

**MINUTES**

MINUTES OF THE REGULAR SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, HELD ON TUESDAY, FEBRUARY 2, 2021 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  
Councilmember Joni Giacomino, Ward II  
Councilmember Frank Davis, Ward I  
Mayor Ken Budge  
Councilmember Leslie Johns, Ward I  
Councilmember Joan Hansen, Ward II  
Councilmember Anna Cline, Ward III, Mayor Pro Tempore

**STAFF**

Theresa Coleman, City Manager  
Ashlee Coronado, City Clerk  
Keri Bagley, Finance Director  
Joelle Landers, Personnel Director  
Jesus Haro, Public Works Director  
Joel Ward, Building Inspector

**CITY ATTORNEY**

Joseph Estes

INVOCATION: Mayor Budge asked for moment of silence to think about the covid situation and vaccines. We still had people getting sick.

**PLEDGE OF ALLEGIANCE**

**MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:**

**CALL TO THE PUBLIC**

- Ms. Landers read comments from James Terry. Mr. Terry commented on the need for sewer connections at his location and was concerned that there could be issues if city land was sold to private parties.

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 \$288,999.08.

SECOND: Councilmember Johns

Councilmember Cline asked where the AMCA conference was held and also asked about the purchase of bookshelves.

Ms. Coleman responded that the conference was held in Sedona and the bookshelves were purchased to fit in a very specific place in the new building.

Councilmember Cline asked about the difference in costs for the vehicle leases.

Mr. Haro responded that once a vehicle was received there was a charge for tax.

Ms. Bagley also noted that the large charge was for two additional Ford Fusions.

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

- A. Approval of the Minutes of the Regular Session of the Mayor and Council held on January 19, 2021.

Ashlee Coronado, City Clerk

- B. Approval of the Appointment of Michael Ablin to the Planning and Zoning Commission.

Ashlee Coronado, City Clerk

MOTION: Councilmember Hansen moved to approve the consent agenda item 2 A & B.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

**OLD BUSINESS**

**NEW BUSINESS**

- 3. Presentation of the City of Bisbee’s Annual Audit Report for the year ended June 30, 2020 by Steven Palmer, CPA and Jennifer Frank, CPA, Hinton Burdick.

Keri Bagley, Finance Director

Ms. Bagley introduced Steven Palmer from Hinton Burdick.

Mr. Palmer presented the Annual Audit report from the year ended June 30, 2020. He noted that there had been no findings of material weaknesses or deficiencies. He thanked Ms. Bagley and the Finance staff for all their hard work.

- 4. Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-04; An Ordinance of the Mayor and City Council, City of Bisbee, County of Cochise, State of Arizona, Increasing the Transient Room Tax (Bed Tax) from 2.5% to 5.0%.

Keri Bagley, Finance Director

Ms. Bagley explained that the public hearing and final adoption of this Ordinance would take place at the next meeting. This had already been approved by the voters and ratified by the Council.

MOTION: Councilmember Hansen moved to approve the Notice of Intent to adopt Ordinance O-21-04 adopting an increase to the Transient Room Tax from 2.5% to 5.0% effective March 1, 2021.

SECOND: Councilmember Johns

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 5. Public Hearing and Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-01 to Rezone APN 103-62-489; 60 Main Street Owned by Maria Asaro, from R-1 to CM-2.  
Joe Ward, Staff Liaison to the Planning and Zoning Commission

Mr. Ward explained that this was unanimously passed through the Planning and Zoning Commission. This was a small piece of property and really was not residential. There were some legitimate commercial uses for this property.

Mr. Estes said that a public hearing was also necessary for this item.

Mayor Budge opened the public hearing. He asked if there had been any communication or comments that wished to speak in opposition of this item or in support of this item.

Ms. Coronado responded that nothing had been received in opposition or in support of this item.

Mayor Budge closed the public hearing.

MOTION: Councilmember Pawlik moved to approve the Notice of Intent to adopt Ordinance O-21-01 to rezone APN 103-62-489; 60 Main Street owned by Maria Asaro, from R-1 to CM-2.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 6. Public Hearing and Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-02 to Rezone APN 102-15-057; 302 S Washington Avenue Owned by the City of Bisbee, from C-2 to RM.  
Joe Ward, Staff Liaison to the Planning and Zoning Commission

Mr. Ward explained that this was excess inventory of commercial property and we had the potential of developing it for low income housing. In order to do that we needed to change the zoning on it. This would allow us to find the best fit for this property. He suggested that it would be a great place for housing.

Mayor Budge opened the public hearing. He asked if there had been any coordination or comments that wished to speak in opposition of this item or in support of this item.

Ms. Coronado responded that nothing had been received in opposition or in support of this item.

Mayor Budge closed the public hearing.

MOTION: Councilmember Davis moved to approve the Notice of Intent to adopt Ordinance O-21-02 to Rezone APN 102-15-057; 302 S. Washington Avenue Owned by the City of Bisbee, from C-2 to RM.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Davis, Johns, Hansen and Mayor Budge.

NAYS: Councilmember Cline

MOTION PASSED: AYES -6 NAYS -1

- 7. Public Hearing and Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-03; Amending Article 5.3.2, Special Provisions for the Historic District by adding 5.3.2 (B)(1)(d) Establishing the right to rebuild, utilizing the setbacks of a demolished or burnt structure on the same parcel in the Bisbee Historic District.

Joe Ward, Staff Liaison to the Planning and Zoning Commission

Mr. Ward explained that there was conflicting verbiage in the Zoning Code. This would enable individuals to build back within their original area; without allowing this it would deem properties unusable.

MOTION: Councilmember Pawlik moved to approve the Notice of Intent to adopt Ordinance O-21-03; amending Article 5.3.2, Special Provisions for the Historic District by adding 5.3.2 (B)(1)(d) establishing the right to rebuild, utilizing the setbacks of a demolished or burnt structure on the same parcel in the Bisbee Historic District.

SECOND: Councilmember Davis

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 8. Discussion and possible approval of a Public Auction for the Transfer of Certain City Property located at Lots 19 and 20 primarily south of and across the right of way from 125 Star Ave, Bisbee and the Establishment of a Minimum Bid Price.

Joe Ward, Staff Liaison to the Planning and Zoning Commission

MOTION: Councilmember Davis moved to authorize a public auction for the transfer of the designated surplus City Property located at lots 19 and 20 primarily south of and across the right of way from 125 Star Avenue, Bisbee and set a minimum bid price of \$7,980.00.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Davis, Johns, Hansen and Mayor Budge.

NAYS: Councilmember Giacomino and Cline

MOTION PASSED: AYES -5 NAYS -2

- 9. Discussion and possible approval of a Public Auction for the Transfer of Certain City Property located primarily south of Commerce Street and east of the city parking lot on Main Street, Bisbee, and the Establishment of a Minimum Bid Price.

Joe Ward, Staff Liaison to the Planning and Zoning Commission

Mr. Ward explained that this was a very small piece of property almost like a parking space. This property was doing us no good at the moment and if we could sell it we would be that much further ahead.

Mayor and Council discussed the location of this property and if this property was buildable along with how the proposed price per square foot was decided.

MOTION: Councilmember Pawlik moved to authorize the public auction for the transfer of the designated surplus City property located primarily south of Commerce Street and east of the City parking lot on Main Street, Bisbee and set a minimum bid price of \$3,655.00.

SECOND: Councilmember Davis

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Davis, Johns, Hansen and Mayor Budge.

NAYS: Councilmember Giacomino and Cline

MOTION PASSED: AYES -5 NAYS -2

- 10. Discussion and possible approval of Amendment #1 to the 5311 Grant Agreement (Bus Grant) between the State of Arizona and the City of Bisbee.

Jesus Haro, Public Works Director

Mr. Haro explained that this amendment was regarding cares money. There was an addition of wording that would clear up any issues with double dipping for funds.

MOTION: Councilmember Davis moved to approve Amendment #1 to the 5311 Grant Agreement between the State of Arizona and the City of Bisbee.

SECOND: Councilmember Pawlik

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

- 11. Discussion and possible approval of the Notice of Intent to adopt Ordinance O-21-05, Accepting the transfer of real property from Southeast Arizona Renovations LLC, located at 202 San Jose Drive, 205 Ft. Huachuca Lane and 1 Cochise Row, Bisbee.

Theresa Coleman, City Manager

Ms. Coleman explained that there would be an amendment to this ordinance, the property at 202 San Jose Drive went to auction today and the philanthropist who was offering the property to the city was not the successful bidder. The same person was attempting to obtain the property at 205 Ft. Huachuca Lane but already had title to 1 Cochise Row. These properties would be transferred to the city in order to expand the workforce housing initiative.

Council discussed the workforce housing initiative and who would qualify.

MOTION: Mayor Budge moved to approve notice of intent to adopt ordinance O-21-05; accepting the transfer of real property from Southeast Arizona renovations LLC, located at 205 Ft. Huachuca Lane and 1 Cochise Row, Bisbee.

SECOND: Councilmember Pawlik

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Davis, Johns, Hansen, Cline and Mayor Budge.

NAYS: Councilmember Giacomino

MOTION PASSED: AYES -6 NAYS -1

12. Discussion and review of the draft Zoning Code Amendment for Recreational Marijuana.

Joe Estes, City Attorney

Mr. Estes explained that this was the proposed Zoning Ordinance with regard to recreational marijuana. It followed the medicinal requirements but did not limit organizations that already had medicinal licenses. It would open it up to anyone who could obtain a license.

Mayor Budge discussed parking requirements that differ in the historic district from the rest of the city.

No Action taken.

13. Discussion to consider an addition to the City Fee Schedule that could be used in a single application for a Park, Facility and Right of Way Use Permit for year round use.

Ken Budge, Mayor

Mayor Budge explained that the farmers market had been with us for some 20+ years. The city had been subsidizing them for quite some time. They were looking at reapplying for a permit. He said we did not have a method to charge them for a yearly event. He requested that Council discuss whether or not it was worth adjusting our fee schedule to allow these yearly type events. He wanted the events to cover their costs but make it reasonable. He thought that this was a community event. Mayor Budge discussed his proposed fees.

Mayor and Council discussed how to move forward to make a good compromise. Council discussed revisiting the fee schedule in consideration of long-term usage.

Mayor Budge requested that Ms. Coleman bring something back to Council for consideration.

14. Discussion and Possible Approval to purchase tax line certificates in amounts to exceed \$5,000 to protect the City's interest.

Theresa Coleman, City Manager

Ms. Coleman explained that we had purchased some tax certificates on properties that the city had an interest in. Those properties may have had a notice of violation or sewer lien. However, investors have been purchasing tax certificates on properties and, when they foreclose on the tax certificate, they foreclose on the sewer and garbage lien.

Mr. Estes explained that there were some substantial sewer liens on properties. If they had the tax liens purchase by an investor and then foreclosed, the city lien would be extinguished. He said that purchasing the tax liens would be a more proactive approach.

Mayor and Council discussed the process of purchasing tax lien certificates with Ms. Coleman and Mr. Estes. They discussed the time period of the process.

Councilmember Giacomino asked how many of the properties listed had people living in them. And what would happen to the people if they were foreclosed on what they be evicted.

Ms. Coleman said she could not answer that. Ms. Coleman responded yes they would be evicted.

Mr. Estes explained that this was an attempt to protect the city's taxpayer funds that were expended.

Councilmember Giacomino asked what was being done to prevent this in the future.

Ms. Coleman explained that we first tried to work with the customer on a payment plan. She also explained that we were working with Arizona Water Company to shut off sewer.

Councilmember Pawlik asked how much more over \$5,000 would be spent on these tax liens and where would the funds come from.

Ms. Coleman responded that it would come from the sewer fund because it was protecting sewer liens. She explained that there was \$1 million outstanding in sewer debt.

Councilmember Johns asked if this was a good time for this. She understood that the city's interest needed to be protected, but we were in a really hard time right now.

Councilmember Cline asked how many properties were actually being looked at.

Ms. Coleman responded that a list was being compiled to specify the properties. She said that this would not stop properties from being foreclosed on. We would only bid on tax certificates for properties that we had an underlying loan on. Ms. Coleman explained that we just received the list from the County but we were running out of time because of the bid date.

Councilmember Cline said that we were hearing about a tight timeframe but there was so much information that should have come to Council previously or in a Special/Work session.

Mr. Estes explained that there was no rush and we could wait until next go-round. This was just something that was discussed as a way for the city to protect their underlying interests. If this was something Council wanted additional time for, it could wait.

Councilmember Davis said it would be a good idea to table this and hold a Special Session to better understand what the ramifications of this would be.

Mayor Budge proposed tabling this and holding a Special Session next week.

MOTION: Mayor Budge moved to table this item for further consideration.

SECOND: Councilmember Pawlik

ROLL CALL VOTE:

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

NAYS: 0

MOTION PASSED: AYES -7 NAYS -0

#### 15. City Manager's Report:

- Year to date financial update- Ms. Coleman explained that Ms. Bagley would be prepared at the next meeting to run through the year to date financials.
- Update on Ok Street Parking Petition- Ms. Coleman said that she had reached out to the individual that submitted the petition. He thought it would be a great idea if the city sold the property at public auction.
- FY22 Budget Schedule- Ms. Coleman explained that the budget schedule was out and requested that Council take a look at it.
- Other Current events (No Discussion)

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 Johns said that the Bisbee arts commission was looking to give out grants to local artists up to \$500. The form was on the city of Bisbee website and the deadline had been changed to accommodate the pandemic.

ADJOURNMENT:

MOTION: Councilmember Davis moved to adjourn the meeting.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 9:42 PM

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Ken Budge, Mayor