

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

**TUESDAY, APRIL 25, 2023
6:00 P.M.**

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

Present: Mayor Jack Miller; Vice-Mayor Eric Granillo; Councilmember Annie Perkins; Councilmember Tom Armstrong; Councilmember Sherri Phillips; Councilmember Robert Schacherer

Absent: Councilmember John McCafferty

Staff Present: Town Manager Cindy Blackmore; Town Attorney Andrew McGuire; Assistant to the Town Manager Terri Denemy; Development Services Director Laurie Lineberry; Senior Planner Will Dingee; Associate Planner Bethan Heng; Public Works Director/Town Engineer Frank Marbury; Community Services Director Cyndi Thomas; Public Information Officer Jean Knight; Public Information Officer Tricia Lewis; Officer Dianne Valladolid-Enriquez (Sgt at A; Audio Visual Technician Lawrence Digges; Deputy Town Clerk Sara Burchill; Town Clerk Erin N. Deskins

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

Mayor Miller called the meeting to order at 6:01 p.m. and led the Pledge of Allegiance.

2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

- a)** Presentation by Mackenzie Rodgers, and Frank Sanderson, APS Northwest Division Manager, regarding an overview of APS' Firewise/Fire Mitigation Program.

Mackenzie Rogers, APS Director of Transmission, introduced Frank Sanderson.

Frank Sanderson, APS Northern Arizona Division Director, presented the following:

- May was Wildfire Community Preparedness month.
- Reliability and safety were the company's biggest focuses, with safety being the number one goal.
- The company started the program about a month ago and was well into their fire mitigation preparations.
- 2022 saw over 1,200 fires which affected 145,000 acres. One out of every three fires was close enough to do damage to important power lines serving APS customers and they wanted to be very prepared to prevent, mitigate, and respond.
- APS had a very rigid and comprehensive fire mitigation plan including vegetation management around buildings and powerlines called their DESAP Program (defensible space around poles). Prior to fire mitigation season, APS patrolled all feeders using

helicopters, drones, and foot patrols to identify any infrastructure that might be defective or could become defective.

- 30 APS employees attended the AZ wildfire academy at Embry Riddle to respond to this type of scenario and build relationships to make sure all agencies were working together.
- Other protocols were patrolling lines to find faults, and making sure everything was in a safe condition before turning the power back on. However, this might lead to customers having longer than normal outages.
- APS had done a lot of work in hardening the system by using fault indicators that sense a current in the line and start blinking. This would lead the workers directly to the fault and bring everyone back online faster.
- Advanced grid technologies were being deployed to make it a lot easier to get people back online.
- APS encouraged the communities to have a fire go bag with candles, a heating source, food, extra communication devices, etc. so they still had things to sustain life during an outage.
- APS had crews who responded 24/7 any time there was a fault. The company wanted to make sure the public knew that when power lines came down they were dangerous. Sometimes they would drip and deenergize, but sometimes they didn't. Everyone was encouraged to call 911 and call in the outage to customers service if they saw downed power lines.
- Customers should be aware that when power went out they should keep their refrigerator and freezer closed. This was the only way to keep food good for as long as possible.

Councilmember Perkins thanked APS for taking care of a downed tree near the high school.

3) CALL TO THE PUBLIC- Individuals requesting to speak, please complete a Speaker Comment Card and return to the Clerk.

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 at the discretion of the Council and not required by law. Individuals are limited to speak for three (3) minutes, yielding of time will not be permitted. 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. Disrespectful behavior will not be tolerated; this includes loud outbursts, profanity and disruptive discussions among our audience.

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.

Councilmember Armstrong stated that House Bill 2543 was on its way to the Senate Rules Committee and was being received positively. This was a bill to widen Highway 89 from Road 3 North to Road 5 North and put a roundabout in at Road 5 North.

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

Cindy Blackmore, Town Manager, presented the following:

- Reminder that Community Cleanup Dump Day would be held on May 5th and 6th at Old Home Manor.
- Reminder that the General Plan comment period was going through June 6th. The public was encouraged to make comments and could do so by visiting the website at www.makeitchinogeneralplan.com
- May 1st through the 15th was the Bissell Pet Foundation's Spring National Empty the Shelter Event at the Chino Valley Animal Shelter. Adoption fees were reduced to \$50 or less.
- The Clerk's Office was accepting applications for the Roads and Streets Committee starting on May 3rd.

Mayor Miller also encouraged comments on the General Plan.

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.

Councilmember Schacherer requested to pull item 5(b) to be heard separately.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong to approve Consent Agenda items a, c, d, and e.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember Sherri Phillips, Councilmember Robert Schacherer

6 - 0 PASSED - Unanimously

- a) Consideration and possible action to appoint applicants recommended by the Appointments Subcommittee to the Parks and Recreation Advisory Board (PRAB).
- b) Consideration and possible action to recommend approval of an application from Agent Gregory Collins for a Permanent Extension of Premises for Lucy's Place, located at 3020 West Road 4 North, Chino Valley.

Erin Deskins, Town Clerk, and Council discussed the following:

- It was noted that the application provided the wrong address. It should have stated 3020 Highway 89.
- It was also noted that the business was already using the patio. The agent already had a temporary, six-month extension of premise. The agent came in numerous times and was always good about renewing the temporary extension. Now they were looking to make it

- permanent.
- One councilmember was concerned about the distance from the highway to the fence line.
 - Staff was not provided with information on the distance from the highway to the fence line.
 - The Police Department and Planning Department reviewed the application with no comments. The Fire Department also reviewed the application with no comments, other than determining an occupant load after approval.
- Council inquired about business hours.
 - Business hours were not a requirement of the liquor license. They had already applied with the Department of Liquor Control, from there it would go to the local board for approval and then would go back to the Department of Liquor. Council could make a recommendation to the board.
 - One councilmember had canvassed the area and there was a lot of noise at 8:00 and 9:00 and people couldn't have their windows open. Staff stated that noise would be a code enforcement issue.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember Sherri Phillips, Councilmember Robert Schacherer

6 - 0 PASSED - Unanimously

- c) Consideration and possible action to approve a revised Purchase Agreement for the previously approved purchase of a new bulk water loading station from AquaFlow Int'l, Inc. in the amount of \$68,897.05.
- d) Consideration and possible action to approve the March 1, 2023, study session minutes.
- e) Consideration and possible action to approve the March 14, 2023, regular meeting minutes.

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 award the construction of FY 2023 Street Improvements to CLM Earthmovers, LLC, in the amount of \$4,321,876.25.

Recommended Action: Award the construction of FY 2023 Street Improvements to CLM Earthmovers, LLC, in the amount of \$4,321,876.25.

Frank Marbury, Town Engineer, presented the following:

- Staff advertised for bids for the FY23 Street Improvements with the scope of work including the cul-de-sacs off West Perkinsville Road, East Road 1 South from Highway 89 to Road 1 East, and Road 1 East from Fletcher Court to Road 3 South. Staff received three bids from local contractors and the low bid came from CLM Earthmovers. Staff recommended awarding the bid to the low bidder.
- The money would be coming from a couple different capital budgets approved for FY23.
- Mr. Marbury had not personally worked with CLM Earthmovers before. They constructed the new roundabout at Pioneer Parkway. Mr. Marbury had worked with CLM's subcontractor Asphalt Paving and Supply.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember Sherri Phillips, Councilmember Robert Schacherer

6 - 0 PASSED - Unanimously

- b) Public hearing, consideration, and possible action to approve a Conditional Use Permit for a single-family residence on the commercially zoned parcel located at the northeast corner of S Road 1 West and W Road 1 South, Chino Valley, Arizona (APN 306-29-057A).

Recommended Action: (i) Hold public hearing. (ii) Approve a Conditional Use Permit for a single-family residence on the commercially zoned parcel located at the northeast corner of S Road 1 West and W Road 1 South, Chino Valley, Arizona.

Bethan Heng, Associate Planner, presented the following:

- This was a request for a Condition Use Permit (CUP) for the Asselstine CUP. The representative and applicant were in attendance.
- The subject property was 0.8 acres at the NE corner of West Road 1 South and South Road 1 West. Chino Valley Storage was located to the north of the site, and Whispering Winds Apartments to the East of the site. The subject property was currently vacant and undeveloped.
- The property was currently zoned commercial light and there was commercial light to the north and east of the property with single family residential two acre minimum (SR-2) to the west and SR-2 to the south.
- The applicant was requesting a CUP for the land use of a single-family residence as it was listed in the Unified Development Ordinance (UDO).
- The General Plan designated the property as medium density, residential two acres or less and was currently zoned commercial light. The underlying zoning district would remain the same.
- Planning and Zoning forwarded a recommendation of approval for the CUP.

Staff and Council discussed the following:

- Council questioned why staff was recommending septic when the sewer was nearby.
 - Mr. Marbury stated that the property was recommended to be allowed septic based on his interpretation of the code. Chapter 51 Section 155 paragraph b stated "a new development containing one or more lots shall connect to the sanitary

sewer except for a single lot greater than or equal to one acre may be permitted to install a septic tank system if the sanitary sewer is not available at property line.” The entitlements for the property were one acre until they dedicated the right of way (ROW) for the road. There was a condition in the preceding paragraph stating that nonresidential properties already served by a septic tank needed to connect to sewer if it was less than 300 feet away from the property. The subject property was 250 feet away from a sewer line. However, that specific paragraph dealt with existing septic tanks and nonresidential properties. If the code was to extend sewer to the property it would have to extend 250 feet to the property line and then another approximately 275 feet to Road 1 South.

- One councilmember pointed out section c which stated “if land split or other division creates one or more lots less than one acre, such lots shall connect to the sanitary sewer system.” The lot was less than one acre and less than 300 feet from sewer, the Ordinance would suggest they should hook up to services.
- Mr. Marbury stated that a policy had been established that the lot was originally one acre when it was to the center of the road, but the ROW dedication took it to less than an acre.
- One councilmember mentioned that there was another lot next to it and questioned if the Town would be in the same position when that one sold.
 - Staff would have to look at the dimensions of that lot, but it would be the same exercise. Staff was looking at the section of code that dealt specifically with new construction.
- Council was concerned that if they recommended septic it would create a dead end for the sewer line.

Chris Asselstine, representative for the applicant Curtis Asselstine, and Council discussed the following:

- Mr. Asselstine did not own the property but was looking to purchase it. One of their conditions for purchase was to gain the CUP.
- Mr. Asselstine wanted the sewer to continue, however, the cost per foot for sewer for the Town was \$343/foot without asphalt patch back. It was 250 feet and along the property was approximate 275 feet, 525 feet total. It would be more than \$150,000 to install sewer. If the city brought it through, he would be willing to tie in at that time at his cost. He was willing to sign an agreement to that effect.
- Mr. Asselstine was trying to build the home for his family after enduring hardships due to Covid.
- Council inquired about how Mr. Asselstine came across the property.
 - Mr. Asselstine stated that he found the property online and the existence of a well and the flat property would reduce costs for them to build.
- Responding to a question as to why Planning & Zoning recommended approval Mr. Asselstine stated it was because it was allowed under the current code.

One Councilmember appreciated Mr. Asselstine’s willingness to hook up to sewer when it came along.

One Councilmember felt that the ordinance should be followed as the property was less than 300 feet to the sewer line.

Council, Town Attorney Andrew McGuire, and staff discussed the following:

- Agreements such as the one mentioned by the applicant would be recorded and be rolled in with the land because it would be likely that there would be a long gap in time between

the two events. It would also help with enforcement.

- The property to the east was on septic as well. Council was concerned about the distance between the well and the neighboring well and septic. The State or County would delegate the permit for well and septic systems so staff didn't usually look into the size of the lot and spacing of the systems.
- Mr. McGuire stated that the property was a remnant of the way that lots were platted initially. When measuring to the center of the (ROW) and then building an acre lot off that measurement, it would always net out to less than an acre. The Town had historically treated them as acre lots so that the dedication required for the road would not destroy the ability to have one acre lots. However, the Town's zoning interpretation had nothing to do with what the County could permit. The Town had no determination on whether or not the County would allow septic and well on the lot.
- One councilmember was concerned about the lot being in a flood area. Mr. Marbury stated that it would be under his domain as the Town Floodplain Administrator and hoped that it was a stipulation to do a drainage study for the lot and if it wasn't there he would recommend that. The lot was on a sheet flow floodplain which was different than a FEMA floodplain. It was based on planning studies that the Town commissioned and once the engineer got to the study of the lot they might have more accurate information that might change the actual boundaries of that floodplain making the house more or less in the floodplain. The intention of Condition #4 was to address the floodplain issue.

Mayor Miller opened the Public Hearing.

Chris Asselstine – his parents lived on the same block and the sheet flow ran through the entire property, but the property was built up and he planned to do the same. He also planned to get the septic fully permitted by the Town and stay within code and regulations. They had also recently done an extension and the County allowed a septic leach line within the sheetflow floodplain.

Mayor Miller closed the Public Hearing.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins,
Councilmember Tom Armstrong, Councilmember Sherri Phillips

NAY: Councilmember Robert Schacherer

5 - 1 PASSED

- c) Public hearing, consideration, and possible action to approve a Conditional Use Permit for a single-family residence on the commercially zoned parcel located at 700 W Road 5 1/2 North, Chino Valley, Arizona (APN 306-46-003F).

Recommended Action: (i) Hold the public hearing. (ii) Approve a Conditional Use Permit for a single-family residence on the commercially zoned parcel located at 700 W Road 5 1/2 North, Chino Valley, Arizona (APN 306-46-003F).

Bethan Heng, Associate Planner, presented the following:

- This was a request for a Conditional Use Permit for Mr. Bates and the representative was in attendance.
- The 14-acre property was located north of West Road 5 1/2 North. It was currently vacant.
- The property was currently zoned commercial light with commercial light to the north SR-2 to the west and east, and multiple family and mobile home park to the south.
- The applicant was requesting the Conditional Use Permit for the use of a single family residence. The Town UDO had single family residence listed as conditional use.
- The General Plan designated the property as commercial multifamily residential and was currently zoned commercial light. The underlying zoning district would remain the same.
- P&Z forwarded a recommendation of approval.

Staff and Council discussed the following:

- Council inquired as to the status of a well and septic on the property. There was a well and septic currently installed.

Applicant, Travis Bates, and Council discussed the following:

- Council inquired if the applicant had recently purchased the property. Mr. Bates stated it was inherited.
- Council asked if this was meant to be a residence for the applicant. Mr. Bates stated that the planners had advised to go this route as they were working on the General Plan and that would take care of the rezoning.

Mayor Miller opened the Public Hearing.

Mayor Miller closed the Public Hearing.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins,
Councilmember Tom Armstrong, Councilmember Sherri Phillips, Councilmember
Robert Schacherer

6 - 0 PASSED - Unanimously

- d) Public hearing, consideration, and possible action to approve Ordinance 2023-932, amending Section 4.5 of the Chino Valley Unified Development Ordinance, revising the flag lot provisions to allow for flag lots with shared access under certain conditions.

Recommended Action: The Planning and Zoning Commission recommended approval of this text amendment.

Will Dingee, Assistant Development Services Director, presented the following:

- This was a text amendment request to modify the Town's UDO pertaining to flag lots and shared access.
- Staff initiated the amendment following interactions with citizens resulting in the inability to split their properties due to neighboring flag lots.
- A flag lot was a parcel of land created through a land split process or minor land division. It was not created through a subdivision per Town code. They consisted of two

parts, one being the flag or buildable lot area, and the flagpole which was the access or driveway to the lot. Some stipulations were that the maximum length of a flagpole could be 330 feet total, and the minimum width of a flagpole was 50 feet and must front on a Town street.

- Town code regulated sequential development of flagpoles and required a minimum separation between them. For an SR-1 zoned property or greater there was a minimum of 100 feet between flagpoles. AR-5 had a minimum of 200 feet of separation between flagpoles. Flag lots could only be created in one acre lots or larger. They would not be present in the SF-12 or SF-24 zoning.
- The scenario that staff encountered with multiple citizens was as follows: Neighbor one split their property 20 years ago and placed their flagpole at their northern property line adjacent to Neighbor 2. Neighbor 2 now wanted to come in and subdivide the property and they have five acres in SR-2.5 and were entitled to 2.5 acre minimum lots. The current code stated that because Neighbor 1 placed their flagpole at the northern property line Neighbor 2 must do the same. However, Neighbor 2 had constructed a barn or house at the northern end of the property line and didn't have enough room for a flagpole forcing staff to tell the property owner they could not subdivide the property.
- The amendments proposed by staff were:
 - Allow adjacent flagpoles with the following three conditions:
 - No more than two adjacent flagpoles
 - Each flagpole would have to be a minimum of 25 feet in width
 - Have a minimum 50-foot shared access agreement reflected on the land split application between the two parcels.
- P&Z forwarded a recommendation of approval.
- The bulk of the change was in letter (b). The other edits were simply housekeeping from the Town attorney.

Council and staff discussed the following:

- Council inquired how the back lots would be affected by the ordinance stating that properties within 300 feet of the sewer line must hook up to sewer.
 - It was a multi-faceted answer. Whenever a piece of property was split with a flag lot the frontage was found on the street and the distance would be measured to that frontage. There was an exemption until 2025 that if a landowner was splitting in close proximity within that 300 feet of sewer or water they would be exempt from connecting.
 - The exemption was created so that it wouldn't punish Neighbor 2 by forcing the new owners behind them to connect to sewer and water.
 - One councilmember didn't see it as being punished, but as following the ordinance.

Mayor Miller opened the Public Hearing.

Mayor Miller closed the Public Hearing.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember Tom Armstrong

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins,
Councilmember Tom Armstrong, Councilmember Sherri Phillips

NAY: Councilmember Robert Schacherer

5 - 1 PASSED

7) **ADJOURNMENT**

MOVED by Councilmember Sherri Phillips, seconded by Councilmember Annie Perkins to adjourn the meeting at 7:07 p.m.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember Annie Perkins, Councilmember Tom Armstrong, Councilmember Sherri Phillips, Councilmember Robert Schacherer

6 - 0 PASSED - Unanimously



Jack W. Miller, Mayor
Eric Granillo, Vice-Mayor for Mayor Miller

ATTEST:



Erin N. 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 25th day of April, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 23rd day of May, 2023.

Erin N. Deskins

Erin N. Deskins, Town Clerk