



TOWN OF HUACHUCA CITY

The Sunset City

**MEETING MINUTES OF THE
HUACHUCA CITY TOWN COUNCIL
WORK SESSION
September 29, 2022 AT 6:00 PM
COUNCIL CHAMBERS
500 N. GONZALES BLVD.
HUACHUCA CITY. AZ 85616**

AGENDA

A. Call to Order – Mayor 6:00pm.

a. Pledge of Allegiance Mayor Wallace

b. Roll Call and Ascertain Quorum Roll Call.

Present: Johann Wallace, Jeffrey Ferro, Cynthia Butterworth, Keith Settlemeyer, Christy Hirshberg, Debra Trate, Jean Smelt, Town Manager Suzanne Harvey (Not voting), Town Clerk Brandye Thorpe (Not voting), Town Attorney Thomas Benavidez (Not voting).

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.

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.

C. New Business Before Council – 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 Discussion regarding possible changes to the Town's Sign Regulations located in Chapter 18.110 of the Town Code.

Motion: Item C.1, **Action:** Open Discussion Only, **Moved by** Johann Wallace, **Seconded by** Christy Hirshberg.

Dr. Jim Johnson: To start with the section 18.110.210 wall signs. So working in the order of the packet. The first question is, how many wall signs should be allowed. The second question is what should the maximum size of all signs in a general business?

Councilmember : What's a wall sign?

Dr. Johnson: A sign on the outside of the building. He also clarifies for Council that our General Business District is right along the highway, but also includes Coca Cola.

Councilmember Ferro: Sub subsection one I guess wall sign not to exceed 2 square feet of sign area per each five linear feet for the building or two square feet per each five linear feet of property, do we take the greater or lesser of the two?

Dr. Johnson: It would be whichever the applicant wishes to use, whichever is the biggest for them.

Councilmember Ferro: OK, whichever one is, I think we need to specify in that section. It needs to be written down so there's no, whichever way you like.

Councilmember Smelt asks for clarification as to what is linear feet. Manager Harvey and Dr. Johnson explain it to her.

There is more discussion about the reasoning behind this code.

Mayor Wallace: If I remember correctly, back when we had P&Z, we initially looked at Sierra Vista's sign code as a starting point to build ours.

Dr. Johnson gives a brief history of how this code came about due to the P&Z board and was instated in 2018.

So Councilman Ferro, like you're talking about in this one here, you know, there's actually, you know, two opportunities that we would look at. The maximum size 2 square feet of sign area for each linear foot of building frontage. OK, or two square feet of sign area for each five linear feet of property. Lot frontage, whichever works out best. Whichever can give you the bigger sign.

Manager Harvey: So this just gives options to the property owners. So the property owner may not want the bigger sign, they might want something that looks attractive. So essentially they have that choice. They can go anywhere between 2 square feet of sign per linear foot of the building or for their whole property frontage, and it's up to the business owner, property owner to decide that and so to Councilmember Ferro's question if it would make it clear or maybe

what we need to add is something here at the end of that we say further desire of or you know at the business owners option. So we can just add that to clarify, but that's a choice.

Councilmember Ferro begins to ask another question, but there is some confusion because the question is not in regards to the next slide. It is clarified that we are moving on to the next slide.

Manager Harvey: But before we go mayor and Council, I would like to ask very quickly the feedback we've got on this so far is simply to add that one line for clarification. Everyone OK with the size? Of the signs and the number of signs, yes, OK.

Councilmember Butterworth asks if this includes the glass area.

Dr. Johnson states that the glass area is extra signage. The limit is 25% of the glass per side.

There is more discussion about minimum sign size. There is currently no minimum.

Council moves on to free standing signs.

Dr. Johnson explains that currently we have a limit of 10 foot signs, to the top of the sign, not the bottom. That is measured from street grade. Max size is 32sq feet double faced. The previous code allowed 20 feet high. Pole signs were eliminated in the rewrite in 2018. He compares our current code to Sierra Vista's current code.

Mayor Wallace clarifies to Council that the inclusion of Sierra Vista's code is not to adopt their code but to give an example of what another municipality currently has.

Councilmember Ferro states that he believes the sign height is too low. He states that some businesses that sit lower than road grade have signs that are barely visible from the road.

Mayor Wallace would like to see 15 feet along the highway.

Councilmember Trate agrees.

Councilmembers bring up that there are some signs that are higher than the 10 foot limit already.

Manager Harvey states that there are a lot like that. They were erected prior to the code change.

Mayor Pro Tem asks if they were grandfathered in.

Dr. Johnson states that we don't use that term, but they are considered non conforming use. They are required to be maintained however.

Councilmember Smelt asks if it matters if they go out of business.

Dr. Johnson advises that if they don't maintain it and are out of business for 6 consecutive months it would have to be removed.

Councilmember Ferro asks where the 10 foot limit came from.

Dr. Johnson advises that P&Z settled on it because it is basically eye level from the road.

Councilmember Trate states that some signs sit back from the road and can't be seen so she thinks it should be higher than 10 feet, but she wants to know how far back from the highway they have to be.

Dr. Johnson advises that the setback varies through town between 12-15 feet. ADOT determines these setbacks, we just have to comply. They base them on what they see as possible future use.

Mayor Wallace states that when this comes for a vote, it should be between 15 and 20 feet since all of Council agrees that 10 feet is not tall enough.

Councilmember Butterworth would like a map of ADOT's setbacks to be available for prospective businesses to be able to review.

Councilmember Smelt asks how the height is measured, if it is from ground level or what because for businesses sitting down below the highway, their signs wouldn't be as visible as someone level with the highway.

Dr. Johnson states it is measured from the highway. It's confusing. It could be measured from base elevation which is looking straight down to the ground.

Mayor Wallace states it need to be the same for everyone. It might be clearer and easier for everyone to follow if measured from base.

Councilmember Butterworth states it should be based off the highway.

Discussion is had about the disadvantages to some businesses with it being based off base elevation and there signs may not be visible from the highway due to the fact that they are already lower than the highway.

Most agree that the height should be determined off highway 90.

Mayor Wallace states he believes staff has enough information on how to word it.

Moving on to wall signs in industrial areas.

Dr. Johnson states we do not have many areas that fall into this category. No number of signs is stated.

Councilmember Trate asks if Grasshopper is in compliance.

Dr. Johnson states that we can't go backward. He does not know how it was judged before he came. He can't answer that.

Councilmember Smelt asks if we can make them conforming instead of nonconforming if the business goes out of business for 6 months or if the sign gets torn down.

Dr. Johnson states that first it would have to be confirmed that it was nonconforming. He also advises that a side effect of updating/changing code is that there will be a lot of nonconforming things.

Mayor Wallace asks if there is any reason why industrial shouldn't match commercial.

None is given, Council agrees that it should.

Mayor Wallace asks that this happen for the industrial free standing signs as well.

Moving to roof signs.

Dr. Johnson states that roof signs are not mentioned as permitted so they are currently not permitted.

Councilmember Trate advises there are two of these in town currently.

Dr. Johnson asks if Council wants to allow roof signs or not.

Mayor Pro Tem Hirshberg asks if there is any liability to the town if we were to allow them and one got knocked down and damaged property or injured someone.

Attorney Benavidez advises that the town wouldn't really have any liability, however it wouldn't prevent the town from being sued if that should occur which would result in legal costs.

Council does not want to allow them.

Councilmember Butterworth asks if painting on a roof, the business name and phone number is also prohibited.

Dr. Johnson advises that it is allowed. It does not even require a permit.

It is decided to prohibit roof signs and signs that rise above roof level like Sierra Vista currently has.

Nonconforming Signs section:

Manager Harvey advises that this also prohibits signs advertising goods or services not provided at the location. She states that we have many right now and would like to know what the consequences are if people don't comply when they are contacted to remove them. She further states that there needs to be a consequence, or Doc will never be able to enforce it. Some places clearly state that if the property owner doesn't remove it, the town will and the owner will have to pay to get it back.

Councilmember Butterworth asks how that would affect painted on signs.

Dr. Johnson states they would be painted over.

Councilmembers point out that there is already a consequence in code.

Councilmember Ferro states it is in section 18.110.040.

Moving on to other prohibited signs:

Dr. Johnson advises there is just one part to draw attention to which is where it is prohibited to have a sign advertising a product or business not at that location.

This is discussed and Council decides that there should be an addition for licensed advertising of other businesses being allowed.

Councilmember Ferro asks why billboards are prohibited.

Dr. Johnson advises that has been in the code for as long as he is aware.

It is agreed that billboards will continue to be prohibited.

Mayor Wallace asks about the digital signs and that there is consistency between prohibited lighting on these and that those prohibitions are added to this section.

Councilmember Trate asks about blow up signs and where it says they are limited to 10 feet.

Dr. Johnsons advises air activated signs are only allowed up to 14 feet according to section 18.110.260c.

Mayor Wallace moves to location restrictions. He advises he likes the Sierra Vista code.

Councilmember Trate brings up that theirs doesn't include not attaching to utility poles.

There is discussion as to how confusing it is that signs can be attached to fences but not fence poles.

Mayor Wallace asks that the last bullet be replaced with Sierra Vista's. Looking at our sign code, take bullet 4 and 5 and pin to Sierra Vista's.

Mayor Wallace allows Councilmember Ferro to asks all of his questions that were not covered in the slide presentation.

Councilmember Ferro asks why sign digital and sign electronic message display are defined differently in the definitions section.

Mayor Wallace advises that a digital sign could be one that doesn't display a message, it's static. Electronic message display signs are also able to display words, images and such.

Councilmember Ferro asks about enforcement and where the notice would need to be posted if it is determined to be non compliant, should it specify occupied properties.

Dr. Johnson advises this is required by law. Even if the property is not occupied, notice must be posted on the property.

Attorney Benavidez confirms this is required by the Constitution, it is due process.

Councilmember Ferro asks why whenever someone wants to appeal, they have to go to the board of appeal when it's just the Town Council.

Attorney Benavidez advises that there is a legal requirement to have a board of adjustments.

Councilmember Ferro asks if where it says that revocation and removal of signs, notification has to be made by publication, where does it have to be published and shouldn't that be specified.

Attorney Benavidez advises there is a statute governing this, which does cover what "by publication" means.

Councilmember Ferro asks if we can mention the ARS statute in this.

Mayor Wallace advises that we try not to do that because they change and then the code would have to be updated to reflect that change and it costs a lot of money.

Councilmember Ferro wants it to be more clear what publication means.

More discussion about this.

Councilmember Smelt asks if we're done yet.

Mayor Wallace states we aren't even done with the first agenda item yet.

Councilmember Ferro asks if he is keeping her from something.

Mayor Wallace asks Councilmember Ferro to sit down.

Councilmember Ferro asks if a resident has to get a permit to install a flag pole at their residence.

Dr. Johnson advises there is a permit required for flag poles.

Councilmember Ferro asks if there is a suspense for the building official to approve or deny a sign permit application.

Dr. Johnson advises there is nothing required, but they process them as fast as possible based on completeness of the application and if any revisions are necessary.

More discussion about if there should be a timeframe on the application.

Councilmember Ferro asks what are considered required landscape material.

Dr. Johnson advises that it has to be put back in the way it was found by the contractor. The required landscape material is defined in the development code.

Councilmember Ferro asked why no wall digital signs are allowed.

Dr. Johnson advises it draws attention away from the roadway.

Mayor Wallace thinks these should be allowed if they are static.

Councilmember Ferro asks why temporary signs are only allowed for 30 cumulative days in a 6 month period.

Manager Harvey advises this would be difficult to enforce.

Concern is expressed that they are maintained.

Councilmember Ferro asks about a possible contradiction where it states that signs located in a public right-of-way shall not be closer than 10 feet from the sign post to the curb but also states that in no event shall any portion of the sign be closer than one foot to a public or private sidewalk.

Dr. Johnson will note this for further review.

Motion: 7:44pm, **Action:** Take a break until 8:00pm, **Moved by** Johann Wallace, **Seconded by** Jeffrey Ferro.

Motion Passed Unanimously.

Motion: 7:56pm, **Action:** Enter back into public session 4 minutes early, **Moved by** Johann Wallace, **Seconded by** Jeffrey Ferro.

Motion Passed Unanimously.

C.2 Discussion regarding possible changes to the Town's Business Licensing Regulations found in Chapter 5.05 of the Town Code.

Motion: Item C.1, **Action:** Open Discussion Only, **Moved by** Johann Wallace, **Seconded by** Cynthia Butterworth.

Clerk Thorpe advises Council of her proposed changes, to include removing the requirement for the building official to inspect the premises prior to license issuance, removing the Police Department from the peddlers license process, changing the requirements for photos and fingerprint cards for peddlers license, instating a peddlers license fee, selling on streets and sidewalks should be approved by the Town Clerk and not have to go before Council for

approval, and allowing prorated half year license fees. She states that the definition of a business was looked at but seems sufficient.

Councilmember Trate asks about home based businesses in the definitions and where it states that those can't be the primary source of income, that wording will be stricken.

Mayor Wallace would like to see peddlers license information posted to the website so that residents can go look and see who will be going around town.

Other issues include exclusive rights allowed to a certain person for cable television services to the town, which needs to be researched.

Further changes to be looked into:

Remove the newsboys exempt section

Look into farm products exemption and how that would impact the proposed farmer's market Swap meet laws will be looked into to see if code follows with that

Food Trucks will be looked into-are they considered a business and need a license?

Manufactured Home Parks- are these a business?

AirB&B's- regulate them?

Change all payment due dates to the first business day.

D. Adjournment

Motion: 8:32pm, Action: Adjourn, Moved by Johann Wallace, Seconded by Christy Hirshberg. Motion passed unanimously.

Approved by Mayor Johann R. Wallace on October 13, 2022.

Mr. Johann R. Wallace
Mayor

Attest: _____
Ms. Brandye Thorpe,
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 September 29, 2022. I further certify that the meeting was duly called and a quorum was present.

Ms. Brandye Thorpe,
Town Clerk