MINUTES OF REGULAR MEETING OF THE COMMON COUNCIL OF YOUNGTOWN, AZ

THURSDAY, September 2, 2010, TOWN CLUBHOUSE, 12033 CLUBHOUSE SQUARE

1. Call to Order Mayor Michael LeVault called the meeting to order at 7:10 p.m.

2. Roll Call Council present: Mayor Michael Levault, Vice Mayor Jacob Duran, Councilmembers Margaret Chittenden, Dorena Mello, Susan MacKay, and Judy Johnson. Council excused: Councilmember Shirley Oglesby.
Staff present: Town Manager Lloyce Robinson, Town Attorneys William Sullivan and Michelle Swann, Town Engineer Grant Anderson, Police Chief Terry McDonald, Public Works Manager Mark Hannah, Building Safety Inspector Jim Fox, and Town Clerk Letty Goldberg.

3. Pledge of Allegiance and Invocation Pledge led by Councilmember MacKay. Invocation offered by Police Chaplain Charles Ring.

4. Communications:
   A. Communications from Council
   Mayor LeVault
   - Luke Air Force Base is in the lead position to obtain the F-35 program. It still needs to complete the Environmental Impact Statement (EIS). The F-16's are being retired. If Luke loses its flight mission it is susceptible to closure. This would have a huge impact on the Valley, the State, and the Nation's security and economy.
   - Several Councilmembers and I attended the annual League of Cities and Towns conference in Glendale. We received lots of good information. The economy dominated the sessions. I went from a session conducted by the Goldwater Institute to one conducted by the Arizona Town Hall Commission, with opposing views on what is right for Arizona's future. Every subdivision of government is looking for additional money. Revenues have been down for 36 months in a row. Councilmember Mello told me that August was one of the better months for her business. She sees the light about to shine. I'm hoping it's not a freight train.

   Vice Mayor Duran
   - Some of you have seen the newspapers or TV about New Joy Ministries and the Youngtown Charter School. In 2008 the school lost 85 students. I am moving the church back to Youngtown. The leasing company and the county told me there were no restrictions to moving the charter school to Sun City. Mr. Wilson (County Supervisor) didn't like the school there. Debra Lesko (state representative) thought it was okay that I was charged a fine. I invested $50,000 to relocate the church and school there. The ugliness of the experience was difficult. Elderly people came in and used the "F" word in speaking to my staff and volunteers. An ex-Mayor came in and took pictures. All of this has nothing to do with my office as Vice Mayor. Diane Rowe wanted to take my School Charter. I'm an overcomer. I follow the counsel of wise men. God's been good to me. Interesting thing is that the leasing company was part of the problem. We are moving the church back to Youngtown. I feel I belong. We will bounce back.

   Councilmember MacKay
   - Please note the new pictures about Youngtown here in the Clubhouse. Historical Museum question of the month is "What year did Youngtown enter the Sun City Fire District?" Turn in the correct answer at the Youngtown Library. The winner will receive a QT $10 gift card.

   Councilmember Mello
   - I volunteered recently at a Community Garden called Garden of Hope at 12th Street and Broadway in Phoenix. I think that a community garden could be a way for us to unite the community of Youngtown. The garden I visited is run by a nonprofit called the Tiger Mountain Foundation. The produce grown in the community garden is divided in thirds. One third to the volunteers, one third donated to food banks and one third is sold with the proceeds used for expenses of the garden. I'm hoping to instill some interest in a Youngtown community garden.

Councilmember Chittenden

- **Following the League conference, I went on a tour of Springerville, Eager, Apache Junction, Morenci and Safford. These communities have no property tax and are struggling. I came home and decided that we don't look so bad. Our alleys look good. I drove the Coronado Trail – three hours from Alpine to Morenci.**

B. Communications from Staff

Town Manager's Report

Town Manager Robinson

- **The Youngtown Village Reporter will be available on Tuesday.**
- **Court audit was this week. The Court is audited every three years. We will bring the completed audit to Council when it is ready. The Town audit will be the third week in September.**
- **The tax auditor Al Holler prepared 70 letters to rental property owners who have not registered to pay the rental tax. He estimates that there is about $118,000 to be collected including taxes, interest and penalties. We can waive the penalties but not the principle and interest. We are offering to waive the penalties for rental owners that pay the tax and interest within 30 days. It is estimated that the Town should receive about $80,000 in taxes owed. Mr. Holler will be targeting assisted living facilities and group homes when he finishes with residential rentals.**
- **On October 7 there will be a presentation on benchmarking being done by the Public Works and Police Departments. These departments have had to remodel and realign with budget cuts and staff cuts.**
- **Regarding Town finances, we have had to replace broken equipment at a cost of $10,000. We also received tax bills for more than $10,000 for a Groundwater Replenishment District. Revenues are down $60,000 for July and August and we are going to be down another 5% for this month.**
- **Code Enforcement – Lora Isaacs has issued 13 advisory notices along 111th Avenue. We are discussing the possibility of two days in jail for chronic offenders. Mountain View Apartments continue to be a problem. Mrs. Isaacs requested that Parks and Sons pick up debris that was dumped after the property owner canceled trash pickup. The property owner also canceled water to his buildings. I don't know anytime that these buildings haven't been a challenge.**

Town Clerk Goldberg

- **Residents are starting to receive their 2010 tax bills and have questions regarding the Peoria Unified School District (PUSD) tax. According to staff at the Maricopa County Superintendent of School's Office, PUSD has not completed the Youngtown annexation. They are waiting for a legal description. PUSD missed the deadline for filing the levy for Youngtown for this year. For residents interested in calculating what their school taxes would have been, I have obtained the primary and secondary rates. Using those rates, I calculated that taxes for a $50,000 home would have been $266.47 this year.**

Public Works Manager Hannah

- **Councilmember MacKay's husband reviewed our PA system and determined we have a great system. We do have some issues, batteries, etc. and it will cost some money to make it work well for us. For an older system, it is a good system that needs some tweaking.**

Chief McDonald

- **The Police Department is rocking right along. I will have a comprehensive report next month. I spoke to the Business group this week. I am proud of my Department. They are facing significant challenges and following through.**

C. Proclamations – Constitution Day and Week and National Preparedness Month

Mayor LeVault declared Constitution Day and Week and National Preparedness Month in Youngtown by Proclamation.

5. <u>Consent</u>

A. Approval of Minutes: Minutes of July 15, 2010 Regular Meeting, and May 18, 2010 Special Meeting and Executive Session.

Motion to approve Consent Agenda – Councilmember Chittenden
Second – Vice Mayor Duran
Motion passed unanimously on a voice vote.

6. **Business**

A. **Presentation Re: New Employees and Volunteers: Jim Fox, Building Safety Inspector (part-time); and Shirl Rogers, Police Department Volunteer. (ROBINSON)**

Public Works Manager Hannah

- **Jim Fox is our new part-time Building Safety Inspector. He comes to Youngtown with a lot of years of experience and lots of certifications. He has worked with our Town engineers WILLDAN. Jim is a welcome addition to the Public Works Department. He replaces John Stigsell who retired in August. John worked on improving Town Code including the new Sign Ordinance passed recently by Council.**

Chief McDonald

- **I'd like to introduce Police Volunteer Shirl Rogers. Shirl and I have been colleagues and friends for 25 years. She began her career as a Police Dispatcher, attending Police Academy and becoming a Deputy Sheriff, leaving there to become a Phoenix Police Officer. While a Police Officer she ran into a couple of bullets, which led to a medical retirement and a long recovery. Shirl is working on projects and reports for the Police Department. She has been able to locate victims who have moved. She has a new real job as a State Investigator for the Lottery Department so her time volunteering with us will be limited, but we are glad to have what help she can give us.**

B. **Discussion and/or Action Re: Approval of a Grant Agreement between the Community Development Division (MCCD) of the Maricopa County Human Services Department and the Town of Youngtown for Implementation of CDBG (Community Development Block Grant) funding of the FY2011 Youngtown Fire flow Project (Phase I), in the amount of $353,582. (HANNAH)**

Mayor LeVault

- **Town Attorney Bill Sullivan and I spent a month one week at the Arizona Corporation Commission attempting to get the Commission to approve a rate increase for Arizona American Water to pay for fire flow improvement in Youngtown. This is Plan B. Construction will begin later this year. When completed this project will ensure adequate fire flow.**

Public Works Manager Hannah

- **We started with public hearings last September to develop the Town's 5-year Consolidated Plan for Community Development Block Grants. Then in October we held a hearing for the first project. In December we submitted an application for a fire flow project to the Maricopa County Community Development Advisory Council (CDAC) to obtain a grant for Phase I. CDAC awarded a grant of $355,582. We now ask Council to approve the grant agreement between Maricopa County Community Development (MCCD) and the Town to implement this project. The next step would be a notice to proceed from MCCD. The Town did leverage the grant with $75,000 of Town funds.**

Councilmember Chittenden

- **On behalf of the Council I want to thank you and Councilmember Shirley Oglesby, our CDAC representative who spoke so well on behalf of the project.**

June Miller, Youngtown resident

- **Elmer and I moved here in 1994 and I remember measuring the footage from the fire station to our house for our insurance company and being concerned about the size of the lines. Fire insurance is affected by the ratings. We need fire flow to protect our homes. The water company will maintain the new lines. Our insurance rates should go down. Who would object to something that helps the safety of the Town?**

Motion to approve Grant Agreement between the Community Development Division (MCCD) of the Maricopa County Human Services Department and the Town of Youngtown for Implementation of CDBG (Community Development Block Grant) funding of the FY2011 Youngtown Fire flow Project (Phase I), in the amount of $353,582 – Councilmember Johnson
Second – Councilmember Mello
Motion passed unanimously on a voice vote.

C. **Discussion and/or approval of the *Main Extension Agreement*, between Arizona-American Water Company, Inc. and the Town of Youngtown for the installation of the underground fire flow system, and providing for ownership, operations and maintenance, minimum flow standards, and other provisions necessary to implement the FY2011 Youngtown Fire flow Project (Phase I). (HANNAH)**

Public Works Manager Hannah

- **Regarding the last agenda item, I want to express my thanks to Town Engineer Grant Anderson. He has done a great job engineering this project.**
- **I appreciate the professional efforts of our attorneys. It was a long process to get to where we are with negotiations with Arizona American Water Company. This Main Extension Agreement is something we can live with and meets statutory requirements. For MCCD these are rather routine projects involving public-private partnerships.**
- **This project will increase fire flow capacity and should have 40 years or longer in life expectancy. Maintenance will be by Arizona American Water rather than the Town.**

Town Attorney Swann

- **An Appendix A will need to be added to the agreement covering Employer Sanctions, the Sudan Iran clause and Title 6 language regarding discrimination.**

Motion to approve *Main Extension Agreement*, between Arizona-American Water Company, Inc. and the Town of Youngtown for the installation of the underground fire flow system, and providing for ownership, operations and maintenance, minimum flow standards, and other provisions necessary to implement the FY2011 Youngtown Fire flow Project (Phase I) with the addition of Appendix A, inclusion of the Arizona E-Verify clause, Sudan and Iran clause, and compliance with Title 6 of the federal law – Councilmember MacKay
Second – Vice Mayor Duran
Motion passed unanimously on a voice vote.

D. Discussion and/or Actions Re: Approval of Ordinance 10-15 amending the Code of Youngtown, Arizona, Title 9 Public Peace, Morals and Welfare, Chapter 9.04 Offenses Against Public Peace and Decency, by amending Section 9.04.010 Firearms and Explosives, Paragraph A, related to restrictions on the use of gun powder, fireworks or other explosive devices, and by amending Paragraph C, related to the limitations of bringing firearms into Town park grounds, and paragraph D, relating to posting requirements relating to firearms in public parks, and adding Paragraph E, related to the prohibition of possession of firearms in buildings occupied by, leased by, or owned by the Town, and adding Paragraph F, relating to posting where firearms are prohibited and providing a locker for safekeeping of the firearm while the possessor of the firearm is in a building where it is prohibited and providing for penalties. (SWANN)

Town Attorney Swann

- **The last Legislative Session passed HB 2543 which says that a municipality cannot have a rule or ordinance more prohibitive than the State. A person can not carry but not discharge a firearm in a park. Posting will need to be changed to say "no discharge of firearms". The estimated cost for new signs is $1,400.**

Councilmember Chittenden

- **Will the Town be buying signs from Buckeye?**

Councilmember Mello

- **Zumar may be making the signs for Buckeye.**

Mayor LeVault

- **We expect that staff will get the best deal every time.**

Motion to approve Ordinance 10-15 amending the Code of Youngtown, Arizona, Title 9 Public Peace, Morals and Welfare, Chapter 9.04 Offenses Against Public Peace and Decency, by amending Section 9.04.010 Firearms and Explosives, Paragraph A, related to restrictions on the use of gun powder, fireworks or other explosive devices, and by amending Paragraph C, related to the limitations of bringing firearms into Town park grounds, and paragraph D, relating to posting requirements relating to firearms in public parks, and adding Paragraph E, related to the prohibition of possession of firearms in buildings occupied by, leased by, or owned by the Town, and adding Paragraph F, relating to posting where firearms are prohibited and providing a locker for safekeeping of the firearm while the possessor of the firearm is in a building where it is prohibited and providing for penalties – Councilmember Chittenden
Second – Councilmember Johnson
Motion passed unanimously on a voice/ vote.

7. Call for Executive Session

None needed.

8. Citizens Comments/Appearances from the floor:

Betty Alton, Town Resident and Manager of Youngtown House Apartments

- My concern is all the time and money it takes to clean up after spray paint. Ace Hardware could do something to limit access to the spray paint. They have it located where it can be taken unobserved. It would be good if they locked it up like it's required in other towns.

Mayor LeVault

- Staff will investigate if Ace Hardware is in compliance with state and local laws.

Andy Klitsch, owner of Valley Gold Exchange

- My business is located at Sundown Plaza on Grand Avenue. My concern is how the new Sign Ordinance is being interpreted. I have my sign walkers and we have worked out where they can be located. My concern is my A-frame sign and where it can be located.

Daniel Fernandez, owner of Straight Razor Barber Shop

- I'm a new business owner in Youngtown. My business is on Grand Avenue and with construction we are having a hard time. ADOT took our kiosk sign. Then we were told by Code Enforcement that our flag banner would have to be taken down. Since then my business has dropped substantially. Advertising is a huge thing for us. We are located in the southwest corner of the strip mall. It is hard to see us from Grand Avenue. The Code Officer said that I could have an A-frame sign outside my door and only at my premises. I think it includes the common parking lot that the businesses share.

Councilmember Mello

- I am pro signs. Signs are my business. I see two issues. One – flags. Flags are illegal in every city. Two – construction. Construction is causing an undue burden to businesses. Most cities do not allow A-frames considering them a hazard to pedestrians and traffic. This Council has allowed A-frame signs but that part of the ordinance expires in 2012. Flags like yours work for a while and then they don't. Also they get dingy pretty quickly. You have a right-of-way issue. It may not always be the Town. There are things that ADOT will not allow. You need to have your landlord's permission to use the common area. Perhaps in your lease you are paying to use the common area. Flags/pennants have a limited time that they can be displayed.

Town Attorney Swann

- If it is a special event, code allows you to get a permit.

Town Manager Robinson

- ADOT met with property owners and businesses long before they started construction on Grand Avenue. I don't know if your landlord participated in those meetings. I suggest that you meet with Building Safety Inspector Jim Fox about designing a sign that would be appropriate for your location.

Travis Brown, owner of Pro-Gold Prospecting

- I want to thank you for considering God in this Town.
- I have a niche business – recreational gold mining. I also purchase gold. I don't have Grand Avenue frontage. I'm on Youngtown Avenue by the golf cart company. I have been located there for 2-1/2 years. I get customers from as far away as Apache Junction, Sierra Vista, and Cordes Junction for gold prospecting supplies. Not having Grand Avenue or 111th Avenue exposure I have had customers drive by and miss me. 80% of the businesses are east-west and don't have good exposure. I have an off-sited sign on church property with their permission. Code says I can't put a sign in the parking lot. I have three other stores. In Goodyear I purchase A frame sign permits for $30.each. I enjoy this town. I talked to Lora. There wasn't a problem before this new ordinance. I know that Youngtown Marketplace has had problems over signs. I don't want to have to uproot my business. I do $30,000 to $50,000 business per month. Something needs to be done.

Mayor LeVault

- We don't want to hinder businesses in these times.

Town Manager Robinson

- Staff met with another business owner Tom McCormick about signs for his business. He has plans for the future. The Town doesn't want to hinder businesses but we are concerned about derelict signs. I will speak with Code Enforcement to ensure they fully understand the new Sign Code.

June Miller, Town resident

- **Councilmember Mello, I am very interested in this community gardening project.**
- **I'd also like to thank who ever is responsible for the paving of Arizona Avenue by the Post Office. It is so nice to drive my car there now.**

Announcement of next Work Session and Regular Meeting: Thursday, September 16, 2010, at 7:00 p.m.

Adjournment.

Motion to adjourn – Councilmember Johnson
Second – Councilmember Mello
Meeting adjourned at 8:45 p.m.

Michael LeVault, Mayor

Attest:

Letty Goldberg, Town Clerk/Treasurer

Minutes approved at the September 16, 2010 Regular Meeting.

ORDINANCE NO. 10-15

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, AMENDING THE CODE OF YOUNGTOWN, ARIZONA, TITLE 9 PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.04 OFFENSES AGAINST PUBLIC PEACE AND DECENCY, BY AMENDING SECTION 9.04.010 FIREARMS AND EXPLOSIVES, PARAGRAPH A, RELATED TO RESTRICTIONS ON THE USE OF GUN POWDER, FIREWORKS OR OTHER EXPLOSIVE DEVICES, AND BY AMENDING PARAGRAPH C, RELATED TO THE LIMITATIONS OF BRINGING FIREARMS INTO TOWN PARK GROUNDS, AND PARAGRAPH D, RELATING TO POSTING REQUIREMENTS RELATING TO FIREARMS IN PUBLIC PARKS, AND ADDING PARAGRAPH E, RELATED TO THE PROHIBITION OF POSSESSION OF FIREARMS IN BUILDINGS OCCUPIED BY, LEASED BY, OR OWNED BY THE TOWN, AND ADDING PARAGRAPH F, RELATING TO POSTING WHERE FIREARMS ARE PROHIBITED AND PROVIDING A LOCKER FOR SAFEKEEPING OF THE FIREARM WHILE THE POSSESSOR OF THE FIREARM IS IN A BUILDING WHERE IT IS PROHIBITED AND PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY

WHEREAS, the Mayor and Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the Town of Youngtown and its residents, and

WHEREAS, Arizona law prohibits the Town from enacting rules or ordinances that limit the possession of firearms in parks or preserves and eliminates the related posting requirements,

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

Section I. In General.

The Code of Youngtown, Arizona, Title 9 PUBLIC PEACE, MORALS AND WELFARE, Chapter 9.04 OFFENSES AGAINST PUBLIC PEACE AND DECENCY, is hereby amended by amending Section 9.04.010 Firearms and Explosives to read as follows (deletions in ~~strikeout~~; additions in ALL CAPS):

9.04.010 Firearms and explosives.

A. It is unlawful for any person within town limits to blast or use gun powder, fireworks, or other explosive devices without first obtaining a written permit approved by the town council of Youngtown.

* * *

C. No person, unless otherwise authorized by law, may ~~bring~~ DISCHARGE a firearm, as defined by A.R.S. Section 13-3101(A), ~~onto~~ IN any of the town park grounds or ~~into~~ any of the town buildings located in such parks. The town currently has the following parks, all of which are less than one square mile in size:

1. Club house square, which includes the following buildings located thereon: town hall, arts and crafts, police department, public works, library, clubhouse, building department, Youngtown historical ~~society~~ MUSEUM;
2. Greer Park;
3. Maricopa Park and Lake;
4. Memorial Park;
5. Caliche Park;
6. Schliefer Park;
7. URIBE PARK.

Additional parks may be established in the future.

D. In addition to any other signs that may be posted, the chief of police shall cause the following notice to be posted at all entrances to any park at one-quarter-mile intervals or less:

~~Carrying~~ DISCHARGING a firearm in this park or any of the buildings located herein is PROHIBITED EXCEPT AS ALLOWED BY ARIZONA LAW ~~limited to persons who possess a permit issued pursuant to A.R.S. § 13-3112~~.

E. NO PERSON MAY ENTER ANY BUILDING OWNED BY, LEASED BY OR OCCUPIED BY THE TOWN CARRYING A FIREARM, AS DEFINED BY A.R.S. SECTION 13-3101(A), EXCEPT THAT THIS PARAGRAPH DOES NOT APPLY TO:

1. A PEACE OFFICER OR ANY PERSON SUMMONED BY ANY PEACE OFFICER TO ASSIST IN THE PERFORMANCE OF HIS OFFICIAL DUTIES.

2. A MEMBER OF THE MILITARY FORCES OF THE UNITED STATES OR OF ANY STATE OF THE UNITED STATES IN THE PERFORMANCE OF OFFICIAL DUTY.

F. THE TOWN MANAGER SHALL CAUSE TO BE POSTED AT THE ENTRANCE OF EACH BUILDING OWNED, LEASED OR OCCUPIED BY THE TOWN A NOTICE THAT THE POSSESSION OF FIREARMS INSIDE THE BUILDING IS PROHIBITED, AND SHALL PROVIDE A READILY ACCESSIBLE LOCKER FOR THE STORAGE OF THE FIREARM FOR USE WHILE THE OWNER OR CARRIER OF THE FIREARM IS INSIDE THE BUILDING WHERE POSSESSING THE FIREARM IS PROHIBITED.

~~E~~G. Violation of this section is a Class 2 misdemeanor subject to imprisonment of up to four months, and a fine of up to seven hundred fifty dollars ($750.00), plus any applicable surcharge imposed by the state legislature.

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.

PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 2nd day of September, 2010, by the following vote:

AYES: 6

NAYES: Ø ABSENT: —

EXCUSED: 1 ABSTAINED: —

APPROVED this 2nd day of September, 2010.

Michael LeVault, Mayor

ATTEST:

Letty Goldberg, Town Clerk

APPROVED AS TO FORM:

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

I, LETTY GOLDBERG, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 10-15 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 2ND DAY OF SEPTEMBER, 2010, WAS POSTED IN THREE PLACES ON THE 3RD DAY OF SEPTEMBER, 2010.

Letty Goldberg, Town Clerk
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