

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 09TH DAY OF APRIL 2012**

CALL TO ORDER- Mayor Lindsey called the work session meeting to order on Monday, April 09, 2012 at 6:34 p.m. and thanked everyone for attending.

ROLL CALL-Sherry Lynn Van Allen, Recording Secretary, called the roll:

PRESENT

Mayor Gerald W. Lindsey
Vice Mayor Monika Cronberg
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Bill Holloway
Councilman Bob Irvin

ABSENT

Councilman Christopher Donahue

STAFF

City Manager Pat McCourt
City Attorney Hector M. Figueroa
Recording Secretary Sherry Lynn Van Allen
Public Services & Works Director Dave Bonner
Finance Director Ruth Graham
Library Director Tom Miner
Development Services Jeff Stoddard
Streets Supervisor Gary Adams

PLEDGE OF ALLEGIANCE led by Mayor Lindsey.

CALL TO THE PUBLIC: Dennis Dunham addressed the City Council on the clean up of the city, wants to form a committee to help clean up Willcox through volunteer help. Believes he can form a nonprofit committee to help clean up the town. He would like to have the Council discuss.

Anne Bryan: wants to support what Mr. Dunham said about cleaning up the city. Would like to assist in forming the committee to clean up Willcox and believes that a committee would benefit the community.

Kelly Rowden addressed the Council in support of City Manager McCourt's letter regarding unsafe buildings. Also he commended the people wanting to clean up the City. He concurs with Mr. McCourt that if we can get the work done without violating anyone's rights or getting into legal trouble we should move forward.

DECLARATION ON CONFLICT OF INTEREST none declared.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented.

SECOND: Vice Mayor Cronberg seconded the motion - **CARRIED**

DISCUSSION REGARDING PROPOSED STREETS BUDGET FOR FY13

City Manager McCourt discussed the city budget using a spreadsheet explaining the various city funds. He detailed each column of the spreadsheet and detailed how the budget is balanced. He explained the estimated expenses and the expected revenues. Tonight this session will be based on the Highway Users Revenue Fund (HURF) or what is also called the Streets Fund. As we have done in the past fund presentations the streets budget shows actual expenses and revenues. This budget shows this for FY8-FY11. These show actual numbers. The budget for FY12 shows both a combination of real and projected numbers. Mr. McCourt explained that Willcox does not have a gasoline levy, but that the state does have a gas levy that is given back to the community based on population. The City has a 3% sales tax with 1% being pledged by the council for the Streets fund. Estimated income is down for this year as compared to the prior year's one being because the interest rate has fallen. Our debt service is money that is owed on previous projects much like mortgage payments on a home these expenses are payments on borrowed Bonds. FY13 we will have the lease purchases repaid so expenses on this line should go down.

Discussion moved to projections and assumptions. Lottery Transportation Automotive Funds (LTAF) This money was shared for public transportation needs. The state has taken all of the LTAF money away from the Cities. The next projection is HURF these monies are shared by all of the communities by population; a secondary HURF is shared by the counties by population and distributed to each city or town by the county. Currently the State is using the HURF funds to fund the state highway Patrol. 120 million dollars from the HURF fund will be moved to pay for the State Highway Patrol, with the States general fund paying only about 45 million of the State Highway Patrol

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expenses. The City has projected no increase for HURF Funding for FY13-14 and a 1% increase can be seen in FY15. The City projected a 5% increase in revenue for FY13-FY15 based on the 1% sales tax assigned for the streets fund with this revenue falling back to a 3% increase in FY16. We are getting very close to the point that the income is less than the expenses. The Streets department is currently short two positions and we are holding them vacant. We are hoping to get back to full staff in FY13, however we are being very conservative and watching the budget closely. We have projected a maintenance budget increase of 3% for the maintenance costs of current City equipment and vehicles in the Streets department. \$52,580 is our share of the Fort Grant Beautification Grant Project. We have a project scheduled for this coming year called the Sidewalk Project. The dollar amount we will have to match will be discussed later in this session. Mr. Adams also stated that a Chip Seal Project is planned for Curtis and Biddle and from Maley to Jessie Street for FY13.

The City currently has quite a bit of large equipment; Mr. McCourt's recommendation is to plan to use the lease purchase monies to replace outdated equipment. Monies may also be set aside once the bonds have been paid off into a fund to use for Capital Projects.

Gary Adams – Streets Supervisor addressed the council on the Streets fund from FY12 through FY17. At this time the personnel for the streets fund is 1 Supervisor, 1 part time Administrative Assistant, 2 Equipment Operators and 2 Streets Maintenance workers. This year we have a streets preservation chip seal project in the amount of \$125,000. This includes chip seal and street patching materials. Patti road is included in this years FY12 budget. Mr. Adams explained that we should be starting Patti Road on May 2nd and 3rd. Chip seal has already been done on Fremont and Delos. 384,000 pounds of cold mix or 192 tons of products have been used on streets so far this year. Streets also did the parking lot, the curbing, the sidewalk and the patching along Curtis in front of the library. Fort Grant project still needs a seal coat put on the walkway. The Streets department went in and did all of the dirt work on the Skate Park. Green waste area is also maintained by the Streets department, it is the green waste that the community drops off and is made into compost or burned if unusable. The green waste is collect at the Golf Course.

The Streets department has a grant pending on a sidewalk project; the match of \$32,758 was already approved by the Council. The streets department was advised that a 20% contingency fund should be set aside if the state funding fails. The State funding has fallen to 93% which means another \$68,963.00 the City will be will short an additional \$28,000 in FY13 if the project moves forward. If the project is accepted we will have to maintain all of the sidewalks that are constructed. Dave Bonner addressed the council and expressed his concerns with the sidewalk grant project. Mr. Bonner recommended doing a chip seal project in place of the sidewalk grant.

Vice Mayor Cronberg stated she believes that sometimes a grant is more expensive than doing projects in-house. A Grant project takes away the Councils freedom to determine how the monies are spent.

Mayor Lindsey stated we have learned a lesson from the Fort Grant project. He directed staff to bring this Sidewalk project back for a vote by Council. He also stated that Streets has done a good job with what they have had to work with.

DISCUSSION/DIRECTION CONCERNING INITIATION OF ACTION TO ADDRESS POTENTIALLY UNSAFE STRUCTURES IN THE CITY OF WILLCOX

City Manager McCourt stated this is an item that has come up on many occasions. The Council has been reluctant to move into the private property rights of the property owners. The City's goal is to work with people to clean up the property. Some of the property owners are willing to clean up the property and then on some occasions we run into people who can't or will not clean up their property. The potentially unsafe buildings around the town have been brought to the attention of the City Manager. I believe that this is something the council needs to address, it is a policy issue and monies will have to come from the general fund. A perfect solution would be for the property owner to take responsibility and clean up their property, however there is a lot of concern from the public on how we clean up the City. This is an extremely sensitive area, private property rights are a very large area of concern. First and foremost we have to exhaust all legal rights to the property owner. We must pursue the legal obligations and after all legal obligations have been met take further actions.

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Kelly Rowden asked the City Attorney: where does Public Domain come into play here? Attorney Figueroa replied that in an Ordinance adopted in 2001 that if there is a possibility the property may be a danger to the safety of the public then appropriate action will be taken by the City. Mr. Rowden then stated Public domain has allowed for certain sections of Las Vegas to be demolished. Attorney Figueroa replied that Public Domain is not an issue here, our code allows for "if there is a safety issue" the City must try to get the property owner, or who ever is in control of the building to comply with the code. Once you pass a code then it has to be enforced. Enforcement is based on the city code and state statutes that outline the procedures. This gives time frames and authority. The Council is in the budget preparation process. They could set aside money to prepare for demolition of buildings. The council must make a policy decision on what to do with the unsafe buildings. You can appoint an Ad-Hoc committee to address the issues. The Mayor and Council must decide if they want to enforce the code.

Manager McCourt asked could the private individuals who wish to clean up the City talk with the property owners and work with them to clean up the property on their own without City involvement. Attorney Figueroa replied, if a property owner has been sited twice, then notice of action is issued. Then the City can become involved. The Mayor and Council must decide if they want to enforce the code.

Connie Dunham stated that a group of people are willing to donate their time to clean up the city. They will donate equipment, man power and time to clean up Willcox. Attorney Figueroa responded I recommend that the Mayor and Council make a policy decision to clean up the town.

Vice Mayor Cronberg commented, I think that we are all sure that Code Enforcement has to have the teeth to do their job and back that up. I also think we have a large group of people who are willing to clean up Willcox and take this city back. I think that having a group of people to help may get some of the property owners to take responsibility for their property.

Councilman Holloway asked if the owner is free and clear and City involved and if this group comes in and cleans up their property. Attorney Figueroa replied "No they are not." Whatever the costs are associated with the clean up then that amount will be placed as a lien on the property.

Councilman Johnson commented he believes that we have to allow code enforcement the ability to site people and give the property owners the time to comply. He thinks that once property owners see that that the City is serious about code enforcement they will clean up their property to avoid fines. The City could also have a volunteer committee available to call and assist the community with clean up if needed.

William Nigh commented that the first thing you have to do legally is get a quit claim deed. Mayor Lindsey replied that a quit claim deed is not always necessary. The abatement process can place a lien on the property if the property owner fails to pay or comply with the codes.

Ms. Dunham asked if the volunteer committee could sign a waiver stating that if any member of the committee were to be hurt they hold the City harmless. Attorney Figueroa stated that the committee would need to be formed under the color of law.

City Manager McCourt asked what if the cost of the clean up exceeds the property value and Attorney Figueroa replied then that is the cost of following the law.

Vice Mayor Cronberg stated she believes that we have more of a low maintenance problem such as weeds and grass.

Attorney Figueroa asked the Council will you give us direction to enforce the current code.

Jeff Stoddard, Development Services, added that residential clean up is much simpler than cleaning up a commercial property. He explained that Commercial property must have an asbestos survey and a lead survey before any type of demolition may occur.

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Ms. Bryan asked why anyone would want to bring a business here to Willcox if we can't take care of the businesses we have, we have been lazy for too long. "Why should I bring my money and businesses here?"

Councilman Irvin stated that the City has to follow legal protocol to get the abatement process started; it is a long process and will not happen over night.

Ms. Dunham stated, she thinks our community wants the City cleaned up bad enough that local businesses, farmers and ranchers will donate to help off set the costs.

Vice Mayor Cronberg added we need to be consistently public and vocal that we are going to enforce the codes. She agrees with Ms. Bryan's comment that to improve economic development we must move forward.

Councilman Holloway added, he has been here 39 years and economic development is the problem. The freeway moved from Haskell and the businesses closed. "I am not as optimistic as Councilman Johnson" he doesn't believe that that the business owner's care and they are not going to help clean up their own mess. They live outside of Willcox and do not give it a second thought. He would like to do something in economic development because the first things you see when you drive in off of Exit 336 are empty buildings.

Mr. Rowden remarked that if the City gets involved you can bill the owner, although there is no guarantee that they will pay those costs. If the City undertakes the costs they stand a chance of losing money.

Ms. Bryan added that the Freeway bypassed Benson and Bowie also and "those communities are now thriving."

Vice Mayor Cronberg asked: can we keep doing the same thing or can we change things? We have people who are proactive and she thinks we need to do what we can do. Sitting here arguing about it is getting us no where.

Attorney Figueroa commented, "How long have we seen the buildings down town deteriorate?" You go down town now and things are improving. Businesses are moving towards the downtown area. People are improving their buildings. Start thinking positive and positive things will happen. We need to begin starting the process of thinking positive.

Mayor Lindsey directed City staff to pursue the full legal obligations of the property owners and proceed in that manner. Then we will look towards what has to be done down the road if the owners do or do not comply with the City Code.

DISCUSSION/DECISION ENTER INTO AN EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED STATUTES §38 431.03A(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; §38-431.03A(4) DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSION CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION.

MOTION: Councilman Klump made a motion to enter into executive session for the purposes stated above.

SECOND: Councilman Holloway seconded the motion – **CARRIED**

RECESS TO EXECUTIVE SESSION, IF APPROVED

The Mayor and Council recessed into Executive Session at 8:13 p.m.

RECONVENE FROM EXECUTIVE SESSION

The meeting was called back to order by Mayor Lindsey upon reconvening from the Executive Session at 8:52 p.m.

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**DISCUSSION/DECISION/DIRECTION TO STAFF REGARDING MATTERS DISCUSSED IN EXECUTIVE
SESSION**

Mayor Lindsey stated direction to staff is the same as the direction given earlier during item #7. (Mayor Lindsey directed City staff to pursue the full legal obligations of the property owners and proceed in that manner. Then we will look towards what has to be done down the road if the owners do or do not comply with the City Code.)

ADJOURN

There being no further business before the Mayor Lindsey adjourned the meeting at 8:54 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the special meeting of the City Council of the City of Willcox held on the 9th day of April 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 12th day of April 2012

/s/ Sherry Lynn Van Allen
Sherry Lynn Van Allen, Recording Secretary

PASSED, APPROVED AND ADOPTED this 7th day of MAY 2012.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY OR
VICE MAYOR MONIKA S. CRONBERG
Signed: 05-09-2012

ATTEST:

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

