



MINUTES OF REGULAR MEETING OF THE COMMON COUNCIL OF YOUNGTOWN, AZ
THURSDAY, May 6, 2010, TOWN CLUBHOUSE, 12033 CLUBHOUSE SQUARE

1. Call to Order Mayor LeVault called the meeting to order at 7:07 p.m.
2. Roll Call Council present: Mayor Michael LeVault, Vice Mayor Jacob Duran, Councilmembers Margaret Chittenden, Dorena Mello, Shirley Oglesby, Susan MacKay and Judy Johnson.
Staff present: Town Attorney Michelle Swann, Chief of Police Terry McDonald, Town Prosecutor David Ledyard, Public Works Manager Mark Hannah, Finance Officer Jackie Hoffman, and Town Clerk/Treasurer Letty Goldberg.
3. Pledge of Allegiance and Invocation Pledge led by Councilmember Johnson. Invocation offered by Chaplain Charles Ring.
4. Communications:
 - A. Communications from Council

Mayor LeVault

 - My wife, Kathryn French, is representing me this evening at the 20th anniversary celebration honoring Elaine Scruggs, Glendale's Mayor.
 - Welcome back, Councilmember Johnson.

Councilmember Johnson

 - I want to thank everyone for their best wishes while I was recuperating.

Councilmember Chittenden

 - I want to thank Public Works staff for helping rescue baby ducks that fell down a drain.
 - Thanks to Police Department for quick response to a "suspicious person" call last week.

Councilmember Mello

 - I want to complement the Mayor on the editorial in the Youngtown Village Reporter. You did a good job in bringing the tax information forward. Residents will be able to determine what they want for the Town.

Vice Mayor Duran

 - We met in Greer Park today for National Day of Prayer. As the Mayor said, we all need prayer.
 - B. Communications from Staff

Town Clerk Goldberg

 - A Special Council Work Session on the Budget is scheduled for Monday, May 10, at 6 p.m. here in the Clubhouse. It is an open meeting and the public is invited.
5. Consent
 - A. Approval of Minutes: Minutes of April 15, 2010 Regular Meeting.

Motion to approve Consent Agenda – Councilmember Chittenden
Second – Vice Mayor Duran
Motion passed unanimously with a voice vote.
6. Business
 - A. Public Hearing, Discussion and/or Action Re: Planning & Zoning Case # 10-03 Agua Fria Ranch PAD change and approval of Ordinance 10-06 amending Ordinance 02-09 (SWANN)
 1. Staff Report.

Town Attorney Swann

 - Staff recommends approval of Ordinance 10-03 amending Ordinance 02-09 Agua Fria Ranch PAD to allow for more land uses than currently allowed. Staff did recommend apartment building be included but restricted to persons 62 years or older. This language was taken directly from the HUD Act. Included in the ordinance is a requirement that the PAD development plan be reviewed and approved by the Council. Cremation retorts and sexually oriented businesses would still be prohibited uses. Hearing Officer Jacobs recommended that outdoor uses also be prohibited as they are more transitory.

2. Zoning Hearing Officer Recommendations. (See attached).

3. Open Public Hearing.

Dick Meese, Co-owner of Arizona Developers, Inc.

- We have listened to comments and know that this is a sensitive issue to the Town. We appreciated the Town Manager's willingness to restore a variety of uses. Without the changes, we would be hard-pressed to put anything there. As apartments go, the previous request was for low cost apartments for all ages. We want to mitigate concerns – crime, rowdiness. It is not uncommon to have apartments as a buffer to business/commercial areas. Senior apartments would be pretty tranquil. Apartments with mixed use would be fine by us, although apartment builders are usually apartment builders and not mixed use. We can envision supportive retailers/services for senior residents.

Councilmember Chittenden

- I support more allowable uses.

Town Attorney Swann

- HUD allows discrimination by age if certain rules are followed. Youngtown used to be age restricted but is no longer age restricted. The final development plan would need to come to Council for final approval. Town could require an annual report to prove that the apartments are age restricted. There are no proposals on the table. The owners would like to be able to market it for more uses.

Mayor LeVault

- I accept the changes except for apartments. Residents have been very vocal about this issue. I am really sensitive to people who live next to this property.

Mr. Meese

- From a marketing point of view, if we found an apartment builder we'd have to tell them we would have to get a zoning change. They would ask, didn't you already do that? Yes. Was it approved? No. And before that? No.

4. Close Public Hearing.

Councilmember MacKay

- We have had numerous meetings I don't want apartments there. 1) Best financial interest – rental tax less income than other uses; 2) well-being of residents – affect property values; 3) increase in crime; 4) How do you make sure that senior apartments happen? and 5) Next to Uribe Park and sports. Seniors will want quiet while others want to be at the park.

Councilmember Mello

- I'm not as adamant. I do understand Councilmember MacKay's points. I was an Administrator for an assisted living facility. Apartments for seniors can be maintained for seniors. Apartment houses should be on the table.

Councilmember Chittenden

- I disagree with Councilmember MacKay's comments. River View Apartment's management keeps its senior age overlay. It is a controlled environment. Apartments would be leased while commercial space might go unrented. As to the park, seniors wouldn't move there without knowing about the park.

Mayor LeVault

- None of us were here when the original ordinance was developed. We can draw some conclusions. It looks like they wanted to avoid competition with any businesses already in the north part of Town.

Councilmember Johnson

- There has been discussion of multi-use/mixed-use to increase revenues combining senior housing on the upper level and commercial establishments on the lower level. Senior housing is normally kept nice. I understand concern about revenue.

Councilmember Mello

- Senior apartments are more viable now than other development.

Mayor LeVault

- Process to get reconsidered. I have had more phone calls from Agua Fria residents against apartments. I'm pretty conservative fiscally. I calculated rental tax income and it would be less than the increased policing to be provided. Probably not the best use. They wouldn't object to other uses.

Councilmember Johnson

- We need to listen to our residents. They don't want subsidized low income apartments. These would not be businesses with the owner upstairs.

Councilmember Mello

- Those are called commercial condos. Phoenix has some of those. Apartment houses are on the table. Give them the tools to market their property. Zoning Hearing Officer's recommendations are valid. Any proposal comes back to Council.

Councilmember MacKay

- Regardless of my opinions, it is how the residents feel.

Vice Mayor Duran

- What are the benefits to the Town? We are looking for revenue.

Motion to approve Ordinance 10-06 amending Ordinance 02-09 with Zoning Officers recommendations and excluding apartment buildings – Councilmember MacKay

Second – Councilmember Johnson

Motion passed on a 5-1-P roll call vote. Voting yes was Mayor LeVault, Vice Mayor Duran, Councilmembers Oglesby, MacKay and Johnson. Voting No Councilmember Chittenden. Voting Present Councilmember Mello.

- B. Discussion and/or Action Re: Approval of Resolution 10-08, adopting the proposed annual statements and estimates of the expenses of the Agua Fria Ranch Street Lighting Improvement District for Fiscal Year 2010- 2011, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the District, pursuant to Section 48-616, Arizona Revised Statutes, as amended; and setting a date for public hearing on said statements and estimates (GOLDBERG/HOFFMAN).

Town Clerk Goldberg

- Resolution 10-08 would adopt the proposed annual budget for the Agua Fria Ranch Street Lighting Improvement District for FY 2010-11 and set a public hearing on June 3, 2010 to take public comment on the proposed budget. The proposed budget is basically revenue neutral.

Motion to approve Approval of Resolution 10-08, adopting the proposed annual statements and estimates of the expenses of the Agua Fria Ranch Street Lighting Improvement District for fiscal year 2010- 2011, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district, pursuant to Section 48-616, Arizona Revised Statutes, as amended; and setting a date for public hearing on said statements and estimates for June 3, 2010 – Councilmember Chittenden

Second – Councilmember Mello

Motion passed unanimously on a voice vote.

- C. Discussion and/or Action Re: Approval of Ordinance 10-07 Home Detention amending the Youngtown Municipal Code Title 2 Administration and Personnel, Chapter 2.32 Municipal Court, to add a new Section 2.32.070 Home Detention Program to establish a home detention program for eligible sentenced offenders. (SWANN)

Town Attorney Swann

- Last month a public hearing was held to take public comment on implementing a Home Detention Program. Scottsdale recently adopted a Home Detention Program joining Glendale and Goodyear that already are seeing the benefits of such a program. Lots of cities and towns are looking for ways to reduce jail costs.

Councilmember Johnson

- We want to save money. I remember in budget hearings we discussed a very large jail bill of more than \$9,000.

Vice Mayor Duran

- Who decides who gets house arrest?

Prosecutor Ledyard.

- Youngtown has no provisions at the moment. The Legislature empowers the judge to allow Home Detention if the Town adopts a Home Detention Program. The Sheriff's Office only allows work release from Tent City. A defendant has to be medically able to live in a hot dusty environment to participate in work release otherwise they sit in a cell for the time. Some defendants are turned away from the regular jail for medical reasons. The Legislature keeps increasing mandatory sentences and that increases jail costs. Defendants are supposed to reimburse the Town but the reality is they don't. Super extreme DUI requires a jail sentence of 45 days. A defendant might get a fine and jail totaling \$6,000 and he has a marginal job. He probably can't keep his job even with work release. Town is billed up front for the jail time and it could take five to 10 years to collect it. One party and a driver could be pulled over and is over the legal alcohol limit. Even with no priors, defendant would have to serve a minimum of 24 hours jail time.

Councilmember Chittenden

- One of our residents asked about Home Detention, "What kind of punishment is that?" How much leeway do they get?

Prosecutor Ledyard

- If a defendant was sentenced for supreme DUI he would get a sentence of 30 days, 15 days would be mandatory jail time, and the other 15 could be served in Home Detention. A GPS monitor would tell if he was home or not. He could only leave for court-approved reasons – work, doctor's appointment, counseling, and court appearances. If he is off the path, the monitoring company would notify the court.
- Fees for services will vary from company to company. You are not being asked to select a vendor this evening but to implement a program. Monitoring is cheaper than jail costs.

Town Attorney Swann

- The court currently has \$192,000 in uncollected fines. It would be up to the judge to decide if a defendant met the criteria to participate in Home Detention.

Councilmember Chittenden

- What would be the affect on our Police Department?

Chief McDonald

- The effect would be negligible. Defendants would have an approved weekly schedule. The screening process is effective.

Motion to approve Ordinance 10-07 Home Detention amending the Youngtown Municipal Code Title 2 Administration and Personnel, Chapter 2.32 Municipal Court, to add a new Section 2.32.070 Home Detention Program to establish a home detention program for eligible sentenced offenders – Councilmember Mello

Second – Vice Mayor Duran

Motion passed unanimously on a voice vote.

- D. Discussion and/or Action Re: Approval of Resolution 10-09 adopting the 2010 Maricopa County Community Wildfire Protection Plan (CWPP) for the Town of Youngtown. (HANNAH)
Public Works Manager Hannah

- Emergency managers in Maricopa County have been meeting for several months to update emergency protocols. Council was recently asked to approve the Multi-jurisdictional, multi-hazard plan. This follow-up targets wildfires. Sun City Fire Chief Jim Haner has put his signature on the wildfire plan. He asks Council to approve the plan. Sun City Fire District has purchased a Brush Truck and is prepared to fight the wildfire threat to Youngtown.

Motion to approve Resolution 10-09 adopting the 2010 Maricopa County Community Wildfire Protection Plan (CWPP) for the Town of Youngtown – Councilmember Johnson

Second – Councilmember Mello

Motion passed unanimously on a voice vote.

- E. Discussion and/or Action Re: Approval of renewal and extension of the current contract with Regency Cleaning Solutions, LLC, in the amount of \$1,750 per month (\$21,000 annual) for janitorial services for the Town's offices from July 1, 2010 through June 30, 2011 (HANNAH)

Public Works Manager Hannah

- Regency Cleaning Solutions as been taking care of business. The owner is conscientious. They have been taking care of the monthly and quarterly services as well as the daily/weekly items. They are disposing of recyclables in the Parks & Sons recycling containers at least once per week. They give good service for the dollar and they are maintaining the rate for another year.

Motion to approve renewal and extension of the current contract with Regency Cleaning Solutions, LLC, in the amount of \$1,750 per month (\$21,000 annual) for janitorial services for the Town's offices from July 1, 2010 through June 30, 2011 – Vice Mayor Duran

Second – Councilmember Oglesby

Motion passed unanimously on a voice vote.

- F. Discussion and/or Action Re: Approval of renewal and extension of the Landscape Maintenance Contract with Westscape Environmental, Inc., in the amount of \$3,879 per month (\$46,548 annual) for the weekly maintenance of the Town's park landscaping effective July 1, 2010 through June 30, 2011 (HANNAH).

Mayor LeVault

- This item tabled at the request of staff.

7. Call for Executive Session

None needed.

8. Citizens Comments/Appearances from the floor:

June Miller, Youngtown resident

- I am concerned about the reductions in Town services. I am supporting Proposition 407. I strongly support our Police Department. I want our streetlights. I can't imagine what it would be like without my streetlight. I don't want to give up our lake. We may have to pay for using our parks. Revenues are needed to operate our Town. We get what we pay for.

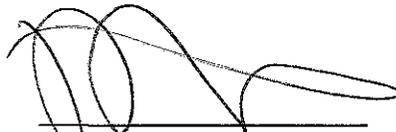
Announcement of next Work Session and Regular Meeting: Thursday, May 20, 2010, at 6:00 p.m.

Adjournment.

Motion to adjourn – Councilmember Mello

Second – Councilmember Oglesby

Meeting adjourned at 8:25 p.m.



Michael LeVault, Mayor

Attest:



Letty Goldberg, Town Clerk/Treasurer

Minutes approved at the May 20, 2010 Regular Meeting.

ORDINANCE NO. 10-06

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE ZONING MAP OF THE TOWN OF YOUNGTOWN, ARIZONA, BY AMENDING ORDINANCE NO. 02-09 RELATED TO THE AGUA FRIA RANCH PLANNED AREA DEVELOPMENT BY AMENDING DEVELOPMENT CONDITIONS FOR APPROXIMATELY 8.1 ACRES OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF OLIVE AVENUE AND AGUA FRIA RANCH PARKWAY, PARCEL 1 (TRACT AAA) OF AGUA FRIA RANCH SUBDIVISION TO REMOVE THE PROHIBITION OF THE FOLLOWING USES: AUTO CAR WASH, AUTOMATED OR SELF-SERVICE; FUEL DISPENSING STATIONS AND ACCESSORY CONVENIENCE MARKETS; VETERINARY OFFICES; FAST FOOD RESTAURANTS, INCLUDING DRIVE-THROUGH RESTAURANTS; CABINET SHOPS OR STORES; ELECTRIC CARTS, SALE AND REPAIR; FURNITURE AND HOUSE FURNISHING STORES; GOLF PRACTICE DRIVING RANGES; HOME REFRIGERATION, HEATING, SALES AND REPAIRS; HOUSEHOLD APPLIANCE STORES, SALES AND/OR REPAIR; MILK DISTRIBUTING STATIONS; NURSERIES OR GREENHOUSES; PARKING LOTS AS A PRIMARY USE; PLUMBING SHOPS; REFUSE SERVICE OFFICES; SERVICE STATIONS, AUTOMOBILE REPAIR FACILITIES OR AUTO PARTS OR TIRE SALES OR SERVICE STORES; PUBLIC OR SEMI-PUBLIC SWIMMING POOLS; THEATERS, INCLUDING DRIVE-IN THEATERS; AND UPHOLSTERY SHOPS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR PENALTIES.

WHEREAS, by adoption of this Ordinance, the Town Council desires to amend the Zoning Map of the Town of Youngtown by amending Ordinance No. 02-09 related to the development of Parcel 1 (Tract AAA) of the Agua Fria Ranch Planned Area Development (Subdivision); and

WHEREAS, the Town Council has determined that adoption of this Ordinance will not be detrimental to public health, safety, and general welfare of persons living or working in the surrounding area or to the general welfare of the Town as a whole; and

WHEREAS, the Town Council has determined that this amendment to the Zoning Map and Ordinance No. 02-09 conforms with the Town of Youngtown General Plan, any applicable specific area plan, neighborhood, or other plan and any overlay zoning district; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws.

WHEREAS, the owner of Parcel 1 (Tract AAA) of the Subdivision has requested that approval of a plan of development as required by Chapter 17.48 of the Youngtown Town Code not be required as part of the zoning process and that such approvals be required prior to issuance of a building permit; and

WHEREAS, the owner has agreed that although the requirement for approval of a plan of development will not occur at the time of approval of this PAD amendment, such approval is not an administrative act and is a legislative act within the discretion of the Town Council.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Youngtown, Arizona, as follows:

Section I. In General.

1. Ordinance No. 02-09 is amended only as it applies to Parcel 1 (Tract AAA), which parcel shall be referred to herein as the "Property".
2. Ordinance No. 02-09 is amended to amend the development conditions for the Property, as set forth below (additions shown in ALL CAPS, deletions shown in ~~strikeout~~):
 1. The underlying zoning for the Property shall be Commercial District Two (C-2). The requirements and restrictions for C-2 districts as set forth in Chapter 17.40 of the Youngtown Town Code shall apply to the Property except as modified below.
 - A. In addition to those uses permitted in C-2 Zoning Districts, permitted uses in Parcel 1 shall include:
 - i. ~~Auto car washes, automated or self-service only as an accessory use to a fuel dispensing station by special-use permit.~~
 - ii. Fuel dispensing stations and accessory convenience markets.
 - iii. ~~Veterinary offices by Special Use Permit.~~
 - iv. Fast food restaurants, including drive-through restaurants.
 - B. The following uses currently permitted in C-2 Zoning Districts shall be prohibited in Parcel 1:

- i. Apartment buildings.
- ~~ii. Cabinet shops or stores.~~
- ~~iii. Electric carts, sale and repair.~~
- ~~iv. Furniture and house furnishing stores.~~
- vii. Golf practice driving ranges.
- ~~vi. Home refrigeration, heating, sales and repairs.~~
- ~~vii. Household appliance stores, sales and/or repair.~~
- viii. Milk distributing stations.
- ~~ix. Nurseries or greenhouses.~~
- ix. Parking lots as a primary use.
- ~~x. Plumbing shops.~~
- ~~xii. Refuse service offices.~~
- ~~xiii. Service stations, automobile repair facilities or auto parts or tire sales or service stores.~~
- xvi. Public or semi-public swimming pools.
- xvii. Theaters, including drive-in theaters.
- ~~xvi. Upholstery shops.~~
- xviii. Cremation retorts.
- ixviii. Sexually oriented businesses.

* * *

3. The PAD requirements and procedures set forth in Chapter 17.48 shall apply to the Property except as modified below (additions shown in ALL CAPS, deletions shown in ~~strikeout~~):

Section 17.48.070 shall be modified as follows:

17.48.070 Preliminary development plan required.

A PAD preliminary development plan is required PRIOR TO ISSUANCE OF A BUILDING PERMIT. The approval of such plan ~~may~~ SHALL be handled in the following way:

A. In case of specific or small scale, single phase projects, the preliminary plan, as described in Section 17.48.080, shall be filed AT ANY TIME PRIOR TO THE ISSUANCE OF A BUILDING PERMIT ~~with the application~~. The zoning hearing officer and town council shall hold public hearings in accordance with the requirements of Chapter 17.80.

* * *

Section 17.48.080 shall be modified as follows:

Section 17.48.080 Description of Preliminary Development Plan

* * *

C. Town council shall hold a public hearing in compliance with Chapter 17.80, and review the preliminary development plan, together with commission and staff reports. Town council may approve the PAD AND PRELIMINARY DEVELOPMENT PLAN only upon finding that:

1. The application meets the intent, objectives, and general requirements for PAD Districts;
2. The application conforms to and is consistent with the general plan and codes and policies of the town.

Section 17.48.090 shall be modified as follows:

17.48.090 Final development plan approval.

A. It is the intent of this section that subdivision review be carried out simultaneously as an integral part of the ~~PAD~~ DEVELOPMENT PLAN review. The plans required under this section must be submitted in a form which substantially satisfies the requirements of the subdivision regulations for final plan approval under the town subdivision regulations and the plan shall be recorded in the same manner as a final plat. NO BUILDING PERMIT SHALL BE ISSUED PRIOR TO APPROVAL OF THE FINAL DEVELOPMENT PLAN.

* * *

All other provisions of Ordinance 02-09 and Title 17 of the Youngtown Town Code remain unchanged.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

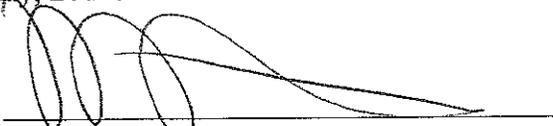
PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 6th day of May, 2010, by the following vote:

AYES: 5

NAYES: 1 ABSENT: _____

EXCUSED: _____ ABSTAINED: P

APPROVED this 6th day of May, 2010.



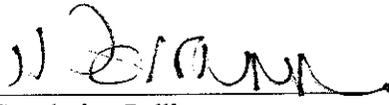
Michael LeVault, Mayor

ATTEST:



Letty Goldberg/CMC, Town Clerk/Treasurer

APPROVED AS TO FORM:



Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C.
Town Attorneys
By Michelle Swann

I, LETTY GOLDBERG, TOWN CLERK/TREASURER, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 10-06 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 6TH DAY OF MAY, 2010, WAS POSTED IN THREE PLACES ON THE 7TH DAY OF MAY, 2010.



Letty Goldberg CMC, Town Clerk/Treasurer

RESOLUTION NO. 10-08

TOWN OF YOUNGTOWN, ARIZONA

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA APPROVING THE STATEMENTS AND ESTIMATES OF EXPENSES OF THE AGUA FRIA RANCH STREET LIGHTING IMPROVEMENT DISTRICT FOR FISCAL YEAR 2010-2011, PURSUANT TO SECTION 48-616, ARIZONA REVISED STATUTES, AS AMENDED; SETTING A TIME AND DATE FOR A PUBLIC HEARING ON THE STATEMENT AND ESTIMATES AS APPROVED; AND PROVIDING FOR NOTICE OF THE HEARING AND PUBLICATION OF THE STATEMENTS AND ESTIMATES OF THE EXPENSES OF THE DISTRICT WHICH SHALL BE PROVIDED FOR BY THE LEVY AND COLLECTION OF AD VALOREM TAXES ON THE ASSESSED VALUE OF ALL THE REAL AND PERSONAL PROPERTY IN THE DISTRICT

WHEREAS, the provisions of A.R.S. § 48-616 require the governing body to levy taxes upon all property in a municipal street lighting improvement district to pay the annual expenses of said districts; and

WHEREAS, the governing body of the municipality shall make annual statements and estimates of the expenses of the district, which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real and personal property in the district, shall publish notice thereof, shall have hearings thereon and adopt said statements and estimates as provided in title 42, chapter 17, article 3, Arizona Revised Statutes; and

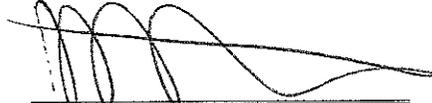
WHEREAS, the Mayor and Council desire to approve said statements and estimates for Fiscal Year 2010-2011;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AS FOLLOWS:

1. The proposed statement and estimates of expenses of the Agua Fria Ranch Lighting Improvement District for Fiscal Year 2010-2011, attached hereto and incorporated herein as Exhibit "A", is hereby approved.

2. A public hearing and meeting to approve the statement and estimates and final budget of the District shall be set for the 3rd day of **June, 2010** and notice of such hearing shall be published in accordance with the requirements of A.R.S. § 48-616.

RESOLVED by the Mayor and Council this 6th day of May, 2010.



Michael LeVault, Mayor

ATTEST:



Letty Goldberg, Town Clerk

APPROVED AS TO FORM:



Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
By Michelle Swann

ORDINANCE NO. 10-07

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE YOUNGTOWN MUNICIPAL CODE TITLE 2 ADMINISTRATION AND PERSONNEL, CHAPTER 2.32 MUNICIPAL COURT, TO ADD A NEW SECTION 2.32.070 HOME DETENTION PROGRAM TO ESTABLISH A HOME DETENTION PROGRAM FOR ELIGIBLE SENTENCED OFFENDERS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES

WHEREAS, Section 9-499.07 of the Arizona Revised Statutes authorizes municipalities to establish a home detention program for eligible sentenced offenders if the Presiding Judge of the Town's Municipal Court approves the program; and

WHEREAS, the Town held a public hearing on April 15, 2010; and

WHEREAS, the Town and Presiding Judge find it appropriate and necessary to establish a home detention program for persons who are sentenced to jail confinement pursuant to A.R.S. § 28-1381 or 1382.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Youngtown, Arizona, as follows:

Section I. In General.

The Youngtown Municipal Code, Title 2 Administration and Personnel, Chapter 2.32 Municipal Court, is hereby amended to add Section 2.32.070 Home Detention Program to read as follows:

Title 2

* * *

2.32.070 HOME DETENTION PROGRAM.

A. A HOME DETENTION PROGRAM IS HEREBY ESTABLISHED IN THE TOWN MUNICIPAL COURT FOR PERSONS WHO ARE SENTENCED TO JAIL CONFINEMENT, INCLUDING THOSE PERSONS SENTENCED UNDER SECTIONS 28-1381 OR 28-1382 OF THE ARIZONA REVISED STATUTES. IF A PERSON IS SENTENCED TO JAIL CONFINEMENT BY THE TOWN MUNICIPAL COURT, THE COURT MAY SUBSTITUTE HOME DETENTION FOR A PORTION OF THE JAIL TERM AS PROVIDED IN THIS SECTION.

B. THE PRESIDING JUDGE SHALL DEVELOP AND IMPLEMENT A HOME DETENTION PROGRAM THAT COMPLIES WITH THE REQUIREMENTS OF STATE LAW.

C. HOME DETENTION SHALL NOT BE PERMITTED FOR PERSONS WHO:

1. ARE FOUND TO CONSTITUTE A RISK TO THEMSELVES OR OTHER MEMBERS OF THE COMMUNITY.

2. HAVE A HISTORY OF VIOLENT BEHAVIOR.

3. HAVE BEEN CONVICTED OF AND ARE BEING SENTENCED FOR A DOMESTIC VIOLENCE OFFENSE PURSUANT TO SECTION 13-3601 OF THE ARIZONA REVISED STATUTES.

4. HAVE BEEN CONVICTED OF AND ARE BEING SENTENCED FOR AN ACT OF PROSTITUTION OR SOLICITATION PURSUANT TO SECTION 13-3214 OF THE ARIZONA REVISED STATUTES.

5. ARE NOT ELIGIBLE UNDER SECTION 9-400.07 OF THE ARIZONA REVISED STATUTES OR HAS BEEN DECLARED INELIGIBLE BY THE SENTENCING JUDGE FOR PARTICIPATION IN THE HOME DETENTION PROGRAM.

D. EXCEPT AS PROVIDED IN SUBSECTION K, ANY PERSON PLACED ON HOME DETENTION SHALL SERVE AN INITIAL TWENTY-FOUR CONSECUTIVE HOURS IN JAIL. THE PERSON SHALL PAY THE COSTS OF INCARCERATION.

E. A PERSON PLACED UNDER HOME DETENTION SHALL BE SUBJECT TO ELECTRONIC MONITORING IN THE PERSON'S HOME AND SHALL BE REQUIRED TO REMAIN AT HOME DURING THE HOURS SPECIFIED BY THE COURT. THE PERSON SHALL PAY THE FULL COST OF THE ELECTRONIC MONITORING.

F. IN ORDER TO BE ELIGIBLE FOR THE HOME DETENTION PROGRAM, THE PERSON SHALL BE EMPLOYED IN MARICOPA COUNTY. IF THE PERSON IS RETIRED OR INCAPABLE OF BEING EMPLOYED, THE COURT MAY EXEMPT THE PERSON FROM THIS REQUIREMENT. IF THE PERSON ATTENDS EDUCATIONAL CLASSES IN MARICOPA COUNTY OR IS EMPLOYED WITHIN MARICOPA COUNTY, THE COURT MAY PERMIT THE PERSON TO ATTEND CLASSES OR LEAVE HOME FOR EMPLOYMENT DURING SPECIFIED

HOURS. THE COURT MAY PERMIT THE PERSON TO ATTEND RELIGIOUS SERVICES, FUNERALS OR SEEK NECESSARY MEDICAL CARE.

G. THE COURT MAY REQUIRE A PERSON UNDER HOME DETENTION TO PARTICIPATE IN COMMUNITY SERVICE WORK OR IMPOSE OTHER REASONABLE REQUIREMENTS OR RESTRICTIONS THE COURT DEEMS NECESSARY.

H. THE COURT SHALL TERMINATE A PERSON'S HOME DETENTION AND REQUIRE THE PERSON TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE BY JAIL CONFINEMENT IF THE COURT FINDS THE PERSON HAS IMPROPERLY LEFT THE HOME DURING HOME DETENTION OR HAS VIOLATED ANY OTHER TERMS OF THE HOME DETENTION ORDER.

I. THE COURT IS AUTHORIZED TO ASSESS COSTS AGAINST AN OFFENDER WHO PARTICIPATES IN A HOME DETENTION PROGRAM TO THE EXTENT AUTHORIZED BY LAW.

J. IN ADDITION TO THE REQUIREMENTS OF SECTION 6-6-2, IF AN OFFENDER IS SENTENCED UNDER SECTIONS 28-1381 OR 28-1382 OF THE ARIZONA REVISED STATUTES, THE PERSON MAY PARTICIPATE IN A HOME DETENTION PROGRAM ONLY IF THE PERSON MEETS THE REQUIREMENTS OF THIS SECTION.

K. THE PERSON MUST FIRST SERVE A MINIMUM OF TWENTY-FOUR CONSECUTIVE HOURS IN JAIL IF SENTENCED UNDER SECTION 28-1381(I) OF THE ARIZONA REVISED STATUTES. THE PERSON MUST FIRST SERVE A MINIMUM OF FIFTEEN CONSECUTIVE DAYS IN JAIL IF SENTENCED UNDER SECTION 28-1381(K) OR 28-1382(D) OR (F) OF THE ARIZONA REVISED STATUTES.

L. THE PERSON SHALL BE TESTED AT LEAST ONCE DAILY FOR THE USE OF ALCOHOL OR DRUGS IN A MANNER APPROVED BY THE COURT. THE PERSON SHALL PAY THE FULL COST OF ALCOHOL OR DRUG TESTING.

M. THE COURT SHALL TERMINATE A PERSON'S HOME DETENTION AND REQUIRE THE PERSON TO COMPLETE THE REMAINING TERM OF THE JAIL SENTENCE BY JAIL CONFINEMENT IF THE COURT FINDS THE PERSON HAS NOT SUCCESSFULLY COMPLETED COURT-ORDERED ALCOHOL OR DRUG SCREENING AND TREATMENT PURSUANT TO SECTION 28-1381 OR 28-1382 OF ARIZONA REVISED STATUTES OR HAS VIOLATED ANY OTHER TERM OF THE HOME DETENTION ORDER.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

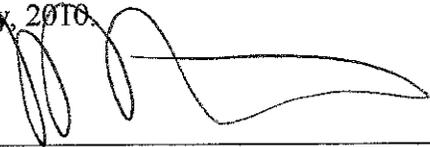
Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 6th day of May, 2010, by the following vote:

AYES: 7
NAYES: 0 ABSENT: —
EXCUSED: — ABSTAINED: —

APPROVED this 6th day of May, 2010.



Michael LeVault, Mayor

ATTEST:

Letty Goldberg CMC, Town Clerk/Treasurer

RESOLUTION # 10-09

A RESOLUTION OF THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, ADOPTING THE 2010 MARICOPA COUNTY COMMUNITY WILDFIRE PROTECTION PLAN (CWPP) FOR THE TOWN OF YOUNGTOWN.

WHEREAS the Town of Youngtown has historically experienced damage from natural hazards such as flooding, wildfire, drought, severe winds, and others on many occasions in the past century, resulting in loss of property and/or life, economic hardship, and threats to public health and safety;

WHEREAS the 2010 *MARICOPA COUNTY COMMUNITY WILDFIRE PROTECTION PLAN* (the Plan) has been developed after long review, research and update work by the Town of Youngtown in association and cooperation with the Maricopa County Department of Emergency Management (MCDEM) for the reduction of hazard risk to the community;

WHEREAS the Plan specifically addresses natural wildfire vulnerabilities, mitigation strategies and plan maintenance procedures for Town of Youngtown;

WHEREAS the Plan is a worthy addition to the other hazard mitigation plans for the Town of Youngtown;

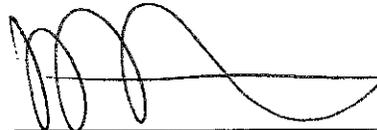
WHEREAS the Plan recommends hazard mitigation actions/projects that may provide mitigation for specific natural wildfire hazards that may impact the Town of Youngtown, with the effect of protecting people and property from loss associated with those hazards;

NOW THEREFORE BE IT RESOLVED by the Mayor and Common Council of the Town of Youngtown that:

1. The Plan is hereby Adopted as an official plan of Town of Youngtown.
2. The plan shall be implemented, monitored and maintained by the officials/staff designated in the Plan for a period no less than five (5) years with the full support of this resolution.

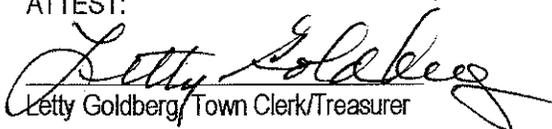
FURTHER RESOLVED, that all resolutions and parts of resolutions in conflict with this Resolution are hereby repealed.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, THIS 6TH DAY OF MAY, 2010.



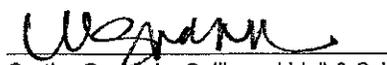
Michael LeVault, Mayor

ATTEST:



Letty Goldberg, Town Clerk/Treasurer

APPROVED AS TO FORM:



Curtis, Godwin, Sullivan, Udall & Schwab, PLC
Town Attorneys
by Michelle Swann