

**MINUTES OF THE REGULAR MEETING
OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY**

**TUESDAY, FEBRUARY 22, 2022
6:00 P.M.**

**CHINO VALLEY COUNCIL CHAMBERS
202 N. STATE ROUTE 89, CHINO VALLEY, AZ**

Present: Mayor Jack Miller; Vice-Mayor Annie Perkins; Councilmember Tom Armstrong; Councilmember Eric Granillo; Councilmember Cloyce Kelly; Councilmember John McCafferty; Councilmember Lon Turner

Staff Town Manager Cindy Blackmore (remotely); Town Attorney Andrew McGuire (remotely);

Present: Development Services Director Laurie Lineberry; Administrative Services Director Joe Duffy; Police Chief Chuck Wynn; Public Works Director/Town Engineer Frank Marbury; Senior Planner Will Dingee; Planner Bethan Heng; Sgt at Arms Clint Shafer; Audio Visual Technician Lawrence Digges; Deputy Town Clerk Sara Burchill; Town Clerk Erin N. Deskins

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a)** Presentation by Chino Valley School District Superintendent, John Scholl, regarding the impact the Aggregate Expenditure Limit (AEL) can have on students, staff, and the community at large.

An email was submitted by Superintendent John Scholl to remove Item 2(a) from the agenda.

- b)** Presentation of life saving awards to Sergeant Amy Chamberlain, Sergeant, Clint Shafer, Field Training Officer Fernando Silva, and Detective Brent Giuliani. (Chuck Wynn, Police Chief)

Police Chief Chuck Wynn presented the following:

- Four staff members would be awarded the life saving award for an incident that occurred in August. The officers were able to revive a baby that had drowned.
- The officers receiving the award were: Detective Giuliani, Sergeant Chamberlain, Field Training Officer Silva, and Sergeant Shafer.
- The baby, who was present at the meeting, and the officers took a group photo.

- c)** Administer Oath of Office to Deputy Town Clerk, Sara Burchill. (Erin N. Deskins, Town Clerk)

Deputy Town Clerk Burchill was introduced and given the Oath of Office by Town Clerk Deskins.

3) CALL TO THE PUBLIC

Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.

- Beth Allsup – She and her neighbors were having issues with trespassing water which was causing damage. The water was coming from Town owned roads and hard packing of nearby properties. The roads and properties had been approved by employees of the Town. The damage had occurred after they bought their property and had been brought to the attention of numerous Town employees and the Town Council. The Town published their six core values on their website and she questioned if the Town stood by them. Core values were the basic elements by which an organization conducted their business, which she compared to the Ten Commandments. The core values included: Integrity - honest and moral principles by which duties were performed, and she questioned if it were honest integrity and moral principles to be lied to by an individual or Town employee; Teamwork – the effective and efficient combined actions of a group of people, and she questioned if the Town were providing effective and efficient teamwork when unable to provide answers for requested information; Respectful Communication – the acknowledgement of others, their concerns, their ideas, and their beliefs, and she questioned if it were respectful communication for Town employees to ignore emails, phone calls, and letters from citizens of the Town; Service – the action of helping and assisting others, those of which they represent, and she questioned if the Town was providing service to their citizens when a request for help and assistance was ignored; Leadership – the action of one or more people responsible for leading an organization, and she questioned who the Town leaders were and wondered how to get them to listen, respond, and hold them accountable without hiring legal counsel; Innovation – creative ideas and services that provided a different approach to solving problems, and she questioned if it was innovation for an employee to state numerous times that the issue at hand was before their time and had provided no innovative ideas or approaches in solving the issues.
- Randy Stuflick – In the four years he had lived on his property, the water had more than doubled. After more than an inch of rain in August 2021, it was brought to the attention of Town employees. Two employees that visited their home explained it was the hard packing of two home builds to the South of their home. The truth was not told at the December 7, 2021, Planning Commission meeting, even though good questions were asked by the Planning Commission. Prior to that meeting, videos of their property flooding were shown to the Assistant Town Engineer and then on December 12, 2021, the same video was offered for viewing to most the people present at the current meeting. They had no takers on their offer. Respectful communication and services were not being met by the leaders of Town. At the Planning Commission meeting, the Town Engineer explained the water flowed from the south to the north, so there would not be water flowing south. He thought it was a red herring tactic used to distract attention from questions asked by Commissioners. Employees knew their concern was the trespassing of water off the public road onto their property. His questions about the culvert on west Road 1 North was never addressed. The culvert was over 50-years old, and the road was a manmade dam that allowed the efficiency and natural flow of water off of their property. After the January 25, 2022, Council meeting, the Town Engineer stated that he had been unable to find an engineer to come and look at the issue, even though the issue had been ongoing for two years. He thought the Town leaders were

ignoring the issue and hoping it went away while continuing to hard pack and build on land to the south of their home. He was hoping they could work together on a solution.

4) **CURRENT EVENT SUMMARIES AND REPORTS**

This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.

- a) Status reports by Mayor and Council regarding current events.

Mayor Miller reported that the February 23, 2022, budget meeting had been cancelled. Vice-Mayor Perkins asked that the community pray for the people involved in an accident on Perkinsville Road on Valentine's Day.

- b) Status report by Town Manager Cindy Blackmore regarding Town accomplishments, and current or upcoming projects.

Town Manager Cindy Blackmore reported on the following:

- Congratulated Deputy Town Clerk Burchill on her new position.
- Katy Smith was being promoted from the Facilities Division and would be taking Ms. Burchill's previous position.

5) **CONSENT AGENDA**

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

MOVED by Vice-Mayor Annie Perkins, seconded by Councilmember Cloyce Kelly to approve Consent Agenda Items 5 (a, b, c, d, e, and f) as written.

AYE: Mayor Jack Miller, Vice-Mayor Annie Perkins, Councilmember Tom Armstrong, Councilmember Eric Granillo, Councilmember Cloyce Kelly, Councilmember John McCafferty, Councilmember Lon Turner

7 - 0 PASSED - Unanimously

- a) Consideration and possible action to approve the Financial Report for the three-month period ending December 31, 2021. (Joe Duffy, Administrative Services Director)
- b) Consideration and possible action to approve the renewal term on the real property lease with Yavapai County Community Health Services for the trailer located at the North Campus, 1951 Voss Drive, beginning February 1, 2022, for \$1.00 / year and appropriate utilities. (Terry Denemy, Assistant to the Town Manager)

- c) Consideration and possible action to approve Ordinance No. 2022-913, amending Title V: Public Works, Chapters 50 and 51 of the Chino Valley Town Code. (Frank Marbury, Public Works Director)
- d) Consideration and possible action to accept the Town of Chino Valley as the Official Destination Marketing Organization for the Arizona Office of Tourism. (Maggie Tidaback, Economic Development Project Manager)
- e) Consideration and possible action to approve Resolution No. 2022-1199 regarding the Intergovernmental Agreement for Election Services between Yavapai County and the Town of Chino Valley for utilizing County election services, effective April 6, 2022, and remaining in effect until terminated. (Erin Deskins, Town Clerk)
- f) Consideration and possible action to approve the January 25, 2022, regular meeting minutes. (Erin N. Deskins, Town Clerk)

6) ACTION ITEMS

The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.

- a) Consideration and possible action to approve Ordinance No. 2022-912 to rezone approximately 6.86 acres of real property from Commercial Heavy (with a Planned Area Development Overlay) (CH/PAD) to Commercial Light (CL), for the property located north of 2625 S State Route 89, Chino Valley, Arizona, APN 102-01-219M. (Bethan Heng, Planner)

Recommended Action: Approve Ordinance 2022-912 as presented, subject to the staff report, information provided during this hearing, and the conditions in Attachment A.

Planner Bethan Heng explained that the applicant O Jogo Bonito was unable to attend the meeting and requested the item be rescheduled to the next meeting on March 22, 2022.

MOVED by Vice-Mayor Annie Perkins, seconded by Councilmember Cloyce Kelly to continue Item 6(a) to March 22, 2022 per the request of the applicant.

AYE: Mayor Jack Miller, Vice-Mayor Annie Perkins, Councilmember Tom Armstrong, Councilmember Eric Granillo, Councilmember Cloyce Kelly, Councilmember John McCafferty, Councilmember Lon Turner

7 - 0 PASSED - Unanimously

- b) Consideration and possible action to direct staff to post and publish the notice of intent to increase admission fees for the Town of Chino Valley Aquatic Facility and the written report and data in support, pursuant to A.R.S. Section 9-499.15. (Cyndi Thomas, Community Services Manager)

Recommended Action: Direct staff to post and publish the Notice of Intent to Increase Admission Fees for the Town of Chino Valley Aquatic Facility and the written report and data in support, pursuant to A.R.S. Section 9-499.15.

Community Services Manager Cyndi Thomas presented the following:

- The last aquatic fee increase was April 24, 2018, through Resolution 18-1115.
- Since the aquatic center opened, the Town's General Fund had subsidized the annual operation of the facility.
- The annual operating cost subsidy averaged \$150,000 annually.
- Labor cost increased each year and had gone from \$10 per hour at the last increase to \$12.80 per hour.
- The proposed increase would be a gradual increase over the next three years. The increase would be .25 cents for individual daily entrances of all age groups. There would not be increases for the swim lessons because they were already higher than neighboring communities. All other fees would have a minimal increase.
- The fee schedule of neighboring communities was provided.
- Staff was recommending an increase in aquatic center user fees until 2024.
- The main users of the facility were in the age group of 3-17. They were proposing a fee of \$3.75, which would go up an additional .25 cents annually until 2024.

Council and staff discussed the following:

- There were daily passes and seasonal passes. The daily pass increases for a family of up to five was \$1 for a total of \$17 per day. A family seasonal pass for a family up to five would increase from \$250 to \$267. Each individual thereafter was an increase of \$35.
- The season was ten-weeks long.

MOVED by Vice-Mayor Annie Perkins, seconded by Councilmember Eric Granillo to direct staff to post and publish the Notice of Intent to Increase Admission Fees for the Town of Chino Valley Aquatic Facility and the written report and data in support, pursuant to A.R.S. Section 9-499.15

AYE: Mayor Jack Miller, Vice-Mayor Annie Perkins, Councilmember Tom Armstrong, Councilmember Eric Granillo, Councilmember John McCafferty, Councilmember Lon Turner

NAY: Councilmember Cloyce Kelly

6 - 1 PASSED

- c) Public Hearing and consideration and possible action to regarding Ordinance No. 2022-911 to amend the Town of Chino Valley Unified Development Ordinance Chapter 154, by amending Chapter 2 Definitions, Chapter 3 Zoning Districts, and Chapter 4 General Regulations, as they relate to Recreational and Medical Marijuana. (Will Dingee, Senior Planner)

Recommended Action: (i) Hold Public Hearing
*(ii) The Planning Commission had no recommendation and preferred to keep the separation distance at 500'. The ordinance is presented for Council review and Action. Ordinance No. 2022-911

as attached.

Town Attorney Andrew McGuire presented the following:

- The Council had adopted provisions in the Town Code for recreational marijuana after the voter initiative passed.
- It triggered a requirement that the zoning ordinance address the recreational marijuana provisions along with the medical marijuana provisions.
- Dual licensee was someone who held both a medical and recreational marijuana license.
- The code provisions the Town adopted were nearly identical to Prescott and the surrounding communities.
- The zoning ordinance in place by default applied to the recreational marijuana because a person running the business would need to have both licenses.
- Last year there was a request for a recreational facility that was going to be located in an area that did not meet the Town separation requirements and it caused questions to come up in terms of separation requirements and how to measure things like the Peavine Trail. They needed to consider what constituted a Town park and what measures the Town wanted to use in regards to recreational marijuana licenses.
- Staff met with the applicants to discuss the items to be presented to the Council and the reconciliation they would do to the UDO and Town Code.
- The first draft given to the Planning Commission changed the separation requirements in the UDO to match the Town Code. The UDO's separation requirements were 500 feet from the listed uses and the Town code stated 300 feet.
- The other amendment item was to ensure that the Peavine Trail was not considered a Town Park in regard to the distance measurement because there was so much frontage against the Industrial District where medical and recreational marijuana were permitted.
- The third amendment was not recommended by the Planning Commission because it was confusing. There were pieces of property in Town that were zoned Residential but were used for utility purposes. There was an APS residential lot that was used for a power substation north of a property that was being proposed for the recreational marijuana use. It was brought to the Town's attention that there were those uses around Town, and it was not the intent to have nonresidential uses cause separation requirements just because they were on residential lots. With a conditional use permit, it could happen on large residential lots anywhere in Town.
- The applicant had a different view. They wanted an amendment to the UDO and Town Code that would essentially say recreational would not be required to have a dual licensee as the only person allowed to have recreational marijuana.
- The Planning Commission's recommendation was that they would not give a recommendation because they did not want to change the separation requirements from 500 to 300 feet. They understood they had no power over the Town Code, and they instead wanted to send the Council a message that they preferred to have 500 feet be the separation. The request was to have the Town Code changed to 500 feet.
- Staff recommended approval because they believed the changes were reconciling the UDO to match up to what the Town Code already said.

Mayor Miller opened the Public Hearing.

- Bob Chilton – His company Rain Strategies, was a development and management company that worked with municipalities and the legal community to help run compliant operations. They were in support of the Ordinance because it cleared up much of the confusion. He was there to point out a deficiency in the proposed Ordinance, identify it, and recommend a way to change the language and avoid the confusion. Since 2012 Arizona Department of Health Services had issued 130 medical marijuana licenses. The licenses allowed the holder to have

a retail location to sell to patients, as well as an off-site location to grow. There were not any retail locations in Town, but they did have grow sites. A dual license holder could sell both medical and recreational marijuana, but it had to be under one roof. There were two other licenses the State issued: The Social Equity Group and The Rural County Group. Those groups did not get a dual license that had medical, so they were recreational only. The Ordinance had a definition for recreational license that only dealt with retail and not the offsite facilities. This created a hole and confusion in both the cannabis and planning communities about how a non-dual license holder could have a grow facility within the Town. The hole was created because the Ordinance redefines what a marijuana establishment license was. It used a different definition than the State used. He recommended supporting the ordinance with the addition of a clarifying sentence: Medical marijuana facilities and marijuana facilities owned and operated by dual licensee and offsite cultivation and manufacturing facilities, subject to the regulations of 4.31.

Mayor Miller closed the Public Hearing.

Council, Town Attorney, and staff discussed the following:

- Members discussed Mr. Chilton’s suggested changes.
- The applicant wanted the dual license requirement in order to grow in Town, to be removed
- That requirement had been put in place to limit the number of grow facilities within the Town.
- The current grow facilities were under protected development rights. Prior to the current code provisions that only allowed medical and recreational marijuana in Industrial Zones, the UDO allowed marijuana to be grown in many more areas of Town. Once the Code was changed to limit those areas, the facilities that were operating or already had the authority to operate were given a protected development right designation.
- Members discussed that it was the desire of the community to limit the number of facilities.
- Without changing the ordinance to allow for recreational grow facilities to licensees without a dual license, there would not be an opportunity for the applicant to have a grow facility within the Town. By approving the Ordinance with the additional language suggested, the Town would be expanding the opportunity for grow facilities. A dual licensee could open a grow facility in the same location.
- There was no tax benefit for the Town from the grow facilities. The only real benefit was the jobs provided by the facilities.
- The Town Attorney’s recommendation was in support of the staff position to adopt the ordinance as presented because it made the UDO and Town Code consistent. The process to expand the separation requirements as recommended by the Planning Commission, was explained.
- The Town did their best to stay consistent and equal with other area communities, so as not to create an incentive or disincentive.
- Members discussed the separation distances of 300 and 500 feet. If the Town chose to increase the separation to 500-feet, staff would need to come back with that change to the Town Code. The staff recommended Ordinance changed the separation from 500 to 300 feet. Members favored keeping the separation at 500-feet.

MOVED by Vice-Mayor Annie Perkins, seconded by Councilmember Cloyce Kelly to approve Ordinance No. 2022-911 as presented by staff, with the modification deleting the change from 500-feet to 300-feet.

AYE: Mayor Jack Miller, Vice-Mayor Annie Perkins, Councilmember Tom Armstrong, Councilmember Eric Granillo, Councilmember Cloyce Kelly, Councilmember John McCafferty, Councilmember Lon Turner

7 - 0 PASSED - Unanimously

*Approved amending Ordinance 2022-911 to reflect the change of 300' to 500' for the separation distance.

7) ADJOURNMENT

MOVED by Councilmember Lon Turner, seconded by Councilmember Cloyce Kelly to adjourn the meeting at 6:51 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Annie Perkins, Councilmember Tom Armstrong, Councilmember Eric Granillo, Councilmember Cloyce Kelly, Councilmember John McCafferty, Councilmember Lon Turner

7 - 0 PASSED - Unanimously



A blue ink handwritten signature of Jack W. Miller.

Jack W. Miller, Mayor

ATTEST:

Erin Deskins

Erin N. Deskins, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 22nd day of February, 2022. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 23rd day of March, 2022.

Erin Deskins

Erin N. Deskins, Town Clerk