

CONSENT AGENDA

Agenda Item: IX-A

Date: 5/23/11

MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
628 NORTH MAIN STREET
ELOY, ARIZONA 85131
MAY 9, 2011
7:00 P.M.

Staff Present: Ruth Osuna-City Manager; Stephen Cooper-City Attorney; Mary Myers-City Clerk; Bill Pitman-Police Chief; Brian Wright-Finance Director; Rick Miller-Interim Community Development Director; John Mitchell-City Engineer

I. CALL TO ORDER

Mayor Jackson called the meeting to order at approximately 7:05 p.m.

II. INVOCATION

Invocation (song) was given by Veronica Labagh Coplin.

III. PLEDGE OF ALLEGIANCE

Mayor Jackson led the Council and public in the Pledge of Allegiance.

IV. ROLL CALL

Council Members Present: Council Member Belinda Akes, Vice Mayor Frank Acuña, Mayor Byron Jackson, Council Member Etta Ruth Amerson, Council Member Jesse Rosel, Council Member J.W. Tidwell

Council Members Absent: Council Member Joel Belloc (called in)

V. COMMUNICATIONS

Ms. Osuna conveyed the following communications to Council:

- Martin O’Haus, grants coordinator for the city passed away May 7th. A reception for Mr. O’Haus will be held tomorrow at the Eloy Lion’s Club, beginning at 6:00 p.m. His two brothers who are in town will be attending the reception and would like to

- meet those who knew their brother;
- The budget for FY 2011-12 is complete. The revenues (projected) were reviewed with Council in March and incorporated into the budget. Staff will present a balance budget to Council May 23rd prior to the regular meeting. However, staff can meet prior to this date if it is Council's preference.

Mayor Jackson recommended dedicating one evening solely to the budget.

It was the consensus of the Council to hold a budget work session on May 16th at 5:30 p.m.

Vice Mayor Acuña said he would like Council to have a copy of the budget for review prior to May 16th.

Ms. Osuna said the budget can be delivered to Council by May 12th.

Council Member Tidwell conveyed that prior to Ms. Osuna coming on board, Council received a monthly financial statement report and a monthly check distribution list report. He would like to start receiving these reports again.

VI. APPEARANCES FROM THE FLOOR

Eloy resident, Mark Cruz, conveyed he has been harassed by a police officer. He filed a complaint on the 10th with Ms. Osuna and has not had a response. He also complained that this officer gave city property away to his neighbor. Pictures of the property were handed out to Council.

Mayor Jackson told Mr. Cruz that his concerns are administrative and should be handled by the city manager. Council cannot respond to his concerns other than to direct staff to look into the matter. Mayor Jackson acknowledged to Mr. Cruz that he received his email which he discussed with Ms. Osuna about being handled internally.

Mr. Cruz said he had to pay an attorney \$2500 to put an injunction/harassment against the officer. He said the things that are in this report are not true (pointing to document in his hands).

Ms. Osuna explained that she has met with Mr. Cruz on two occasions as well as corresponded by email to him. Staff is actively looking into Mr. Cruz's allegations which takes time.

Mr. Cruz said he would like someone to investigate the police department. He also wants

someone other than the Eloy police department to conduct the investigation against the police officer who he claims is harassing him.

Ms. Osuna said she is aware of Mr. Cruz's request for an outside investigator which she is looking into.

VII. EXECUTIVE SESSION

Mayor Jackson announced Council would be going into executive session to discuss agenda item G.

Motion by Vice Mayor Acuña, seconded by Council Member Akes, to hold an executive session with the city manager, city attorney, city clerk and city engineer at approximately 7:21 p.m. for approximately 20 minutes, for discussion and consultation for legal advice with legal counsel concerning agenda item G, pursuant to the provisions of A.R.S. §38-431.03 (A) (3) (4) and (7), passed unanimously.

(Mayor Jackson reconvened the public meeting at approximately 7:39 p.m.)

VIII. CONSENT AGENDA

Council Member Tidwell requested agenda item X-1 be removed for discussion.

Motion by Vice Mayor Acuña, seconded by Council Member Tidwell to remove agenda X-1 from the Consent Agenda for discussion and approve remaining Consent Agenda items, passed unanimously by roll call vote.

<u>Agenda Item</u>	<u>Subject</u>
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IX. BUSINESS

- A. Approval of Minutes: 4/25/11(regular)
- B. Committee Reports: None
- C. Recommendation to the Arizona Department of Liquor Licenses and Control for a temporary Extension of Premises/Patio Permit for Tumbleweed Inn, located at 3815 W. Frontier Street, Eloy, Arizona
- D. Approval of Change Order #1 with EUSI, LLC for additional costs associated with liner replacement for the Biolac Aeration Basins at the City of Eloy Wastewater Treatment Plant
- E. Approval of addition to Landfill Groundwater Monitoring Contract with Bryan A. Stirrat & Associates

X. INFORMATIONAL ITEMS:

2. Report on WIFA application for Houser-Toltec Water Main Improvement Project

IX. BUSINESS

F. PUBLIC HEARING ON THE PROPOSED “SLIVER ANNEXATION” WHICH IS A SECTION LINE ROADWAY EASEMENT LYING WEST OF HIGHWAY 87 FOR A DISTANCE OF APPROXIMATELY ONE HALF MILE

Cover sheet discussion: A request for annexation has been made by the Rose Law Group on behalf of Walton International. The annexation area is the section line roadway easement lying West of Highway 87 for a distance of approximately one half mile. The current city limits is located on the north and south side of the proposed annexation with the exception of a parcel owned by Zavala Eloy Property LLC that is situated on the north side of Alsdorf Road at the mid-section line (see attached map and legal description of the annexation area).

During the City Council meeting on April 25th, the Mayor and City Council authorized staff to proceed with the proposed annexation. Arizona Revised Statutes 9-471 provides the legal framework whereby cities are able to annex land into the City. The statute requires the City to publish the notice of public hearing in a newspaper of general circulation at least 15 days before the end of the thirty day waiting period and at least six days before the public hearing. The City is also required to post notice of the hearing in at least three conspicuous places in the territory to be annexed at least six days before the public hearing. The City must also send notice of public hearing by first class mail to all property owners within the annexation area and to the Chairman of the Board of Supervisors of the County.

The public hearing is conducted within the last ten days of the thirty day waiting period beginning when the blank petition was recorded at the Pinal County Recorder’s office. City staff has completed the necessary steps mentioned above which enables the Mayor and City Council to conduct the public hearing. The purpose of the hearing is to receive input from any property owner that is impacted by the proposed annexation. This is a one property owner annexation and staff does not anticipate any questions about the annexation since the owner is making the request to be annexed.

Fiscal Impact – The fiscal impact of the proposed annexation involves the City of Eloy maintenance of that portion of Alsdorf Road being annexed. The City of Eloy

currently maintains the South half of the road due to a previous annexation. Alsdorf Road is currently a two lane paved rural section line road which is ultimately planned as a minor arterial according to the City of Eloy Small Areas Transportation Study. When the property develops on the North and South Side of the street, the City will require the developer(s) to dedicate the required right-of-way and improve the street to minor arterial standards.

Mayor Jackson declared a public hearing open to allow comments and/or questions from the public regarding the propose sliver annexation request.

Mr. Miller gave a brief overview of the proposed annexation.

There being no questions and/or comments from the public, Mayor Jackson declared the public hearing closed.

G. DISCUSSION AND POSSIBLE ACTION ON DETERMINING SIZE OF TRASH CONTAINERS FOR COMMERCIAL USERS AND COMMERCIAL RATES AND CHARGES

Cover sheet discussion: *Staff recommends that:*

1. *The Public Works Department make the determination on the size of trash containers in consultation with the City's waste contractor;*
2. *All commercial customers will be charged for twice a week service, regardless of trash generation; and,*
3. *Rates will be appropriately set to recoup all City costs.*

BACKGROUND

In response to a question from Council regarding trash pickup services within the City of Eloy, staff performed a simple audit of commercial accounts. Two issues were identified which require Council discussion and possible action.

Garbage and trash are defined in the Code as:

Garbage

- *All refuse from kitchens and other places where meats, fish, fruits or vegetables are prepared for food; all decayed or unsound fruits or vegetables and household waste that has been prepared for or is intended to be used as food or has resulted from the preparation of food; all glass, paper or metal food containers; and all sputum cups, sanitary napkins and surgical dressings.*

Trash

- *Class 1 Trash: Includes all paper, rags, magazines, paper cartons and ashes.*
- *Class 2 Trash: Includes refuse such as tree trimmings, chips, excelsior, grass, lawn clippings, leaves, palm fronds, straw, weeds, shrubs and limbs.*
- *Class 3 Trash: Includes domestic furniture and domestic appliances.*

The definition of trash in the City Code is synonymous to the definition as stated in the Arizona Administrative Code (AAC).

Frequency of collection is governed by the Arizona Administrative Code which states:

A. The frequency of collection shall be in accordance with rules of the collection agency but not less than that shown in the following schedules:

- 1. Garbage only -- twice weekly.*
- 2. Refuse with garbage -- twice weekly.*
- 3. Rubbish and ashes -- as often as necessary to prevent nuisances and fly breeding.*

B. A variance from the required frequency rate may be granted to allow for the collection of garbage once weekly. The variance may be granted by the Department of Environmental Quality upon submission of an acceptable plan approved by the local health department demonstrating that no public health hazards or nuisances will exist and that fly breeding will be controlled by either biological, chemical, or mechanical means. The variance may be revoked whenever the Department of Environmental Quality determines that the circumstances warranting the variance no longer exist.

The City Code is consistent with the Arizona Administrative and states:

- 1. Garbage and Class 1 trash will be removed by the city no less than twice per week.*
- 2. Class 2 and Class 3 trash will be removed by the city no less than four (4) times per year.*
- 3. Class 2 and Class 3 trash will be removed along with garbage and Class 1 trash if contained in accordance with the requirements herein set forth for garbage and Class 1 trash.*

In review of documents provided by the Finance Department and those of the City's

waste contractor, Right Away Disposal (RAD), staff determined that there are 212 commercial accounts. Of these commercial accounts, there are 48 accounts that are charged a residential rate or approximately 23% for all commercial accounts.

Issue 1 – Commercial vs. Residential Containers

City Code section 10-13.B.c. states: **Manually transported containers may be used in commercial areas where the public works director has determined that no more than one and one-half (1½) yards of garbage is generated over a period of seven (7) days.**

The density (pounds/cubic yard) of garbage varies widely, depending on whether it is residential, commercial, construction debris, etc. It is estimated that a small business, employing one to two people, would typically generate less than one and one-half yards of material over a seven day period.

According to the Finance Department, they were directed to permit residential containers for commercial customers. This direction appears consistent with the City Code when garbage generation rates are below one and one-half yards over a seven day period.

It is recommended that administratively the Public Works Department continue to make the determination on the size of trash containers in consultation with the City's waste contractor.

Issue 2 – Rate Charges for Commercial Customers

Section 10-2 of the City Code states, in part:

- A. *Establishment: All garbage and trash collected within the provisions of this chapter shall be collected at rates as determined by resolution of the City Council.*
- B. *Compulsory Collection: Every person owning or controlling real property within the City shall pay the garbage and trash fees established and provided for by subsection A of this section.*

The current rate structure determined by city council is as follows:

<i>Monthly Collection Costs</i>			
	<i>City</i>	<i>RAD</i>	
<i>Container Size</i>		<i>1x per week</i>	<i>2 x per week</i>
<i>95 Gallon</i>	<i>\$ 19.32</i>	<i>N/A</i>	<i>\$ 7.99</i>
<i>300 Gallon</i>	<i>\$ 64.40</i>	<i>N/A</i>	<i>\$ 28.00</i>
<i>450 Gallon</i>	<i>\$ 96.60</i>	<i>N/A</i>	<i>\$ 41.33</i>
<i>Two Yard</i>	<i>\$ 86.73</i>	<i>N/A</i>	<i>\$ 36.29</i>
<i>Three Yard</i>	<i>\$130.09</i>	<i>\$26.50</i>	<i>\$ 53.15</i>
<i>Four Yard</i>	<i>\$173.45</i>	<i>\$33.71</i>	<i>\$ 69.14</i>
<i>Six Yard</i>	<i>\$260.18</i>	<i>\$47.99</i>	<i>\$101.14</i>
<i>Eight Yard</i>	<i>\$360.90</i>	<i>\$63.98</i>	<i>\$131.41</i>

The audit revealed that some commercial customers receiving once a week service had their rates reduced by one-half. It is not recommended that this practice continue. The obligation to provide for twice a week service remains whether or not the customer puts a trash container out less frequently than twice a week.

The City will be able to maximize its available revenue to pay for its ongoing operations and maintenance costs. However, if it is determined that a commercial customer can utilize the smaller residential containers, then the current revenue generation remains unchanged, and increases to operation and maintenance costs will be subject to normal rate increases.

Issue 3 – Use of 300 and 450 Gallon Trash Containers

When RAD was awarded the contract to serve the City, the previous contractor removed all of the 300 and 450 gallon containers. RAD, recognizing that there was an issue of continuity of service deployed containers that were readily available in the industry. In this case they were larger 4 yard containers. According to RAD, new 300 and 450 gallon containers were not readily available because the industry was moving away from plastic containers to a more rigid metal container.

Today, the 4 yard containers continue to be used by customers who previously had

300 and 450 gallon containers. In some cases a 4 yard container can be downsized to a 2 or 3 yard container, but that would require input from RAD and the customer on trash generation rates. To some extent that has already been done, and service levels are appropriate, but staff will need to initiate a customer survey to verify this claim. Customers who were served by 300 or 450 gallon containers are being charged at the current City rates, not the rates for the containers supplied by RAD. The attached Exhibit 1 indicates that there are four customers that the amount the City pays RAD exceeds that which is collected which is creating a loss to the City in the amount of \$1662.51 monthly.

FISCAL IMPACT

The loss calculated based upon this audit occurs when the City is obligated to pay RAD more than what is collected. In the case of Issue 3, the loss is less than \$155.00/month or just under \$2,000 annually. On the other hand, the lost opportunity cost for not charging customers for the size of container RAD has supplied is over \$1,600.00/month or nearly \$20,000 annually.

Mr. Mitchell gave an overview of staff's recommendations for trash containers based upon a recent city audit of commercial accounts.

Mr. Mitchell pointed out that Bart Powell, owner of Right Away Disposal (RAD) is in attendance to answer questions pertaining to service.

Council Member Akes told Mr. Powell that in the original discussion, it was her understanding that he was going to address what size container each business needed. She wanted to know if this was ever done.

Mr. Powell conveyed RAD was working with the city in determining container size when the containers were removed before RAD started service. His staff did a quick survey with the business owners asking about service and number of containers to ensure service would not be interrupted.

Council Member Akes asked Mr. Powell if he had planned to do a more thorough survey after everyone was set up. If not, is this something RAD can do now.

Mr. Powell said yes. He said with the exception of a few customers, everyone has the proper level of service. He pointed out some customers may receive more service than what is needed, but there is no one who is not receiving enough service.

Mayor Jackson conveyed some members of Council were concerned about something not being done in regards to a couple of businesses whose rates are different, yet have the same size containers. However, Mr. Mitchell explained why those rates were not

adjusted - it's of a larger scope. Staff is attempting to make sure that everyone has the correct size container and that the city is charging appropriately.

Vice Mayor Acuña conveyed he understands staff needed the information for a bigger picture and report, but the inconsistency with the three businesses that Council Member Tidwell brought to Ms. Osuna could have been corrected and the information could have still been used. If more inconsistencies were discovered, they could be corrected with this report. Vice Mayor Acuña said staff was given the inconsistencies and the problem could have been addressed sooner than later.

Mayor Jackson asked Council Member Tidwell when did he bring this to staff's attention.

Council Member Tidwell said the middle of December.

Ms. Osuna acknowledged Council Member Tidwell did in fact bring this to her attention last December. However, once staff started looking into this, it became a bigger issue. Staff could have given Council Member Tidwell an answer to the three businesses he asked about, but it would not have resolved the bigger problem, which is what staff is attempting to do now. Staff wants to be consistent and follow the policy put in place by Council, treat all customers the same and make sure all customers have the appropriate size containers for their business.

Mayor Jackson wanted to know is it possible for businesses that have same size containers yet are being charged different rates to receive some type of credit to their account if it has been determined they were overcharged.

Ms. Osuna said staff can look at that possibility.

Vice Mayor Acuña conveyed the last contractor picked up all the trash containers when its contract expired with the city. He wants to make sure this does not ever happen again.

Mayor Jackson pointed out that RAD owns the containers so this may be a difficult task for staff to carry out.

Vice Mayor Acuña said he understands this - he just doesn't want it to happen the way it did with the last contractor. The contractor just came in and swooped up all the containers without any city preparation.

Council Member Akes recommended giving staff a time limit to resolve the issue.

Mr. Mitchell said he does not know exactly how long it will take-maybe 60 days. He plans to give Mr. Powell a copy of his summary to see if the city's numbers and RAD's numbers agree. After that, staff and RAD will go out to canvass the commercial customers.

Mayor Jackson complimented Mr. Powell on the level of service his company has provided for the city.

Mayor Jackson stated that staff has been given directives on how to proceed with this item and that no formal action from Council will be taken at this time.

X. INFORMATIONAL ITEMS: 1. Report on City's Vehicle and Equipment Condition

Cover sheet discussion: *Council has raised the question of routine preventative maintenance of vehicles and equipment, as well as questioned the age of the City's fleet. This report provides information on all City vehicles with the exception of the Police Department's vehicles. From this information, it is evident that the fleet is aging. An aging fleet is more costly to repair and maintain.*

The following two attachments provide detailed information on the City's fleet.

Attachment 1 – Light Equipment Recommendation for Repair and Replacement – lists cars and light duty pick up trucks. It does not include the Police Department fleet, but that information is available if requested. The vehicles are listed by Division and evaluated as to whether they are recommended for repair or replacement. Those considered for repair will result in an annual repair cost of approximately \$26,000.00. Those considered for replacement are estimated to cost approximately \$395,000.00.

Attachment 2 – Vehicle/Equipment Condition Report - lists heavy equipment. Vehicles and equipment are listed in order of fiscal year replacement consideration and associated costs.

Fiscal Impact

There is no immediate fiscal impact to this information report. Staff will continue repair equipment as necessary within budget allocations. Staff will begin to recommend vehicle and equipment replacement over the next five fiscal years.

Council Member Tidwell told Mr. Mitchell that on his cover sheet report, he states the report provides information on all city vehicles with the exception of the police department's vehicles. However, he could not find vehicle numbers 712, 714 and 723 on the list. He wanted to know which department those vehicles belonged to.

Mr. Mitchell conveyed he asked shop supervisor, Michael Gould to attend tonight's meeting just in case there were any questions pertaining to the report.

Mr. Gould conveyed that the vehicles in question belong to recreation.

Council Member Tidwell wanted to know why the vehicles were not listed on Attachment #1 which lists all city vehicles (except police).

Mr. Gould explained they were excluded because the vehicles in that department are in very good shape unlike other city vehicles that are in need of repair or replacement.

Council Member Tidwell said he is under the impression that parks and recreation is part of the city.

Mr. Gould said the omission could have been an oversight on his part.

Council Member Tidwell pointed out that the cover sheet does not state the report list vehicles that are not in need of repair/replacement.

Mayor Jackson asked who is responsible for adding the vehicles to the list.

Mr. Mitchell said it would be public works. He acknowledged the vehicles should have been added to the list and that he and Mr. Gould spoke about this. The list given to Council lists vehicles that meet a particular criterium (high mileage, aged). The list was put together for budget numbers to see what the magnitude of the fleet is. Again, Mr. Mitchell acknowledged that he should have added recreation and police department.

Council Member Tidwell pointed out the report said it excluded the police department, but not the recreation department.

Mayor Jackson said he wants to make sure Mr. Gould is not "thrown under the bus" because of a clerical oversight.

Council Member Tidwell wondered how many more vehicles may not be on the list. Council Member Tidwell was also concerned about vehicles that are not being utilized. He said vehicles 103 and 104 are 2005 pickups with low mileage in the same department. Council Member Tidwell said the bottom line is the report is not correct.

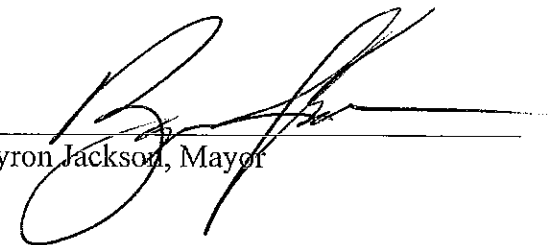
Mr. Mitchell apologized for the omission. He said he can correct the report if directed by Council. He assured Council that whenever he and Mr. Gould look at the city's fleet, they look at all vehicles.

Council Member Tidwell said he has seen a big improvement in preventative maintenance over the last three months.

Motion by Vice Mayor Acuña, seconded by Council Member Tidwell to approve city vehicle and equipment condition report, passed unanimously.

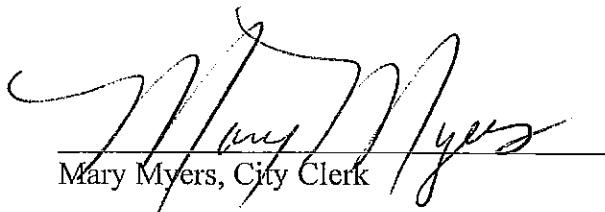
XI. ADJOURNMENT

There being no further business, Mayor Jackson adjourned the meeting at approximately 8:18 p.m.



Byron Jackson, Mayor

ATTEST:



Mary Myers, City Clerk