

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 20TH DAY OF FEBRUARY 2012**

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CALL TO ORDER- Vice Mayor Monika Cronberg called the regular meeting to order on Monday, February 20, 2012 at 7:00 p.m. and welcomed all here to tonight's meeting and Thank all for being here.

ROLL CALL-City Clerk Cristina Garcia Whelan, CMC, called the roll:

PRESENT

Vice Mayor Monika Cronberg
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman William "Bill" Holloway
Councilman Robert "Bob" Irvin

STAFF

City Manager Pat McCourt
City Attorney Hector M. Figueroa
City Clerk Cristina Garcia Whelan, CMC
Library Director Tom Miner
Public Safety Director Jake Weaver
Finance Director Ruth Graham
Public Services & Works Director Dave

Bonner

ABSENT

Mayor Gerald W. Lindsey

Development Services Jeff Stoddard

PLEDGE OF ALLEGIANCE TO THE FLAG-Vice Mayor Cronberg.

CALL TO THE PUBLIC-There was no response from the public present.

DECLARATION ON CONFLICT OF INTEREST-There was no response from the Council members nor staff.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented as presented and removing agenda items #19-22 relating to Executive Session and to adopt the remainder of the agenda.

SECONDED: Councilman Klump seconded the motion. **CARRIED.**

CONSENT AGENDA

Items that are considered to be routine by the City Council will be enacted by one motion **without** discussion. The consent agenda is a timesaving device and Council members have received documentation on these items for their review prior to the open meeting. Any Councilmember may remove any item from the consent agenda for discussion and a separate vote as deemed necessary. The public may view the documentation relating to the consent agenda 24 hours prior to the meeting at the City Clerk's Office, 101 S. Railroad Avenue, Suite B, Willcox, AZ from 8:30 a.m. to 4:30 p.m. or at the Elsie S. Hogan Library, 100 N. Curtis Avenue during normal working hours Monday-Saturday.

7A. THE MINUTES OF THE WORK SESSION HELD ON FEBRUARY 6, 2012

MOTION: Councilman Johnson moved to adopt the work session minutes held on February 6, 2012.

SECONDED: Councilman Holloway seconded the motion. **CARRIED.**

PUBLIC HEARINGS, PETITIONS AND COMMUNICATIONS

PUBLIC HEARINGS: The Mayor and Council will hold a public hearing on Monday, February 20, 2012, City Council Chambers, 300 W. Rex Allen Drive, Willcox, AZ regarding the Application for Liquor License Series #06 Quality Inn-Willcox, Person Transfer, Location Transfer, Corporation, Christina Selene Fraser, Harden Motel, Inc., 1100 W. Rex Allen Drive, Willcox, AZ.

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Vice Mayor Cronberg opened the public hearing at 7:04 p.m., and asked if anyone had any comments or questions. The Vice Mayor asked staff if any written comments were received and City Clerk Cristina Garcia Whelan, replied she had not received any. There being no further comments the Vice Mayor closed the public hearing at 7:05 p.m.

PROCLAMATION: The Mayor will proclaim and the Vice Mayor read and proclaimed: (1) Celebrating the Arizona Centennial throughout the Month of February by Honoring 100 Years of Arizona History 1912 – 2012, **Happy Birthday Arizona Month**; and (2) February 19-25, 2012 as **Willcox FFA Week**

The Vice Mayor read the **Happy Birthday Arizona Month** proclamation. Next the Vice Mayor read the **Willcox FFA Week** proclamation. **Applause!** The Proclamation was presented to the Officers: Larae Harguess, Kaitlyn Patterson, Marisa Colbert, Carolie Estes, and Johanna Schmidt. The activities have started and will be doing a breakfast beginning at 6:00 a.m. on Wednesday and all are invited. **APPLAUSE!**

COMMUNICATIONS: There are three (3) candidates running for the March 13, 2012 Primary Election. Candidates are: Earl B. Goolsby, Elwood "Woody" Johnson and William "Bill" Nigh. Polls open at 6:00 a.m. to 7:00 p.m., City Council Chambers, 300 W. Rex Allen Drive. There are no Write In Candidates for the Primary Election and Request for Early Ballots started February 16, 2012 by calling 1-888-457-4513.

DISCUSSION/DECISION REGARDING THE APPLICATION FOR LIQUOR LICENSE SERIES #06 QUALITY INN-WILLCOX, PERSON TRANSFER, LOCATION TRANSFER, CORPORATION, CHRISTINA SELENE FRASER, HARDEN MOTEL, INC., 1100 W. REX ALLEN DRIVE, WILLCOX, AZ

MOTION: Councilman Johnson moved to approve the Application for Liquor License Series #06 Quality Inn-Willcox, Person Transfer, Location Transfer, Corporation, Christina Selene Fraser, Harden Motel, Inc., 1100 W. Rex Allen Drive, Willcox, AZ.

SECONDED: Councilman Holloway seconded the motion. **CARRIED.**

DISCUSSION/DECISION REGARDING THE APPOINTMENT OF SHARON NIGH TO FILL THE UNEXPIRED TERM VACATED ON THE PLANNING AND ZONING COMMISSION, TERM TO EXPIRE JUNE 30, 2014

MOTION: Councilman Klump moved to approve the Appointment of Sharon Nigh to fill the term expiring on the Planning and Zoning Commission on June 30, 2014.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Vice Mayor Cronberg addressed Legal Counsel for input on a couple of the questions that were posted to him. City Attorney Hector Figueroa replied he has personally checked the City Code in regards to appoints of different Commissions. Planning & Zoning Commission happens to be a unique Advisory Commission because it is quasi Statutory as well as the Mayor and Council are Statutory. Planning & Zoning (P&Z) is covered by Statutes. There are two levels one is "Planning" and the other is "Zoning" and combined into Planning & Zoning Commission. Statutes regulate number of years Mayor and Council may serve but they do not regulate P&Z appointment or terms. Those are mandated, controlled and regulated by City Code and Ordinance. After checking P&Z Commission sections of the Code it just calls for appointment to be made by Mayor& Council. Another question was whether or not a member could serve on more than one Advisory Committee or P&Z. Result was he did not find anything that would prohibit somebody serving on more than one Advisory Committee. Some towns like Patagonia only have 600 voters and some people serve on three! Also sometimes the Chief of Police in the past serves as the Magistrate. In our town we are big enough to have different members of the community to serve on different commissions or advisory boards. The decision whether or not individuals serve is left up to the Mayor& Council. In regards to another question whether there can be potential Conflict of Interest and in the past some on the Council members have recuse themselves, i.e. Councilman Donahue works for the Hospital and is issue with Hospital he recuse himself, and if something with School items Vice Mayor Cronberg would recuse herself. Conflict of Interest issue revolves around if there is pituitary benefit or financial employment or otherwise that directly impacts the Mayor and Council than recuse for conflict. Another is if Mr. William Nigh is going to be elected to the Council, because there are 3-positions open and 3-candidates running and those 3-candidates will undoubtedly make it. We know definitely that Candidate Nigh will be on the Council. The question then would the appointment of Sharon Nigh to the P&Z Commission creates a conflict. Only create a conflict if there was some issue where it involved maybe their business, organization, or maybe rezoning on property that they have financial interest. It is harder if members of the Advisory Committee have spouses on the Council whether they are the Mayor or Council members. From checking the Statutes, checked some cases, checked our Code, and did not find that there would be a Conflict of Interest either with "Councilman Nigh" serving on the Council nor Sharon Nigh serving on P&Z Commission. Conflict of Interest is left pretty much to the individual members

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because we do not know their financial interests they may have. We don't know what financial interest the Nigh's may have or what properties they have. We do know they own the old Bowling Alley which is where they have a business and other than that he does not have any of the other interests both of these individuals may have. To make a long story short the Mayor & Council have total discretion whether they want to decide to do it or not. Some Cities have incorporated into their Code the limitation of serving only on one Advisory Committee at a time and we do not have that at this current time. The Mayor & Council have that authority to direct the City Manager and himself to make those changes if that is what they decide to do.

Vice Mayor Cronberg stated for the benefit for several people who she thinks "were a little bit unsure" as to why the action last time to table that was taken. There were concerns brought to her and one of them was that possible Conflict of Interest where a seated Council member would have a spouse on a Commission that has "pretty hefty responsibilities" in the Community. That was one reason why wanted to make sure that was addressed. Also the idea being on several Advisory Boards, two (2) at least, at the same time and the other concern was personal to her. The Vice Mayor did not think that such an appointment should just be on Consent Agenda and basically telling the Council "that is what we are going to do" and felt the Council members did need to discuss it. For those reasons that is what was done and "hopes this did not cause undue stress to anyone along the line" and appreciates the answers they have received from legal counsel. Also she thinks it is their responsibility to take every measure of due diligence for something that is so important for the Community. Whether or not they feel that there is a Conflict not because of (gave Ms. Nigh the floor and did not finish comment) Ms. Nigh stated she and her husband have served on the same committee for the past 18 months. They do not vote the same, they have not had a Conflict of Interest to the best of her knowledge; and they both attended the recent seminar given by Jeff Stoddard (Development Services) and well aware of the Open Meeting Law. If voted in tonight she will "by tomorrow morning immediately" turn in her resignation. Vice Mayor Cronberg said she appreciates her resume and the desire she had to serve in this community and has made that very clear for at least a couple of years that she has known her. The biggest concern that was brought to her was "that it would be a seated Councilman." Being on one Advisory Board together maybe there were conflicts that they were not aware of and having a Councilman spouse appointed that kind of caused some questions and it gave her some pause as well. The Vice Mayor hopes Ms. Nigh understands that. Vice Mayor Cronberg did say she didn't know if she could support this because not sure of that Conflict and if the rest of the Council is ready to vote she is too. **CARRIED.** Vice Mayor Cronberg Congratulated Ms. Nigh!

DISCUSSION/DECISION TO ACCEPT THE CHECK FROM THE LAMBDA CHI OMEGA ARIZONA BETA CHAPTER IN THE AMOUNT OF \$400 FOR THE SKATE PARK DEVELOPMENT FUND 17

MOTION: Councilman Johnson moved to accept check from the Lambda Chi Omega Arizona Beta Chapter in the amount of \$400 for the Skate Park Development Fund 17.

SECONDED: Councilman Holloway seconded the motion. **CARRIED. APPLAUSE!**

DISCUSSION/DECISION REGARDING PURCHASE OF SERVICES FROM SCOUTTEN ENGINEERING UNDER EXISTING AGREEMENT

MOTION: Councilman Holloway moved to approve item as presented; purchase of services from Scoutten Engineering under the existing Agreement.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** City Manager McCourt stated this probably could have been done without coming to Council under the City's Procurement Policy 3.1-3L Small Purchases and wanted to make sure community understood we have Consent Order from the Environmental Quality on the Waste Water Treatment Plant (WWTP). Scoutten has ongoing contract as City Engineer and we can make small changes. This particular one goes back to our Consent Order, and deals with Fats, Oils and Grease components or FOG and this goes back to the Clean Water Act. Under Clean Water Act sewage that is going into the WWTP should be within a specific range of FOG and every community is required to have an Ordinance that controls how that provisos of that. It comes down to restaurants in our case. They sometimes produce large quantities of FOG and that goes in and messes up our system. Our existing Ordinance has some language and the State has said ours is not strong enough. He is forewarning everybody that this is coming and we will be requirement to tighten up language and requirements on some of our businesses in town to control FOG. Councilman Johnson asked how does this go with moving forward of sewer ponds. City Manager replied we are moving forward and Mr. Dave Bonner just came back from meeting in Phoenix last week. The Council is aware and maybe some members of public perhaps are not is that the City of Willcox WWTP basically we take sewage, the really bad stuff, and we

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have to clean it up so that it is almost drinkable. Our current plant is not cleaning it up even after renovations back in 2002 we have been pursuing and the State said we are out of compliance and will be fined and going to rate payers to pay the fine. We entered into Consent Order and we are operating at best possible level and in process to try to figure out how to get to State quality under the Clean Water Act and other State requirements. Preliminary Engineering report was done and also picked up one source of funding from USDA combination of loans and grants and picked up second source of funding combination of loans and grants and is good thing because of what is going on the Federal Level. Concern is we might not get anything from Federal Level and entire cost would be born by our rate payers. We have two potential sources and more comfortable one will survive the budget costs. The bad part was the new funding source said it is not quite as tight as they wanted and they want to back up and do some more Preliminary Engineering and gave us a grant to pay for it and did not come from rate payers. That is what we have done and completed 90% on that. We have taken 2-steps back and now we are moving forward again. He asked staff if we have any projected timelines at this time and will produce those at another meeting. Councilman Johnson asked is this redundant with what we working for and Mr. McCourt explained this is more thorough report from the previous one and reviewed with 3-additional treatment options. Vice Mayor Cronberg said she is glad we didn't have to go out for any more Request for Qualifications and that we can use Scoutten and appreciates that too. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-06 APPROVING AND ADOPTING THE PUBLIC LIBRARY ADVISORY COMMITTEE ("COMMITTEE") RECOMMENDATION TO NAME THE NEWLY-RENOVATED AREAS OF THE LIBRARY IN HONOR OF A PROMINENT LOCAL CITIZEN AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Donahue moved to adopt Resolution NO. 2012-06, as stated relating to name (Nancy Guerrero as stated in the body of the Resolution) the newly renovated areas of the Library.

SECONDED: Vice Mayor Cronberg seconded the motion. **DISCUSSION:** Councilman Klump stated he has known "Nancy" since probably 1979 and has been in the Library a lot of time. He has no doubt she deserves this and his only thing is that as Librarian and Library Director she was paid to provide services to the City for the Library and she is not deceased either. It is "funny" to him that if we should "name our City things" after people that did it graciously or donated time and money and "did it out of the goodness of their hearts rather than being paid." That is his only thing and feels she deserve it and thinks it might start a trend. He said "let's name this Dave Bonner Municipal Complex" he put in thousand of hours (laughter by some Council members) and it doesn't sound right he asked. He does not mean to make light of it but it does strike his mind.

Mr. Tom Miner, Library Director, addressed the Council and stated he is certainly emphatic with Councilman Klump's thoughts and concerns on that. This request came from the former Mayor Marlin S. Easthouse some years ago. It was recently brought up again by some members of the community. He endorses that and thinks she deserves this honor. The Library is 88 years old and she has been at the helm from shaping direction this Library has taken for more than a quarter years of its history. Recently Ms. Guerrero moved away just after Christmas this past year and they do not want to forget her contributions to the Community. Mr. Miner "ran request through channels" and City Manager McCourt requested that he run it through the Library Advisory Committee that represent the community at large and that is what they did. They unanimously approved "naming the Solarium in her name." Vice Mayor Cronberg said having known "Nancy" a little bit through other works that she did in the community and thinks it is fitting that her name stays and that she is not in Willcox anymore she is still very much among the living and glad for that and knows her interest in this community went far beyond what she did as Librarian and thinks it is fitting. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-08 APPROVING AND ADOPTING THE BID AWARD ON THE CDBG COMMUNITY CENTER PHASE III RENOVATIONS, AUTHORIZING CITY STAFF TO PROCEED WITH THE PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Klump moved to approve Resolution NO. 2012-08, as stated, relating to the bid award (Building Excellence as stated in body of Resolution) on the CDBG Community Center Phase III Renovations.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** City Manager McCourt stated the Council members may recall originally this was bid out last spring and conflict arose with bidders. Point could not complete

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project in time and rejected all bids. We re-bid and glad we did recommendation with all four (4) options and still under budget. Staff is very pleased with bids. Staff budgeted \$276,088 and bid includes all options at \$196,500.00. In this case we had to follow our City bidding procedures and Federal. We did receive three (3) bidders and will be exploring using some of that money between bid amount and total budget to do other work on that building. Vice Mayor Cronberg stated no additional challenges and the City Manager said there has not been. The Pre-Construction meeting will be held on March 1, 2012 and schedule completion date is August 24, 2012. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-09 APPROVING AND AUTHORIZING THE RENEWAL AND EXTENSION OF THE USE, MAINTENANCE AND STIPEND AGREEMENT BETWEEN THE CITY OF WILLCOX [“CITY”] AND THE WILLCOX CHAMBER OF COMMERCE AND AGRICULTURE, A NON-PROFIT CORPORATION, [“CHAMBER”] AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Holloway moved to approve Resolution NO. 2012-09, as stated, regarding the Renewal and Extension of the Use, Maintenance and Stipend Agreement with the Chamber.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** City Manager McCourt stated he thinks this is the best deal and reminded everyone that the Visitor Center is the City’s Visitor Center. We provide the service and do that through contract with the Chambers and they keep it open 357 days/year and if we were trying to do that ourselves we could never do that. It is a good bargain for the City and they do a great job. Councilman Klump stated he was in there the other day and heard someone say that all the birds have gone home already. He told them “goodness sake” they have not gone home there are thousands around here at the Golf Course. Ms. Kathy Smith, Chamber Director, explained that at the Whitewater Draw it is dry and birds are gone from there but they are at the Golf Course! Vice Mayor Cronberg stated the last three (3) times she has been in there in the past month she has seen the place busy with people stopping in and picking up information and “Theresa” is always in a good conversation with people, and the Miniature Art Show is still going on and it has brought some people in and it really is asset for us. Ms. Smith said she does think that the new billboard is bringing people off of the Interstate. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-10 APPROVING AND ADOPTING AN AMENDED JOB DESCRIPTION FOR THE POSITION OF ADMINISTRATIVE ASSISTANT IN THE PUBLIC WORKS DEPARTMENT PURSUANT TO SECTION 208 OF THE EMPLOYEE HANDBOOK AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Klump moved to approve Resolution NO. 2012-10, as stated, relating to the amended job description for the position of Administrative Assistant in the Public Works Department.

SECONDED: Vice Mayor Cronberg seconded the motion. **DISCUSSION:** City Manager McCourt explained that the Employee Handbook is basically the rules we are allowed to operation under. Within the Employee Handbook every change to Job Description must be approved by the City Council. What we are looking at is as they know the City Clerk will be leaving and so they have been shifting around some things to streamline our operations to run the organization as effectively as we can. The City Clerk is ultimately the Record Keeper for every record of the City it is Clerk’s job to keep track. In this case the Public Works is the one that takes care of Cemetery, open and close graves and does other work and scheduling. Staff wanted to try to centralize that function and one person to talk to the public. Public Works did not do Cemetery Administrative work even though running the Cemetery and did minor work to modify Administrative Assistant to include Administrative Cemetery duties to take care to paperwork, sales and processing and would appreciate their approval. Vice Mayor Cronberg said this is addition to existing language and Mr. McCourt said there will be no additional compensation that goes with this and staff held discussion that it could fall under Other Duties as Assigned and thought it would be better to change the job description. **CARRIED.**

REPORTS BY THE CITY MANAGER PAT MCCOURT

Consideration, discussion, and/or decision regarding the following topics by the City Manager:

- **Report on City Election** – Primary Election to be held on Tuesday, March 13, 2012 and encouraged all eligible to vote to vote.
- **Skate Park**-the concrete has been poured. Staff is working on the fencing and will see about remaining funds to purchase obstacles. (reported under donation)

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- **Fence in Field Two**-put up another fence in preparation for upcoming season with donated materials.
- **New Budget Calendar**-included in book.
- **New Businesses**-EA Glass and Rock & Row Flooring have moved in next to Trusty Rusty on S. Haskell.
- **Asked for prayers**- for family that lost 3-year old son this weekend and for the Fire Fighters and all involved.
- **July 2009**-thought talked to Mayor and Council about lots at Twin Lakes. Some of those lots are in the City's best interest for the City to acquire for operational purposes. There are a few lots needed for running of sewer. There is one under \$200 and is going to do that under Small Purchases authorization.
- **No meeting next week**-then work sessions every Monday night. Have started them at 6:00 p.m. and question that is too early especially Monday we don't have Council meeting. Those meeting will begin at 6:30 p.m. on off Council meeting nights.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Donahue stated joins in with proclamation with wishing Arizona Happy Birthday! Recently went to New Mexico and saw their highly developed road system. "Its sticking your snout in government trough is a wonderful thing for New Mexico." He could not believe how beautiful their roads are and as soon as you get to the Arizona line all of a sudden your car starts jumping around the interstate. As information we should be proud that Arizona is the 61st Largest Economy on the planet! We are larger than Ireland and New Zealand. Sometimes can't see it on road system. Said Happy Birthday Arizona!

Councilman Johnson reminder that March 3-4 is the 21st Annual Tribute to Honor Marty Robbins and festival in the Park on Friday and Saturday and the concert Friday night. They need support.

Vice Mayor Cronberg Thanked everybody and thanks for the extra work she knows some did during the past couple weeks and appreciates it greatly. Continue best wishes to Mayor and Heart goes out to the Family that lost a child.

ADJOURN

There being no further business before the Mayor and Council, Vice Mayor Cronberg adjourned the meeting at 7:49 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Willcox held on the 20th day of February 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 29th day of February 2012

/s/ Cristina Garcia Whelan, CMC
City Clerk Cristina Garcia Whelan, CMC

PASSED, APPROVED AND ADOPTED this 5th day of March 2012.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY
Signed: March 08, 2012,

ATTEST:

/s/ Cristina Garcia Whelan, CMC
City Clerk Cristina Garcia Whelan, CMC