

**CITY OF WILLCOX
MAYOR AND CITY COUNCIL
SPECIAL MEETING AGENDA
STATEMENT OF LEGAL ACTIONS**

Note Date: Monday, April 9, 2012
Note Time: 6:30 p.m.
City Council Chambers
300 W. Rex Allen Drive
Willcox, AZ 85643

(Mayor or Designee will read only **BOLD** print of each agenda item,
except for Public Hearings, Petitions and Communications.)

NOTICE TO PARENTS: Valley Telecom Group records all Willcox City Council meetings. These recordings may be played and replayed on Valley Telecom Cable Channel 1. If you permit your child to participate in the Council Meeting, a recording will be made of your child's participation. If your child is seated in the audience, he or she may be recorded. If you desire, you may request that your child be seated in a designated area to avoid recording. To do so, please submit your request to the City Clerk prior to the meeting. (A.R.S. §1-602.A)

1. **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.
2. **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
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
City Attorney Hector M. Figueroa

- A. **Pledge of Allegiance** led by Mayor Lindsey
- B. **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.

Anne Bryan: wants to support what Dennis Dunham said about cleaning up the city.

Kelly Rowden addressed the Council in support of City Manager McCourt's history and fact letter and commends the people wanting to clean up the City.

4. **DECLARATION ON CONFLICT OF INTEREST** none declared
5. **ADOPTION OF THE AGENDA**
It was moved and seconded to adopt the agenda as presented. - **CARRIED**

6. **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. Our debit 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. 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.

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.

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

Mr. 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.

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.

Vice Mayor Cronberg commented that she thinks we are all sure that Code Enforcement has to have the teeth to do their job and back that up. She also thinks we have a large group of people who will be willing to clean up Willcox and take this city back.

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

Development Services, Jeff Stoddard also commented that Commercial property must have an asbestos survey and a lead survey before any demolition can be done.

Councilman Johnson stated he believes that once property owners see that that the City is serious about code enforcement they will clean up their property to avoid fines.

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.

Vice Mayor Cronberg stated, 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 have to move forward. 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.

Councilman Holloway added, he has been here 39 years and economic development is the problem. The freeway moved from Haskell and the businesses closed. He is not as optimistic as Councilman Johnson he does not believe that that the business owner's care and that 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. The first things you see when you drive in form I-10 exit 336 are empty buildings.

Attorney Figueroa stated, how long have we seen the buildings down town deteriorate? You go down town now and things are improving. New 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.

8. 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.

Consideration, discussion and/or decision to enter into an Executive Session pursuant to ARS §38-431.03A(3 and 4), as stated, relating to consultation for legal advice with the attorney(s) of the public body; and relating to consultation with the attorney(s) of the public body in order to consider its position and instruct its attorney(s) on public body's position, as stated.

It was moved and seconded to enter into executive session for the purposes stated above. – CARRIED

9. RECESS TO EXECUTIVE SESSION, IF APPROVED

the Council recessed to Executive Session at 8:13 p.m.

10. RECONVENE FROM EXECUTIVE SESSION

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

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

Consideration, discussion, decision and/or direction to staff regarding matters discussed in Executive Session relating to advice from City Attorney.

Direction/Decision: Direction is the same direction given earlier during item #7 by Mayor Lindsey.

(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.)

12. ADJOURN meeting at 8:53 p.m.

NOTE: Documentation (if any) for items listed on the Agenda is available for public inspection, a minimum of 24 hours prior to the Council Meeting, at any time during regular business hours in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, or the Elsie S. Hogan Community Library during regular business hours Monday-Saturday and on the City's website www.cityofwillcox.org.

NOTE: People with disabilities may request reasonable accommodations. Requests must be made 48 hours prior to the meeting by contacting City Hall at 384-4271 during regular business hours 8:00 a.m. to 4:30 p.m., Monday through Friday.

