

**TOWN OF PAYSON
TOWN COUNCIL MEETING
MINUTES OF THE REGULAR MEETING
September 18, 2014**

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

Roscoe Dabney III, Spirit Fire Ministries.

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, Silvia Smith - Town Clerk, Cameron Davis - Parks, Recreation and Tourism Director, and David Staub - Fire Chief.

OTHERS PRESENT: Sheila DeSchaaf - Planning and Development Director, Ray LaHaye - Chief Building Official and Bobby Davis - Economic Development Specialist.

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

1. Mayor Evans noted Carol McCauley would address the Council when Item G.2 came up on the agenda.

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 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.

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, announced 32 teams had participated in the softball tournament in September. The Southwest Indian Rodeo Finals had 120 cowboys participate. This week on Monday, Tuesday and Wednesday was the senior softball teams tournament. The High School and Jr. High School Rodeo Season Opener would be here this weekend. The Old Time Opry and Old Time Fiddlin' Arizona State Championships were next weekend.

Council Member Carpenter announced over 1,200 pounds of food was collected from the Central Arizona Board of Realtor's for the food bank.

Council Member Wilson noted there was just over \$3,000 left in the bank to cover the next month for the food bank. The Ladies for the Episcopal Church were donating \$400 tomorrow. Council Member Blair asked what the address was to send donations to. Council Member Wilson replied P.O. Box 703 in Payson, Arizona.

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.

D. CEREMONIAL; ANNOUNCEMENTS; PRESENTATIONS; INTRODUCTIONS

1. Comments, Commendations, and Presentations by Mayor, Council Members, and/or Town Staff.
2. **Proclamation.** Council Member Croy read into the record a proclamation declaring September 20, 2014 as Friends of the Poor Walk Day. Members of the Society of St. Vincent De Paul were present to accept the proclamation.

Adolpho Bersiago, Co-President of St. Vincent de Paul, invited all of Payson to the Walk for the Poor on Saturday September 20, 2014 to help all in need in Payson and the surrounding area. The walk would begin at the corner

of W. Cedar St. and the Beeline Highway at 9:00 a.m. with people beginning to gather at 8:00 a.m.

E. MINUTES

1. *Council Meeting Minutes:

09.04.14Regular Meeting Minutes Pages 1 - 9
***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. *Planning and Zoning Commission Minutes:

06.09.14Regular Meeting Minutes Pages 1 - 4
***CONSENT* INFORMATION ONLY**

F. HEARINGS AND APPEALS

1. ***Application for an Extension of Premises/Patio Permit.** Council approved, on the Consent Agenda, an application for an Extension of Premises/Patio Permit filed by Einar Johnson, Historical Journigan House Fine Foods and Spirits, for an Arizona Humane Society fundraiser to be held at 202 West Main Street, Payson, Arizona, Saturday, November 8, 2014, and Sunday November 9, 2014.
***CONSENT* APPROVED**

G. RESOLUTIONS AND ORDINANCES

1. ***Resolution No. 2798.** Council approved, on the Consent Agenda, Resolution No. 2798 captioned as follows: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, APPROVING THE ABANDONMENT OF AN INGRESS/EGRESS EASEMENT OF THE WEST SIDE OF 507 E. PARK DR. AND A PORTION OF A NON-VEHICULAR ACCESS EASEMENT ON THE EAST SIDE OF 308 N. PARK TRAIL CIRCLE.
***CONSENT* APPROVED**
2. **Resolution No. 2799.** Mayor Evans opened discussion/possible action concerning Resolution No. 2799 captioned as follows: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, SETTING FORTH THE TOWN'S POSITION AS TO THE POTENTIAL ANNEXATION AND REZONING OF REAL PROPERTY TO THE EAST OF PAYSON, COMMONLY KNOWN AS THE FOX FARM.

Carol McCauley noted she had worked for the Town ten years ago and gave a brief background of her work history. Ms. McCauley was in favor of the

annexation and noted the community had voted on the General Plan and adopted it a few weeks ago. Ms. McCauley felt this resolution was focused on DCK and that the gentleman buying the property was not the gentleman who had addressed the Council a few weeks ago and that he would be a temporary use on the property. Ms. McCauley believed to have a land use and zoning put into this resolution excluded any community input on what the land should be used for. Ms. McCauley noted the Council was elected to represent the community, not one company. Ms. McCauley asked the Council to adopt the resolution without sections 3 through 9. Ms. McCauley believed the ammunition manufacturer had found a piece of property up at the airport, but it was too expensive. Mayor Evans responded that was not true. Ms. McCauley felt the community needed to have a say and that DCK was the owner and the ammunition manufacturer was only a temporary use.

Council Member Blair asked if the General Plan was a fixed document or a living document. Ms. McCauley believed the General Plan was a living document and that there was a process. Ms. McCauley asked the Council to support this document and go through the process. Council Member Carpenter was concerned that zoning would be assumed before it went through a process, but believed section 3 was not a problem. Tim Wright, Town Attorney, noted the resolution directed Town Staff to initiate the annexation process and this was an extensive process. There was a minimum of three public hearings in the annexation process, this was a very preliminary step. Mr. Wright noted that in Section 10 it stated nothing in this Resolution shall be construed as committing the Town to any action in contravention of State law, any process established by State law etc.

Council Member Carpenter was concerned the public may not want to come to the meeting if they assumed the Council had already made the decision. Mr. Wright noted the meetings would have to be publicized in the newspaper in a display ad. Mayor Evans noted this was to initiate the zoning application process, not pre-vote on the zoning. Mayor Evans asked Vice-Mayor Hughes to take the gavel. Mayor Evans noted this directed the Town to work with the owner of the property, The Rim Club Trust not DCK. There were two public hearings required by the Council. Mayor Evans believed the Planning and Zoning Commission had to have at least one public hearing. Mr. Wright responded typically for a rezoning application the Planning and Zoning Commission had one public hearing and the Council had two public hearings. Mayor Evans noted that gave the public three opportunities to address the Town once this was initiated and this resolution was asking to initiate that process. This would be initiated on behalf of The Rim Club Trust not DCK. Vice-Mayor Hughes returned the gavel to Mayor Evans.

Vice-Mayor Hughes asked if there was anything in this resolution that was construed to change the normal process of rezoning or any other process that had to happen to utilize this land. Mr. Wright replied the only thing that would be different was that this would be staff initiated. There would have to be consent by the property owner to move forward with the annexation. Mayor Evans noted it would be the owners of the property now not a future

owner. Vice-Mayor Hughes noted that by what the Council was doing tonight the owners had already come to the Town and wanted the Town to initiate this. Mr. Wright believed there had been some conversations. Mayor Evans responded this was in response to the current property owner. Mayor Evans noted this was not just State law it was the Town's Code. Mayor Evans clarified that the name, Fox Farm, that has been used for many months was not the correct name. The correct name of the property was The Rim Ranch. Mr. Wright suggested the Town continue to use that name, but as the Town moved forward both names would be used. Council Member Carpenter stated he would reluctantly vote in favor of the resolution, but may not vote in favor of the final rezoning.

Motion: to Approve Resolution No. 2799 captioned as follows: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, SETTING FORTH THE TOWN'S POSITION AS TO THE POTENTIAL ANNEXATION AND REZONING OF REAL PROPERTY TO THE EAST OF PAYSON, COMMONLY KNOWN AS THE FOX FARM.

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.

3. **Second Public Hearing** re: amendments to Chapter 91: Nuisances of the Payson Town Code. Memo to Council.

A. **Resolution No. 2796** - A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTER 91: NUISANCES OF THE PAYSON TOWN CODE AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD.

B. **Ordinance No. 856** - AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTER 91: NUISANCES OF THE PAYSON TOWN CODE AND ADOPTING SUCH AMENDMENTS BY REFERENCE. (AMENDMENTS TO CHAPTER 91: NUISANCES)

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

Motion: to Approve Resolution No. 2796 captioned as follows: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTER 91: NUISANCES OF THE PAYSON

TOWN CODE AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD.

and

Ordinance No. 856 captioned as follows AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTER 91: NUISANCES OF THE PAYSON TOWN CODE AND ADOPTING SUCH AMENDMENTS BY REFERENCE. (AMENDMENTS TO CHAPTER 91: NUISANCES).

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.

4. **Second Public Hearing** re: amendments to Chapter 93: Parks and Recreation and Chapter 97: Event Center of the Payson Town Code. Memo to Council.

A. **Resolution No. 2797** - A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTERS 93: PARKS AND RECREATION AND 97: EVENT CENTER OF THE PAYSON TOWN CODE AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD.

B. **Ordinance No. 857** - AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF PAYSON K ARIZONA, AMENDING CHAPTER 93: PARKS AND RECREATION AND 97: EVENT CENTER OF THE PAYSON TOWN CODE AND ADOPTING SUCH AMENDMENTS TO BE BY REFERENCE. (AMENDMENTS TO CHAPTERS 93 AND 97)

Mayor Evans asked Vice-Mayor Hughes to take the gavel. Mayor Evans explained there were a number of people who had raised questions about small drones flying over the parks while there was an event with a lot of people. Mayor Evans noted this protected the Town in the event a drone fell out of the sky and there were injuries. Mayor Evans opened the Second Public Hearing. Mayor Evans explained that Item J was not the object of people using chalk to draw stick figures on sidewalks it was people who have drawn stick figures and four letter words or used chalk to shock or offend people. It was not the Council's intent to make young people felons. Mayor Evans reminded everyone it was not a law it was a usage rule for the park. Mayor Evans recommended to the temporary Chair that the Council pass this with the deletion of Item J and direct that the staff find some language that will address the issue of the offensive and inappropriate use of chalk by individuals and bring that back to Council at a later date. Vice-

Mayor Hughes noted there was a motion on the table with the deletion of Item J. There were no public comments. Vice-Mayor Hughes returned the gavel to Mayor Evans. Mayor Evans closed the Public Hearing.

Motion: to Approve Resolution No. 2797 captioned as follows: A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING CHAPTERS 93: PARKS AND RECREATION AND 97: EVENT CENTER OF THE PAYSON TOWN CODE AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD; with the deletion of Item J and direct that the staff find some language that will address the issue of the offensive and inappropriate use of chalk by individuals and bring that back to Council at a later date.

and

Ordinance No. 857 captioned as follows AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF PAYSON K ARIZONA, AMENDING CHAPTER 93: PARKS AND RECREATION AND 97: EVENT CENTER OF THE PAYSON TOWN CODE AND ADOPTING SUCH AMENDMENTS TO BE BY REFERENCE. (AMENDMENTS TO CHAPTERS 93 AND 97)

Moved by Mayor Kenny J. Evans, seconded by Council Member John Wilson.

Council Member Carpenter asked if citizens could still bring a gas barbeque grill to the parks. Tim Wright, Town Attorney, replied that was correct, charcoal and wood were not allowed.

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.

H. UNFINISHED BUSINESS

1. There were no items in this section.

I. NEW BUSINESS

1. Discussion/possible action re: **2012 International Existing Building Code**. Note - it was not anticipated that the Council would take final action at this meeting on this code. It was anticipated that following the review of all of the construction codes, the Council would consider an Ordinance adopting and/or updating each of the Town's construction codes.

Ray LaHaye, Chief Building Official, gave a presentation on the 2012 International Existing Building Code's significant changes. Mayor Evans asked Mr. LaHaye to explain what accessible was. Mr. LaHaye replied accessible would be for those with disabilities. Mayor Evans asked

what the energy conservation code was for Payson. Mr. LaHaye replied there was not an energy code for commercial construction right now, there were minor energy provisions for residential. Mayor Evans asked what the difference was between unsafe and dangerous. Mr. LaHaye replied dangerous would be an imminent hazard, something that was structurally unsafe. Council Member Carpenter noted this loosened up on some things where historically new codes made things tougher. Mayor Evans noted that induced people to make the improvements as opposed to discouraging them from making the improvements. Mayor Evans thanked Mr. LaHaye.

Mayor Evans asked if this code would be taken up with the other codes in the month of October or November. Mr. LaHaye noted the Energy Code was the last code and recommended that he come to Council with the modifications. Mr. LaHaye would then take anything back to the Building Advisory Board then come back to the Council for the final approval. Mr. Wright noted staff was looking at coming back to the Council in November or December if it went back to the Building Advisory Board. Mayor Evans asked staff to expedite this as much as possible.

J. CLAIMS

1. ***List of checks.** Council approved, on the Consent Agenda, a list of checks paid from August 22, 2014 through September 5, 2014, Check Nos. 027229 through 027368, **except check numbers 027280 and 027287** and authorization to file the checks for audit.
***CONSENT* APPROVED**
2. ***Check No. 027280.** Council approved, on the Consent Agenda, Check No. 027280 and authorization to file the check for audit. (Note: due to a perceived and/or conflict of interest, Council Member Carpenter was considered to have abstained from voting on this item).
***CONSENT* APPROVED**
3. ***Check No. 027287.** Council approved, on the Consent Agenda, Check No. 27287 and authorization to file the check for audit. (Note: due to a perceived and/or conflict of interest, Council Member Croy was considered to have abstained from voting on this item).
***CONSENT* APPROVED**

K. MISCELLANEOUS

1. There were no items in this section.

L. PUBLIC COMMENTS

Don Evans asked if the Council was familiar with the new business at 718 N. Foxhills Rd. in the Woodhill residential subdivision. Tim Wright, Town Attorney, explained the Council could not respond to Mr. Evans. Mr. Evans felt this was a hot topic and explained that in a zoned residential area an assisted living group

home was going in. There was no notification to the residents who would be impacted by this. Mr. Evans had found out from the Building Department because they had already started construction and were red flagged because they were remodeling without permits. Mr. Evans had ten years vested in his home and this facility was directly behind his home. Mr. Evans had found this home was Federally protected and there was nothing he could do about it. Mr. Evans felt his home value would be impacted by ten or twenty thousand dollars. Mr. Evans believed there would be eight to ten people in the home and asked the Town to check on code violations now and get back with the Home Owners Association as to what can or cannot be done. Mayor Evans directed staff to look at it.

ADJOURNMENT

Mayor Evans adjourned the meeting at approximately 6:35 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 18 of September, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this ____ day of _____, 2014.

Tracie Bailey, Chief Deputy Town Clerk