



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

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

1. Call to Order: Mayor Michael LeVault called the meeting to order at 7:00 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 Manager Lloyce Robinson, Town Attorney Michelle Swann, Police Chief Terry McDonald, Town Engineer Grant Anderson, Public Works Manager Mark Hannah and Deputy Town Clerk Diane Cordova.
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

 - A master mind group, The Youngtown Visionaries, met Monday, Nov. 29, 2010. It is on the agenda and I will speak on it later.
 - A vicious rash of tagging and graffiti has been continuing. I don't know if it's as bad up here as in Agua Fria Ranch. We do know who some of the perpetrators are. An email of photos was sent to me. We are talking about dozens of incidents. Graffiti is something if you don't get right after it, it become a magnet. The HOA (Homeowners Association) in Agua Fria has hired someone and is on call to paint over as soon as graffiti is seen. Be on the lookout, you can call anonymously. I'm going to start to ride my bike around the community to see if I can come up around these guys.

Vice Mayor Duran

 - I want to address something that came to us as pastors to the city regarding the killings and murders happening in Mexico. People from here in the state, attended a prayer summit in Mexico City. What is happening in Mexico is what happened in Columbia a few years back, "killing of a pastor". This does affect our nation.

Councilmember Chittenden

 - Listening to Pat McMann's commentary on KTAR regarding our former governor and her approval of fireworks. His discussion was pretty much like what we as council had talked about regarding fireworks. Her approval on this has burdened many cities and towns to take action. Many cities are banning it. I'm glad that we as a council decided to wait and see until after the New Year and perhaps address if we have to before the 4th of July.
 - B. Communications from Staff

Town Manager's Report

Town Manager Robinson

 - New windows were installed by the Energy Efficiency Project Grant.
 - Calendar of events, Saturday Dec. 11, 2010 Holiday Event at Greer Park 5 – 7 p.m. The Seasons of Caring boxes are at Town Hall and the Library for donation of toys and items. Donations are still being accepted for purchasing turkeys. Proceeds to go to the Valley View Food Bank.
 - Attended the Ventana Winds facilities open house, formerly known as Willow Creek, located on 113th Avenue.
 - It was my turn to be the chairman for the Leadership West Government day. There were 14 speakers. We were honored to have Appeals Judge, Mr. Peter Swann, participating. One hot topic was a debate on fireworks. A lobbyist from TNT Fireworks stated that they would only be selling at Wal-Marts and K-Marts. The other hot topic was Medical Marijuana.

Chief McDonald

 - I have been receiving emails on graffiti. We are working on a plan.
 - Police Department is stretched with high profile crimes, child abuse case that resulted on a narcotics search warrant.

- A man that was missing for 8 days was found.
- Beer run at Q.T (Quick Trip) on Olive, suspect had a gun, turned into an armed robbery.

Hannah, Public Works Manager

- A thank you to everyone for the cards, phone calls, thoughts and prayers. I feel like a million bucks. It's great to be back.
- Window installation has been completed. We will be moving forward with the replacing of light fixtures. We will be benchmarking before and after results.
- I've been in contact with Maricopa County regarding releasing of HUD funds for our current project, should know about mid January 2011. We cannot start any work until the release of funds. We've gone back and forth on information that we had received from Arizona American Water regarding existing lines. Grand Avenue does not have water lines. Willdan will have to redo some engineering due to this new knowledge.
- There has been issue with Maricopa Lake. We have isolated the problem.

Grant Anderson, Town Engineer

- Update on Public Works; The pump and compressor at Maricopa Lake are fixed. We will wait about two weeks to clean lake and make the lake livable again for the fish. Your Staff has been busy with street sweeping and maintaining the facilities.
- The Peoria Avenue realignment project contract and environmental review contract will be on the council agenda for Dec. 16th, 2010 along with the IGA (Intergovernmental Agreement) and ADOT (Arizona Department of Transportation).
- The CDBG (Community Development Block Grant) Application will be on council agenda for Dec. 2nd, 2010 for approval of Phase II of the fire flow. It is due to the CDAC by Dec. 17th, 2010.
- EECBG (Energy Efficiency Block Grant) installation of energy devices of new light fixtures and windows will start on Dec. 6th, 2010.

Cordova, Deputy Town Clerk

- Deadline for Council Seat packets is December 8, 2010 4:00 pm

5. Consent

A. Approval of Minutes: Minutes of November 18, 2010 Regular Meeting

Motion to approve with an amendment – Vice Mayor Duran

Second – Councilmember Chittenden

Motion passed unanimously on a voice vote.

6. Business

A. Discussion and/or Action Re: Approval to accept the Town Audit for Fiscal Year 2009-10 completed by

Larson Allen LLP, Town Auditor. (Hoffman)

Cronstrom, Auditor for Larson Allen LLP

- In your audit packets are several documents. These statements are similar to prior years. I am here to answer any questions.

Mayor LeVault,

- Can you explain the three adjustments?
- Do you see any flaws and or recommendations that the staff needs to adjust?

Cronstrom, Auditor

- We come out and test procedures; payroll and account payable process. As auditor's we take your trial balance and format it into a financial statement.
- No, we don't expect your staff to know all of the governmental accounting standards. The town relays on us to prepare the financial statement.
- One of the findings that needed adjusting was the capital assets that were conveyed to the Town in 2006.

Mayor LeVault,

- Are we talking about the Public Works parcel?

Robinson, Town Manager

- The adjustments made by the auditors are in regards to the parcels at Agua Fria Ranch. We had no knowledge that they had been recorded. These parcels were recorded in June 2006; however we never received a copy of a recorded deed. We did however receive a tax bill from the County Assessor this year. It is parcel Tract C which begins at Olive and wraps around to the first street, which is called Agua Fria Ranch Parkway. I found the April 2003 recorded map that reflects Tract C was deeded to the HOA (Home Owners Association), but for some reason the Title Company

received instruction from the developer to deed the parcel to the town. We had no knowledge of this happening until a bill was received from the County Assessor.

- The other parcels are Uribe Park and the ditch along Agua Fria Ranch Parkway. We received an assessment/water usage from the Ground Water Replenish District for over \$10,000. It was during the auditor process that the adjustments were made. It is now reflected on the fixed asset report.

Mayor LeVault,

- According to the statement, those parcels are worth two million dollars?
- What was the finding regarding the property tax revenue, which is the Community Facilities District money? Was that a matter of not cashing the check?

Cronstrom, Auditor

- Yes, there is quite a bit of land out there. Uribe Park has had some major improvements.
- Every three years we audit the town's municipal court to make sure the court is in compliance with the Arizona Supreme Court standards. We had eight findings. It is a two to three page report. It has been forwarded to the Supreme Court.

Hoffman, Finance Officer

- We get disbursements from the County every month from taxes that are collected from the facilities district. What happened this year- I wrote a check for that June disbursement in June. The June check was not reflected on the June statement from Wells Fargo the trustee for the CFD (Community Facilities District). It should have been shown as a deposit in transit.

Mayor LeVault

- The last adjustment was on SLID (Street Lighting District)

Hoffman, Finance Officer

- It was coded incorrectly in the general account. The expense was charged to the Parks Department rather than the Street Lighting District. Each month starting this fiscal year, I now print a detailed general ledger for Department Heads and they are to review what they have given us to pay for that month to make sure it is reflected in the proper account.

Robinson, Town Manager

- When I received the draft audit report on our court, I held a meeting with the Judge and the court clerk. The findings from the audit came from the prior year's court staff and accounting errors in process.

Cronstrom, Auditor

- We've also prepared the towns Annual Expenditure Limitation Report which is the report we file with the State General Auditors Office. The town is well below the expenditure limitation. The report was due October 31 and the town did file an extension. The new due date now is at the end February 2011. The town is well in compliance.

Motion to approve to accept the Town Audit for Fiscal Year 2009-10 completed by Larson Allen LLP
Councilmember Mello

Second – Councilmember Johnson

Motion passed unanimously on a voice vote.

B. Discussion and/or Action Re: Approval of Resolution 10-20 CDBG (Community Development Block Grant) FY 2011 Final Grant Proposal – Fire Flow Project for maximum of \$476,500 and authorization of Town Manager to sign contracts. (Anderson)

Anderson, Town Engineer

- This is the second phase of the fire-flow project. Approximately \$325,000 last year for the first phase fire-flow improvements from Connecticut north to Grand Avenue which included eight fire hydrants. The size of the line had to be increased to provide adequate fire-flow. This next phase, we are going to ask CDBG or CDAC for \$476,000. Of which \$76,500 is local match again. This will include fourteen fire hydrants and around four thousand liner feet of lines. This application needs a resolution from the council to CDAC by the 17th of December.

Mayor LeVault

- On the second paragraph of the Resolution 10-20, there should be the mention of the word flow because the standard we are trying to achieve here are actually the International Fire Code Standards of 1,000 gallons per minute flow in residential areas. Shouldn't we mention flow, pressure, or is this just a technical term?

- On the application it mentions phase two. In the past they would frown on the word phase. They were not will to approve grants in phases.

Anderson, Town Engineer

- This is a resolution supporting the Grant Application
- Last year when Mark Hannah did the presentation, it was recognized as a project in phases. They understood the phases of the project, each phase standing alone. They understood the word phase and it was well received.

Robinson, Town Manager

- They look at it as an overall project. This is four separate projects in one. If we do not receive any more money, the project is considered self-contained.

Hannah, Public Works Manager

- The year before issue was that the applicant did not make it clear to CDAC that it was a stand-alone project. They were afraid if there were no more funding available, the project would not be completed and not function. This is not the case with our program.

Councilmember Mello

- They make it clear that it has to be a stand-alone project.
- The Grand Avenue issue with no water lines, will that affect the amount of money needed in what we can accomplish? Phase II is a bigger parcel with fourteen fire hydrants.

Anderson, Town Engineer

- It will have a slight effect. We do have put a few lines in other locations to make sure we have enough flow and pressure to accommodate the fire hydrants. Due to an overall reduced construction cost bids that we are seeing right now, it should not affect the amount of fire hydrants.
- Hopefully we will receive the full amount of the grant, if not we will have to scale back the project.

Councilmember Chittenden

- When Youngtown was built in 1954, the waterline was completed by the Town of Youngtown. Arizona America Water was not in the picture. Wouldn't the original plans have Grand Avenue showing whether water lines existed?

Anderson, Town Engineer

- The documentation that I looked at did show a line on Grand Avenue. Somehow, a water line is shown that presently does not exist.

Motion to Approve Resolution 10-20 CDBG (Community Development Block Grant) FY 2011 Final Grant Proposal – Fire Flow Project for maximum of \$476,500 and authorization of Town Manager to sign contracts. Vice Mayor Duran

Second – Councilmember Mello

Motion passed unanimously on a roll call vote.

C. Discussion and/or Action Re: Update of Special Council Committee, Youngtown Visionaries, organizational meeting on November 29, 2010. (Mayor LeVault)

Mayor LeVault

- The committee met this past Monday night. Well attended meeting, we had 23 out of the 28 attend. We are discussing the purpose and the mission of this committee. My vision is to involve residents, business owners, staff, councilmembers, and also individuals outside of Youngtown, such as David Moss, Executive Director of Surprise Regional Chamber of Commerce. Jeanne Blackman with APS. The purpose of this committee is to look for innovative ways to make the town viable and sustainable, to be proactive. In its present form, Youngtown is not sustainable. We can kick the can down the road a few more years, suck our reserves dry, but that's not the way to go. That is not what you elected us to do.
- The State Legislature will be coming after revenue sharing fund, how much, we do not know. Some legislatures think that revenue sharing show be eliminated completely. We are estimating it will cost us around \$300,000 to \$500,000. Could be more and not less.
- The budget for this Town is \$3.9 million and we are back to 2004 spending. Every one of the four budgets that we as council has dealt with, there has been a reduction each year. When you look at comparing us with our peers, in comparison to what we are spending, police, public works, looking at salaries across the board, we are at the absolute bottom of the scale in terms of what we spend per town. If you look at what we spend per resident expenditure, we spend around

\$600. Per resident per year. The closest town next to us is Litchfield Park and they spend about three times more per resident and they don't have their own police department.

- We've done a very good job at being frugal the past several years. But at some point you have to accept the fact that simply cutting and cutting will not solve the problem. At some point, we have to figure out how to bring in more revenue and get creative. I believe the whole state business model as a government will have to be changed. The State, County and Municipalities will have to change. In New Jersey, the city council there decided to cut half of their police and fire services. If you are going to have this level of services, you have to have the same level of revenue. If revenues are decreased, then you have to look at how to provide services.
- I wrote a letter to our legislators, which will be in the Village Reporter, in which I urge our legislators not to take the easy way out and take from our Urban Revenue Sharing. Doing this passes the buck down to municipalities to try to figure out how to provide for a level of services without the same level of revenue. Every city in Arizona is concerned with this issue. The State has a billion to a billion and a half deficits in this fiscal year. That number gets worse all the way up to the year 2014 where the gap between the revenue and the expenditures line items peak. Every year is going to be harder and harder. Arizona is in worst shape and is at the bottom of the scale.
- We better figure out how to take care of ourselves. That's where we've come up with the Visionaries. We have broken up into three sub-committees. One being the business model and analyzing the business model. Councilmember Mello uses the phrase, "thinking outside the box." We have to think so far out of the box, we first have to build the box then put ourselves outside the box. This concept should be done as well where we get the state, the county, municipalities and school districts, all political subdivision should be sitting down discussing how to eliminate the duplication of services. Look at what our Fire Department has done with the CAD System. A system where they send fire equipment to where it is needed. A county wide system where they know wither each piece of equipment is available or not and where that equipment is located. My question is why police departments aren't doing this. The second sub-committee is commercial development looking at annexation of property and the third sub-committee is looking at non-commercial type of revenue.
- Maybe at some point the people want to talk about a property tax. These are tough times. If we cannot maintain and update our infrastructure and we cannot provide parks and recreation for our residents and can't provide adequate policing, why are we a town?

Councilmember Johnson

- Some of the committee members are in the audience tonight. I felt it was a very positive meeting. One of the committee members stated that we need to re-invent Youngtown. We like our small town and we want to remain a small town. We will have to find our niche.

Councilmember Olgesby

- I don't have that report.

Robinson, Town Manager

- This is an oral report from the Mayor.

D. Discussion Re: Town Attorney Report on the Status of Medical Marijuana Draft Ordinance. (Swann)

Swann, Town Attorney

- We have prepared a draft ordinance. The Citizen Hearing will be December 28, 2010 at 10:00 a.m. and the Zoning Hearing is scheduled for January 4, 2011 at 10 a.m. This notice will be sent to the Arizona Republic Newspaper for publication.
- The ordinance requires that dispensaries and cultivation sites identify to whom they belong. There is a requirement that whoever submits an application must show where they will be located. There is to be no retail sales at cultivation sights or products to be sold at dispensaries. There will be a no use of marijuana on premises. The building must be a permanent building. Require a staff member at all times because we have heard reports that sometimes they go on the honor system. The hours at we have purposed on the ordinance are 8:00 am – 6:00 pm. Many other municipalities are going with 9:00 am – 7:00 pm.

Councilmember Chittenden

- Are we talking about Monday thru Saturday?
- I don't understand the resale part of it.

Swann, Town Attorney

- Right now the draft ordinance does not specify. That is one of the questions I need to ask

council, what days and hours do you want the dispensary to be open?

- The sales tax has been a complicated issue for the following reasons; the state auditor has taken the position that medical marijuana sales are not taxable. It is not subject to sales tax. Many of the cities attorneys have stated that it should be. The League of Cities and Town announced that they will go to the legislature and introduce a bill to make medical marijuana subject to a sales tax.

Mayor LeVault

- The dispensaries and cultivation centers all have to be 501(c)3.

Swann, Town Attorney

- They have to be nonprofit. I do not know if they will be able to obtain a 501(c)3 status. Under the federal law this is still illegal.
- The states are not able to preempt Federal Law
- Under state law they are to remain 500 feet away from a school. Under our ordinance we are making it 500 feet away from everything and restricting them to zoning areas C-2, the out skirts of the town.

Councilmember Johnson

- So we are staying with 500 feet from a school.

Councilmember Chittenden

- Once they purchase, they can smoke in their vehicle?

Swann, Town Attorney

- Yes they can. The state will be looking at regulating use. We all know that there is a state wide ban. The state is going to include in its regulations the smoking of marijuana in the Anti-Smoking Act. I'm sure that it includes parks. Under the state law, we are only allowed to pass restrictions on zoning.
- This is a voter's initiative. It's the voters telling the government what to do.

Councilmember MacKay

- So that would include the smoking in a park.

McDonald, Chief of Police

- Maybe some doctor may decide that the treatment for schizophrenic is medical marijuana. This is monumental. If anyone of you go to a local sporting event and you already have those smoking cigarettes outside, the day will come that we will have those smoking medical marijuana. The federal government prohibits the substance. It's a constant thing where the federal dictates to the states.
- Smoking marijuana is a violation of the law.
- Let's take a conservation view with the ordinance, in time it will be easier to tighten

Councilmember Mello

- What will happen if someone with a prescription for medical marijuana is outside smoking pot and they pass it on to someone with a prescription?

Mayor LeVault

- What happens if an employee show up at their job and they are on marijuana because they have a prescription due to chronic pain?

Swann, Town Attorney

- You can expect revised personnel policies. Part of the law prohibits an employer to discriminate against some with prescriptions for medical marijuana. However, the proposition did say that the non-discrimination provision does not apply to an employer who has federal contracts and allowing medical marijuana on site would put those federal contracts at risk, and then an employer can discriminate. As a municipality, the next step is to look at all the federal contracts we have. The only other exception is for CDL drivers, they would not be able to use at work.

Vice Mayor Duran

- Chief, what can be done when there is a no smoking sign, 20 feet from a door or building, and people are still smoking?

McDonald, Chief of Police

- That is a petty offense under the law. It is enforced by the Health Department. Most police departments have stayed away from getting involved in that. We may see a change in that.

Councilmember MacKay

- If there is no sales tax, can we charge a business license fee?

Swann, Town Attorney

- The business license fee should be in line with our existing fees. That will be a different

ordinance. Right now the default for a business license is \$100. That is what we charge for massage establishment; however the application fee is \$200. Due to the background investigation. So our recommendation is to treat these dispensaries like the other business.

Councilmember Chittenden

- That is non-refundable.

Councilmember Johnson

- I believe it should be high. Ritter's, Tequila Willz is \$300.00.

Mayor LeVault

- Where do we go from here?

Swann, Town Attorney

- We getting the notice published in the newspaper. Then the Citizen Review hearing scheduled for December 28, 2010 and the Zoning Hearing January 4th, 2010 and then come to council January 20th, 2011. Next council meeting is December 16, 2011; I will keep this item on the agenda to give council a more concrete ordinance along with a Business License ordinance. If this passes on the January 20th, 2011 council meeting it will be effective February 20th, 2011 which is well ahead of the deadline.
- No dispensaries will be opening until the State has their regulation in place which they have until March 2011.

Councilmember Johnson

- Can it be placed in the Village Reporter? We need to communicate better than just the website.

Robinson, Town Manager

- The Village Reporter is not an official posting site.

Councilmember Mackay

- The C-2 pad agreement at Agua Fria Ranch is currently zoned as C-2.

Mayor LeVault

- The business Another Garage is also C-2.

Councilmember Mello

- Are the apartments on 113th Avenue 500 feet away?

7. Call for Executive Session

None needed.

8. Citizens Comments/Appearances from the floor:

Betty Alton

- About two weeks ago I saw taggers. I followed them for three blocks. Dispatch told me not to follow them. As a citizen what can we do?

Kathryn French

- I have a comment on an agenda item regarding the Ordinance on Medical Marijuana. I did not see any age restrictions. I would not have a high school student staff it due to them passing it out. We should use the same age restrictions as alcohol sales, 21 years of age. We should pass the ordinance until the State passes theirs. *Shouldn't*

Swann, Town Attorney

- Because this is an agenda item I will comment. The State is covering who can buy and sell. We as a town have to get our zoning in place because without it, an applicant can go to the State and the State will allow them to open a dispensary in Youngtown. If the Town has their zoning restrictions, the state will then not allow them to open.

Kathryn French

- The HOA (Home Owners Association) in Agua Fria is in a fight with taggers, painting YT5. Pictures have been given to staff. Might be some teenagers that have moved out from El Mirage. We think we know where they live. One of the pictures shows a home owner dumping charcoal over the block fence. There should be code violations for that. We need a coordinated effort to go after this.

Jacob Duran, son of Vice Mayor Duran

- I have caught two taggers. I've figured them out, they work in groups. They are alpha dogs; they walk and cross out existing tagging. The other group is the BCL. They walk across from El Mirage. They operate Friday and Saturdays sometimes Sundays

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

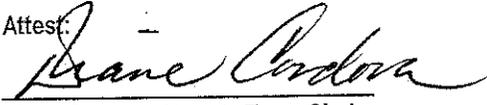
Adjournment:

Motion to adjourn – Councilmember Mello
Second – Councilmember Johnson
Meeting adjourned at 9:00 p.m.



Michael LeVault, Mayor

Attest:



Diane Cordova, Deputy Town Clerk

Minutes approved at the December 16, 2010 Regular Meeting.