

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 13TH DAY OF NOVEMBER 2012**

CALL TO ORDER- Mayor Irvin called the special meeting to order on Monday, November 13, 2012 at 7:00 p.m. and thanked everyone for attending.

ROLL CALL-Virginia A. Mefford, City Clerk, called the roll:

PRESENT

Mayor Robert "Bob" Irvin
Vice Mayor William "Bill" Holloway
~~Councilman Gerald W. Lindsey~~
Councilman Elwood A. Johnson
~~Councilwoman Monika Cronberg~~
Councilman Earl Goolsby
Councilman William "Bill" Nigh

STAFF

City Manager Pat McCourt
City Attorney Ann P. Roberts
Public Services & Works Director Dave Bonner
Finance Director Ruth Graham
Library Director Tom Miner
Development Services Jeff Stoddard

ABSENT

Councilman Lindsey (excused)
Councilwoman Monika Cronberg (excused)

PLEDGE OF ALLEGIANCE led by Mayor Irvin.

CALL TO THE PUBLIC –Connie Dunham, spoke regarding the Veteran's Day Parade, Indicated there was no electricity and the streets were not closed, and commented it was a real mess and I would like to know what happened. Mayor Irvin replied it was first he heard about it and will look into this.

DECLARATION ON CONFLICT OF INTEREST- None declared a conflict of interest.

ADOPTION OF THE AGENDA

MOTION: Councilman Nigh moved to table this item 7 of the agenda until next year. **SECONDED:** Councilman Johnson **DISCUSSION:** Councilman Johnson stated Councilman Holloway asked for a work session at the last meeting. Vice Mayor Holloway stated we already approved the contract with Wilson Engineering and we are here to amend the existing contract we already have. We already started down the path. Tonight's agenda is to approve the amendment. Councilman Nigh stated there are not contracts to do Engineering. Councilman Nigh stated there are other Engineer's that will do a proposal for nothing, they are a middle man. Vice Mayor Holloway stated we have lots of middle man we are dealing with a government entity. Councilman Nigh stated there is only one Engineering company. Vice Mayor Holloway explained that Wilson Engineering is only doing what we asked for them to do. Councilman Nigh stated we have lagoons that produce a PH level of 9. Vice Mayor Holloway stated we are not producing class B water and we cannot increase to produce more this would cost millions to do. Councilman Nigh stated we are using only half of the system. Vice Mayor Holloway stated what irritates me and bothers me is we have already approved this back when, and we have to move on this. Councilman Nigh stated Scottsdale has the same system. Vice Mayor Holloway stated we are not Scottsdale. Councilman Nigh asked have you had bids to repair the lagoon. Vice Mayor Holloway stated we have not done this because the people who are funding this for us are telling us do not try to repair the lagoon as we will not fund repair of the lagoon. About ten years ago the Council back then spent an upwards of \$2 million dollars repairing the lagoon and it has failed. Ms. Nigh asked if they had a letter that says that this has to be done. City Manager McCourt stated the Council does have in their packets on tabbed one a Consent Order that was signed to have this system fixed. Ms. Nigh asked what date it has on it. City Manager McCourt stated we have a Consent Order from February 2, 2011. Ms. Nigh asked what the urgency? It has been almost two years. City Manager McCourt stated this has been ongoing. Mayor Irvin called for the vote 4 to 1; **AYES:** Councilman Nigh **NAYS:** Mayor Irvin, Vice Mayor Holloway, Councilman Johnson and Councilman Goolsby. **FAILED**

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 13TH DAY OF NOVEMBER 2012**

MOTION: Vice Mayor Holloway moved to approve agenda and remove items 8-11 **SECOND:** Councilman Goolsby. 4 to 1 **AYES:** Mayor Irvin, Vice Mayor Holloway, Councilman Johnson, and Councilman Goolsby **NAYS:** Councilman Nigh **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION 2012-86 APPROVING THE AMENDMENT TO THE EXISTING CONTRACT TO WILSON ENGINEERS LLC WASTE WATER TREATMENT PLANT (WWTP) AS APPROVED PER RESOLUTION 2011-10 ON FEBRUARY 21, 2011

MOTION: Councilman Holloway moved to approve Resolution 2012-86 approving the amendment to the existing contract to Wilson Engineers LLC waste water treatment plant (WWTP) as approved per Resolution 2011-10 on February 21, 2011

SECONDED: Councilman Goolsby **DISCUSSION:** Mr. McCourt apologized for not getting all the information you needed on November 5 meeting. I hope I did this tonight. I received a call from Tom (ADEQ) from San Francisco and asked why this was not approved. I relayed to him no, they didn't do that they just tabled it for more information. We have been in violation since 2009 and we have to have ongoing correction. I have been asked why we are doing this at all. We have a Consent Order we have to follow and we have to do monthly reports and continue to show progress. The Council has, and I apologize we do have new Councilmember's and we hope to update you all tonight. Initially we had a Tetra Tech who was trying to figure out what was going on. I arrived on January 3rd and I immediately received a letter the City was not in compliance. If we could put in about \$1.2 million into the system we could get it back into compliance, but this will still not be enough; as this will get us to class B water it will take another \$1.2 million to clean out the ponds to get us just up to the class B classification and that was where we need to be in order to get us to be able to water our lawns. In order for us to keep the golf course running we would need to have potable water. It cost us \$F114,000 dollars to maintain the golf course. We need the water to keep us safe and the lagoons do not do it. Tetra Tech stated we could do it at minimum but it would not get us to the Class B that we need. We would have to expanded I think we will have growth I don't know when but we will. If we do grow we will be at the same place we are today and what happens if this happens is we lose our funding assistance. The funding is secure and the bulk of it is paid by the grant we pay about \$15,000. We have been pursuing a low cost interest grant. What this grant will do is it will compare our rates to other cities and if our rates go up they will give us grants to payback some of the loan so our rates do not go up. The City will also get another source for a grant and this makes me more confident going into this. All nine of the bids were reviewed and rated; and from that we picked the top three and did reference checks on all three and based on the first PER and the council gave us direction based on this. The muscled up report evaluates numerous systems. The only reason why the Oxidation Ditch was considered was due to actions and all that were rated and reference page 613 of the PER. The council on February 23, 2011 passed resolution 2011-10 to have Wilson Engineering LLC to come up with something to do the Oxidation Ditch. We did have a work session held and a special meeting on July 16, 2010 the council selected the Oxidation Ditch. In addition, behind tab 7 when we compared their electric bill on operating an oxidation ditch was lower than our operating what we currently have. Not that there may be other cost involved. We are funded right know but a year down the road we may not have the funding source available. I understand Mayor and council this is a lot of money. The City has wasted about \$2 million a few years ago and we still have to fix this problem. We have people from Becks, Wilson Engineering LLC, and ADEQ. They have all told me we have the funding right know and they have reassured me tonight before the meeting we do have the funding and for me not to worry. Beck has given us 50% of the cost and the USDA is another funding source that may give us the other 50% to go out to bid to get this fixed. I hope you move forward with this. Mr. Nigh stated Severn Trent was going to fix everything. I checked in some other places where they have serviced and we had another councilmember Cronberg who called another company in and he offered to take a look at the plant and make recommendation to fix this. Why do you oppose for another contract to come in. Severn Trent stated they would get us in compliance. City Manager McCourt stated they won't meet the standard for future growth, and Class B water. Councilman Nigh stated the farmers take care of this with a sprayer of neutralizer to use the water. Why would you not let a contractor come in and put a bid in? Mr. John Bowen stated this is strictly for engineering design. We have two Robert Molina from Beck, and Edna Mendoza and would like for one of them to speak tonight. He read an email form Tom (ADEQ) he is form San Francisco. Mr. Bowen explained the penalties, he stated If we fall out of step and we are not moving ahead it is \$100 a day first year and it could reach \$3.4 million in fines the first year and the 2nd year is \$4.2 million and Beck needs to make it clear that them and USDA will be backing the funds to receive this grant. The City need to approve this as we have the funding and we are one out of 27 pages of others who applied. We received these funding grants because we are in dire need to have this problem fixed. A Becks representative stated there are funding grants available right know for the City of Willcox; you should feel confident that this funding is secure.

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 13TH DAY OF NOVEMBER 2012**

There are time restraints with this funding this is one of 23 projects that was awarded out of 198 applications along the border. It was selected because of the urgency to supply the funding to you. The additional confidence you may have is we have helped cities build and do the engineering, and design. This has taken the extra expenses to find the best alternative for the city. You do have the wealth of experience on staff to give you the best recommendation to choose from and I appreciate your due diligence with this project and we hope you move forward. We are here for funding as well. Does anyone have any questions? Vice Mayor Holloway asked you don't have a city that has residence that has had to pay \$600 a month for water. Representative said no we don't, we also give you a 7 year gradual effect and we try to give assistance if necessary. There is no other company out there that gives you that. Mr. Bowen introduced Mindy Cross from ADEQ and she is here to go over the violations. Ms. Cross stated the main concern is the City of Willcox does not have a reuse permit to use for the golf course. There is a high PH level from the pond and the lagoon system has a large number of violations, at least 18 occasions in 2007. The City of Willcox is moving slow but you are moving forward. The agency really wants to work with the city but in the same time you have to take care of this as you have signed Consent Order. Mayor Irvin asked what timeline we are looking at. Ms. Cross stated you are behind schedule and you signed an order to have this finished in two years and we are using unenforced discretion and you have let 2011 go by and 2012 and here we are almost 2013 and if you still have not complied. Steve Todd of Wilson Engineering spoke on the fees and the primary changes are outlined in Exhibit C. Initially we were designing an 800,000 gallon system a day and now we are doing 600,000 gallons a day. Another change is coordination with Beck agency; they have assessments to meet their requirements and the ADEQ requirements for permits. One is to decommission the existing facilities. We actually do the design of the facilities. Ms. Nigh stated I am impressed you let the ADEQ and Wilson Engineer speak; I would like to ask anyone in here if they could explain the urgency of this. City Manager McCourt stated I can answer that. It's in the PER on Page 4.1 continues to 4.2 and read the paragraph and on page 5.7 six paragraphs down and on page 5.6 on the third paragraph. Ms. Nigh stated I feel like we're being railroaded. There is a problem here. I have been in politics for 25 years and I know people in higher positions than the one represented tonight and they said there is no emergency. Mayor called for a vote; 4 to 1 **AYES:** Mayor Irvin, Vice Mayor Holloway, Councilman Johnson, Councilman Goolsby. **Nays:** Councilman Nigh. **CARRIED**

**~~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~~**

~~Consideration, discussion and/or decision to enter into an Executive Session pursuant to ARS §38-431.03A(1) and (3), as stated, relating to consideration of employee and consultation for legal advice with the attorney(s) of the public body.~~

~~RECESS TO EXECUTIVE SESSION, IF APPROVED~~

~~RECONVENE FROM EXECUTIVE SESSION~~

**~~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 and/or consultation for legal advice from City Attorney.~~

ADJOURN- With no further discussion at 8:21 pm.

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 13TH DAY OF NOVEMBER 2012**

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 13th day of November 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 13th day of November 2012

City Clerk VIRGINIA A. MEFFORD

PASSED, APPROVED AND ADOPTED this 17th day of December 2012.

MAYOR ROBERT A. IRVIN
Signed: _____

ATTEST:

City Clerk Virginia A. Mefford