

MINUTES

**MINUTES OF THE REGULAR SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF
BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, HELD ON TUESDAY,
JANUARY 5, 2010, AT 7:00 PM IN THE BISBEE MUNICIPAL BUILDING,
118 ARIZONA STREET, BISBEE, ARIZONA.**

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

ROLL CALL

COUNCIL

**Councilmember Boyd Nicholl, Ward I - excused
Councilmember Bennie Scott, Ward III
Councilmember Luche Giacomino, Ward II, Mayor Pro Tempore
Mayor W.J. "Jack" Porter
Councilmember Anna Cline, Ward III
Councilmember Raymond Rodgers, Ward II
Councilmember Ken Budge, Ward I**

STAFF

**Stephen J. Pauken, City Manager
Sharyl K. Honstein, City Clerk
John Charley, Community Development Director
Jim Elkins, Chief of Police
Jack Earnest, Fire Chief
Russ McConnell, Public Works Director**

CITY ATTORNEY

Mark J. Langlitz

INVOCATION: A Moment of Silence

PLEDGE OF ALLEGIANCE

MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:

- **Proclamation – Film Industry**

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

GENERAL BUSINESS:

ACCOUNTS PAYABLE: Subject to availability of funds.

MOTION: Councilmember Cline moved to approve Accounts Payable in the amount of \$493,932.78.

SECOND: Councilmember Rodgers.

Councilmember Budge mentioned that there was a payment to Health Net which pays for the employees' health benefits, payment to Public Safety Retirement, additional console for the 911

System from a Homeland Security Grant and a payment to Bunney's Inc. for the Main Street Sidewalk Improvement Project.

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

1. CALL TO THE PUBLIC

There was no one signed up to speak at Call to the Public.

2. Approval of the Consent Agenda

A. Discussion and Possible Approval of the Minutes of the Regular Session of Mayor and Council Held on December 1, 2009, at 7:00 PM.

Sharyl K. Honstein, City Clerk

B. Discussion and Possible Approval of the Minutes of the Special Session of Mayor and Council Held on December 15, 2009, at 6:15 PM.

Sharyl K. Honstein, City Clerk

C. Discussion and Possible Approval of the Minutes of the Regular Session of Mayor and Council Held on December 15, 2009, at 7:07 PM.

Sharyl K. Honstein, City Clerk

D. Discussion and Possible Approval of the Appointment by the Mayor of Councilmember Ken Budge as the Mayor Pro Tempore.

W.J. "Jack" Porter, Mayor

E. Discussion and Possible Approval of a Park, Facility, and Right-of-Way Use Permit for the Use of Lower Vista Park for Football Practices on Various Days Beginning Wednesday, January 6, 2010, to Sunday, May 29, 2010.

Russell McConnell, Public Works Director

F. Discussion and Possible Approval of the Park, Facility and Right-of-Way Use Permit for the Use of Higgins Park and the Pool Building by Adventure Cycling Association for Camping on Tuesday, March 16, 2010, at 12:00 PM until Thursday, March 18, 2010, at 12:00 PM.

Russell McConnell, Public Works Director

G. Discussion and Possible Approval of a Special Event Liquor License Application Submitted by the Bisbee Radio Project for a Music Festival/Dance at Club Kilimanjaro on Saturday, January 16, 2010, from 3:00 PM to 1:45 AM; Stephen A. Foss, Applicant.

Gloria P. Gonzalez, Deputy City Clerk

H. Discussion and Possible Approval of a Special Event Liquor License Application Submitted by the Central School Project Inc. for a Fundraising Event to be Held at 43 Howell Avenue on Saturday, February 13, 2010, from 7:00 PM to 12:00 AM; Melissa Holden, Applicant.

Gloria P. Gonzalez, Deputy City Clerk

MOTION: Councilmember Scott moved to approve the Consent Agenda items A through H.

SECOND: Councilmember Giacomino

Councilmember Budge commented on items E and F: He stated that as far as using the parks for the Football Club, this was a \$25.00 application fee to use the parks for almost five months. He explained that this had been mentioned before, and he knew that the staff was working to resolve this problem, but he just wanted to reiterate the fact that we were charging a birthday party \$25.00 to use the park for a few hours, and now there was a park permit to use the park three times a week for five months for the same \$25.00. He believes that some consistency needs to be used in the ability to use these parks. He said that he also wants to make sure that the parks people keep track of this and if it starts to tear up the parks that something ought to be done. Councilmember Budge then went on to express his reservations about having the Cycling Club use the pool area, showers and restrooms, camp out and use power for their motor home; that this was another \$25.00 application and should perhaps be more equitable to all who use the parks. He said that this was one more example of what needs to be changed for the use of Parks.

Councilmember Giacomino agreed that there should be some charge for the use of electricity and water.

Mr. Stephen J. Pauken, City Manager, mentioned that this would be a topic of discussion next Tuesday at the Finance Committee Meeting.

ROLL CALL VOTE:

**AYES: Councilmembers Scott, Giacomino, Cline, Rodgers, Budge and Mayor Porter
NAYS: 0 MOTION PASSED: 6-0**

OLD BUSINESS

Mayor Porter mentioned that he would like Second Readings of Ordinances moved to the Consent Agenda.

- 3. Discussion and Possible Approval of the Second Reading of Ordinance O-09-23; an Ordinance of the Mayor and Council of the City of Bisbee, County of Cochise, State of Arizona, Amending Portions of Articles 1, 2, 3, 4, 5, 6 and 9 of the Zoning Code of the City of Bisbee; Providing for Severability; and Repealing Conflicting Ordinances.
John Charley, Community Development Director**

Mr. John Charley, Community Development Director, stated that on December 15, 2009, the Mayor and Council unanimously approved the First Reading of Ordinance O-09-23. He explained that the majority of the proposed changes were modifications of language to make the Zoning Code more user friendly and in agreement with previous changes to the Zoning Code and State law.

**MOTION: Councilmember Rodgers moved to approve the Second Reading of Ordinance O-09-23; amending portions of Articles 1, 2, 3, 4, 5, 6 and 9 of the Zoning Code of the City of Bisbee; providing for severability; and repealing conflicting ordinances.
SECOND: Councilmember Giacomino**

ROLL CALL VOTE:

**AYES: Councilmembers Scott, Giacomino, Cline, Rodgers, Budge and Mayor Porter
NAYS: 0 MOTION PASSED: 6-0**

NEW BUSINESS

4. Discussion and Possible Approval of Resolution R-10-01; Supporting the Continued Administration and Operation of the Bisbee Bus Transit Program and the Application to the Arizona Department of Transportation for Section 5311 Rural Public Transportation Funds to Provide Public Transportation Services Via the City of Bisbee Bus.

John Charley, Community Development Director

Mr. John Charley, Community Development Director, stated that each year the City must apply for funds from the Arizona Department of Transportation for its share of Federal funds used to operate the Bisbee Transit Program. He explained that this Program provides transportation via a fixed route system throughout Bisbee and Naco, Arizona. He said that in order to apply for these funds, the City Council must provide documentation of its support for the program.

MOTION: Councilmember Budge moved to approve Resolution R-10-01; in support of continued administration and operation of the Bisbee Bus Transit Program and the application to the Arizona Department of Transportation for Section 5311 funds to provide public transportation services via City of Bisbee Bus.

SECOND: Councilmember Giacomino

ROLL CALL VOTE:

AYES: Councilmembers Scott, Giacomino, Cline, Rodgers, Budge and Mayor Porter

NAYS: 0 **MOTION PASSED:** 6-0

5. Discussion and Possible Approval of Providing Matching Funds in an Amount not to Exceed \$4,000.00, from Bisbee Arts Commission Budget for Flam Chen’s New Years Eve Event Held at City Park.

John Charley, Community Development Director

Mr. John Charley, Community Development Director, stated that the Bisbee Arts Commission (BAC), on August 11, 2009, approved a motion to match funds raised independently by Mr. Sean Hicks for the Flam Chen New Years Eve event in City Park. He explained that the BAC match was 100% and was not to exceed \$4000.00. He said that Mr. Hicks had been instructed to provide adequate documentation of all funds that he had raised for his portion of the match and this documentation was available to Council. Mr. Charley said, in addition, Flam Chen was asked to supply a W-9 form to the Finance Department before the check would be issued. He explained that a W-9 form was a Request for Taxpayer Identification Number and Certification.

MOTION: Councilmember Giacomino moved to approve not to exceed \$4,000.00 in matching funds from Bisbee Arts Commission Budget for the payment to Flam Chen for the New Years Eve event in City Park.

SECOND: Councilmember Budge

Mr. Charley asked that the motion be revised to state simply the amount – \$4,000.00 – to avoid confusion.

Councilmember Giacomino rescinded her First motion with the approval of Councilmember Budge who rescinded the Second.

MOTION: Councilmember Giacomino moved to approve \$4,000.00 in matching funds from Bisbee Arts Commission Budget for the payment to Flam Chen for the New Years Eve event in City Park.

SECOND: Councilmember Budge

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 6. **Discussion and Possible Approval of Change Orders #1 and #2 to the Contract with Bunney’s Inc. to Address Unforeseen Conditions Along the Entire Main Street Sidewalk Project.**

Tom Klimek, Deputy Public Works Director

Mr. Tom Klimek, Deputy Public Works Director, stated that this request was for two Change Orders in the amount of approximately \$50,000.00. He said that the amount was in addition to the base contract which was \$148,852.00. He explained that the original grant was in the amount of \$200,000.00; of that \$188,600.00 was actually Federally funded. He then explained the history of the project and the unforeseen conditions that were encountered that necessitated this Change Order. He indicated that the construction schedule for the project was substantially met. He explained that the Change Order was still within budget.

MOTION: Councilmember Giacomino moved to approve Change Orders #1 and #2 to the contract with Bunney’s Inc. to address unforeseen conditions along the entire Main Street Sidewalk Project alignment.

SECOND: Councilmember Budge

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 7. **Discussion and Possible Approval of Change Order #2 to the KE&G Contract for the Bakerville Community Development Block Grant (CDBG) Project #131-08 in the Amount of \$18,087.50.**

Russell McConnell, Public Works Director

Mr. Russell McConnell, Public Works Director, stated that funds were left on the CDBG Grant funding for Bakerville. He explained that Change Order #1 involved redoing First Street and this Change Order involved the completion of Fourth Street from the Hillcrest intersection on up to American Avenue. He said that this left about \$5,500.00 in the project funds.

MOTION: Councilmember Rodgers moved to approve Change Order #2 to the KE&G construction contract for the Bakerville Phase II CDBG project in the amount of \$18,057.50.

SECOND: Councilmember Giacomino

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 8. **Discussion and Possible Approval of Establishing the Terms of Office, Duties, Powers and Manner of Selection of the Officers of the Airport Advisory Commission as Per 14.1.9 of the City of Bisbee City Code.**

Russell McConnell, Public Works Director

Mr. Russell McConnell, Public Works Director, stated that Section 14.1.9 of the City of Bisbee City Code required that “The City Council select the Officers of the Airport Advisory Commission, determine the time and manner of their selection, the term of office and the powers and duties of each officer.” He explained that staff was recommending that the Council establish a two year term of office for a Chairperson, Vice-Chairperson and Secretary with the duties functionally defined by each office.

Councilmember Budge stated that he would like to see each Committee or Commission write their own rules and regulations in the future and bring those to the Council for approval.

Mr. Stephen J. Pauken, City Manager, stated that the City had nineteen Boards and Commissions, some with by-laws, some without, and some who had better defined terms of office than others. He explained that the City Code specifically states Council would select the officers for the Airport Commission. He explained that staff was working on templates and Code Changes to bring all Boards and Commissions into some kind of consistency in rules and terms.

MOTION: Councilmember Budge moved to establish two year terms of office for a Chairperson, Vice-Chairperson, and Secretary of the Airport Advisory Commission with duties functionally defined by each office.

SECOND: Councilmember Scott

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 9. Discussion and Possible Approval of the Selection of the Officers of the Airport Advisory Commission as Per 14.1.9 of the City of Bisbee City Code Including Chairperson, Vice-Chairperson and Secretary.**

Russell McConnell, Public Works Director

Mr. Russell McConnell, Public Works Director, stated that staff was recommending Mr. Chuck Perry as Chairperson; Mr. Gordon Lewis as Vice-Chairperson; and Ms. Marilyn Seibold as Secretary of the Airport Advisory Commission.

MOTION: Mayor Porter moved to appoint Mr. Chuck Perry as Chairperson; Mr. Gordon Lewis as Vice-Chairperson; and Ms. Marilyn Seibold as Secretary of the Airport Advisory Commission per Section 14.1.9 of the City Code.

SECOND: Councilmember Scott

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 10. Discussion and Possible Approval to Allow the Bisbee Fire Department to Purchase Wildland Fire Equipment in the Amount of \$16,986.92.**

Jack Earnest, Fire Chief

Mr. Jack Earnest, Fire Chief, stated that on November 17, 2009, Mayor and Council approved the acceptance of a Rural Fire Assistance Grant through the Arizona State Forestry Division for the upgrade of Wildland Firefighting Equipment. He said that this item was asking for approval to spend that money. He explained that the amount of the Grant was \$16,986.92 with a 10% match (originally reported as a 5% match).

MOTION: Councilmember Cline moved to allow the Bisbee Fire Department to purchase Wildland Fire Equipment in the amount of \$16,986.92.

SECOND: Councilmember Budge

Chief Earnest pointed out that per the State Forester Cooperative Agreement, the Fire Department would be allowed to purchase this equipment under the State Forester Procurement System and was not required to go out to bid.

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 11. Discussion and Possible Approval to Allow the Bisbee Police Department to Purchase Cameras and Rifles in the Amount of \$12,220.00 through the Edward Byrne Memorial**

Justice Assistance Grant (JAG), and that \$119.68 be Supported from RICO Funds for the Difference.

J.M. Elkins, Chief of Police

Mr. Jim Elkins, Chief of Police, stated that on July 7, 2009, Mayor and Council authorized the Police Department to apply for this grant. He said that they were notified on October 8, 2009, that the grant funds were available in the amount of \$12,220.00. He explained that they went through the City's procurement process and were asking to purchase cameras and rifles as described. He explained that this was a no-match grant.

MOTION: Councilmember Scott moved to allow the Bisbee Police Department to purchase cameras and rifles in the amount of \$12,220.00 through the Edward Byrne Memorial Justice Assistance Grant (JAG), and that \$119.68 be supported from RICO fund for the difference.

SECOND: Councilmember Giacomino.

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

- 12. Discussion and Possible Approval to Allow the Bisbee Police Department to Enter Into an Intergovernmental Share Grant Agreement Between Cochise County and the City of Bisbee for a Spillman System and a Computer Software End-User License Agreement Through the Arizona Department of Homeland Security Under a StoneGarden Grant and Request the Mayor to Sign the Agreement.**

J.M. Elkins, Chief of Police

Mr. Jim Elkins, Chief of Police, stated that the Mayor and City Manager accompanied him to the Sherriff's Department to see how the Spillman System worked. He explained that it was a great system and one that they had been wanting but could not afford. He said that the Sherriff's Office applied for the grant through StoneGarden and included the City of Bisbee and the City of Douglas in the grant. He said that the total grant was for \$648,938.00 with the City of Bisbee's share being \$372,674.00. He said that this would allow the City's Police and Fire Departments to use the Spillman software through the Cochise County Sherriff's server which covers a multitude of different areas, such as different modules for different applications. He explained that Cochise County had been using this system for eight or nine years. He said that it would be cumbersome to get used to and eventually all the cars would have to be upgraded. He explained that right now only five cars had the Computer Aided Dispatch (CAD) system basic. He said that there would be an \$18,000.00 IT support cost associated with this that would begin July 1, 2010; plans were to pay for that out of RICO funds. In addition, he explained, the installation, training and initial setup would be paid for by trading a Motorola console unit for the radio system (which would be obsolete with the City's new Radio system) to the Cochise County Sherriff's Department who still uses that system. He explained that there would be an additional cost, estimated to be around \$18,000.00, in approximately two years for the system. He said that this system would cost about \$36,000.00 per year to operate, which they were anticipating would be paid for with RICO funds (as long as nothing happened to the RICO funds). He then explained the advantages of the system at length.

Mr. Stephen J. Pauken, City Manager, stated that this system was really too big to be done on anything other than a regional basis and that this was a good approach to obtaining this much-needed system. He then discussed the advantages of having a CAD System. He also mentioned that integrating the Fire Module into the system would make a tremendous difference. He said that staff strongly supported this system.

Councilmember Budge explained that he had prior knowledge of this system and that it was a very good system. He discussed more of what the system could accomplish. He said that he did have a problem with paying the County another \$18,000.00 a year when they owe us money already.

Councilmember Scott stated that he thought this was long overdue and discussed some of his experiences in the past that could have taken advantage of a system such as this.

Councilmember Rodgers asked if RICO would be a reliable source for funding in the future. Chief Elkins explained that, right now, RICO was extremely reliable; he explained the process for obtaining those funds, but could not predict what could happen in the unforeseeable economic future.

A discussion of the DEA Outreach Program then ensued.

Mayor Porter asked for clarification of a few points and mentioned that the system was very impressive and would improve the safety of the citizens in the City of Bisbee.

MOTION: Councilmember Cline moved to allow the Bisbee Police Department to enter into an Intergovernmental Share Grant Agreement between Cochise County and the City of Bisbee for a Spillman System and a computer software end-user license agreement through the Arizona Department of Homeland Security under a StoneGarden Grant and request the Mayor to sign the agreement.

SECOND: Councilmember Scott

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

13. The City Manager reported on other current events (no discussion):

- **Finance Committee Meeting next Tuesday, January 12, 2010, at 5:30 p.m.**
- **Agenda Packets are now posted on the City’s web site at www.cityofbisbee.com.**

COUNCIL COMMENTS:

**Councilmember Scott commented on the DeGrazia Event at the Muheim House.
Councilmember Cline commented on the New Year and the New Years Celebration in Bisbee.
Councilmember Rodgers said “Happy New Year” and a wish for peace in our Nation.**

MOTION: Mayor Porter moved to adjourn the meeting.

SECOND: Councilmember Giacomino

VOTE: AYES: 6 NAYS: 0 MOTION PASSED: 6-0

ADJOURNMENT: 8:10 PM

W.J. Porter, Mayor