

## MINUTES

MINUTES OF THE REGULAR SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, ON TUESDAY, JANUARY 18, 2022 AT 7:00 PM VIA ZOOM.

THE MEETING WAS CALLED TO ORDER BY MAYOR BUDGE AT 7:00PM.

### ROLL CALL

#### COUNCIL

Councilmember Louis Pawlik, Ward III                      Resigned  
Councilmember Joni Giacomino, Ward II  
Councilmember Frank Davis, Ward I  
Mayor Ken Budge  
Councilmember Leslie Johns, Ward I  
Councilmember Mel Sowid, Ward II  
Councilmember Anna Cline, Ward III, Mayor Pro Tempore

#### STAFF

Stephen J. Pauken, City Manager  
Ashlee Coronado, City Clerk  
Keri Bagley, Finance Director  
Joelle Landers, Personnel Director  
Matthew Gurney, Public Works Director  
Doug Taylor, City Planner  
Logan Dodd, Operations Manager

#### CITY ATTORNEY

Joseph Estes

INVOCATION: Mayor Budge asked for a moment of silence in remembrance of Snooky Borowiec and Robert Wick.

### PLEDGE OF ALLEGIANCE

### MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Budge announced the vacancies for Boards and Commissions. He encouraged citizens to apply.
- Mayor Budge read a proclamation for Charlene "Snooky" Borowiec, City Ambassador

### CALL TO THE PUBLIC

No one signed up to speak at call to the public.

THE FOLLOWING ITEMS WERE DISCUSSED, CONSIDERED AND/OR DECIDED UPON AT THIS MEETING:

### GENERAL BUSINESS:

1. ACCOUNTS PAYABLE: Subject to availability of funds

MOTION: Councilmember Cline moved to approve accounts payable in the amount of \$340,883.65.

SECOND: Councilmember Mayor Budge

Council asked questions about accounts payable and staff responded to each question.

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

2. Approval of the Consent Agenda

- A. Approval of the Minutes of the Regular Session of Mayor and Council held on January 4, 2022.  
Ashlee Coronado, City Clerk
- B. Approval of the Appointment of Nina Williams to the Public Safety Personnel Retirement Board.  
Ashlee Coronado, City Clerk
- C. Approval of the Reappointment of Juanetta Hill to the Bisbee Arts Commission.  
Ashlee Coronado, City Clerk
- D. Approval of the Reappointment of Karen Schumacher to the Bisbee Arts Commission.  
Ashlee Coronado, City Clerk
- E. Approval of the Reappointment of Sharon Stetter to the Bisbee Arts Commission.  
Ashlee Coronado, City Clerk
- F. Approval of the Reappointment of Jennifer Graeme to the Civil Service Commission.  
Ashlee Coronado, City Clerk
- G. Approval of the Reappointment of Ben Lepley to the Design Review Board.  
Ashlee Coronado, City Clerk
- H. Approval of the Reappointment of Linda Hallsted to the Evergreen Cemetery Committee.  
Ashlee Coronado, City Clerk
- I. Approval of the Reappointment of Cinda Combs to the Library Advisory Board with a Waiver for Length of Service.  
Ashlee Coronado, City Clerk
- J. Approval of the Reappointment of Kay Lynn Cummins to the Parks & Recreation Committee with a Waiver for Length of Service.  
Ashlee Coronado, City Clerk
- K. Approval of the Reappointment of Sara Curtis to the Parks & Recreation Committee.  
Ashlee Coronado, City Clerk
- L. Approval of the Reappointment of Craig Emanuel to the Police & Fire Advisory Committee as a Ward I Representative.  
Ashlee Coronado, City Clerk

MOTION: Councilmember Cline moved to approve Consent Agenda Items A through L.

SECOND: Councilmember Giacomino

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

**OLD BUSINESS**

- 3. Discussion and Possible Approval of Ordinance O-21-20; Authorizing the Transfer of Real Property from the City of Bisbee to Ken and Mary Alice Budge.  
Joe Estes, City Attorney

Mayor Budge recused himself from this item.

Mr. Estes explained this was the second reading of this Ordinance authorizing the recording of a Quit Claim Deed. Approval of this Ordinance would transfer any interest the City had in this property over to Mr. and Mrs. Budge, the city claims no interest. This would finalize the settlement agreement.

MOTION: Councilmember Davis moved to approve Ordinance O-21-20; Authorizing the Transfer of real property from the City of Bisbee to Ken and Mary Alice Budge.  
SECOND: Councilmember Sowid

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid and Cline.

NAYS: 0

MOTION PASSED: AYES- 5 NAYS-0

- 4. Discussion and Possible Approval of Ordinance O-22-01; Authorizing the Exchange and Transfer of Real Property with Bisbee Vogue, Inc. Located near 201 Tombstone Canyon Street, Bisbee, Arizona 85603.  
Joseph Estes, City Attorney

Mayor Budge explained this was a simple land swap between the City of Bisbee and Bisbee Vogue, Inc. in order to place the electric vehicle chargers.

MOTION: Mayor Budge moved to approve Ordinance O-22-01; Authorizing the Exchange and Transfer of Real Property with Bisbee Vogue, Inc. Located near 201 Tombstone Canyon Street, Bisbee, Arizona 85603.  
SECOND: Councilmember Davis

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

**NEW BUSINESS**

- 5. Presentation of the City of Bisbee’s Annual Audit Report for the Year ended June 30, 2021 by Steven Palmer, CPA, Hinton Burdick.  
Keri Bagley, Finance Director

Ms. Bagley introduced Steven Palmer from Hinton Burdick who would be giving tonight’s presentation on the fiscal 2021 audit.

Mr. Palmer presented on the audit (attached exhibit A). He noted there were no material weaknesses or deficiencies. He thanked the City for allowing them to complete the audit. He also thanked Ms. Bagley and staff for all their help.

Mr. Pauken said this was one of the cleanest audits he had seen working with the City. He thanked Keri and her staff for their hard work.

6. Hearing and possible action on Jeff Harris Bid Protest.  
Ken Budge, Mayor

Mayor Budge explained this dated back from three years ago and had made its way all the way up through the Court of Appeals. We have been given direction from the Courts to hear the appeal. He said that he would allow 10 minutes to each side or their representatives.

Council moved on to item number 7, while the technical difficulties were worked out.

Council came back to this item. Mayor Budge turned the time over to Mr. Harris.

Mr. Harris raised a concern to presenting this to an even number Council. He said that he could not participate because the deck was stacked against him, and requested a continuance until there was an odd number on Council.

Mayor Budge said this was an even playing field and he needed to proceed with his presentation. We would be moving forward.

Mr. Estes explained there was nothing in the Code that states there needed to be an odd number of Council present for a bid protest. It had to be a council meeting with the majority of Council present. This would not be continued.

Mr. Harris said he raised an objection to the fact that there was an even number of Council present and that he was denied a continuance. Mr. Harris clarified the protest was against the manner in which the contract was procured and challenged the legalities. He claimed the City violated a number of state statutes and City codes during procurement as a result of the unlawful procurement the contract was there for void. He requested the City Manager respond to the issues listed in his written brief to council. He then reserved the remaining time for a response.

Mayor Budge moved on to the City's presentation on their side.

Mr. Pauken said he was going to yield his time to the City Attorney as he was not present for much of this litigation.

Mr. Harris objected to the City Attorney presenting on behalf of the City.

Mr. Estes explained the City Code provided for reasonable opportunity for the protestor to be heard. He pointed out that Mr. Harris was not an interested party as contemplated in the City Code. Mr. Harris was not a participant in the bid or procurement and therefore cannot protest as a tax payer. This was not how the City Code was written nor how case law has been interpreted. In order to file a bid protest a party has to be an interested party. Mr. Harris was more than welcome to express his dislike during call to the public or during the public hearing before approval of the contract. Mr. Estes went on to discuss that there was no applicable statute or City Code that provided for this protest. This was a valid and binding contract. He reserved the rest of his time for his rebuttal.

Mr. Harris objected to the fact that the City had time after him because that was not proper procedure in Arizona. He also objected to the fact that the City Attorney was presenting on behalf of the City this was improper. He said there would be a bar complaint. He said it was easy enough to claim that he had no standing. He said a taxpayer had the right to protest. He said there was no professional engineer on the selection committee. He asked the Council to look at his documents. He felt he was being ambushed and wanted to reserve his time for a final say.

Mayor Budge said this was his final opportunity.

Mr. Harris objected again.

Mr. Estes said Mr. Harris would not be happy with any outcome other than throwing out this contract. He has even gone as far as threatened a bar complaint. The City has provided no new arguments. This was a contract for the operation and management of a wastewater treatment facility not a construction contract.

Mr. Pauken requested the Council reject the protest.

Mayor Budge closed the hearing. He reminded the Council that the City Code says that decision by the City Council was the final administrative action.

He asked if there were any comments, questions or concerns.

Councilmember Sowid said this was a valid contract, was it a bad one, yes, but it was legal.

MOTION: Councilmember Davis moved to reject the bid protest.

SECOND: Councilmember Sowid

#### ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

7. Discussion and Possible Approval of a Public Auction for the Transfer of Certain City Property Located at 8 Douglas Road, APN 103-72-051A, and the Establishment of a Minimum Bid Price.  
Doug Taylor, City Planner

Mr. Taylor explained this was requested by Mr. Mike Ablin. This was a parcel located at 8 Douglas Road. The land was considered as no longer of use for the City of Bisbee. A minimum bid price of \$30,000 was established and he agreed with that.

Mr. Pauken said this building had been plagued with bees and vandalism and this had no value to the City. It would be of better value to auction it and have someone restore it for use.

Councilmember Cline said that she would not say that this building wasn't of use to the City. It could help out with the need for future spaces. It could be used in the future as a columbarium for cremains or as additional plots. There was use for this property in the City.

Councilmember Davis said that we were needing funds for a new City Hall. We had not done anything with this building and we might be better off selling it.

Councilmember Johns wanted to know what the costs would be to use the location and raise the building. She wanted to see numbers before making a decision.

Mr. Pauken said that we needed to do a more comprehensive look into the Cemetery to see what we had available.

This item will be on hold for now until there was further information brought to Council.

- 8. Discussion and possible direction on the petition received from Sue Ray-Blakley on the resident living at 16 Yuma Trail requesting that the property be cleaned and monitored.  
Ken Budge, Mayor

Mayor Budge asked if the Ward II members wanted to speak on this item because it was in their ward.

Councilmember Giacomino asked if this has been forwarded to Mr. Ward and if he would be the one to follow up on this matter.

Mr. Pauken responded yes he was aware of the conditions on the property. Mr. Ward would be one that follows up along with the Fire Marshal and whoever Mr. Ward thinks needs to inspect the property.

Councilmember Sowid said he was also aware of this situation. He was glad that someone brought this up and it needed to be set in motion.

MOTION: Councilmember Giacomino moved to direct staff to evaluate and follow up with any needed rectification of property.  
SECOND: Councilmember Sowid

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

- 9. Discussion and Possible Approval of Amendment No. 3 to the Jacobs Agreement for Operations Maintenance and Management Services for the City of Bisbee San Jose Wastewater Treatment Plant.  
Matthew Gurney, Public Works Director

Mr. Gurney explained this was the Amendment No. 3 to the Jacobs Contract. The main difference on this amendment was the timeframe. The old amendments went between the months of January through December this amendment was for 18 months and would now follow the fiscal year. This would lineup with our budget cycle. At this end of this amendment we would have an additional 6 months left in the 5-year agreement.

Mayor, Council and staff discussed the reason for the amendments on the 5-year contract.

MOTION: Councilmember Davis moved to approve Amendment No. 3 to the Jacobs Agreement for Operations Maintenance and Management Services for the City of Bisbee San Jose Wastewater Treatment Plant.  
SECOND: Councilmember Sowid

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

10. Discussion and Possible Approval of a Contract for Architectural Services with Albert N. Hopper for City Hall.

Stephen Pauken, City Manager

Mr. Pauken explained at the Special Session that was held a week ago, Council collectively decided to select Albert Hopper as the architect and construction manager for City Hall. This was a standard AIA form contract that most architects use for consulting services. This was no different.

Council asked for clarification on various items within the contract and what the layout of the building may be.

MOTION: Mayor Budge moved to approve a contract for architectural services with Albert N. Hopper for City Hall.

SECOND: Councilmember Sowid

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

11. Discussion and Possible Approval of the resignation of Councilmember Louis Pawlik and discussion and recommendations for scheduling to fill this vacancy.

Ken Budge, Mayor

Mayor Budge said he had been looking forward on the calendar and liked the way the vacancy was held the last time. He hoped that February 10<sup>th</sup> was available. All letters on interest would be due February 7<sup>th</sup> by noon.

MOTION: Councilmember Cline moved to accept the resignation from Louis Pawlik and to set a date of February 10<sup>th</sup> at 6pm to interview applicants to fill this vacancy.

SECOND: Councilmember Johns

ROLL CALL VOTE

AYES: Councilmember Giacomino, Davis, Johns, Sowid, Cline and Mayor Budge.

NAYS: 0

MOTION PASSED: AYES- 6 NAYS-0

12. City Manager's Report:

- Other Current events (No Discussion)
  - Mr. Pauken gave a status on the Hillcrest property auction. Bids are due on February 1<sup>st</sup>.
  - Mr. Pauken informed the Council that he would be attending the AMCA conference Wednesday through Friday next week.
  - Mr. Pauken thanked Mr. Pawlik for his service on the Council.
  - Mr. Pauken wished his wife a happy 48<sup>th</sup> wedding anniversary.

COUNCIL COMMENTS OR FUTURE AGENDA ITEM SUGGESTIONS: (Council members may suggest topics for future meeting agendas, but Council will not here discuss, deliberate or take any action on these topics.):

- Councilmember Giacomino commented on Charlene “Snooky” Borowiec and her passing.

ADJOURNMENT:

MOTION: Councilmember Davis moved to adjourn the meeting.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 9:33 PM

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Ken Budge, Mayor





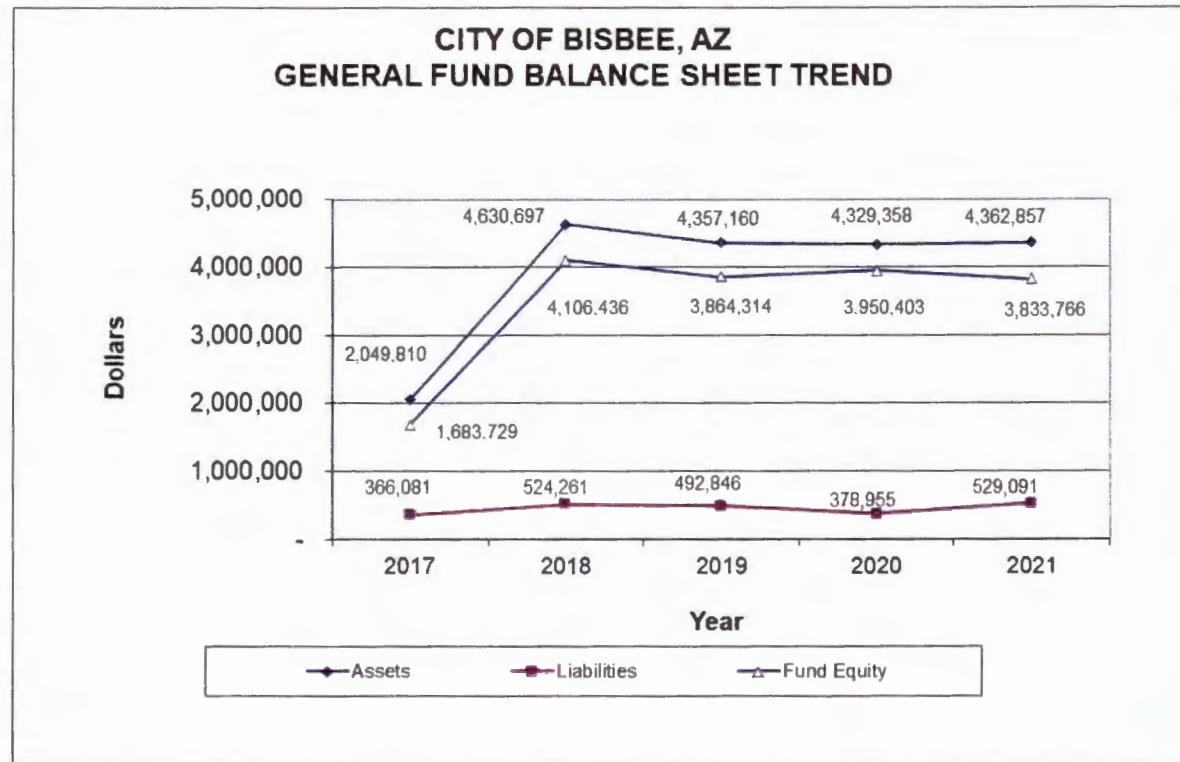
# Fiscal Year 2021 Audit Presentation

# Audit Reports

- **Independent Auditors Report**
  - Unmodified or “clean opinion”.
- **Report on Compliance and on Internal Control over Financial Reporting**
  - No material weaknesses noted.
  - No significant deficiencies noted.
  - Compliance
    - Grant Management – reporting requirements.
- **State Compliance Report**
  - No findings noted.

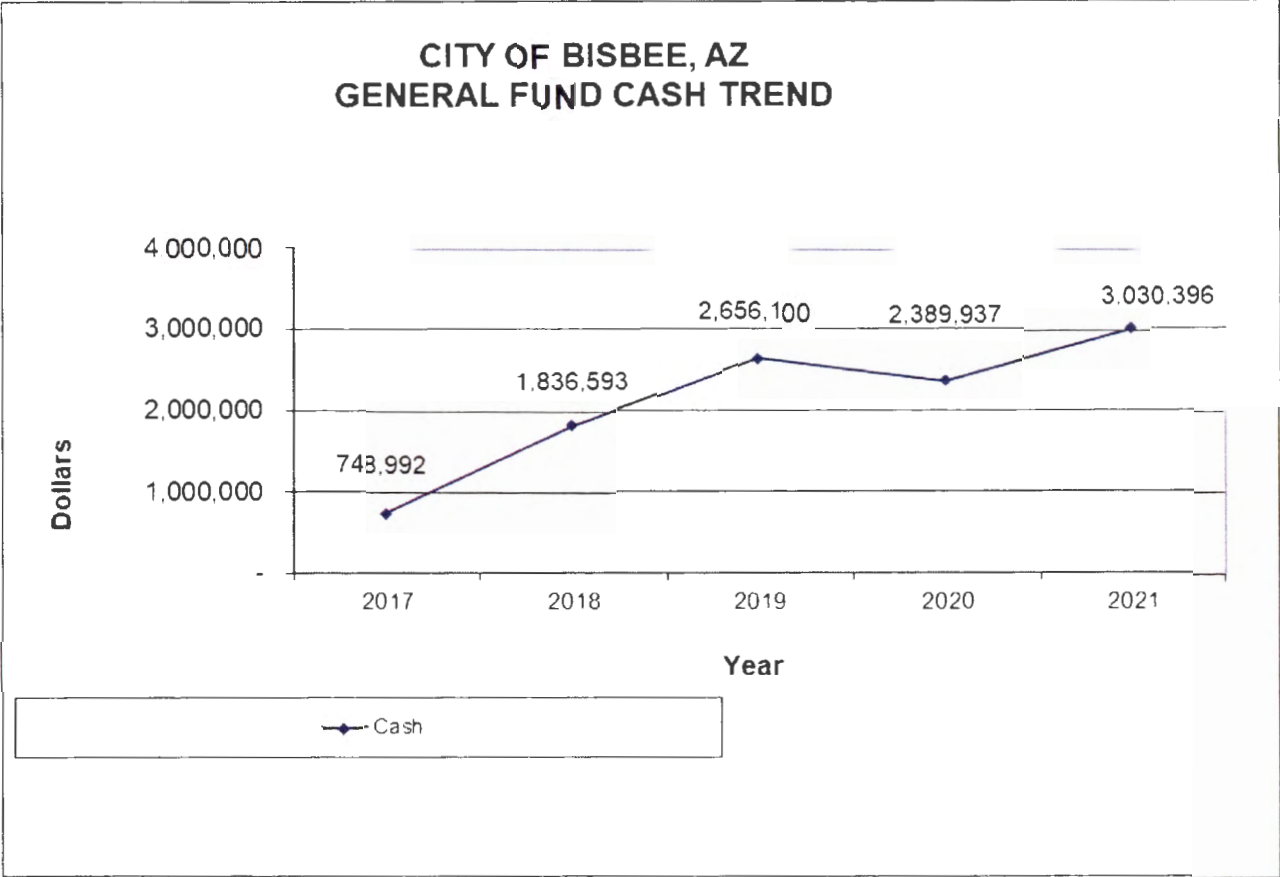
# Government-Wide Financial Highlights

- Total net position (equity) was \$1,657,587.
- Over time, increases or decreases in net position are indicators of whether the financial health of the City is improving or deteriorating.
- The City's net position decreased by \$1,105,232 for the year ending June 30, 2021.

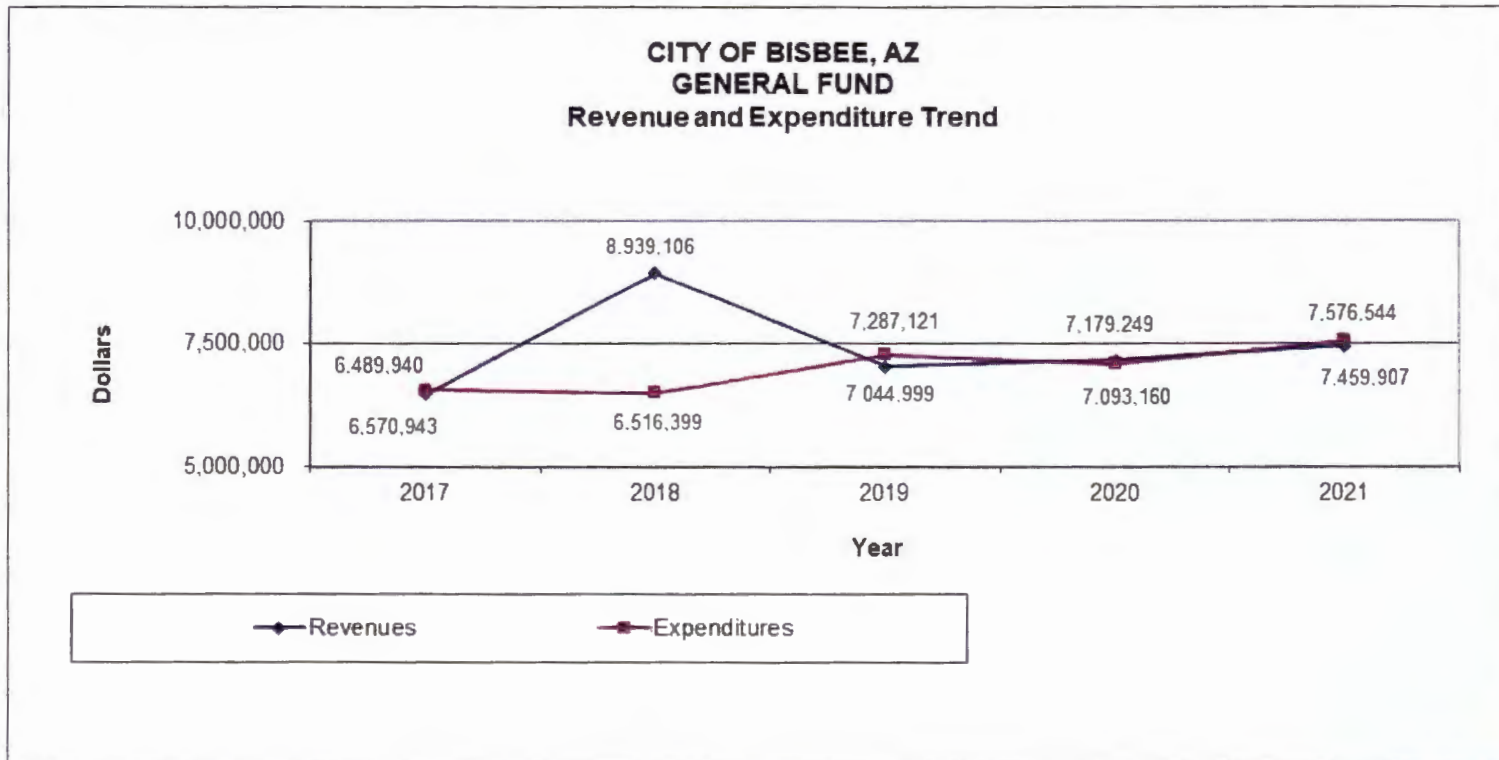


- The General Fund continues to report a healthy fund balance.
- In 2021 fund balance decreased \$116,637.
  - \$2,100,000 of the City’s fund balance has been committed for the construction of City Hall.

(Keep in mind that fund balance represents equity based on a current measurement focus, i.e., capital assets and long-term debt are not considered)



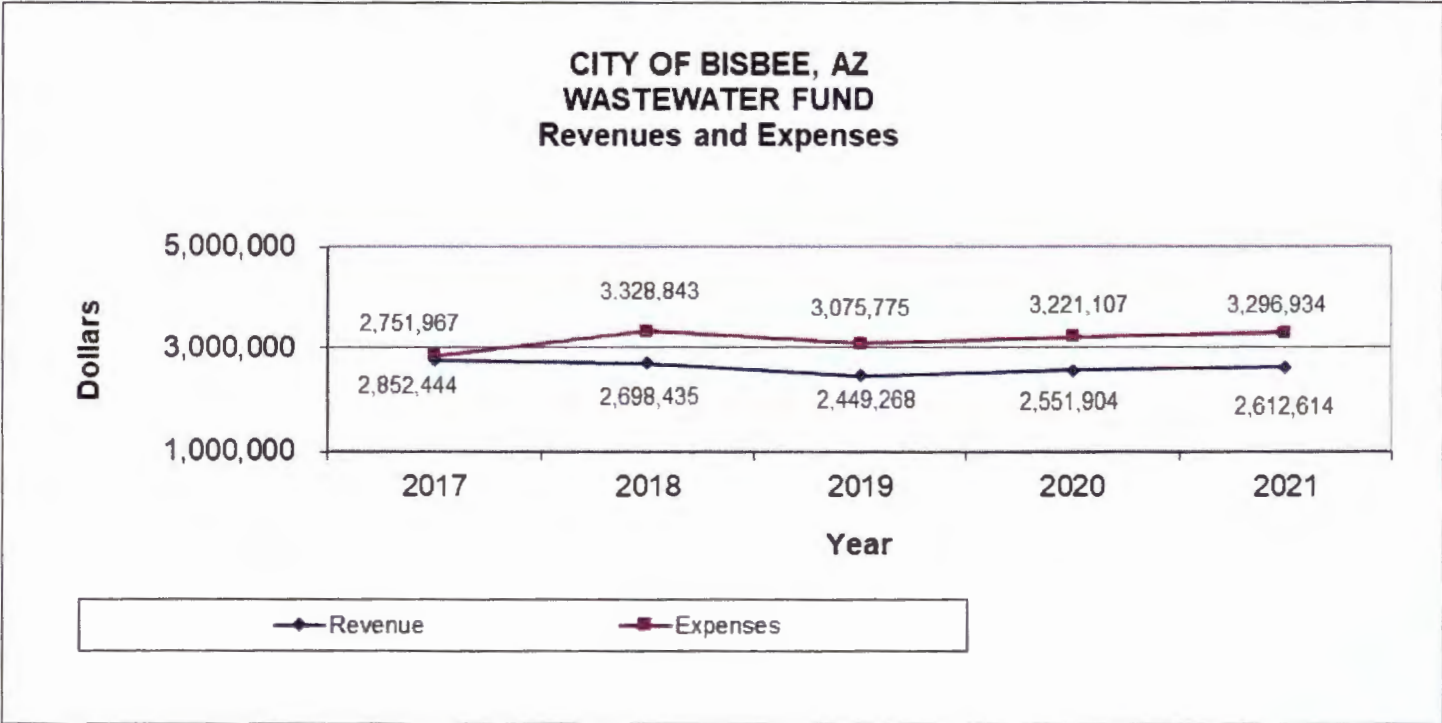
- The large increase in cash in 2018 was due to insurance proceeds.



- General Fund revenues and expenditures are normally expected to break even over time.
- Cumulatively, over the past five years, expenditures have exceeded revenues by approximately \$579,000 (excluding insurance proceeds).

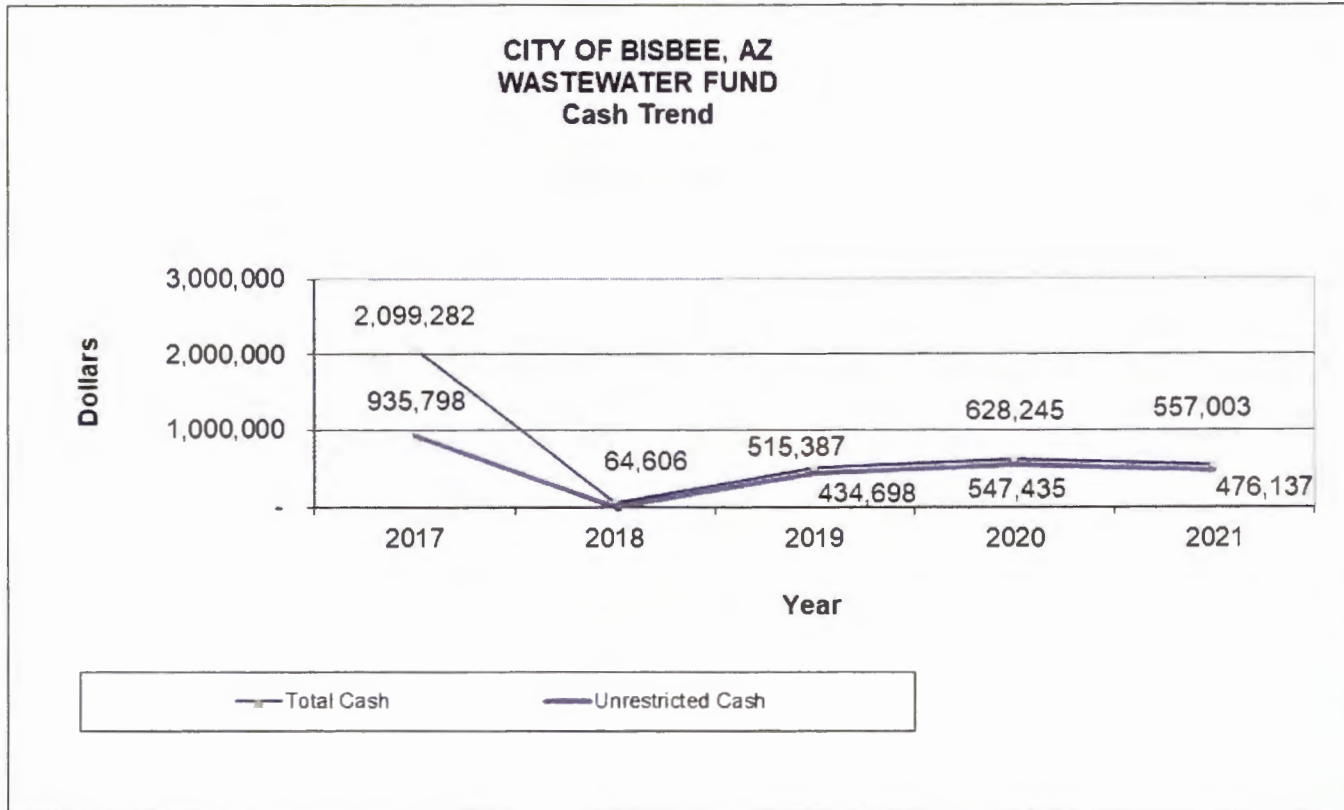
# Enterprise Funds

- Enterprise Funds are reported on the full accrual basis of accounting.
  - This is to provide for depreciation and future capital requirements.
  - Enterprise Funds should report revenues in excess of expenditures.



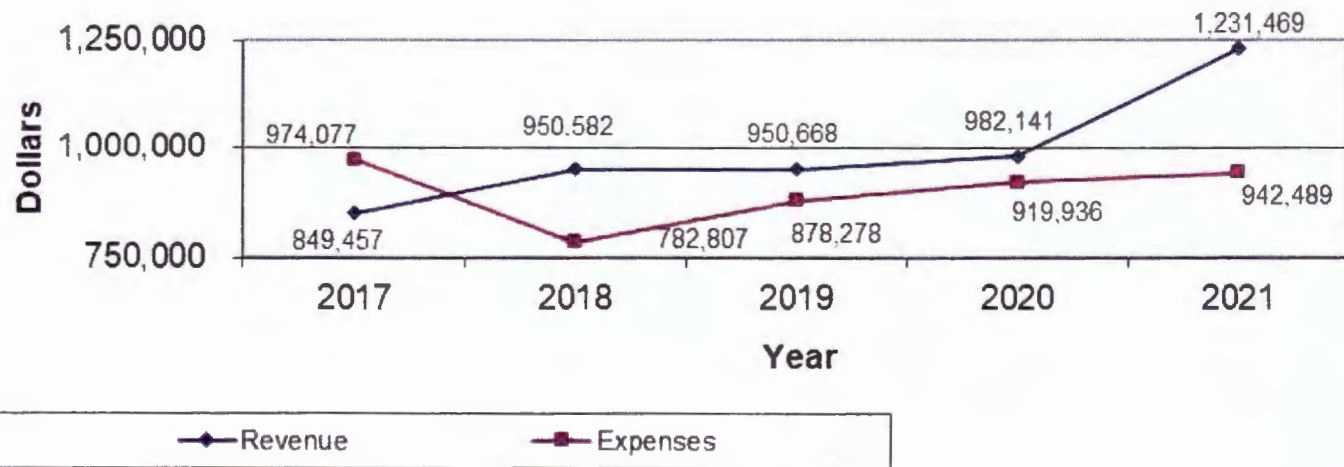
- Cumulatively, over the past five years, expenses have exceeded revenues by \$2,710,915.





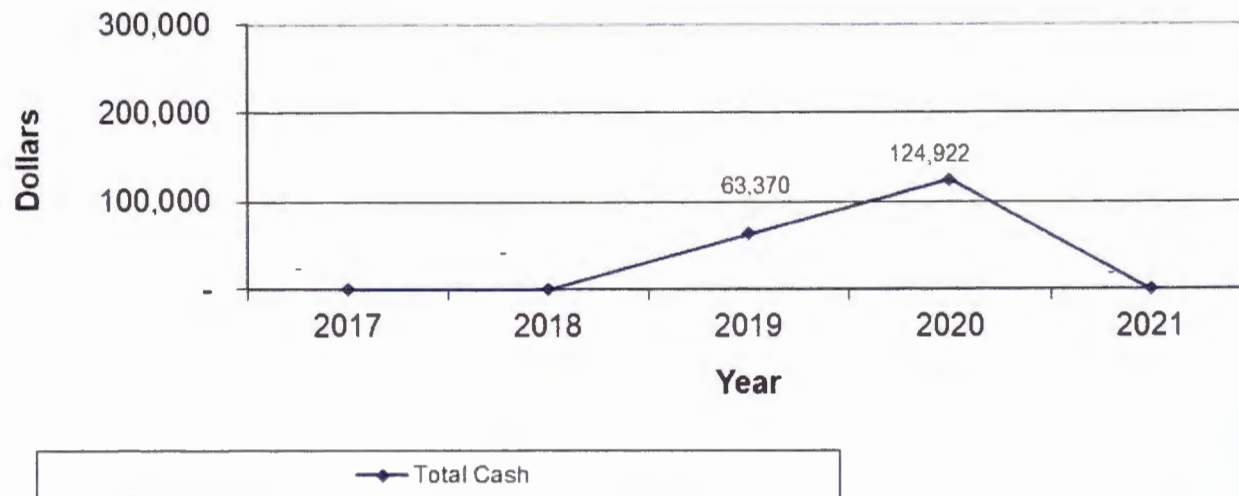
- The Wastewater Fund has reported relatively stable cash balances for four out the past five years.
- The large decrease in cash reported in 2018 is a result of retiring outstanding debt (approximately \$2,500,000).

**CITY OF BISBEE, AZ  
SANITATION FUND  
Revenues and Expenses**

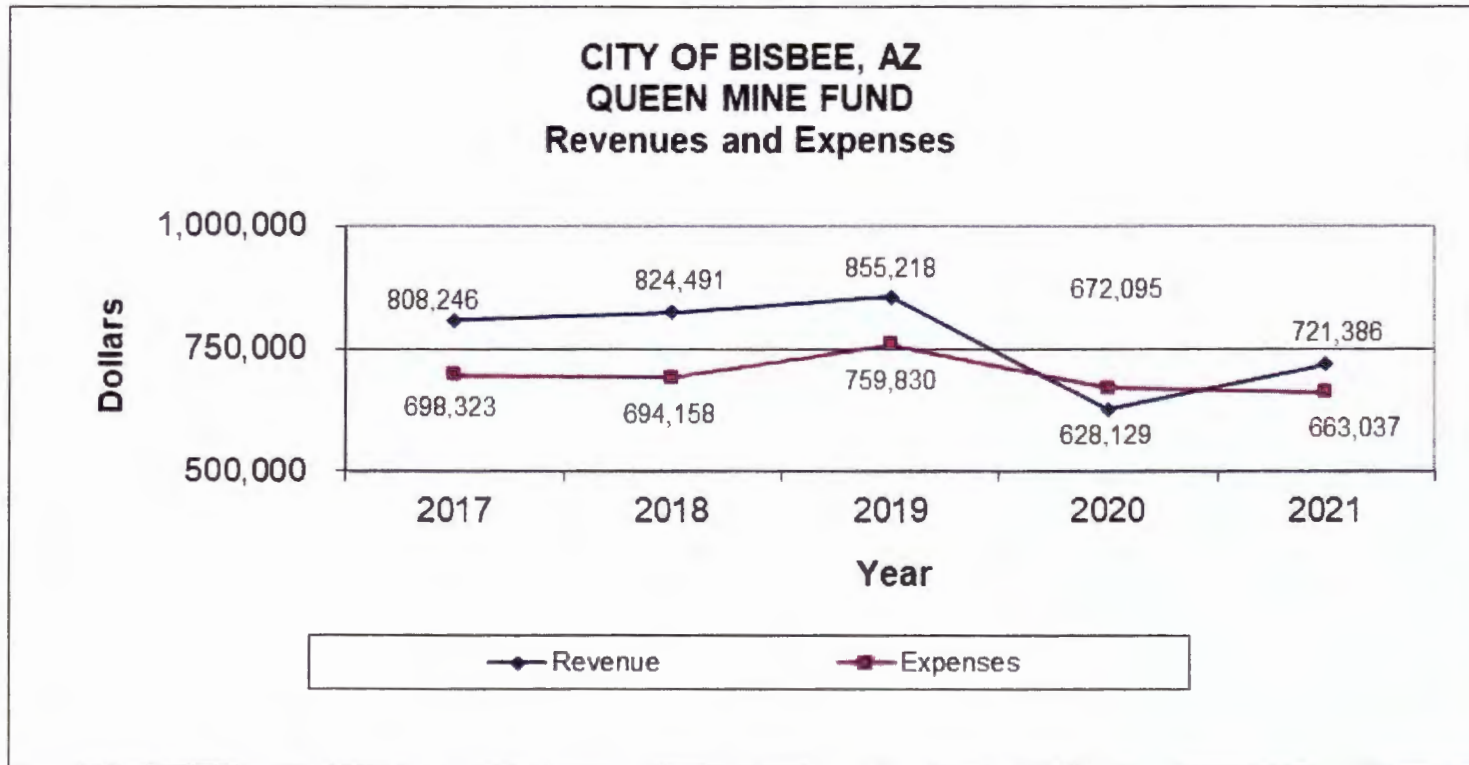


- Cumulatively, over the past five years, revenues have exceeded expenses by \$466,730.
- In fiscal year 2021, revenues exceeded expenses by \$288,980.

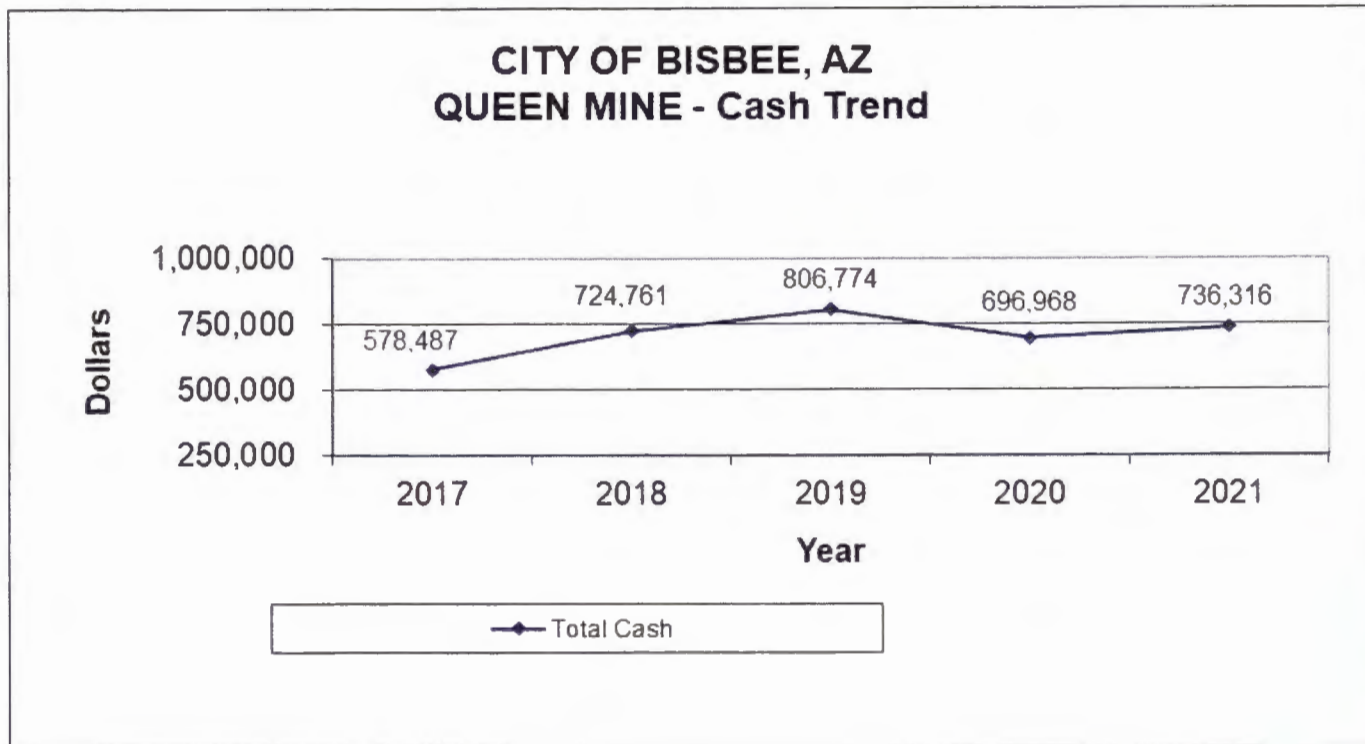
### CITY OF BISBEE, AZ SANITATION FUND - Cash Trend



- The Sanitation Fund has not reported any cash balances for three of the past five years.
- See the Cash Flow Statement on page 27 of the financial statements for more detail.



- Cumulatively, over the past five years, revenues have exceeded expenses by \$350,027.



- The cash balance in the Queen Mine fund has increased \$157,829 over the past five years.

# Thank You!

- Thank you for the opportunity to work with the City.
  - Thanks to all City employees that assisted with the audit.
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# Questions?



## **HINTON BURDICK**

CPAs & ADVISORS ›

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