

**TOWN OF PAYSON
TOWN COUNCIL MEETING
MINUTES OF THE REGULAR MEETING
March 17, 2011**

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

An invocation was offered by Pastor Chuck Hallock, Bethel Church.

PLEDGE OF ALLEGIANCE

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

STAFF PRESENT: Debra Galbraith - Town Manager, Tim Wright - Town Attorney, Marti deMasi - Fire Chief, Don Engler - Police Chief, Silvia Smith - Town Clerk, LaRon Garrett - Public Works Director, and Cameron Davis - Parks, Recreation and Tourism Director.

OTHERS PRESENT: Gaye Stidham - Deputy Town Clerk, Tomi Huddlestun - Human Resources Manager, Mike Vogel - Economic Development, Ray LaHaye - Chief Building Official, Battalion Chief Jimmy Rasmussen, Engineer Vice Palandri, Captain Dan Bramble, and Fire Marshal Bob Lockhart.

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

1. Communications and comments or suggestions from citizens present who have submitted a Speaker's Request Form to the Mayor, Town Clerk, or designee, prior to the meeting being convened, concerning matters other than those listed on the agenda for consideration, shall be heard by the Council.

Mayor Evans commented on the long service of retired Payson Town Manager and Payson Town Council Member, Jack Monschein, who recently passed away. He noted his service as a DPS officer for 24 years and being only one of four nationally inducted into the National Law Enforcement Teletype Switching Hall of Fame. Mayor Evans quoted from a tribute written by Bill Sahn, Colonel, U.S. Marine Corps (Ret) saying that Mr. Monschein would be always, fondly, remembered as part of our Town's legacy. Mr. Monschein and his contributions to country and community are appreciated.

There were no comments from the public.

- B. CONSENT AGENDA** Items listed on the agenda with an asterisk which are considered to be routine in nature and which will be enacted by one motion. No separate discussion of these items shall be held unless a Council Member so requests,

in which event the item will be removed from the Consent Agenda and will be considered in its normal sequence on the main agenda.

Council Member Carpenter asked that Item G.2 be removed from the Consent Agenda.

Motion: to approve the CONSENT AGENDA except for Item G.2.

Moved by Council Member Ed Blair, seconded by Vice-Mayor Michael Hughes.

Vote: Motion carried 7 - 0

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

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.

Cameron Davis, Parks, Recreation and Tourism Director, reported that the Business Showcase will be at the Casino this next weekend. Next month the Optimist Fishing Festival and the Beeline Cruisin' Car Show will take place. The Arizona Mount High Games will be in Town in June at the Event Center.

2. Documents, materials and information for Council review. There were no documents for review.

D. CEREMONIAL; ANNOUNCEMENTS; PRESENTATIONS; INTRODUCTIONS

1. Comments, Commendations, and Presentations by Mayor, Council Members, and/or Town Staff.

Council Member Carpenter introduced Minnette Richardson of the Main Street Guild. She announced the Main Street Guild/KCMA sponsored First Annual Main Street Film Festival at the Oxbow Saloon July 14, 15 and 16. This three day event will celebrate the independent film maker with presentations at the high school during the day and the Oxbow in the evening. Information is available at mainstreetfilmfest.com.

Mayor Evans wished Vice-Mayor Hughes a happy birthday presenting him with a card of well wishes from the Council and Town staff.

E. MINUTES

1. * Council Meeting Minutes:
03-01-11 Special Meeting Minutes -CIP Pages 1 -9
03-01-11 Work Study Meeting Minutes Pages 1 -3
03-03-11 Regular Meeting Minutes Pages 1 -6

***CONSENT* APPROVED**

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. * Historic Preservation and Conservation Commission Minutes:
04-28-10 Regular Meeting Minutes Page 203
05-26-10 Regular Meeting Minutes Page 204
***CONSENT* INFORMATION ONLY**
3. * Public Safety Personnel Retirement System-Police Department Local Board Minutes:
04-07-10 Regular Meeting Minutes Page 1
***CONSENT* INFORMATION ONLY**
4. * Transportation Advisory Board:
02-02-11 Regular Meeting Minutes Pages 240 -243
***CONSENT* INFORMATION ONLY**

F. HEARINGS AND APPEALS

1. This is a Public Hearing concerning a Special Event Liquor License application filed by Debbie Jo Mahoney, agent, Payson Pro-Rodeo Committee, as a fund raiser for the Scholarship Program to be held Friday, May 20, 2011, 5:00 p.m. to 10:00 p.m. and Saturday, May 21, 2011, 5:00 p.m. to 10:00 p.m. at the Payson Event Center, 1400 S. Beeline Highway, Payson, Arizona.

Mayor Evans opened the public hearing. There were no public comments from the public and he closed the public hearing.

Motion: to Approve a Special Event Liquor License application filed by Debbie Jo Mahoney, agent, Payson Pro-Rodeo Committee, as a fund raiser for the Scholarship Program to be held Friday, May 20, 2011, 5:00 p.m. to 10:00 p.m. and Saturday, May 21, 2011, 5:00 p.m. to 10:00 p.m. at the Payson Event Center, 1400 S. Beeline Highway, Payson, Arizona.

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

Vote: Motion carried 7 - 0

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

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. * Discussion/possible action concerning Resolution No. 2592 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 6.3.6 AND AMENDING SECTIONS 6.8.1 THROUGH 6.8.3 OF THE TOWN OF PAYSON PERSONNEL MANUAL ADDRESSING MEDICAL MARIJUANA. (Memo Resolution No. 2592) *CONSENT* APPROVAL

This item was removed from the Consent Agenda. Attorney Wright explained this amends the Personnel Manual adding the definition of medical marijuana. He said for Town personnel, marijuana use is addressed like alcohol use. No employee can possess, use or be under the influence while on the job. It was noted that the Personnel Manual doesn't cover Town Council.

Motion: to Approve Resolution No. 2592 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 6.3.6 AND AMENDING SECTIONS 6.8.1 THROUGH 6.8.3 OF THE TOWN OF PAYSON PERSONNEL MANUAL ADDRESSING MEDICAL MARIJUANA.

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

Vote: Motion carried 7 - 0

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

3. Second Reading and Public Hearing concerning Ordinance No. 799 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 30.08 AND AMENDING SECTION 93.47 OF THE CODE OF THE TOWN OF PAYSON, CODIFYING THE REQUIREMENT FOR THE TOWN COUNCIL TO SET ALL FEES AND CHARGES AND ALL REQUESTS FOR WAIVERS OR REDUCTIONS OF SUCH FEES AND CHARGES TO BE MADE TO THE TOWN COUNCIL. (FEES AND CHARGES)

Mayor Evans opened the public hearing. Council Member Blair said he believed this to be a good idea keeping the pressure of friendships, etc. from department heads. There were no comments from the public and Mayor Evans closed the public hearing.

Council Member Wilson noted that Friends of Parks and Recreation had funds to provide scholarships for those who could not afford programs offered by Payson Parks and Recreation.

Motion: to Approve Ordinance No. 799 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 30.08 AND AMENDING SECTION 93.47 OF THE CODE OF THE TOWN OF PAYSON, CODIFYING THE REQUIREMENT FOR THE TOWN COUNCIL TO SET ALL FEES AND CHARGES AND ALL REQUESTS FOR WAIVERS OR REDUCTIONS OF SUCH FEES.

Moved by Council Member Ed Blair, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

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

4. Second Reading and Public Hearing concerning Ordinance No. 801 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE TOWN'S DESIGN REVIEW GUIDELINES BY ADDING ARCHITECTURAL DESIGN GUIDELINES, REGULATIONS, AND DEVELOPMENT REQUIREMENTS FOR INDUSTRIAL DISTRICTS, M1 AND M2. (INDUSTRIAL DISTRICT DESIGN REVIEW)

Mayor Evans opened the public hearing. There were no comments from the public and Mayor Evans closed the public hearing.

Motion: to Approve Ordinance No. 801 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE TOWN'S DESIGN REVIEW GUIDELINES BY ADDING ARCHITECTURAL DESIGN GUIDELINES, REGULATIONS, AND DEVELOPMENT REQUIREMENTS FOR INDUSTRIAL DISTRICTS, M1 AND M2. (INDUSTRIAL DISTRICT DESIGN REVIEW)

Moved by Council Member Richard Croy, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

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

5. Second Reading and Public Hearing concerning Ordinance No. 802 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTIONS 34.02 AND 34.04 OF CHAPTER 34 OF THE CODE OF THE TOWN OF PAYSON RELATING TO THE APPOINTMENT AND COMPENSATION OF MAGISTRATE COURT JUDGES PRO TEMPORE.

Mayor Evans opened the public hearing. There were no comments from the public and he closed the public hearing.

Motion: to Approve Ordinance No. 802 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTIONS 34.02 AND 34.04 OF CHAPTER 34 OF THE CODE OF THE TOWN OF PAYSON RELATING TO THE APPOINTMENT AND COMPENSATION OF MAGISTRATE COURT JUDGES PRO TEMPORE.

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

Vote: Motion carried 7 - 0

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

H. UNFINISHED BUSINESS

There are no items in this section.

I. NEW BUSINESS

1. * Council Decision Request filed by Ray LaHaye, Chief Building Official, to award the Energy Efficiency and Conservation Block Grant (EECBG) Municipal Building Energy Conservation Project to Noble Building L.L.C. in the amount of \$55,392.32 to be paid through grant funds made available by the Arizona Department of Commerce, Energy Division, through funds provided by the American Reinvestment and Recovery Act.
CONSENT APPROVED
2. Council Decision Request filed by Debra A. Galbraith, Town Manager, to approve Administrative Policy A414a -In-Fill Developments -Fire Apparatus Roads.

Jim Rassmussen, Battalion Chief with the Payson Fire Department, read a prepared statement voicing his disapproval of Administrative Policy A414a. He said it was a bad decision made without consulting the professionals; qualified Town employees. He believed the policy placed financially viable projects above the need to conform to adopted building, fire, and life safety codes. Battalion Chief Rassmussen asked the Council to table the Council Decision Request for further research. (Full statement is attached to these minutes)

Engineer Vince Palandri spoke representing the Northern Gila County Firefighters Association, Local Chapter 4135, members of the International Association of Firefighters and a member of the Professional Firefighters of Arizona. He asked the Council to consider the risk to those protecting the community as well as those who live in it. Engineer Palandri opposed the administrative policy. Even though he wanted economic growth in Payson, he said he was not willing to change current, effective, life saving codes. He said if the codes are outdated or obsolete, then a review should be done to modify them.

Mayor Evans said he took offense to Battalion Chief Rassmussen's comment that he or the Council would be casual in their role. He said that he and the Council do what they do for the best benefit of the Town and the employees. They carefully consider the items before them and try to come to the best decision. He explained that this administrative policy provided a floor for a process. Prior Council action adopted the 2006 International Fire Code. When the Council adopted that code they accepted that the professional knew what was in it and that it would be enforced. This administrative policy moves the floor and gives staff the capability to mitigate potential risks and work a compromise if possible. Technically staff did not have the authority before this policy. Mayor Evans explained this policy gives the flexibility in an individual situation for staff to legitimately work out a compromise.

Battalion Chief Rasmussen said the codes have a statement that gives the authority to make adjustments to the authority head of the jurisdiction. It was his opinion that was the fire chief.

Mayor Evans asked Chief deMasi if the reason for the distance in the code was for positioning of a ladder truck. Chief deMasi explained buildings over 30 feet tall, you are more likely to have to use an aerial apparatus, a ladder truck. If there is no ladder truck, it would need to be fought from the ground. Usually an engine is the first apparatus in, certain conditions require them to leave room for the ladder truck.

Vice-Mayor Hughes stated, that in his experience, no one code fit 100%. The local professionals need to make decisions for the local community. He thought that with proper oversight and with local professional input this policy was preferable.

Chief deMasi explained the process of fire and building code adoption from the Building Advisory Board to Council with amendments.

Council Member Croy asked if the Green Valley Apartments or the Canal Apartments would be affected requiring changing where the fire lane is on the back side of the Canal Apartments. Mayor Evans explained that other mitigation were put in place for the placement of that fire lane. Council Member Croy asked if the intent of the policy was to allow a higher density without dealing with some of the fire codes. Manager Galbraith gave the example of a development that was horseshoe shaped where parking was in the center. Fire lanes would be obstructed. In an infill area where access wasn't possible any other way even a fire lane in the back may not be feasible for the project to pencil out. Council Member Croy did not want residents who, because of mitigation, would be denied aerial apparatus placement and be put in jeopardy because they were not served by a ladder truck.

Mike Vogel explained a project that had two sides where overhead wires obstruct access and the fire hydrant is not capable of enough water. The developer has mitigated the problem by adding another fire hydrant and providing an extensive sprinkler system. Council Member Croy said his comments were more general and asked if anything developed on four acres or less not conform. Mr. Vogel assured him this policy was for individual infill projects for the Fire Department to work toward adequate protection. Mayor Evans added this policy allows negotiations like building materials, additional fire hydrants or sprinklers, etc. Mr. Vogel explained that each individual parcel would be evaluated separately.

Motion: to Table Council Decision Request filed by Debra A. Galbraith, Town Manager, to approve Administrative Policy A414a -In-Fill Developments -Fire Apparatus Roads for further review.

Moved by Council Member Ed Blair, seconded by Council Member Richard Croy.

Vote: Motion failed 3 - 4

Yes: Council Member Ed Blair, Council Member Fred Carpenter, and Council

Member Richard Croy.

No: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Su Connell, and Council Member John Wilson.

Council Member Carpenter asked the policy expressly state that the Fire Department be a part of any variance that is granted. Manager Galbraith explained that the Fire Department was a part of the plan review process included in the policy. Council Member Carpenter wanted the Fire Department review specifically written in the policy.

Chief deMasi said his main concern with the policy was its vagueness. He offered solutions if they would revisit the policy and assured Council they could arrive at a mutually agreeable solution. Chief deMasi also had a draft revision of the policy and offered it for Council consideration should they desire.

Council Member Wilson said this policy provides flexibility on specific situations on a very limited basis and on limited types of property with full involvement of the Fire Department during the plan review process. He believed this policy gave the professionals the flexibility to make decisions and approved its adoption.

John Barber, who serves as Chair on the Building Advisory Board, said typically the Building Advisory Board over an average of 18 months of meeting twice a month reviewing the building codes and making recommendations. They work with the Building and Fire Departments in this process. The Board, in the past, has made amendments that have been adopted by Council that later were adopted by the National code. Mr. Barber said that sometimes better ideas don't come from the top but are found through common sense and willingness to be open to new ideas.

Mayor Evans believed it was too dicey to allow staff to make these decisions without administrative authority or a procedure in place.

Motion: to Approve Council Decision Request filed by Debra A. Galbraith, Town Manager, to approve Administrative Policy A414a -In-Fill Developments -Fire Apparatus Roads.

Moved by Vice-Mayor Michael Hughes, seconded by Council Member John Wilson.

Council Member Blair asked if the Building Advisory Board had reviewed this administrative policy. Mr. Barber said, no, they hadn't, but anything that seems to make common sense and is reviewed by the Fire Department and gives leeway from the hard and fast rules, would seem to be a good thing. Council Member Blair asked if this administrative policy would make the Town more liable. Attorney Wright said it would not. He believed that, probably, staff making adjustments without the policy left the Town more open for litigation. He pointed out that there is no requirement for the Town to update their codes and provide the most strict codes available.

Council Member Carpenter said he had great faith in the professionals and wanted Fire Department approval stated in the policy. Council Member Wilson disagreed saying that the process is automatic in the policy and it doesn't need to be stated separately.

Fire Marshal Lockhart, in answer to a question by Mayor Evans, stated that all buildings eventually comes through him for review.

Vice Mayor Hughes asked if the Fire Marshal signed off on all building permits as well. Fire Marshal Lockhart said, yes, he did.

Council Member Blair contended that this policy sets a new standard and Fire Marshal Lockhart agreed.

Mayor Evans asked the Fire Marshal the difference in his interpretation of an administrative policy versus code. Fire Marshal Lockhart said his interpretation was that policy gives direction, parameters and guidelines for the inspector to use in his final judgements. Mayor Evans asked if he had made adjustments to the code previous to this administrative policy. Fire Marshal Lockhart said he works within the confines of the "four corners" of the code with adjustments where the code is not definite. He balances any viable adjustments by increasing protection that may not be called for in the code.

Vice-Mayor Hughes called the question.

Vote: Motion carried 5 - 2

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.
No: Council Member Ed Blair, and Council Member Fred Carpenter.

3. Council Decision Request filed by Debra A. Galbraith, Town Manager, to amend the signatory authority in Administrative Policy A201 -Contracts.

Council Member Carpenter said he was in favor as long as any action by the manager is reported to the Council Mayor Evans explained that this makes those actions even more transparent. Council Member Wilson said this policy was written in a narrow and exceptional manner and was exceptionally worded.

Motion: to Approve Council Decision Request filed by Debra A. Galbraith, Town Manager, to amend the signatory authority in Administrative Policy A201 - Contracts.
Moved by Council Member John Wilson, seconded by Council Member Fred Carpenter.

Vote: Motion carried 7 - 0

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

4. * Council Decision Request filed by Debra A. Galbraith, Town Manager, to ratify

the equipment lease contract with Verizon signed by the Town Manager on March 4, 2011.

***CONSENT* APPROVED**

5. * Council Decision Request filed by LaRon Garrett, Public Works Director, to request the Transportation Advisory Board review the impact and potential remedies of 1) Additional traffic around the existing public schools due to the closure of Frontier Elementary School and 2) Increased traffic around the Payson Event Center.

***CONSENT* APPROVED**

J. CLAIMS

1. * List of checks paid from 02/25/11 through 03/04/11, Check Nos. 013178 through 013288, except Check No. 013268, and authorization to file the checks for audit.

***CONSENT* APPROVED**

2. * Check No. 013268 and authorization to file the check for audit. (Note: due to a perceived and/or conflict of interest, Council Member Carpenter will be considered to abstain from the voting on this item)

***CONSENT* APPROVED**

K. MISCELLANEOUS There are no items in this section.

L. PUBLIC COMMENTS

There were no comments from the public.

Mayor Evans encouraged those present to pray for rain in light of the effective winter snows and the lack of rain this spring.

ADJOURNMENT: Mayor Evans adjourned the meeting at approximately 6:56 p.m.

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 17 of March, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this ____ day of _____, 2011.

Gaye Stidham, Deputy Town Clerk