

## 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 4, 2020 AT 7:00 PM AT THE CITY HALL BUILDING, 915 S. TOVREAVILLE ROAD, BISBEE, ARIZONA.

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

### ROLL CALL

#### **COUNCIL**

Councilmember Louis Pawlik, Ward III, Mayor Pro Tempore  
Councilmember Joni Giacomino, Ward II  
Councilmember Bill Higgins, Ward I  
Mayor David M. Smith  
Councilmember Leslie Johns, Ward I  
Councilmember Joan Hansen, Ward II  
Councilmember Anna Cline, Ward III

#### **STAFF**

Theresa Coleman, City Manager  
Ashlee Coronado, City Clerk  
Keri Bagley, Finance Director  
Joelle Landers, Personnel Director  
Jesus Haro, Public Works Director  
Albert Echave, Police Chief  
George Castillo, Fire Chief

#### **CITY ATTORNEY**

James Ledbetter

INVOCATION: Mayor Smith asked for a moment of silence to reflect on positive things in our lives and how lucky we really are to be where we are.

### PLEDGE OF ALLEGIANCE

#### MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- Mayor Smith listed his activities over the last couple of weeks:
  - January 24<sup>th</sup> was able to meet with the Mayors of Naco Sonora/ Cananea Mexico with our Fire Department to present them with our used hot air packs, forty-five (45) went to Cananea and thirteen (13) went to Naco Sonora.
  - January 27<sup>th</sup> had his monthly meeting with the County Supervisor and County Administrator to discuss our common issues.
  - January 28<sup>th</sup> he had his bi-weekly meeting with the City Manager. He also investigated along with the Police / Fire Department the fire at the overlook on Hwy 80.
  - January 29<sup>th</sup> he had a meeting with the CEO of the Copper Queen Hospital to discuss our common interests.
  - January 30<sup>th</sup> he attended the Warren Neighborhood Watch meeting.
  - February 3<sup>rd</sup> he had an interview regarding the Cochise Addiction Recovery Partnership and in the evening was the Charter Review Committee Meeting.

CALL TO THE PUBLIC: None

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 \$548,744.45.

SECOND: Councilmember Johns

MOTION PASSED: UNANIMOUSLY

2. Approval of the Consent Agenda

A. Approval of the Minutes of the Work Session of Mayor and Council held on January 14, 2019 at 5:30 pm.

Ashlee Coronado, City Clerk

B. Approval of the Resignation of Susan Mathews from the Library Advisory Board.

Ashlee Coronado, City Clerk

C. Approval of the Appointment of Kelly Galligan to the Animal Ordinance Ad Hoc Committee.

Ashlee Coronado, City Clerk

D. Approval of the Appointment of Janet Gray to the Animal Ordinance Ad Hoc Committee.

Ashlee Coronado, City Clerk

E. Approval of the Appointment of Holly Kemp to the Animal Ordinance Ad Hoc Committee.

Ashlee Coronado, City Clerk

F. Approval of the Appointment of Leslie Kurtak to the Animal Ordinance Ad Hoc Committee.

Ashlee Coronado, City Clerk

G. Approval of the Appointment of Kathy Sowden to the Animal Ordinance Ad Hoc Committee.

Ashlee Coronado, City Clerk

H. Approval of the Appointment of Samantha Poppe to the Youth Council.

Ashlee Coronado, City Clerk

I. Approval of the Park, Facility and Right of Way Use Permit for the Use of Goar Park with parking spaces for the Bisbee Pride's Day Stage: Music & Entertainers on Saturday, June 20, 2020 from 6:00am to 8:00pm, this includes set up and breakdown.

Ashlee Coronado, City Clerk

J. Approval of the Park, Facility and Right of Way Use Permit for the Use of Grassy Park with Parking Spaces all around park and street from Friday, June 19, 2020 to Sunday, June 21, 2020 from 6:00am to 10:00pm, this includes set up and breakdown.

Ashlee Coronado, City Clerk

K. Approval of a Park, Facility and Right of Way Use Permit for the Use of Subway Street for the Bisbee Pride Village with all parking on Subway Street from Friday, June 19, 2020 and Saturday, June 20, 202 from 10:00am to 1:00am and Sunday, June 21, 2020 from 6:00am to 4:00pm, this includes set up and breakdown.

Ashlee Coronado, City Clerk

- L. Approval of a Park, Facility and Right of Way Use Permit for the Use of City Park with Parking Spaces in front for the Bisbee Pride Main Stage Performers, Vendors, After Dance and Sunday Bingo, this also includes the use of Taylor Avenue for the Ice Man Race, on Friday, June 19, 2020 and Saturday, June 20, 2020 from 8:00am to 1:00am and Sunday, June 21, 2020 from 6:00am to 4:00pm. Taylor Avenue will only be closed from 7:30 to 10:30 on Saturday, June 21<sup>st</sup>.

Ashlee Coronado, City Clerk

- M. Approval of a Park, Facility and Right of Way Use Permit for the Use of 100 Tombstone Canyon to Goar Park for the Bisbee Pride Parade on Saturday, June 20, 2020 from 9:30 to 11:00am.

Ashlee Coronado, City Clerk

- N. Approval of a Special Event Liquor License Application submitted by Easterseals Blake Foundation for an event to be held at City Park on Saturday, September 19, 2020 from 11:00 am to 10:00 pm, Dina Scalone, Applicant.

Ashlee Coronado, City Clerk

- O. Approval of a Liquor License Application for the Bisbee Social Club located at 67 Main Street, Bisbee, Arizona; Kevin Arnold Kramber, Applicant.

Ashlee Coronado, City Clerk

- P. Approval of a Liquor License Application for the Family Dollar Store #24979 located at 1101 S Naco Highway, Bisbee, Arizona; Ralphael Sean Piche, Applicant.

Ashlee Coronado, City Clerk

Mayor Smith asked Council if they wished for any of these to be pulled for questions.

Councilmember Hansen asked that 2O be pulled.

Donna Pulling, Bisbee resident signed up to speak regarding item 2P.

MOTION: Councilmember Cline moved to approve Consent Agenda Items 2A-2N.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

- O. Approval of a Liquor License Application for the Bisbee Social Club located at 67 Main Street, Bisbee, Arizona; Kevin Arnold Kramber, Applicant.

Councilmember Hansen asked about the proposed seating exceeding the allowable occupancy of forty-nine (49). She asked if there was a wavier for that.

Ms. Williams, Deputy City Clerk said that if Council looked at the plans inside of the liquor license application it actually does exceed the forty-nine (49). The Building Inspector wanted the Council to know that it could only hold the forty-nine (49).

Mayor Smith said that Council’s approval was that it would not exceed the forty-nine (49).

MOTION: Councilmember Cline moved to approve Consent Agenda Item 2O.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

P. Approval of a Liquor License Application for the Family Dollar Store #24979 located at 1101 S Naco Highway, Bisbee, Arizona; Ralphael Sean Piche, Applicant.

- Donna Pulling, Bisbee resident expressed her opposition to this application.

Councilmember Giacomino asked which type of alcohol were they selling.

Ms. Williams, Deputy City Clerk said that it was a series 10 Beer and Wine Store.

MOTION: Councilmember Johns moved to approve Consent Agenda Item 2P.

SECOND: Councilmember Cline

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: Councilmember Giacomino

MOTION PASSED: AYES -6; NAYS -1

**OLD BUSINESS**

**NEW BUSINESS**

3. Discussion and Possible Approval of a Contract for Services with Ambulance Medical Billing (AMB) for Ambulance Billing Services.

Keri Bagley, Finance Director

Ms. Bagley stated that this was a contract for ambulance billing services. The contract with AmBiServ expired on December 31<sup>st</sup>. A request for proposal was posted in December and eight (8) companies responded. Staff recommended the selection of Ambulance Medical Billing (AMB) based on the best combination of pricing and service.

MOTION: Councilmember Cline moved to approve a contract for ambulance billing services with AMB.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

4. Public Hearing and Discussion and Possible Approval to abandon the portion of an easement adjacent to parcel #103-99-053B "Also known as 223 Youngblood Hill".

Theresa Coleman, City Manger

Ms. Coleman said that Mr. Conklin had first come to the city to purchase land, but this was not land owned by the city it was an easement. She said it was before Council to consider abandoning a portion of the easement as described in the survey that Mr. Conklin provided.

Mayor Smith clarified that the city was not providing land and asked if all we were doing was abandoning our easement. Mr. Ledbetter said that was correct.

Councilmember Pawlik asked who owned the property, he said that he understood easement they were granted over property. So, who owns it now. He also asked if this went before the Planning and Zoning Commission.

Ms. Coleman stated “No” it didn’t go before the Planning and Zoning because it was not a sale of a property.

Councilmember Pawlik asked if we abandoned the easement does the ownership of the property transfer to Mr. Conklin.

Mr. Ledbetter asked Councilmember Pawlik if he was comfortable with him giving legal advice in this forum rather than in executive session.

Councilmember Pawlik stated that he was comfortable with it.

Mr. Ledbetter said that many years ago easements were granted to the city over parcels of land and those easements still exist on paper and what happened was the boundary of the principal area would expand. So, Councilmember Pawlik would be correct on an easement abandonment.

Mr. Ledbetter said that regarding Councilmember Pawlik’s question about it going to the Planning and Zoning Commission he stated that it would go to them if it were for sale. The original intent of Mr. Conklin was to purchase it, but after further review this particular strip of lands original intent was as an easement.

Councilmember Pawlik asked if anyone in the community would be harmed by this transaction.

Ms. Coleman said that what she understood from the survey it doesn’t impede access to the stairway on either side of it and that part of the easement serves as a drain further up the hill.

Councilmember Hansen stated that she had received several emails regarding this and one of those that concerned her was that the people in that area were concerned about the parking, using the area so that everyone had parking.

Mayor Smith said that he would like to open this up for public comment.

Councilmember Johns asked if the city was doing anything currently to maintain this property.

Ms. Coleman said that she was not aware of the city maintaining it.

Councilmember Giacomino asked if this was being used for any specific easement at this time.

Ms. Coleman said that because of the way it comes down the hill it appears that there was a drainage way that comes through that easement and it was acknowledged on the survey that was provided.

Mayor Smith opened the Public Hearing.

- Mayor Smith asked if there were any members of the public that would like to speak in support of this item.
  - Mr. Jon Sky spoke in favor of this item.
  - Mr. Conklin spoke regarding his request. He answered questions that the Council had.
- Mayor Smith asked if there were any members of the public that would like to speak in opposition of this item.

- Monika Patience spoke in opposition of this item.
- Shirlee Greason spoke in opposition of this item.
- Mayor Smith asked the City Clerk's Office if there had been any written communications filed with the City Clerk's Office. Ms. Williams
  - Ms. Williams indicated that the City Clerk's Office received a total of five (5): two (2) were not in favor of the request, one (1) requested it be tabled, one (1) requesting that the city receive something in return and one (1) requested that it be for sale not abandonment.

Councilmember Higgins asked if the city attorney could explain once again the difference between an easement, which we have no right to sell and a piece of property that the city owns. It needs to be known that we were not selling a piece of property we are abandoning an easement.

Mr. Ledbetter said that the City of Bisbee was granted lots of easements so that property owners could have ingress and egress to their homes. Someone who owns or controls an easement had the right to trespass over the land, the city has held that right for citizens. If it was not in any use for city purposes the city could choose to abandon it. He stated the city manager was correct the process for abandoning an easement was not a sale process that goes to the Planning and Zoning rather a decision for approval from the city Council.

Councilmember Giacomino asked about this going to the Planning and Zoning Commission that it seemed to be some of the issue with those who spoke in opposition of this item. She wondered was the opportunity to send it to the Planning and Zoning Commission to get their opinion was that allowable.

Mr. Ledbetter said that it was his opinion that this does not need to go under our current code through Planning and Zoning. However, if Council chose to send it to Planning and Zoning that was the Council's call. Council could absolutely do that.

Councilmember Cline said that Mr. Conklin was doing a wonderful job, but she was conflicted because there was so much opposition out there and thought she would feel better if it went before the Planning and Zoning just to give the Council their opinion, that way all the neighbors were heard.

Councilmember Pawlik stated he was on the Planning and Zoning Commission for two (2) years and it was standard operating procedure for the transfer of city property to go through Planning and Zoning. If it was below a certain amount of money the city didn't have to go out to auction they could just assign a property value and transfer that property. He was still unclear why Mr. Conklin purchasing this property was not an option. He would prefer to see this go before Planning and Zoning so they could make a recommendation based on staff input.

MOTION: Councilmember Johns moved to send this item to the Planning and Zoning Commission.

SECOND: Councilmember Pawlik

MOTION PASSED: AYES -6; NAYS -1 (Smith)

5. Discussion and Possible Approval of a Notice of Intent to Adopt Ordinance O-20-01; Amending the City Code Section 10.1.8, Nuisance.

Theresa Coleman, City Manager

Ms. Coleman said that the concerns regarding the language had been addressed, she pointed out there was an exception in this ordinance related to the Entertainment District. We currently did not have any guidelines for the Entertainment District this would be something that she would bring to the Council as a follow-up for Council's consideration of this ordinance.

- Jeff Shriver, Bisbee resident spoke regarding speakers outside that played day and night. He objected to that and wanted this to be considered in regards to the Entertainment District.

- Anthony Schlagel, Bisbee resident had the same complaint that Mr. Shriver expressed. He thought there should be an amendment within to address the commercial district.
- Jon Sky, Bisbee resident questioned who decided what was offensive, and who isn't a reasonable person. Mayor Smith answered that it would be up to a judge to decide. Mr. Sky continued to question the nuisance ordinance.

Councilmember Giacomino stated that there needed to be some clarification if speakers were out, that sounds like an event it should fall under a special event.

Ms. Coleman said that it was important for us to go back and define what the guidelines are.

Councilmember Johns asked how law enforcement would handle the situations where one neighbor hates another and multiple calls are made. How would law enforcement handle this?

Chief Echave said that they would do their due diligence and if a citation was warranted a citation would be issued, it would go before the judge to make that determination.

Mayor Smith asked Chief Echave if his officers try to mitigate the situation before a citation was issued.

Chief Echave stated that they do try to mitigate, but the way business operated in the District it became a challenge.

Councilmember Giacomino asked why such a drastic jump in cost from the second to third offense.

Ms. Coleman said that it was to create a deterrent.

Councilmember Higgins thought that 6:00am was the wrong time to start in the morning maybe 7:00am.

Mr. Haro, Public Works Director said that Public Works starts their trash and recycling services at 6:00am. He thought that they may be exempt from this however, they would like to participate.

Councilmember Pawlik stated that he had an issue with the fines when this was brought forward before the first and second were lowered and the third kept the same the reason was for a deterrent. He accepted that reason and thought the compromise was a good one. He thanked the staff for taking that into consideration.

MOTION: Councilmember Pawlik moved to approve the Notice of Intent to Adopt Ordinance O-20-01; Amending the City Code Section 10.1.8.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Hansen, Johns, Cline and Mayor Smith.

NAYS: Councilmember Giacomino and Higgins

MOTION PASSED: AYES -5; NAYS -2

6. Discussion and Possible Approval of Resolution R-20-01; Supporting the Bisbee Bus Transit Program and the Application for funds to Operate the Bisbee Transit/Bus System.

Jesus Haro, Public Works Director

Mr. Haro said the 5311 grant was funded through the federal transit administration and administered through ADOT, this was a bi-annual application that we have used throughout the years. We use this funding to support our bus system.

MOTION: Councilmember Cline moved to approve Resolution R-20-01 in support of the Bisbee Bus Transit Program and its continued administration and operation through various grant applications to the Arizona Department of Transportation, accepting grant funding and providing match if awarded, and authorizing the Mayor to sign all applications and grant contracts.

SECOND: Councilmember Johns

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

7. Discussion and Possible Approval to publish a Request for Proposal to demolish and dispose of the remaining structure at 118 Arizona Street.

Jesus Haro, Public Works Director

Mayor Smith said that the Council had gone through this last time and it was a tie vote. He wanted to make sure that if anyone had a question of what this means. This was a request for an RFP to obtain pricing to demolish the building. This was indicating that we would demolish.

Councilmember Giacomino wanted to know what we had done with investigating using it as a façade.

Mr. Haro said that it was not necessarily that we can't do it, but it was extremely expensive. There was a report that recommended that we do not use the structure because the interior was not supported with rebar.

Councilmember Pawlik said that he had no problem with saving the building what he did have a problem with was saddling the tax payers of Bisbee with that expense.

Councilmember Cline said that we needed to be out there actively looking for grants, historic grants or whatever we could find. She also said that residents here made it very, very clear to at least use the façade. She thought that it was well worth looking into rather than demolishing it.

Mayor Smith stated that this was a request to obtain a price to demolish so that we know what we have in the budget to spend.

Mr. Haro said that the price we currently had was a rough estimate. We were trying to do research so that we could make the right decision. This doesn't mean that we are going to demolish it, it would go before Council again to decide what was to be done.

Councilmember Higgins reiterated that all we were doing was seeing how much it would cost.

Councilmember Hansen asked if the façade was in any danger of falling.

Mr. Haro said that there was a chance that it could fall because it was not properly secured.

Councilmember Giacomino asked if we had an engineer's report that said that.

Mr. Haro said that we did not have an engineer's report that says the exact wind shear. As an engineer he felt like he could say that it could fall.

MOTION: Councilmember Higgins moved to approve the publishing of a request for proposal to demolish and dispose of the remaining structure at 118 Arizona Street.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Hansen, Johns, Higgins and Mayor Smith.

NAYS: Councilmember Giacomino and Cline

MOTION PASSED: AYES -5; NAYS -2

- 8. Discussion and Possible Approval to purchase Material and Installation for Ultraviolet System upgrades to the San Jose Waste Water Treatment Plant.

Jesus Haro, Public Works Director

- Donna Pulling, Bisbee resident opposed this purchase and asked if it was necessary.

Mr. Haro said that this was a repair and upgrade to our uv system. The system was repaired in the past, but not the correct way. We were down to a few uv lights working. If we lost them, we could be in some trouble we had no way to sanitize the water without having to bring in chlorine which could be very expensive. If it goes down and we have to do an emergency repair that would be more expensive. He stated that this was a sole source provider.

Councilmember Pawlik asked Mr. Jacobsen if this system was repaired what was his estimate on the longevity.

Mr. Ron Jacobsen, WWTP Manager (JACOBS) said that these systems are always exposed to the elements. These systems run 24 hours a day. He explained exactly what happens if our system fails and how the system runs in general to the Council.

Councilmember Giacomino asked how long this would last.

Mr. Jacobsen explained the warranty to the Council and said that it would last 5 years.

MOTION: Councilmember Pawlik moved to approve the purchase of material and installation for ultraviolet system upgrades to the San Jose Waste Water Treatment Plant.

SECOND: Councilmember Hansen

ROLL CALL VOTE:

AYES: Councilmember Pawlik, Hansen, Johns, Higgins and Mayor Smith.

NAYS: Councilmember Giacomino and Cline

MOTION PASSED: AYES -5; NAYS -2

- 9. Discussion and Possible Approval of a Maintenance & Management Agreement between Spillman Technologies and the Bisbee Police Department to incorporate a new Mandatory Uniform Crime Reporting System (NIBRS).

Albert Echave, Chief of Police

Chief Echave said this was a SPILLMAN product and it was mandatory reporting. This fee was budgeted for. in the budget. Staff recommended that this goes forward.

Mayor Smith reiterated that this was mandatory, the federal government mandated that this be done.

MOTION: Councilmember Hansen moved to approve the Maintenance & Management Agreement between Spillman Technologies and the Bisbee Police Department to incorporate a new mandatory uniform crime reporting system (NIBURS).

SECOND: Councilmember Pawlik

## ROLL CALL VOTE:

AYES: Councilmember Pawlik, Giacomino, Higgins, Hansen, Johns, Cline and Mayor Smith.

NAYS: 0

MOTION PASSED: AYES -7; NAYS -0

10. Discussion and Possible Recommendations regarding the Evaluation of the Job Performance of Theresa Coleman, City Manager.

David M. Smith, Mayor

Mr. Ledbetter said that Ms. Coleman has chosen to do her evaluation in public. Ms. Coleman was provided a written notice and has chosen to have it in public. Based upon the responses the City Manager did quite well over all once all responses were aggregated her score comes in at 3.86 which pushes right against exceeds expectations in all categories. Ms. Coleman's highest scores came from customer focus and customer service in the community. Mr. Ledbetter read aloud the comments that Council submitted regarding Ms. Coleman. These evaluations would be placed in her personnel file. Based upon Council's evaluation Ms. Coleman was eligible for her contractual incentive of the additional \$2,400.00.

Councilmember Giacomino stated that she had received emails from personnel and they were highly favorable. The working environment has changed dramatically for the positive.

Councilmember Hansen also received emails from personnel stating that Ms. Coleman was the best City Manager they have had in the past six years.

Ms. Coleman thanked the Council and stated that she owed a lot of her success to the staff. She has loved working with staff and Council.

11. City Manager's Report:

- Mr. Haro, Public Works Director gave an update on Street Lights.
- 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.):

- Mayor Smith asked that this come back at the next meeting; comments on Communication and Transparency.
- Councilmember Giacomino and Cline commented on the passing of Norman Wymbs.

MOTION: Councilmember Higgins moved to adjourn the meeting.

SECOND: Councilmember Hansen

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT: 8:53 PM

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David M. Smith, Mayor