

**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 19, 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 W.J. "Jack" Porter  
Councilmember Anna Cline, Ward III  
Councilmember Raymond Rodgers, Ward II  
Councilmember Ken Budge, Ward I, Mayor Pro Tempore**

**STAFF**

**Stephen J. Pauken, City Manager  
Sharyl K. Honstein, City Clerk  
Russ McConnell, Public Works Director**

**CITY ATTORNEY**

**Mark J. Langlitz**

**INVOCATION: A Moment of Silence**

**PLEDGE OF ALLEGIANCE**

**MAYOR'S PROCLAMATIONS AND ANNOUNCEMENTS:**

**The video recording of the Youth Council Meeting from January 8, 2010, would be aired  
directly following tonight's Council Session.**

**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 \$414,874.44.  
SECOND: Councilmember Rodgers.**

**Mayor Porter mentioned that there had been a payment to KE&G for the Bakerville 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 January 5, 2010, at 7:00 p.m.**

**Sharyl K. Honstein, City Clerk**

**B. Discussion and Possible Approval of the Use of Youth Council Funds to Purchase a Bisbee High School Yearbook Ad in the Amount of \$60.00.**

**Caroline Gonzales and Andy Haratyk, Youth Council City Liaisons**

**C. Acceptance of the Resignation of Bret Austin from the Design Review Board.**

**Gloria P. Gonzalez, Deputy City Clerk**

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

**SECOND: Councilmember Giacomino**

**ROLL CALL VOTE:**

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

**NAYS: 0**

**MOTION PASSED: 6-0**

**OLD BUSINESS**

**NONE**

**NEW BUSINESS**

**3. Discussion and Possible Approval of Change Order #3 to the KE&G Contract for the Bakerville Community Development Block Grant (CDBG) Project #131-08 in the Amount of \$5,573.50.**

**Russell McConnell, Public Works Director**

**Mr. Russell McConnell, Public Works Director, stated that this was the final Change Order in the Bakerville Project. He explained that this was in the amount of \$5,573.50 which constituted the last monies available from the CDBG funding for this phase of the project. He explained what this last Change Order covered.**

**Councilmember Rodgers stated that this paving was a tremendous improvement to the neighborhood and it would be nice to have the rest of the community look like that.**

**Councilmember Giacomino asked if this phase of the project was now complete and Mr. McConnell stated that it was, with the exception of the replacement of a fence. He explained that this completed Phase Two, but Phase Three and possibly Phase Four, if needed, were still expected. He explained which streets still needed pavement.**

**MOTION: Councilmember Giacomino moved to approve Change Order #3 to the KE&G Construction Contract for the Bakerville Phase II CDBG Project in the amount of \$5,573.50.**

**SECOND: Councilmember Rodgers**

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

- 4. **Discussion and Possible Approval of Accepting Alternative 2A of the Four Development Alternatives Presented for the Airport Master Plan.**

**Russell McConnell, Public Works Director**

Mr. Russell McConnell, Public Works Director, stated that this item referred to the Master Plan that Armstrong Consulting was working on for the City with a Grant from the Federal Aviation Administration (FAA). He explained that the consulting firm submitted alternatives to the Airport Advisory Commission for review. He said they selected Alternative 2A as the most appropriate for the City’s needs. Mayor Porter asked if this was a unanimous vote and Mr. McConnell stated that it was unanimous.

Councilmember Budge asked what the City’s portion of this Alternative would cost, and Mr. McConnell explained that this item was for the Master Plan not for a construction agreement. He explained that approval of this item did not mandate that the City complete this work, but it did mandate following the Master Plan for development of the Airport. He said that the Master Plan was a twenty-year plan that was updated every ten years.

Mr. Stephen J. Pauken, City Manager, stated that the Consultants broke this down into shared expenditures. He explained that the reality was that if the locals did not pick up the State share of the project, the projects didn’t happen.

**MOTION: Councilmember Budge moved to approve Alternative 2A as the appropriate Development Alternative for the Airport Master Plan.**

**SECOND: Councilmember Scott**

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

- 5. **Discussion and Possible Approval for an Additional Amount of \$269.81 be Funded by RICO for the Purchase of Rifles from the Edward Byrne Memorial Justice Grant (JAG).**

**Jim Elkins, Chief of Police**

Sergeant Ben Reyna stated that much like other items, these rifles increased in price between 2009 and 2010. He explained that each rifle increased in price by about \$45.00 each. He mentioned that shipping remained the same. He asked that additional RICO funds be approved in the amount of \$269.38 to purchase these rifles which were approved at a prior meeting.

**MOTION: Councilmember Scott moved to approve an additional amount of \$269.81 be funded by RICO for the purchase of rifles from the Edward Byrne Memorial Justice Grant (JAG).**

**SECOND: Councilmember Cline**

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

- 6. **Discussion and Possible Approval of the Request by the Bisbee Arts Commission to Hold the 17<sup>th</sup> Annual Benefit Art Auction at the Copper Queen Plaza and Convention Center on March 6, 2010.**

**John Charley, Community Development Director**

Ms. Melissa Hartman, Planning Assistant/Grants Coordinator, stated that this was a request for the Bisbee Arts Commission to hold the 17<sup>th</sup> Annual Benefit Art Auction at the Copper Queen Plaza and Convention Center on March 6, 2010. She then explained the history of the Art Auction and exactly what, specifically, the BAC was requesting for this Art Auction. She explained how the art and artists would be recruited and how they would be paid. She explained where and how the Art Auction would be conducted and exactly what specific activities were being requested:

1. Expenditure of an amount not to exceed \$6,000.00 from the Bisbee Arts Fund-Art Auction Account to cover the costs of the Auction; and,
2. Solicitation of donations of art from artists in Bisbee and other communities in southeast Arizona; and,
3. Acceptance of such donation; and,
4. Sale of the donated art at the 17<sup>th</sup> Annual Benefit Art Auction to be held at the Copper Queen Plaza and Convention Center on March 6, 2010; and,
5. Deposit of proceeds from the Auction into the Bisbee Arts Fund-Art Auction Account; and,
6. Disbursement to artists of their share of the proceeds from the Bisbee Arts Fund-Art Auction Account following approval by the Mayor and Council of the post-Auction report.

Ms. Hartman stated that the BAC would submit a detailed report itemizing all expenditures and revenues in connection with the Auction at the first regular meeting of the Mayor and Council following the Auction.

**MOTION:** Councilmember Budge moved to approve the request of the Bisbee Arts Commission to hold the 17<sup>th</sup> Annual Benefit.

**SECOND:** Councilmember Cline

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

7. Discussion and Possible Approval of Ordinance O-10-02; an Ordinance of the Mayor and Council of the City of Bisbee, County of Cochise, State of Arizona, Repealing Section 2.6.3 of the Bisbee City Code; Providing for Severability; and Repealing Conflicting Ordinances.

Mark J. Langlitz, City Attorney

Mr. Mark J. Langlitz, City Attorney, stated that this Ordinance would repeal the provision in the City Code that prohibited an ordinance from being adopted until it had been read twice. He explained that this was an issue that had come up fairly recently of why the City had a requirement for a Second Reading of an ordinance. He said that it was something that really wasn't followed anymore in main-stream municipal thought. He explained that most Cities and Towns, of which he was aware, no longer required this. He explained that the City Charter required a reading of an ordinance, and if a Councilmember wished to have the entire ordinance read, it could be done, and then the Charter stated that the ordinance could be passed and adopted at any time after such ordinance was read. He then explained that Section 2.6.3 of the City Code stated that no ordinance, except emergency ordinances, shall be put on final passage on the same day on which it was introduced. He explained that this was inconsistent with the Charter. He said that this makes that section of the Code invalid – it had no force or effect – it was unenforceable and no Second Reading of this Ordinance was required.

Mayor Porter explained the history of the requirement for a Second Reading of ordinances.

Councilmember Budge stated that he spent many years lobbying in the Legislature that does require Second Readings on most of the laws that passed. He said that he took some exception to the fact that if he wanted to bring it back up for a second time, basically the ordinance already passed, and what it literally meant was that a revision of an ordinance that already passed was in effect dealing with a different ordinance. He said that it might be a good idea to put Second Readings on the Consent Agenda. He said that one of his concerns was that constituents could possibly be hearing the ordinance for the first time on TV and when they called him with concerns, it would already be passed.

Mr. Langlitz explained that if an ordinance deserved some additional consideration, any Councilmember, on the night that it was introduced, could move to continue the item to get further input.

Councilmember Scott said that any item could be tabled and brought up at the next meeting if necessary.

**MOTION:** Councilmember Scott moved to approve Ordinance O-10-02; repealing Section 2.6.3 of the Bisbee City Code; 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

8. Discussion and Possible Approval of Ordinance O-10-01; an Ordinance of the Mayor and Council of the City of Bisbee, County of Cochise, State of Arizona, Amending Section 2.5.1 of the Bisbee City Code by Changing the Start Time of Regular Meetings of the Mayor and Council from 7:00 PM to 6:00 PM, Unless Noticed Otherwise; Providing for Severability; and Repealing Conflicting Ordinances.

Mark J. Langlitz, City Attorney

Mr. Mark J. Langlitz, City Attorney, stated that the City Charter required Regular Council Sessions to begin at 7:00 p.m. and this Ordinance would move that time to 6:00 p.m. unless otherwise noticed. He discussed the pros and cons of this issue.

Councilmember Giacomino stated that she thought that 6:00 p.m. was a good hour but 5:01 was too early. She said that sometimes, with a start time of 7:00 p.m., when the meetings run late, it was a hardship on the public.

Councilmember Scott said that he did not have a problem with 6:00 p.m. but some of the other Councilmembers did not get off work till 5:00 p.m. and that it might be difficult for them or the public. He said that he thought this item needed to be tabled and discussed with constituents.

Councilmember Cline stated that there were times when the public wanted to participate. She explained that there were people who drove in from Ft. Huachuca or Sierra Vista for the meeting who didn't get off work till 5:00 or 5:30 and this could present a difficulty for them. She said that one of her concerns was having Work Sessions or Executive Sessions before a Regular Session and it would be difficult to conclude those Sessions before 6:00 p.m.

Mayor Porter pointed out that other Sessions could be held during or after a Regular Session.

**Councilmember Budge said that it would not be very convenient for the Public to have an Executive Session in the middle of a Regular Session.**

**The possible timing of Executive Sessions was then discussed at length.**

**Councilmember Rodgers suggested a start time of 6:30 p.m.**

**MOTION: Mayor Porter moved to table Ordinance O-10-01.**

**SECOND: Councilmember Giacomino**

**Councilmember Budge wanted to take all three opinions into consideration: Staff, Council and Public. Mr. Pauken stated that Public and Council opinions were much more important than what the Staff thinks with regard to this and Staff would do whatever they were directed to do.**

**Mr. Langlitz explained that the phrase “unless noticed otherwise” was added to leave the option of starting a Regular Meeting at a later time.**

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

**9. The City Manager reported, with possible discussion, on the following topics:**

- Fuel Consumption Report,**
- Report on the Repair of Commerce Street,**
- Award of the Planning Assistance for Rural Areas (PARA) Grant.**

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

- Report on the meeting with Arizona Department of Transportation concerning Arizona Street.**

**COUNCIL COMMENTS:**

**Councilmember Scott commented on the expertise of our ambulance crews.**

**MOTION: Councilmember Giacomino moved to adjourn the meeting.**

**SECOND: Councilmember Cline**

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

**ADJOURNMENT: 8:02 PM**

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**W.J. Porter, Mayor**