



**MINUTES OF THE
HUACHUCA CITY TOWN COUNCIL
MEETING HELD
THURSDAY, MARCH 14, 2019 AT 7:00PM
HUACHUCA CITY TOWN HALL-500 N. GONZALES BLVD. HUACHUCA CITY,
AZ 85616**

AGENDA

A. Call to Order

Mayor

- Pledge of Allegiance
- Roll Call and Ascertain Quorum
- Invocation

Any prayer/invocation that may be offered before the start of regular Council business shall be the voluntary offering of a private citizen, for the benefit of the Council and the citizens present. The views or beliefs expressed by the prayer/Invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker. A list of volunteers is maintained by the Town Clerk's Office and interested persons should contact the Town Clerk's Office for further information.

The meeting was called to order at 7:00pm. The Pledge of Allegiance was led by Mayor Pro tem Johnson.

Roll Call.

Present: Donna Johnson, Joy Banks, Cynthia Butterworth, Christy Hirshberg, Walt Welsch, Matthew Williams (Not voting), Jennifer Fuller (Not voting), Thomas Benavidez, Attorney (Not voting).

Excused: Johann Wallace (late), Debbie Trate.

The invocation was offered by Elder James Thomas.

B. Call to the Public

Mayor

A.R.S. 38-431.01 states the Public Body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the Public Body. At the conclusion of an open call to the public, individual members of the Public Body may respond to criticism made by those who have addressed the Public Body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the Public Body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

There were no public comments offered.

C. Consent Agenda

Mayor

All items listed in the Consent Agenda are considered routine matters and will be enacted by one motion of the Council. There will be no separate discussion of these items unless a Member of the Town Council requests that an item or items be removed for discussion. Council Members may ask questions without removal of the item from the Consent Agenda. Items removed from the Consent Agenda are considered in their normal sequence as listed on the agenda, unless called out of sequence.

- C.1 Consider approval of the minutes of the work sessions held on February 28, 2019.
- C.2 Consider approval of the minutes of the regular meeting held on February 28, 2019.
- C.3 Consider approval of the Invoice Payment Approval Report in the amount of \$ **147,021.53**
- C.4 Authorize the declaration as surplus property the following Items, to be sold by auction or otherwise disposed of in accordance with Town Policy:
 - a. 1986 Ford L7000 Dump Truck 1FDNK70U8GVA17214
 - b. Caterpillar 966 front end loader 94X02125
 - c. Bucket and forks for Caterpillar 966 front end loader

Motion: Consider approval of the Consent Agenda, **Action:** Open for Discussion and/or Action, **Moved by** Donna Johnson, **Seconded by** Christy Hirshberg.

Motion: Consent agenda, **Action:** Approve, **Moved by** Donna Johnson, **Seconded by** Christy Hirshberg.

Motion passed unanimously.

D. Unfinished Business before the Council

Mayor

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.

- D.1 Discussion and/or Action [Mayor Wallace]: Second Required Reading and Adoption of Ordinance 2019-10, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF HUACHUCA CITY, ARIZONA, AMENDING THE TOWN CODE, TITLE 8 "HEALTH AND SAFETY," TO ALLOW FOR BOTH CIVIL AND CRIMINAL PENALTIES FOR TITLE 8 VIOLATIONS.

Motion: Item D.1, **Action:** Open for Discussion and/or Action, **Moved by** Donna Johnson, **Seconded by** Christy Hirshberg.

Mayor Pro-Tem Johnson asked if they were questions on this item, being none a 2nd was requested.

Motion: Ordinance 2019-10, Action: Adopt, Moved by Donna Johnson, Seconded by Cynthia Butterworth.

Motion passed unanimously.

E. New Business before the Council

Mayor

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.

E.1 Discussion and/or Action [Mayor Wallace]: Proclamation declaring March as Women’s History Month.

Motion: Item E.1, Action: Open for Discussion and/or Action, Moved by Donna Johnson, Seconded by Christy Hirshberg.

Mayor Pro tem Johnson read the proclamation. No Council action or vote required. Councilmember Welsch called for a point of order as the item was only read, not passed. Mr. Benavidez advised Council that under Town code the Mayor could provide a proclamation.

E.2 Discussion and/or Action [Director Harvey]: Presentation by the Friends of the Huachuca City Library of a plaque in appreciation to Fred Banks for his work on the relocation of the connex.

Motion: Item E.2, Action: Open for Discussion and/or Action, Moved by Donna Johnson, Seconded by Cynthia Butterworth.

Director Harvey introduced Chuck Muscato of the Friends of the Huachuca City Library who presented Mr. Fred Banks with the plaque. Mr. Muscato also thanked Town Council for allowing the Friends to relocate the connex. No Council action or vote required.

E.3 Discussion and or Action [Director Harvey]: Approval and acceptance of quote for purchase of fireworks for the Town’s Annual 4th of July Celebration.

Motion: Item E.3, Action: Open for Discussion and/or Action, Moved by Donna Johnson, Seconded by Cynthia Butterworth.

Director Harvey presented the Council with three quotes. The quotes are from the same company as last year and the prices have not changed. Ms. Harvey recommended the first quote for \$5,000 which is a 20-25 minute display.

Councilor Welsch expressed his opinion that, due to the financial constraints the Town is currently facing, he feels the fireworks are absurd.

Mayor Pro tem advised the fireworks are provided for in the Town's current budget.

Councilor Butterworth advised she thought one of the reasons for passing the ordinance allowing the sale of alcoholic beverages on Town property was so the Town could have events like this sponsored. That may be the case in the future, but the Town can't wait to find a sponsor; the fireworks order has to be processed in the very near future. Director Harvey added that the Whetstone Fire Department is conducting the fireworks show setup for free again this year. Councilman Welsch stated again, he doesn't feel that we should spend the money.

Motion: quote #1 for fireworks, **Action:** Approve, **Moved by** Donna Johnson, **Seconded by** Joy Banks.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Donna Johnson, Joy Banks, Christy Hirshberg.

No: Cynthia Butterworth, Walt Welsch.

Absent: Johann Wallace, Debra Trate.

The Town Manager Williams raised the question to the attorney if the vote prevailed or if we needed 4 affirmative votes for the motion to pass. The attorney requested this item be deferred for a short time while he researched the answer.

- E.4 Discussion and/or Action [Director Harvey]: Council Decision Request for approval for Rain Harvesting and Pollinator Garden projects.

Motion: Item E.4, **Action:** Open for Discussion and/or Action, **Moved by** Donna Johnson, **Seconded by** Joy Banks.

Mayor Wallace joined the Council meeting at 7:23pm

Director Harvey presented the plan for a rain water harvesting project. The project will cost the Town about \$170.00. The only maintenance will be cleaning the leaf-eater periodically. In conjunction with the rainwater harvesting project, Director Harvey would also like to build a pollinator garden, including a Monarch butterfly waystation and edibles. The garden would be watered by the rainwater harvesting, so the garden will only be built if the grant for the rainwater project is awarded. Public Works will be doing the install, it has already been discussed with Director Halterman.

Motion: approval of the rainwater harvesting project and, contingent upon the rainwater grant, building the garden, **Action:** Approve, **Moved by** Donna Johnson, **Seconded by** Johann Wallace.

Motion passed unanimously.

Attorney Benavidez advised the Council that the 3-2 vote for fireworks prevails. The Council does not require a "Super-majority" vote for the item.

E.5 Discussion and/or Action [Councilmember Welsch]: Town insurance coverage of volunteers.

Motion: Item E.5, Action: Open for Discussion and/or Action, Moved by Johann Wallace, Seconded by Donna Johnson.

The question was brought up previously regarding whether volunteers are covered by the Town's insurance in the event one was injured. The Town Manager advised Council the risk pool stated it would cost \$116.64 per volunteer, per year for workman's comp coverage. The Mayor asked if this would cover all volunteers if listed. The Town Manager responded, yes they would. Mayor Wallace asked if the risk pool defined "what is a volunteer". The Town Manager asked Ms. Vu if she had more information on that. She responded "No".

Councilmember Welsch added to the best of my knowledge the most of common definition of volunteer is anyone who provides services for free to the city or municipality. The Town Manager responded that for that to be possible we would have to have a list of volunteers. The Town Manager further stated this would be interested for projects such as with the animal shelter renovation. Mayor Wallace asked does this mean a volunteer organization need an insurance rider. Councilmember Hirshberg asked "could they simply sign a waiver"? The Town Manager added that insurance protects the Town and the volunteers. The Town attorney advised that some waivers are valuable, some aren't. He added that an injured volunteer's insurance may sue a group, even if the volunteer chooses not to sue for damages. Councilmember Welsch asked in this state "are people who are required to do public service insured"?

Councilmember Welsch asked Director Harvey if Matthew had ever spoken to her about volunteers. She responded "not that I recall sir, and we don't have any volunteers right now". Councilmember Welsch stated "you have had community service people". Director Harvey agreed.

Councilmember Welsch asked Chief Jim Thies "if the Town Manager had spoken with him about volunteers"? Chief Thies responded "Yes". Councilmember Welsch asked "Did he seem to be aware what was going on?" Chief Thies responded "We determined they couldn't use volunteers at that time, as we didn't know if they could be covered". Councilmember Welsch asked "Was it ever researched or clarified". Chief Thies responded "I don't know if it was researched".

Mayor Wallace "asked Councilmember Welsch, what are you driving at". Councilmember Welsch responded "I think he should've gotten to this a long time ago". The Town Manager stated "we told volunteers they couldn't use ladders, as they aren't insured. So, yes sir we discussed volunteers. Volunteers were told things they could or could not do." Councilmember Welsch "asked Tammy Mitchell about this because they were using volunteers at the Senior Center, and Tammy Mitchell stated it was fine. Councilmember Welsch was told it was fine then, but now I find out it isn't fine. I know it's been a problem for 5 years". Mayor Wallace responded "well that was five years ago, and this is now. So,

what we do know is, yes we can use them, at a cost of \$116.64 per volunteer, per year". Councilmember Welsch added "we still need to find out about community service people". The Mayor asked "if the Town Manager had discussed this with other Towns?" The Town Manager responded "I reached out to other organizations, I didn't get a response". He added "we are extremely liable for the prisoners, and I need to read what the IGA says, I don't know off the top of my head". Councilmember Welsch responded "that's right".

After much discussion, the attorney advised that the Town has coverage if anyone, volunteer or otherwise is injured. Ms. Ha Vu, Finance Director for the Town advised the Council that according to Arizona Revised Statutes, any Town department that wishes to utilize volunteers must furnish a list of the names of the volunteers and the Council must approve the list by resolution.

Mayor Wallace asked "how many individuals wanted to paint the community center? He added "It's one day of work, and we have to cover it. What's the point in being a volunteer"? Town Manager Williams stated "on the flip side of it, if you are going to have a volunteer at the Senior Center, who volunteers all the time, then it's worth it. At some point you have a different threshold, at some point, it becomes worth the expense." The Mayor added "for one day it isn't worth it, for long term it is".

Councilor Welsch mentioned that in other states, it is possible to insure an event rather than each volunteer when the event is a one-time thing. Mr. Welsch also advised his concern over the inmates and community service personnel. Mr. Welsch advised he believes the Town needs more information and that all volunteerism in the Town should stop until a determination is made. The Town attorney added "that if we are going to do that, provide worker's comp, then we have to sign a contract. Then they become employees". The Mayor added "volunteers will have to fill out an application, provide an I-9, whether they are covered or not, people are going to sue. Whether we have coverage or not; they are going to sue. Nothing we can do about it. I don't know what motion to make or how to go forward".

Councilmember Welsch added "that until we have more information all use of volunteers in this Town should be suspended, until this is properly resolved". Finance Clerk Vu added that for volunteers, Council must pass a resolution for volunteers to be covered. The Mayor asked Director Harvey "does the library employee volunteers"? Director Harvey responded "At this moment the library has no volunteers, and I would like to add the Friends of the Library is an organization separate from the library, they are not volunteers. They have their own meetings, their own minutes. I provide a report, I am not part of the friends of the library. They are not volunteers, we have no volunteers at this time.

We have community service people, but that is a totally separate issue." Mayor Wallace added "We have an IGA with the DOC", Councilmember Welsch "do you want to make a motion"? Councilmember Banks asked "do we need a resolution for each volunteer"? Clerk Vu added all the volunteers could be on the same list, per department. Councilor Welsch added we need more information about volunteers, community service, I think we should suspend volunteers until we know more. Director Harvey added "the Friends of the Library are not volunteers". Councilmember Welsch added "if they are working for the city, they are volunteers".

Motion: determine additional information regarding Inmates and community service personnel, **Action:** Direct Staff, **Moved by Johann Wallace, Seconded by Christy Hirshberg.**
Motion passed unanimously.

- E.6 Discussion and/or Action [Manager Williams]: Approval of authorization to pay the remaining balance owed for the ACO truck so that the town may obtain the title and transfer ownership to the winning bidder.

Motion: Item E.6, **Action:** Open for Discussion and/or Action, **Moved by Johann Wallace, Seconded by Donna Johnson.**

The ACO truck sold on Public Surplus. Staff is asking for authorization to pay off the balance owed on the truck; the Town will recoup the cost when Public Surplus forwards the payment from the auction to the Town.

Motion: pay off the balance owed for the ACO truck, **Action:** Approve, **Moved by Johann Wallace, Seconded by Donna Johnson.**
Motion passed unanimously.

- E.7 Discussion and/or Action [Manager Williams]: Approval of authorization to spend up to \$50,000 to purchase a front-end loader from the sale of surplus landfill equipment.

Motion: Item E.7, **Action:** Open for Discussion and/or Action, **Moved by Johann Wallace, Seconded by Christy Hirshberg.**

The Town received a check for \$139,000 for the equipment previously sold and has purchased a scraper and 10 wheel dump truck. All of the money the Town is receiving for selling old equipment is being used to buy better, newer equipment. Councilmember Welsch asked if staff was having issues with which department owned the equipment. The Town Manager advised Council that due to bad records we cannot state what we paid for equipment, let alone what department.

Motion: authorization to expend up to \$50,000 for a front-end loader for the landfill, **Action:** Approve, **Moved by Johann Wallace, Seconded by Christy Hirshberg.**
Motion passed unanimously.

- E.8 Discussion and/or Action [Manager Williams]: Approval of authorization to spend up to \$10,000 to purchase a dump truck from the sale of surplus Town equipment.

Motion: Item E.8, **Action:** Open for Discussion and/or Action, **Moved by Johann Wallace, Seconded by Joy Banks.**

Mayor Wallace advised there needs to be a clear line of accounting for where the money is coming from and where the money is being spent. Mr. Williams agreed.

Motion: authorization to expend up to \$10,000 in surplus funds to purchase a dump truck, **Action:** Approve, **Moved by Johann Wallace, Seconded by Donna Johnson.**
Motion passed unanimously.

- E.9 Discussion and/or Action [Manager Williams]: Council staff direction on budgeting issues regarding legal costs, insurance costs & auditing costs.

Motion: Item E.9, **Action:** Open for Discussion and/or Action, **Moved by** Johann Wallace, **Seconded by** Cynthia Butterworth.

Currently, the costs for legal services, auditing and insurance are split up equally between departments. After discussion, it was determined that in the next budget cycle, departments with vehicles will be responsible for insurance costs for those vehicles, legal fees will be budgeted under Council and auditing will be split 50% under the General Administration budget, 25% under the landfill budget, and 12.5% under each of the budgets for Water and Sewer.

Motion: under next budget cycle, split the services for auditing as 50% General Admin, 25% landfill, 12.5% for water and 12.5% for sewer. Legal costs will be covered under Council's budget and insurance for vehicles will be split between the departments that have vehicles; the remainder of the insurance costs will be budgeted under General Admin. Councilmember Welsch added this way would work for this year, but should be reviewed during the next budget year at this time, as part of the Town Manager's job. Councilmember Welsch also advised SEAGO fees should be included under Council. **Action:** Direct Staff, **Moved by** Johann Wallace, **Seconded by** Donna Johnson.

Motion passed unanimously.

Motion: 10 minute break, **Action:** Enter Recess, **Moved by** Johann Wallace, **Seconded by** Cynthia Butterworth.

Motion passed unanimously.

Recess 8:22-8:32pm

Mayor Wallace called the meeting back to Order at 8:32pm.

- E.10 Discussion and/or Action [Manager Williams]: Executive [closed] session, pursuant to A.R.S. 38-431.03(A)(3) and (4) for the purpose of discussion and consultation with the Town's attorneys pertaining to the pending litigation with ME Management [Dusk Till Dawn]. Following the executive session, the Council may take action in open session to direct the attorneys, approve a settlement of the case, or defer action to a later date.

Motion: Item E.10, **Action:** Open for Discussion and/or Action, **Moved by** Johann Wallace, **Seconded by** Donna Johnson.

Motion: executive session, **Action:** Enter Closed Session, **Moved by** Johann Wallace, **Seconded by** Donna Johnson.

Motion passed unanimously.

Council entered public session at 9:21pm.

Motion: authorize attorneys to proceed as instructed in the executive session, **Action:** Direct Staff, **Moved by** Johann Wallace, **Seconded by** Cynthia Butterworth.
Motion passed unanimously.

- E.11 Discussion and/or Action [Manager Williams]: Executive [closed] session, pursuant to A.R.S. 38-431.03(A)(1) for discussion regarding the reappointment of James Thies to the position of Town Police Chief. Following the executive session, the Council may take action in open session or defer decision to a later date.

9:22pm, Councilor Welsch exited the Council Chamber.

Motion: executive session, **Action:** Enter Closed Session, **Moved by** Johann Wallace, **Seconded by** Donna Johnson.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Johann Wallace, Donna Johnson, Joy Banks, Cynthia Butterworth, Christy Hirshberg.

Excused: Walt Welsch.

9:23pm, Councilor Welsch reentered the Council Chamber.

Council entered public session at 10:08pm

Motion: reappointment of Chief Thies to his position, **Action:** Approve, **Moved by** Johann Wallace, **Seconded by** Christy Hirshberg.

Motion passed unanimously.

- F. Reports of Current Events by Council
No reports made.

- G. Items to be placed on future agendas
Mayor Pro tem Johnson will email her item to the clerk.

- H. Adjournment

Motion: Adjourn meeting, **Action:** Adjourn, **Moved by** Johann Wallace, **Seconded by** Christy Hirshberg.

Vote: Motion passed (summary: Yes = 5, No = 1, Abstain = 0).

Yes: Johann Wallace, Donna Johnson, Joy Banks, Cynthia Butterworth, Christy Hirshberg.

No: Walt Welsch.

Meeting was adjourned at 10:09pm.

Approved by Mayor Wallace on March 28, 2019



Johann Wallace, Mayor

Attest: 

Matthew Williams, Interim Town Clerk

Seal:



Certification

I hereby certify that the foregoing is a true and correct copy of the Minutes of the Meeting for the Huachuca City Town Council held on March 14, 2019. I further certify that the meeting was duly called and a quorum was present.



Matthew Williams, Interim Town Clerk