** from the POC/Firefighter Reserve Retirement Committee with thanks for a job well done.
***CONSENT* APPROVED**

L. PUBLIC COMMENTS

There were no public comments.

APPROVED:

_____ Date: _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Payson held on this day the 7 of October, 2010. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this ____ day of _____, 2010.

Tracie Bailey, Deputy Town Clerk