

## MINUTES

MINUTES OF THE SPECIAL SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, HELD ON TUESDAY, MAY 24, 2011, AT 6:00 PM IN THE BISBEE MUNICIPAL BUILDING, 118 ARIZONA STREET, BISBEE, ARIZONA.

THE MEETING CALLED TO ORDER BY MAYOR PORTER AT 6:02 PM.

### ROLL CALL

#### COUNCIL

Councilmember Boyd Nicholl, Ward I

Councilmember Bennie Scott, Ward III

Councilmember Luche Giacomino, Ward II

Excused

Mayor W.J. "Jack" Porter

Councilmember Anna Cline, Ward III

Councilmember Ransom Burke, Ward II, Mayor Pro Tempore

Councilmember Ken Budge, Ward I

#### STAFF

Stephen J. Pauken, City Manager

Gloria P. Gonzalez, City Clerk

Dee L. Flanagan, Finance Director

Tom Klimek, Public Works Director/City Engineer

#### CITY ATTORNEY

John A. MacKinnon

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

1. Discussion and Possible Approval of the Notice of Intent to adopt Ordinance O-11-07, Amending Article 3.8, Liens for the Collection of Delinquent Fees, of the City Code and Providing for Repeal and Severability.

John A. MacKinnon, City Attorney

Mr. MacKinnon explained that this Notice of Intent addressed some problems that could ensue based on changes recently made by the State of Arizona Legislature and further explained the modification of the lien process, effect of the lien, and release of the lien.

Councilmember Scott asked if a building or resident was leased, would they be responsible for the sewer bill. Mr. MacKinnon explained that the new statute indicated that an owner of four or fewer units of residential property had the option not to be involved in this process. He explained that the City was attempting to ensure that fees would continue to be collected if the owner exercised their rights under the statute; and that this process did not apply to commercial leases or larger apartment, but applied to a few residential units which were a significant portion of the total housing stock in Bisbee. Councilmember Scott asked if an owner exercised their right and the renter took off, could the City sue that renter. Mr. MacKinnon indicated this could be done if the renter could be found and had the means to pay the fees. He explained that the proposals addressed these types of problems.

MOTION: Councilmember Scott moved to approve the Notice of Intent to adopt Ordinance O-11-07, amending Article 3.8, liens for the collection of delinquent fees, of the City Code and providing for repeal and severability.

SECOND: Councilmember Cline.

ROLL CALL VOTE:

AYES: Councilmember Nicholl, Scott, Cline, Burke, Budge and Mayor Porter.

NAYS: 0

VOTE: AYES – 6

NAYS – 0

- 2. Discussion and Possible Approval of the Notice of Intent to Adopt Ordinance O-11-08, Amending Chapter 13, Sewer of the City Code and Providing for Repeal and Severability.

Dee L. Flanagan, Finance Director

Mrs. Flanagan asked that the Notice of Intent to adopt Ordinance O-11-08 be approved and explained the requirements that would be imposed.

Councilmember Burke asked that in the application process, a landlord renting to a tenant had to ensure the tenant entered into a service agreement with the City through the issuance of a certificate with that rental. He asked if the landlord was responsible for the bill if this was not done. Mr. MacKinnon indicated that the City was precluded from making the owner responsible for the bill, but under the provisions of the new ordinance, the City’s intent was to make them responsible for damages incurred because of failure to comply with the requirement, which would likely include their failure to pay the sewer bill. He said that the City did not make them directly obligated for payment, but as a condition of being a landlord of four or fewer units, if they chose not pay directly, the landlord must ensure that their tenant contacted the City to meet their requirements and that if this sill was not done, there would be consequences of civil fines and other damages sustained by the City.

MOTION: Councilmember Nicholl moved to approve the Notice of Intent to adopt Ordinance O-11-08, amending Chapter 13, Sewer of the City Code and providing for repeal and severability.  
SECOND: Councilmember Scott.

ROLL CALL VOTE:

AYES: Councilmember Nicholl, Scott, Cline, Burke, Budge and Mayor Porter.

NAYS: 0

VOTE: AYES – 6

NAYS – 0

- 3. Discussion and Possible Approval to Enter into an Agreement with Grasp Heating & Cooling Inc., for Two Air/Heat Mini Split Units for Council Chambers.

Thomas J. Klimek, Public Works Director

Mr. Klimek asked approval to enter into a Contract with Grasp Heating and Cooling in the amount of \$7,439.00. He said four bids were received with Grasp Heating being the low bidder.

MOTION: Councilmember Nicholl moved to enter into an Agreement with Grasp Heating and Cooling Inc. for two Air/Heat Mini Split Units for Council Chambers.

SECOND: Mayor Porter.

MOTION PASSED: UNANIMOUSLY

MOTION: Councilmember Nicholl moved to adjourn the meeting.

SECOND: Councilmember Scott.

MOTION PASSED: UNANIMOUSLY

ADJOURNMENT

6:30 P.M.

\_\_\_\_\_  
W.J. Porter, Mayor