

**CITY OF WILLCOX
MAYOR AND CITY COUNCIL
AGENDA**

Monday, November 5, 2012

7:00 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.)

CALL TO ORDER- Mayor Bob Irvin called the regular meeting to order on Monday, November 5, 2012 at 7:00 p.m. and welcomed everyone in attendance

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

PRESENT

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

STAF

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

CALL TO THE PUBLIC- CALL TO THE PUBLIC- CALL TO THE PUBLIC- Connie Dunham and Janet O'Doniel invited the City Council to the parade and participate if the would like to.

PLEDGE OF ALLEGIANCE TO THE FLAG lead by Mayor Irvin

DECLARATION ON CONFLICT OF INTEREST

None Declared

ADOPTION OF THE AGENDA

MOTION: Councilman Nigh moved to adopt the agenda as presented and table item 19 until the first of the year.

SECONDED: Councilwoman Cronberg **DISCUSSION:** Lindsey stated I would like to be able to discuss it and tabling it will not allow for discussion. 4 to 3 Motion **AYES:** Mayor Irvin, Councilman Johnson, Councilwoman Cronberg, and Councilman Nigh

NAYS: Vice Mayor Holloway, Councilman Lindsey, and Councilman Goolsby **CARRIED**

MOTION: Woody Johnson moved to remove items 7A and items 24-27.

SECONDED: Councilman Nigh **CARRIED**

MINUTES OF PREVIOUS MEETINGS

Minutes approve on consent agenda.

~~Regular Meeting June 4, 2012, September 4, 2012, September 17, October 1, 2012, and October 15, 2012~~

~~Work Session- Joint Work Session January 9, 2012, September 17, 2012, October 1, 2012 and October 15, 2012~~

DISCUSSION/DECISION REGARDING THE WILLCOX CHAMBER OF COMMERCE AND AGRICULTURE REQUEST FEES TO BE WAIVED FOR THE USE OF THE COMMUNITY CENTER FOR THE APPLE FESTIVAL ON WEDNESDAY, NOVEMBER 28, 2012 THROUGH SATURDAY DECEMBER 1, 2012.

MOTION: Councilman Johnson made a motion to approve the Willcox Chamber of Commerce and Agriculture request fees to be waived for the use of the community center for the apple festival on Wednesday, November 28, 2012 through Saturday December 1, 2012. **SECONDED:** Councilwoman Cronberg **DISCUSSION:** Councilman Nigh asked if they make any money.

Councilman Johnson stated this has been going on for several years this brings the community together before the holiday season. Councilwoman Cronberg stated the local crafter is a community event and it brings a lot to the community and helps support our community. Councilwoman Cronberg asked Allan to speak on this subject. Mr. Allan Baker stated it brings about \$500.00 and Councilwoman Cronberg added there is also an art show incorporated with this. Mayor Irvin stated the Chamber always reciprocates with events like this. **CARRIED**

DISCUSSION/DECISION REGARDING WILLCOX CHAMBER OF COMMERCE & AGRICULTURE'S REQUEST TO WAIVE THE REQUIREMENTS FOR ALL VENDORS TO HAVE INDIVIDUAL PERMITS FOR THE ANNUAL CHRISTMAS APPLE FESTIVAL FROM WEDNESDAY, NOVEMBER 28, 2012 THROUGH SATURDAY, DECEMBER 1, 2012.

MOTION: Councilman Johnson made a motion to approve Willcox Chamber Of Commerce & Agriculture's request to waive the requirements for all vendors to have individual permits for the annual Christmas Apple Festival from Wednesday, November 28, 2012 through Saturday, December 1, 2012. **SECOND:** Councilman Holloway the motion. 6 to 1 **AYES:** Mayor Irvin, Vice Mayor Holloway, Councilman Lindsey, Councilman Johnson, Councilwoman Cronberg and Councilman Goolsby; **NAYS:** Councilman Nigh. **CARRIED**

PRESENTATION/DISCUSSION REGARDING THE WILLCOX CHAMBER OF COMMERCE AND AGRICULTURE REQUEST FOR A STREET CLOSURE FROM RAILROAD AVENUE AND HASKELL TO MALEY STREET FOR A CHRISTMAS LIGHTED PARADE ON SATURDAY, DECEMBER 1, 2012 FROM 4:30 PM - 9:00 PM

MOTION: Councilman Johnson made a motion to approve Willcox chamber of Commerce and Agriculture request for a street closure from Railroad Avenue and Haskell to Maley Street for a Christmas lighted parade on Saturday, December 1, 2012 from 4:30pm - 9:00 pm. **SECOND:** Councilwoman Cronberg the motion. **CARRIED**

DISCUSSION BY COUNCIL REGARDING THE REQUEST BY MR. NIX TO USE THE ALLEY BEHIND HIS PROPERTY IN IRONWOOD ESTATES.

Vicki Sue Demarsico handed out sheets to the Council members regarding the alley behind Nix's home. If the easement would remain in and work for everyone involved. I met with the title company regarding this and the legal description and took pictures all of the other homeowners were in agreement for this if you would like to have this written I could arrange this. The only utilities on this easement are the gas company. You could put a on it. Councilman Lindsey you mentioned the only utility is the gas what about the electric. Ms. Sue stated it is underground and it is on 76 and 77, she showed the picture to clarify where the easement is located and where it was located. Councilman Lindsey stated it is in the alley. Councilman Holloway stated isn't this a Planning and Zoning an shouldn't this have been brought up to them? City Manager McCourt stated this will Councilman Goolsby stated we have to look at the future of the City I may not be here when this happens but it may. Ms. Sue stated there is another 16 feet available to do another alleyway if necessary. Councilman Cronberg stated isn't there other places where there is councilman Holloway stated I just think this is a bad presidents to even talk about it. Ms. Sue stated why if this has not been maintained and only private owned property and we having to ask for permission. Councilman Holloway asked what the benefit Mr. Nix wants is for these easements to have a larger backyard and to do this legally. Councilman Goolsby I would like to see this for Planning and zoning that is what they are there for and bring back their recommendation. Councilwoman Cronberg stated it looks like it has lack of maintenance. Ms. Sue stated with the other bank owned property is encroaching on this easement already, and that is why I recommend a CC&R. Councilman Lindsey say isn't the property owner responsibility to maintain the alleyway.

DISCUSSION/ DECISION REGARDING ACCEPT LETTER OF RESIGNATION FROM RAEANN KIESLING FROM THE PARKS AND RECREATION COMMITTEE.

MOTION: Vice Mayor Holloway made a motion to approve accepting letter of resignation from RaeAnn Kiesling from The Parks and Recreation Committee. **SECOND:** Councilwoman Cronberg the motion. **CARRIED**

DISCUSSION/DECISION/DIRECTION REGARDING REVIEW REQUEST FROM THE WILLCOX HISTORICAL THEATER PRESERVATION INC. FOR FUNDING ASSISTANCE

MOTION: vice Mayor Holloway made a motion to set up a line item for provision with a matching donation made a motion to approve Review Request from the

Willcox Historical Theater Preservation Inc. for funding assistance **SECONDED:** Councilwoman Cronberg the motion

DISCUSSION: Mayor Irvin stated Ms. Berry requested a call to the public on this item. Ms. Berry stated they have gotten much further from the last time they presented and updated the council, they have partnered up with the Wine Festival and will incorporate a movie again during the wine festival and has asked the school to do an internship with them. This Theater will anchor and help the community bring in people in and the marketing promotion makes Willcox more enticing for people and businesses to come to our city. This also targets youth involvement. To date we have raised \$19,000 from the community

involvement from business to residents. We will need \$4000 for the walk way once the shed is removed. In the smaller theater we thought the seats were somewhere in the theater but they are not and we need to replace the seating at a cost of \$4200. We are not sure how to make this happen, but we will make this happen. Councilman Holloway stated several years from now once the movies are not able to be showed have you thought of what you're going to do then. Ms. Berry stated we have there is equipment we could purchase to help with this. Councilman Cronberg stated I would like to see the City do a monetary investment and look outside the box. Councilman Goolsby asked what is needed more the walkway or the seats. Ms. Berry stated the seats. Councilman Lindsey stated you have fought a long battle and this is a tough world we live in as you can see in the next item we are in a deficit we have to pay back \$32,000 that was not expected. What I would propose is we set up a \$10,000 line to set up with matching funds. City Manager McCourt stated if you could set this up as a quality of life and move some of the appropriation line item this can certainly be done. Councilwoman Cronberg stated we have done this with the Senior Citizen building and Skate park project this took many years to accomplish. Councilman Holloway stated I propose making a line item for \$15,000 with matching donations. Councilman Goolsby stated it seems like we have a momentum taking place and I hate to see the City slow this down in anyway. City Manager McCourt asked is there an ending time. Councilman Holloway stated I do not have an ending time. **CARRIED**

DISCUSSION REGARDING INFORMATION CONCERNING A SALES TAX REFUND

City Manager McCourt explained this is a significant refund to a taxpayer it was an error by the taxpayer for paying City sales tax to the city. This is a formula we have used in memo 1118 this year has declined in the General Fund.

PRESENTATION/DIRECTION/DECISION REGARDING INDIRECT COST FORMULA FOR PAYMENT TO THE GENERAL FUND FROM THE ENTERPRISE FUNDS FOR FY 14.

MOTION: Councilman Lindsey made a motion to approve the indirect cost formula for payment to the General Fund from the Enterprise Funds for FY 2014 **SECOND:** Councilman Goolsby. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-83 THE OPERATIONAL AGENCY AGREEMENTS WITH BP ENERGY COMPANY; DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION; AND, DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Johnson made a motion to approve resolution NO. 2012-83 the operational agency agreement with BP Energy Company; directing authorized city officers and agents to carry out the purposes and intent of this resolution **SECONDED:** Councilman Lindsey
DISCUSSION: Ms. Graham explained the allocations and the agreement. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-84 THE BP ENERGY COMPANY PHYSICAL GAS TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY NO. 9410309, DATED OCTOBER 24, 2012; DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION; AND, DECLARING AN EMERGENCY TO EXIST.

MOTION: Vice Mayor Holloway made a motion to approve Resolution NO. 2011-84 approving the BP Energy Company physical gas transaction confirmation for immediate delivery NO. 9410309, dated October 24, 2012; directing authorized city officers and agents to carry out the purposes and intent of this resolution.
SECOND: Councilman Goolsby. **DISCUSSION:** Councilman Nigh asked how many gas lines come though the City. Ms. Graham stated we asked others and have they have not been motivated enough to and EPNG does supply our gas lines. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-85 FOR THE PURPOSE OF APPROVING AND AUTHORIZING AN OPTION FROM AMONG TWO OPTIONS RELATED TO CITY EMPLOYEES AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Goolsby made a motion to approve Resolution No. 2012-85 as started above, regarding Employee Appreciation Awards.
SECOND: Mayor Irvin. **DISCUSSION:** The Council has done an employee and we have not had the funds to do this for the employees and we set aside enough money to do a lot and we do have several that were well received. Councilman Cronberg stated she would like to see a nice banquet. Option one would be potluck and check the second option would be a banquet. Councilman Johnson stated the banquet has always been a moral buster. Mayor Irvin asked City Manager if he thought about the cost of a banquet. City Manager stated in years past we did have sufficient moneys for the banquet.

Mayor called for a vote 6 to 1 **AYES:** Mayor Irvin, Vice Mayor Holloway, Councilman Lindsey, Councilwoman Cronberg, Councilman Goolsby, and Councilman Nigh; **NAYS:** Councilman Johnson **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-86 APPROVING THE CONTRACT AWARD TO WILSON ENGINEERS, LLC ("ENGINEER") FOR DESIGN AND ENGINEERING SERVICES FOR RECONSTRUCTION OF THE 0.6 MGD WASTEWATER TREATMENT SYSTEM FACILITIES; APPROVING AND DIRECTING AUTHORIZED CITY OFFICERS, AGENTS AND CITY STAFF TO FINALIZE THE CONTRACT; AND THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR OTHER RELATED MATTERS; AND DECLARING AN EMERGENCY MOTION: Councilman _____ made a motion to approve Resolution NO. 2012-86 approving the contract _____ award to Wilson Engineers, LLC ("Engineer") for design and engineering services for reconstruction of the 0.6 MGD wastewater treatment system facilities; approving and directing authorized city officers, agents and city staff to finalize the contract. **SECOND:** Councilman _____ the motion. **DISCUSSION:** _____ **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-87 APPROVING THE PURCHASE OF A NATURAL GAS BACKUP POWER SYSTEM FOR WELL NUMBER THREE IN THE CITY OF WILLCOX WATER SYSTEM FROM BILL'S PUMP SERVICE; DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION; AND, DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Goolsby made a motion to approve Resolution NO. 2012-87 approving the purchase of a natural gas backup power system for well number three in the city of Willcox water system from bill's pump service; directing authorized city officers and agents to carry out the purposes and intent of this resolution.

SECOND: Vice Mayor Holloway the motion. **DISCUSSION:** Councilman Johnson asked if this was the one we shot down in the past. Mr. Bonner stated we do have a possibility to do an electric motor. This is to have our basic needs met. Mayor Irvin asked what the cost of this is. Councilman Johnson asked \$ 24,000 is this for well #3 and is this; a backup to our backup. Mr. Bonner stated we did budget for this. Councilman Lindsey stated I don't see why we need this if we don't use it. Mr. Bonner stated we have this running 24/7 it is used. Councilman Lindsey stated my understanding is it was a backup. Jonathan explained this is the cheaper running well per gallon we have and it is the best retro fit for an emergency, but if we do get hit with an emergency we have it. Mr. Lindsey stated my understanding we didn't use it would be cheaper to put. Councilman Cronberg stated is a backup engine was talking about. Mr. Bowmen stated we have decided to have a combination gas/electric incase of a power outage. Mr. Nigh asked have we ever had a gas outage isn't a gas outage less likely. Councilman Johnson stated this is an expense for an electric. Councilman Lindsey asked is this for a new electric. **2- to 5 AYES:** Councilman Goolsby and Councilman Lindsey. **NAYS:** Mayor Irvin, Vice Mayor Holloway, Councilman Johnson, Councilwoman Cronberg, and Councilman Nigh. **FAILED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-88 APPROVING AND ADOPTING AN NEW JOB DESCRIPTION FOR THE POSITION OF PROGRAM COORDINATOR PURSUANT TO SECTION 208 OF THE EMPLOYEE HANDBOOK AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilwoman Cronberg made a motion to approve Resolution NO.2012-88 as stated, approving and adopting a new job description for the position of Program Coordinator pursuant to section 208 of the Employee Handbook.

SECOND: Councilman Goolsby the motion. **DISCUSSION:** City Manager explained this is grant funded. Councilwoman Cronberg asked for clarification of the title is it for a Special Projects Coordinator or Program Coordinator. Mr. Minor responded it is for a Special Projects Coordinator. **CARRIED**

CITY MANAGER REPORTS

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

- **Update** – on Title 11 process; Mr. Stoddard stated the process will start over with P& Z for two public hearing then it will be to Council for two more public hearings
- **Update-** on Desert Inn Motel; Mr. Stoddard stated we did serve a letter of intent for demolition and then it would go to Mr. Bonner to go out for bid for demolition.
- **City Hall Closed-** November 12, 2012 observance of Veterans day
- **City Hall Closed-** November 22 & 23, 2012 for Thanksgiving
- **Land Sale** – Closes on November 9, 2012

- **Veteran Parade-** on Monday, November 12, 2012 at 10:00 am
- **Mayor/Manager Luncheon-** November 15, 2012 at 12:00 pm at Manda Le Restaurant in Sierra Vista, please RSVP to Virgie if you would like to attend.
- **Special Work Session-** Capital expense needs for Water System & Solid Waste Monday, November 26, 2012 at 6:30 pm.
- **Apple Festival-** November 28 –December 1, 2012 at the Community Center
- **Employee Appreciation Potluck-** December 6, 2012 from 11:00 am-1:00 pm.
- **Work Session-** Monday December 10, 2012 for Capital needs of the Sewer System

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS

Councilman Johnson attended the Grand opening of Aridus and stated it will be quite the facilities. Mayor Irvin committed on the City Hall participation for Halloween dress-up and it was nice to see. Vice Mayor Holloway asked for a work session on Item 13 we need to get rolling on this project. Councilman Goolsby asked for everyone to vote tomorrow and reminded about the invitation at my house tomorrow at 6:00 PM.

DISCUSSION/DECISION ENTER INTO AN EXECUTIVE SESSION PURSUANT TO ARIZONA REVISE STATUTES §38 431.03A(3) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY REGARDING THE PURCHASE, SALE, OR LEASE OF REAL PROPERTY

~~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 regarding the purchase, sale, or lease of real property.~~

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: 8:33 P.M.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the City Council of the City of Willcox held on the 09th day of January 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 9th day of January 2012

Transcribed Sherry Lynn Van Allen – HR

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

MAYOR ROBERT A IRVIN

Signed _____

ATTEST:

City Clerk Virginia A. Mefford

**THE MINUTES OF THE REGULAR SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19th DAY OF NOVEMBER 2012**

CALL TO ORDER- Mayor Bob Irvin called the regular session meeting to order on Monday, November 19, 2012 at 7:00 p.m. and welcomed everyone in attendance

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

PRESENT

Mayor Robert A. Irvin
Vice Mayor 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 Clerk Virginia A. Mefford
City Attorney Ann P. Roberts
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
Development Services Jeff Stoddard
Library Director Tom Miner

PLEDGE OF ALLEGIANCE TO THE FLAG lead by Mayor Irvin

DECLARATION ON CONFLICT OF INTEREST

None Declared

ADOPTION OF THE AGENDA

MOTION: Councilman Vice Mayor Holloway moving item 13 up on the agenda for discussion and remove items 17-21 and adopt the agenda as presented.

SECONDED: Councilwoman Cronberg **CARRIED**

CONSENT AGENDA

MOTION: Vice Mayor Holloway moved to adopt the consent agenda

SECONDED: Councilwoman Cronberg **CARRIED**

MINUTES OF PREVIOUS MEETINGS

Minutes approve on consent agenda.

Regular Meeting- June 4, 2012, September 4, 2012, September 17, October 1, 2012, and October 15, 2012; Work Session- Joint Work Session January 9, 2012, September 17, 2012, October 1, 2012 and October 15, 2012

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2011- 89 THE SUBGRANTEE AGREEMENT OPSG OVERTIME AND MILEAGE FOR THE PURPOSE OF ACCEPTING FROM THE ARIZONA DEPARTMENT OF HOMELAND SECURITY A GRANT IN THE AMOUNT OF \$28,000.00 TO FUND OFFICER OVERTIME AND MILEAGE DURING THE PERFORMANCE OF OPERATION STONEGARDEN FROM NOVEMBER 1, 2012 THROUGH DECEMBER 31, 2013; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION; AND DIRECTING CITY STAFF TO EXECUTE AND FINALIZE ANY OTHER NECESSARY GRANT DOCUMENTATION AND DECLARING AN EMERGENCY.

MOTION: Councilman Johnson moved to approve Resolution NO. 2011- 89 the Subgrantee agreement OPSG overtime and mileage for the purpose of accepting from the Arizona department of homeland security a grant in the amount of \$28,000.00 to fund officer overtime and mileage during the performance of operation Stonegarden from November 1, 2012 through December 31, 2013 **SECONDED:** Councilwoman Cronberg **DISCUSSION:** Councilman Lindsey asked if the should be 2012-89. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-90 APPROVE AMENDING THE ADOPTED BUDGET FOR THE CITY OF WILLCOX FOR THE FISCAL YEAR 2012-2013, AS ORIGINALLY ADOPTED IN RESOLUTION NO

**THE MINUTES OF THE REGULAR SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19th DAY OF NOVEMBER 2012**

2012-67; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

MOTION: Councilman Johnson moved to approve Resolution NO. 2012-90 amending the adopted budget for the city of Willcox for the Fiscal Year 2012-2013, as originally adopted in Resolution NO 2012-67 **SECONDED:** Councilman Lindsey **DISCUSSION:** Ms. Graham pointed out that this will create two line items. Vice Mayor Holloway asked if the sale of the land will this come back to the Council with a line item. Ms. Graham stated no it would not as we cannot increase the budget that was approved. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-91 APPROVE FOR THE PURPOSE OF ACCEPTING FROM WINGS OVER WILLCOX A DONATION OF REAL PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

MOTION: Councilman Johnson moved to approve Resolution NO. 2012-91 approve for the purpose of accepting from wings over Willcox a donation of real property **SECONDED:** Councilman Lindsey seconded the motion. **DISCUSSION:** Councilman Lindsey asked if the paperwork is already deeded to the City. Mr. Bonner stated the paperwork does have the City name on it. Ms. Cronberg asked if it is a straight donation. City Attorney Ms. Roberts stated it will be a straight donation. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-92 APPROVING THE PURCHASE OF RETRO REFLECTIVE STREET SIGNS FROM CENTER LINE SUPPLY WEST FOR COMPLIANCE WITH THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT AWARDED TO THE CITY BY THE STATE OF ARIZONA ON AUGUST 24, 2010; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

MOTION: Councilman Johnson moved to approve Resolution NO. 2012-92 approving the purchase of retro reflective street signs from center line supply west for compliance with the highway safety improvement program (HSIP) grant awarded to the city by the state of Arizona on august 24, 2010 **SECONDED:** Councilman Lindsey seconded **DISCUSSION:** Councilman Lindsey asked how long will this take. City employee stated we have one year to ensure this is carried out. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-93 APPROVING AND ADOPTING THE CDBG CONTRACT #112-13 BETWEEN THE CITY OF WILLCOX AND THE ARIZONA DEPARTMENT OF HOUSING FOR THE PURPOSE OF ADMINISTERING FUNDS FROM TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (CDBG) FOR HISTORIC PRESERVATION OF THE WILLCOX COMMUNITY CENTER; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

MOTION: Councilman Johnson moved to approve Resolution NO. 2012-93 approving and adopting the CDBG contract #112-13 between the city of Willcox and the Arizona department of housing for the purpose of administering funds from title I of the housing and community development act of 1974 (CDBG) for historic preservation of the Willcox community center **SECONDED:** Councilwoman Cronberg seconded the motion. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-94 APPROVING THE BID FOR PURCHASE OF REAL PROPERTY FROM JOHN A. HOLCOMB, MARY M. HOLCOMB AND AMANDA D. KIRKENDALL IN THE AMOUNT OF \$175,111.00, FOR THE SALE OF CITY PROPERTY LOCATED AT 1510 N. CIRCLE I. ROAD, WILLCOX, ARIZONA; AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

MOTION: Councilman Johnson moved to approve Resolution 2012-94 approving the bid for purchase of real property from john a. Holcomb, Mary M. Holcomb and Amanda d. Kirkendall in the amount of \$175,111.00, for the sale of city property located at 1510 n. Circle I. Road, Willcox, Arizona
SECONDED: Councilwoman Cronberg

**THE MINUTES OF THE REGULAR SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19th DAY OF NOVEMBER 2012**

DISCUSSION: Councilman Lindsey asked if the easement was approved by both buyer and seller and wanted to make sure everyone was in agreement. Mr. Stoddard asked the Holcomb if they were okay to this agreement and Mr. Holcomb stated he did not have a problem with this. **CARRIED**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2012-95 CANVASSING, DECLARING AND ADOPTING THE RESULTS OF THE GENERAL ELECTION HELD ON NOVEMBER 6, 2012

MOTION: Councilman Johnson moved to approve Resolution NO. 2012-95 Canvassing, Declaring and adopting the results of The General Election held on November 6, 2012. **SECONDED:** Councilman Holloway **CARRIED**

CITY MANAGER REPORTS

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

- **City Hall Closed-** November 22 & 23, 2012 for Thanksgiving
- **Special Work Session-** Capital expense needs for Water System & Solid Waste Monday, November 26, 2012 at 6:30 pm.
- **Apple Festival-** November 29 –December 1, 2012 at the Community Center
- **Employee Appreciation Potluck-** December 6, 2012 from 11:00 am-1:00 pm.
- **Work Session-** Monday December 10, 2012 for Sewer System

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS

Councilman Johnson wished everyone a Happy Thanksgiving.

~~**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 REGARDING THE PURCHASE, SALE, OR LEASE OF REAL PROPERTY**~~

~~**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 7:20 pm.

**THE MINUTES OF THE REGULAR SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 19th 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 1st day of October 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 19th day of November 2012

City Clerk Virginia A. Mefford

PASSED, APPROVED AND ADOPTED this 3rd day of December 2012.

MAYOR ROBERT A IRVIN

Signed _____

ATTEST:

City Clerk Virginia A. Mefford

**THE MINUTES OF THE WORK SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 22nd DAY OF OCTOBER 2012**

CALL TO ORDER- Mayor Bob Irvin called the work session meeting to order on Monday, October 22, 2012 at 6:03 p.m. and welcomed everyone in attendance

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

PRESENT

Mayor Robert A. Irvin
~~Vice Mayor Bill Holloway~~
Councilman Gerald W. Lindsey
Councilman Elwood A. Johnson arrived at 6:30
Councilwoman Monika Cronberg
~~Councilman Earl Goolsby~~
Councilman William "Bill" Nigh

STAFF

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

ABSENT

Vice Mayor Bill Holloway
Councilman Earl Goolsby

PLEDGE OF ALLEGIANCE TO THE FLAG lead by Mayor Irvin

DECLARATION ON CONFLICT OF INTEREST

None Declared

ADOPTION OF THE AGENDA.

MOTION: Councilwoman Cronberg moved to adopt the agenda as presented.

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

DISCUSSION ON CAPITAL EXPENSE NEEDS GAS SYSTEM

Mr. Dave Bonner gave an overview on the gas system by W.C. Scoutten. He explained it is a 5 mile steel pipeline, 4" coated steel pipeline. Normal operating pressure is about 100 PSI. He went over the map presented on the PowerPoint that was given to Council. He pointed out the location of the 3&4 regulator stations, located on Delos St. The entire system is made up of 44 miles of gas line. Councilman Lindsey asked if it is made up in inner or outer. Mr. Bonner stated it is made up of outer. Councilman Lindsay asked what the rate of replacement is. Bonner stated 10 %. Mayor Irvin asked how much does it cost to replace. Mr. John Bowen stated about \$240 the earth, meter and fitting. Bonner stated there is someone out there that said they could recycle and convert them. Councilman Nigh asked where you read them, on the high pressure side. Mr. Bonner stated there are several ways to read them, we change the graphs once a week, and normal pressure is about 4 oz. Mr. Bonner stated the 78 residents outside of city limits are about 11/2 miles from the city limits. On the map he pointed out the regulator which runs out about 5 miles. Regulations are by Arizona Corporation Commission (ACC), and audits usually last for 4 days and we get our results in about three week, in which the City has 30 days to respond. Federal Pipeline regulation requires us not to exceed 15 months. Councilman Lindsey asked if they were doing the survey in-house. Mr. Bonner stated we are using Dan Fitzgerald we do this every other year, but next year we will be doing it in-house. The last reported leak was done in 2004. Regulator Station 2004-05 has been in the budget and \$400,000 was put in 2006-07 budgets. Councilman Lindsey asked for Mr. Bonner to explain this to the Council, but my understanding is the regulator stations do not need to be replaced. I was wondering if we could keep the \$400,000 on the budget, that way we could have it if we need down the line. Mr. Bonner stated you are stealing my thunder, as I was going to explain this later in my presentation. Your right, we shouldn't need to replace the pipeline. Councilman Johnson stated if something does go wrong we have money to fix it. Mr. Bonner stated we do have 27% capacity available for additional growth, after the steel sub mains have been replaced only 16% will be available for growth. The future plans indicate there are no physical reasons for replacing the line or regulator. This is based on the average of all the meters. Councilman Nigh asked before I was a councilman I heard about looping two regulators together would help. Mr. Bonner stated that is correct. Mr. Bowen stated one is at Soto and Bisbee. Councilman Nigh stated that would be a good area.

**THE MINUTES OF THE WORK SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 22nd DAY OF OCTOBER 2012**

Councilman Lindsey asked would there be a possibility to connect a line to El Paso Natural Gas line. Mr. Bonner stated yes it would, the tap would be about \$1,000,000. Mr. Bowen stated Kinder-Morgan is going to be putting in a bypass on Wednesday so if something does go wrong they could get to it. Mr. Bonner went over the worksheets on Gas Fund Capital Budget, Gas Capital Projects, and Future Gas Capital Projects. Mr. Bowen stated we do classify the leaks from 1-3 and the severity would be a 1 and less severity is 3 and we do respond to them in this order. Mr. Bonner pointed out the summary and stated it is on the last page of the worksheet. Councilman Nigh asked about PVC pipes could be used. Mr. Bonner stated that is not allowed due to it tends to breakdown very easily. This is all recommendations and one of the questions is do we want to keep adding money until we have saved up about \$750,000 so we have the money for the long range. City Manager McCourt stated in the long range sense the rate projection in February, there are different ways to do this. Our recommendation at this time is looking at replacing the main if there is growth we may have to look into putting a second line. Do we put this in place for future potential growth? Councilman Nigh stated we do need to look at seeing if EPNG has an off valve and the actual cost for a secondary line. Councilman Johnson stated how many active lines do we have currently? Mr. Bonner stated about 433 and we do have about 350 inactive lines. City Manager McCourt stated there is a possibility more people will flood to switch to gas for cost effective reasons, we could look at putting in a second line but what we are suggestion is address the concerns with engineer studies and right of way studies. Councilman Johnson stated we could do this with property tax if we need an increase. Mr. McCourt stated yes we could but this is usually done with utilities, we would raise the rate in the utilities as we do in raising the water rate, you may recall from our spreadsheets. The questions are: do you want more capital accumulations and when do you want to start the capital accumulation. Councilman Johnson asked how many miles do you have to replace at a time? We don't have to replace to scale but we try to. City Manager McCourt stated we do try to replace as Mr. Bowen stated we do have a scale with the most severity first and continue to replace as necessary. Mr. Bonner pointed out the area where he explained we do 2 inch and buy 500 feet increments and we do go up to a 4 inch. Councilman Nigh stated I don't think we need to do an expansion for about year, but if we could get the information for the expansion. Councilman Lindsey stated it doesn't seem like we need to push it too hard. Mr. Bonner stated we do need to think about when we need to start this implementation. In 2004-05 we had a huge influx of people coming in and we were not prepared. It may be a gradual increase. Councilman Lindsey stated we don't have a huge inventory, of forecloses property. Mr. McCourt asked the council if there was anymore they would like for them to bring back or do you want us to go forth with what was presented. Councilman Lindsey stated I think we should start accumulating but I don't know at what rate. City Manager McCourt stated the Council should start thinking how much. We are planning to ask for another work session for the water and sewer maybe two more work sessions so we can incorporate anymore rate increases, and indicated we should do this before the end of this calendar year. I just want to mention we received an invite very late this month on the Mayor/Manager meeting it is on the 29th of this month, please let Virgie Know if you are interested in attending.

ADJOURN

Being no further discussion before the Mayor and Council, Mayor Irvin adjourned the Work Session at 7:15 p.m.

**THE MINUTES OF THE WORK SESSION OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 22nd DAY OF OCTOBER 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 22nd day of October 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 22nd day of October 2012

City Clerk Virginia A. Mefford

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

MAYOR ROBERT A Irvin
Signed _____

ATTEST:

City Clerk Virginia A. Mefford

**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, committed it was a real mess. 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 lagoon's 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 fund this. About ten years ago not this Council but the Council back then spent an upwards of \$2 million dollars repairing the lagoon and it 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 on going. Mayor Irvin called for the vote 4 to 1; **AYES:** Councilman Nigh **NAYS:** Mayor Irvin, Vice Mayor Holloway, Councilman Johnson and Councilman Goolsby. **FAILED**

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**

**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**

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 3 and I immaterially 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 portable water. It cost us \$114,000 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 to? Holloway stated you are not referencing tonight's agenda as we have not. 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 form San Francisco. If we fall out of step and we are not moving ahead it is \$100 a day first year 3.4 million in fines and the 2nd year is 4.2 million dollars. Beck needs to make it clear that they and USDA will be backing the funds to get this. 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. 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 we have helped cities build and do the engineering, and design. This has taken the extra expenses to find the best alternative to for the

**THE MINUTES OF THE SPECIAL MEETING OF THE MAYOR AND
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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 time line 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 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 gallons 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 hire positions then 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 ___ day of December 2012.

MAYOR ROBERT A. IRVIN
Signed: _____

ATTEST:

City Clerk Virginia A. Mefford



CITY OF WILLCOX
Virginia A. Mefford
City Clerk
101 S. Railroad Avenue Suite B
Willcox, AZ 85643

M

TO: Mayor and Council

E

DATE: November 29, 2012

SUBJECT: Application for Bingo License

Mayor and Council,

M

The City has been trying to economize and keep the paper cost to a minimum; I have attached a copy of the application for Bingo License. I do have the complete Bingo packet available at the City Clerks office, if you would like to review it. If you would like a copy of the complete packet one will be provide at your request.

O

I appreciate your understanding.

R

Thank you,

A

Virgie

N

D

U

M



Arizona Department of Revenue • Bingo Section

Phoenix: (602) 716-7801

APPLICATION FOR BINGO LICENSE

Complete all information on this form. If you do not complete all information, your application will be returned. All information is subject to verification. If you need more space, attach additional sheets.

Falsification of information contained in this application constitutes a Class 6 felony.

All bingo licenses expire one year from the date of issue. To continue conducting bingo games, you must renew your license prior to the expiration date.

For Department of Revenue Use Only
Approved Disapproved
REVIEWER'S NAME (please print) DATE
License Classification: Class A Class B Class C
LICENSE NUMBER TERM OF LICENSE: From: To:

Type or print in black ink.

1 APPLICANT'S NAME: Willcox Benevolent and Protective Order of Elks
2 TELEPHONE NUMBER WITH AREA CODE: (520) 384-2131
3a ADMINISTRATIVE OFFICE LOCATION: 247 E. Stewart
4a MAILING ADDRESS: PO Box 940
3b CITY STATE ZIP CODE: Willcox AZ 85643
4b CITY STATE ZIP CODE: Willcox AZ 85644

5 Class B and Class C license applicants only: If applying as a qualified organization, indicate the type of organization:

Check one box:

- Charitable Social Religious Veterans
Fraternal Volunteer Fire Department Homeowners Association Nonprofit Ambulance Service

6 Class B and Class C license applicants only: If applying as a qualified organization, give the name and address of your one parent or auxiliary.

PARENT AUXILIARY
6a Arizona Elks Association 6b Willcox Elks Auxiliary
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
916 Charles Dr. 905 Encanto
CITY STATE ZIP CODE CITY STATE ZIP CODE
Sierra Vista AZ 85635 Willcox AZ 85643

7 Class B and Class C license applicants only: If applying as a qualified organization, indicate the date your organization was established in Arizona. 0, 3, 2, 1, 1, 9, 8, 6

8 Class B and Class C license applicants only: If applying as a qualified organization, list current officers:

NAME 8a Richard Regalado	NAME 8b Brian Brown
TITLE President Trustees	TITLE Trustee
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 540 N. Cochise Ave	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 309 S. Casas Lindas
CITY STATE ZIP CODE Willcox AZ 85643	CITY STATE ZIP CODE Willcox AZ 85643
NAME 8c Glen Kreger	NAME 8d Steven Lee
TITLE Trustee	TITLE Secretary
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 905 Encanto	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 2862 W. Marguerite Rd
CITY STATE ZIP CODE Willcox AZ 85643	CITY STATE ZIP CODE Willcox AZ 85643

9 Class B and Class C license applicants only: Bingo checking account information:

Checking Account Number: 453629-7

Bank Name and Branch Cochise Credit Union, Willcox, AZ

10 Class B and Class C license applicants only: Bingo interest-bearing account information:

Account Number: 453629-1

Bank Name and Branch: Cochise Credit Union, Willcox, AZ

11 Class B and Class C license applicants only: List all officers and/or supervisors authorized to sign checks from the accounts listed above. If applying as a qualified organization, all **supervisors must be members** of the applicant:

NAME 11a Richard Regalado	NAME 11b Steven Lee
TITLE President Trustee	TITLE Secretary
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 540 N. Cochise Ave	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 2862 W. Marguerite Rd
CITY STATE ZIP CODE Willcox AZ 85643	CITY STATE ZIP CODE Willcox AZ 85643

12 List the name(s) of the one or two persons who will serve as managers. If applying as a qualified organization, these persons **must be members** of the applicant. *Each person must submit an affidavit.*

NAME 12a Richard Regalado	NAME 12b
TITLE President Trustee	TITLE
ADDRESS - NUMBER AND STREET RURAL RT., APT. NO. 540 N. Cochise Ave	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
CITY STATE ZIP CODE Willcox AZ 85643	CITY STATE ZIP CODE

13 List the name of the one person designated as proceeds coordinator. If applying as a qualified organization, this person **must be an officer or director and a member** of the applicant. *Each person must submit an affidavit.*

NAME Steven Lee	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 2862 W. Marguerite Rd
TITLE Secretary	CITY STATE ZIP CODE Willcox AZ 85643

14 List the name(s) of the person(s) who will serve as supervisor. If applying as a qualified organization, each person must be a member of the applicant. Each person must submit an affidavit.

NAME 14a Glen Kreger	NAME 14b Dave Beatty
TITLE Trustee	TITLE Trustee
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 905 Encanto	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO. 913 N. Prescott Ave
CITY STATE ZIP CODE Willcox AZ 85643	CITY STATE ZIP CODE Willcox AZ 85643
NAME 14c	NAME 14d
TITLE	TITLE
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
CITY STATE ZIP CODE	CITY STATE ZIP CODE

15 List the name(s) of the person(s) who will serve as assistants. If applying as a qualified organization, each person must be a member or new member of the applicant. Except for "Class A" licensees, each person must submit an affidavit

NAME 15a	NAME 15b
NAME 15c	NAME 15d
NAME 15e	NAME 15f
NAME 15g	NAME 15h

16 Street address of the physical location where bingo will be played:
247 E. Stewart, Willcox, AZ

17 Indicate the time on each respective day that bingo will be played:

Monday: _____ AM PM Friday: _____ AM PM

Tuesday: 6:00 AM PM Saturday: _____ AM PM

Wednesday: _____ AM PM Sunday: _____ AM PM

Thursday: 6:00 AM PM

18 List dates of proposed game cancellation if any:

19 Indicate the type of premises where bingo will be played. Check one box (line 19 continues on page 4):

- a Neither rent nor mortgage will be paid from bingo funds.
- b Rented or leased. Attach rental affidavit and copy of rental agreement.

LANDLORD'S NAME	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

c Owned solely by the organization. Attach copy of mortgage, deed of trust, purchase agreement, escrow agreement, etc..

HOLDER OF MORTGAGE	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

19d Owned jointly with other organization. Attach copy of mortgage, deed of trust, purchase agreement, escrow agreement, etc.

HOLDER OF MORTGAGE 1)	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE
CO-OWNER HOLDER: 2)	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE
CO-OWNER HOLDER: 3)	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

20 List bingo licensees who are or will be conducting bingo in the same premises as you and those licensees located within 1,000 feet of your premises.

NAME 20a	NAME 20b
ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
CITY STATE ZIP CODE	CITY STATE ZIP CODE

21 Expected bingo expenses (line 21 continues on page 5):

a Mortgage: \$ 0.00 per month

PAYABLE TO	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

b Rent: \$ 0.00 per month hour occasion

PAYABLE TO	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

c Janitorial Services: \$ 0.00 per month hour occasion

PAYABLE TO	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

d Accounting Services: \$ 0.00 per month hour occasion

PAYABLE TO	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

e Security Services: \$ 0.00 per month hour occasion

PAYABLE TO	ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.
TELEPHONE NUMBER WITH AREA CODE	CITY STATE ZIP CODE

21 Expected Bingo Expenses, continued...

f Bingo Supplies: \$350.00 per month

PAYABLE TO		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
TELEPHONE NUMBER WITH AREA CODE		CITY	STATE	ZIP CODE

g Maximum prize payout per occasion: \$ 0.00. Attach game schedule that lists individual prize amounts.

PAID TO		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
TELEPHONE NUMBER WITH AREA CODE		CITY	STATE	ZIP CODE

h Utilities Expenses:

ELECTRIC (payable to)		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
ACCOUNT NUMBER	MONTHLY AMOUNT	CITY	STATE	ZIP CODE
	\$			

GAS (payable to)		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
ACCOUNT NUMBER	MONTHLY AMOUNT	CITY	STATE	ZIP CODE
	\$			

WATER (payable to)		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
ACCOUNT NUMBER	MONTHLY AMOUNT	CITY	STATE	ZIP CODE
	\$			

TRASH REMOVAL (payable to)		ADDRESS - NUMBER AND STREET, RURAL RT., APT. NO.		
ACCOUNT NUMBER	MONTHLY AMOUNT	CITY	STATE	ZIP CODE
	\$			

22 Briefly state the specific projected use of net proceeds from games of bingo:

Youth and community activities supported by this Elks Lodge.

Under penalty of perjury, upon oath, I, RICHARD RECALADO, declare that I am duly authorized to sign and file this application. I hereby swear or confirm that I have read the foregoing application and know the contents thereof, and that all information provided has been fully, accurately, and truthfully completed to the best of my knowledge.

R. Recalado
AFFIANT'S SIGNATURE

11-27-12
DATE

PRES. TRUSTEES
TITLE



Arizona Department of Revenue • Bingo Section

1600 West Monroe, Phoenix, AZ 85007 • (602) 716-7801

AFFIDAVIT

This affidavit must be completed by each person who wishes to assist in the conduct of any game of bingo. If any information is blank or incorrect, the affidavit will be returned to you. All information is subject to verification. Disclosure of your Social Security Number is voluntary. This information may be used to establish positive identification for purposes of criminal background checks pursuant to Arizona Revised Statutes, §5-404.

Please type or print in black ink.

LICENSEE'S NAME: WILLCOX BENEVOLENT AND PROTECTIVE ORDER OF ELKS; LICENSE NUMBER; POSITION: Manager (checked); Supervisor; Proceed Coordinator; Assistant.

AFFIANT'S NAME: RICHARD REGALADO; SOCIAL SECURITY NO.: 600-30-6963; ADDRESS: 540 N COCHISE; CITY: WILLCOX; STATE: AZ; ZIP CODE: 85643; HOME PHONE NO.: (520) 384-4672; WORK PHONE NO.: (520) 507-8810.

If licensee is a qualified organization, complete the following section:

MEMBER? Yes (checked); No; DATE JOINED ORGANIZATION: 11.09.2004; OFFICERS? Yes (checked); No; OFFICER TITLE: PRESIDENT TRUSTEES; DO YOU HAVE AN AFFIDAVIT ON FILE FOR ANY OTHER LICENSEE? No (checked).

I, RICHARD REGALADO, the above named affiant, under penalty of perjury, upon oath, depose and say that I will conduct or assist in conducting all bingo games in compliance with the terms of the license, Arizona Revised Statutes, Title 5, Chapter 4, and the rules of the licensing authority. I am of good moral character and have never been convicted of any misdemeanor involving moral turpitude or felony. I have not and shall not receive any reward, compensation or recompense for my participation in the conduct of bingo games except as provided for by law. I hereby swear or confirm that I have read and understand the foregoing and verify that the information and statements made herein are true and correct to the best of my knowledge.

Signature of Richard Regalado; SIGNATURE OF AFFIANT

11-20-2012; DATE



Arizona Department of Revenue • Bingo Section

1600 West Monroe, Phoenix, AZ 85007 • (602) 716-7801

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Please type or print in black ink.

LICENSEE'S NAME: Willcox Benevolent and Protective Order of Elks; LICENSE NUMBER; POSITION; Check the appropriate boxes: [] Manager [] Supervisor [X] Proceed Coordinator [] Assistant

AFFIANT'S NAME: Steven Lee; SOCIAL SECURITY NO.: 527-81-7173; ADDRESS: 2862 W. Marguerite Rd.; CITY: Willcox; STATE: AZ; ZIP CODE: 85644; HOME PHONE NO.: (520) 384-0058; WORK PHONE NO.: (520) 507-3333

If licensee is a qualified organization, complete the following section:

MEMBER? [X] Yes [] No; DATE JOINED ORGANIZATION: 0, 6, 1, 2, 2, 0, 0, 4; OFFICERS? [X] Yes [] No; OFFICER TITLE: Secretary; DO YOU HAVE AN AFFIDAVIT ON FILE FOR ANY OTHER LICENSEE? [] Yes [X] No

I, Steven Lee, the above named affiant, under penalty of perjury, upon oath, depose and say that I will conduct or assist in conducting all bingo games in compliance with the terms of the license. Arizona Revised Statutes, Title 5, Chapter 4, and the rules of the licensing authority. I am of good moral character and have never been convicted of any misdemeanor involving moral turpitude or felony. I have not and shall not receive any reward, compensation or recompense for my participation in the conduct of bingo games except as provided for by law. I hereby swear or confirm that I have read and understand the foregoing and verify that the information and statements made herein are true and correct to the best of my knowledge.

Signature of Steven Lee; SIGNATURE OF AFFIANT

11-27-12; DATE



Arizona Department of Revenue • Bingo Section

1600 West Monroe, Phoenix, AZ 85007 • (602) 716-7801

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Please type or print in black ink.

LICENSEE'S NAME: WILLCOX BENEVOLENT AND PROTECTIVE ORDER OF ELKS; LICENSE NUMBER; POSITION: Check the appropriate boxes: [] Manager [X] Supervisor [] Proceed Coordinator [] Assistant

AFFIANT'S NAME: Dave Beatty; SOCIAL SECURITY NO.: 164-54-9554; ADDRESS: 913 N. Prescott; CITY: Willcox; STATE: AZ; ZIP CODE: 85643; HOME PHONE NO.: (520) 384-6057; WORK PHONE NO.: (520) 507-4258

If licensee is a qualified organization, complete the following section:

MEMBER? [X] Yes [] No; DATE JOINED ORGANIZATION: 06.06.2009; OFFICERS? [X] Yes [] No; OFFICER TITLE: Trustee; DO YOU HAVE AN AFFIDAVIT ON FILE FOR ANY OTHER LICENSEE? [] Yes [X] No

I, Dave Beatty, the above named affiant, under penalty of perjury, upon oath, depose and say that I will conduct or assist in conducting all bingo games in compliance with the terms of the license. Arizona Revised Statutes, Title 5, Chapter 4, and the rules of the licensing authority. I am of good moral character and have never been convicted of any misdemeanor involving moral turpitude or felony. I have not and shall not receive any reward, compensation or recompense for my participation in the conduct of bingo games except as provided for by law. I hereby swear or confirm that I have read and understand the foregoing and verify that the information and statements made herein are true and correct to the best of my knowledge. Signature of Affiant: Dave Beatty; Date: 11-20-12



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1600 West Monroe, Phoenix, AZ 85007 • (602) 716-7801

AFFIDAVIT

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Please type or print in black ink.

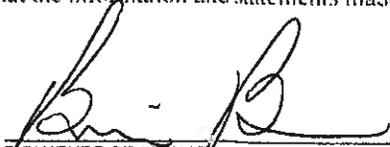
LICENSEE'S NAME WILLCOX BENEVOLENT AND PROTECTIVE ORDER OF ELKS	LICENSE NUMBER
POSITION Check the appropriate boxes: <input type="checkbox"/> Manager <input checked="" type="checkbox"/> Supervisor <input type="checkbox"/> Proceed Coordinator <input type="checkbox"/> Assistant	

AFFIANT'S NAME Brian Brown		SOCIAL SECURITY NO. 600-30-8876
ADDRESS PO Box 59		DATE OF BIRTH 1, 1, 3, 0, 1, 9, 7, 0
CITY Willcox	STATE AZ	ZIP CODE 85644
HOME PHONE NO. (with area code) (520) 235-1278	WORK PHONE NO. (with area code) (520) 235-1278	

If licensee is a qualified organization, complete the following section:

MEMBER? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	DATE JOINED ORGANIZATION 0, 6, 0, 7, 2, 0, 0, 3
OFFICERS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	OFFICER TITLE Trustee
DO YOU HAVE AN AFFIDAVIT ON FILE FOR ANY OTHER LICENSEE? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes", list license number(s):	

I, Brian Brown AFFIANT'S NAME, the above named affiant, under penalty of perjury, upon oath, depose and say that I will conduct or assist in conducting all bingo games in compliance with the terms of the license, Arizona Revised Statutes, Title 5, Chapter 4, and the rules of the licensing authority. I am of good moral character and have never been convicted of any misdemeanor involving moral turpitude or felony. I have not and shall not receive any reward, compensation or recompense for my participation in the conduct of bingo games except as provided for by law. I hereby swear or confirm that I have read and understand the foregoing and verify that the information and statements made herein are true and correct to the best of my knowledge.


SIGNATURE OF AFFIANT

11-20-12
DATE



Arizona Department of Revenue • Bingo Section

1600 West Monroe, Phoenix, AZ 85007 • (602) 716-7301

AFFIDAVIT

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Please type or print in black ink.

LICENSEE'S NAME: WILLCOX BENEVOLENT AND PROTECTIVE ORDER OF ELKS; LICENSE NUMBER; POSITION; Check the appropriate boxes: [] Manager [X] Supervisor [] Proceed Coordinator [] Assistant

AFFIANT'S NAME: Glen Kreger; SOCIAL SECURITY NO.: 454-66-5993; ADDRESS: 905 Encanto; CITY: Willcox; STATE: AZ; ZIP CODE: 85643; HOME PHONE NO.: (520) 384-4454; WORK PHONE NO.: (520) 507-5349

If licensee is a qualified organization, complete the following section:

MEMBER? [X] Yes [] No; DATE JOINED ORGANIZATION: 0, 5, 0, 3, 1, 9, 8, 1; OFFICERS? [X] Yes [] No; OFFICER TITLE: Trustee; DO YOU HAVE AN AFFIDAVIT ON FILE FOR ANY OTHER LICENSEE? [] Yes [X] No

I, Glen Kreger, the above named affiant, under penalty of perjury, upon oath, depose and say that I will conduct or assist in conducting all bingo games in compliance with the terms of the license. Arizona Revised Statutes, Title 5, Chapter 4, and the rules of the licensing authority. I am of good moral character and have never been convicted of any misdemeanor involving moral turpitude or felony. I have not and shall not receive any reward, compensation or recompense for my participation in the conduct of bingo games except as provided for by law. I hereby swear or confirm that I have read and understand the foregoing and verify that the information and statements made herein are true and correct to the best of my knowledge. SIGNATURE OF AFFIANT: [Signature]; DATE: 11-20-2012

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item 9
Tab Number 3
Date: 12/03/2012

Date Requested:
10/23/12

Resolution
 Ordinance
 Formal
 Other

**Subject: Update on
Burglary at the Elsie
S. Hogan Community
Library**

TO: MAYOR AND COUNCIL

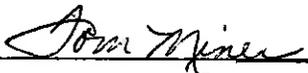
FROM: Tom Miner, Library Director

DISCUSSION: On Sep 12/13, 2012, a burglary occurred at the Library. I would like to update the Council on the current status of the case, what events have occurred, and what actions have been taken to date.

RECOMMENDATION: None – for information purposes only.

FISCAL IMPACTS: None

Submitted by:



Tom Miner, Library Director

Approved by:



Pat McCourt, City Manager

Willcox City Council Briefing November 5, 2012

BURGLARY AT THE LIBRARY Report by Tom Miner, Library Director

◇◇◇

Good Evening Mr. Mayor and Members of the Council,

As all of you know, we had a break-in at the Library on the night of Sep 12/13, 2012. Much has happened since then, some bad and some good, and I appreciate the opportunity to speak to you tonight and apprise you of *some* of the details. The case and the investigation are still very active, so some information cannot be released at this time. Here are some highlights, and what we know for sure so far:

The Library lost a total of 14 items that night, totaling **\$7,778.46**, and three items were damaged, costing **\$266.19** in repairs, making the grand total for everything: **\$8,044.65**.

The investigation is ongoing. A person named Cesar Monrroy, age 34, of Willcox was arrested by the Willcox Dept of Public Safety on Sep 26, 2012, and charged with four felonies:

1. Burglary 3rd degree
2. Possession of burglary tools
3. Theft
4. Trafficking in stolen property

One of the laptops was recovered; it is being held as evidence in the upcoming trial. None of the other property has been recovered. That is the bad news. Now for the GOOD news: Mr. Monrroy was arraigned in Cochise County Superior Court, Div V, on Oct 15, 2012, and a hearing for a trial setting date was conducted on Oct 29, 2012, in Div II. The trial is set to begin _____.

I want to recognize and thank some other very important people tonight... first of all,

KUDOS to Chief Weaver and his team at WDPS for making an arrest within two weeks of the incident occurring, and for continuing to press on with the investigation!

I also want to thank Public Works Director Dave Bonner and his team for making the necessary temporary repairs to our damaged doors and windows so we could continue to be open and operate safely for the Public the same day of the incident, and for coming back and making the final repairs in such a timely manner. Thank you all, from all of us at the Library!

In the interim, one of our patrons overheard our staff talking about the burglary one day, and she called me that afternoon and said something like "I am on a fixed income, so it won't be until October, but I am going to try and help raise some money to offset your losses. My family and I will hold a bake sale, maybe at ALCO's parking lot, and I think some of my friends at church will help out too!" I choked up a bit at that point, and thanked her from the bottom of my heart. You saw my answer to her in the Sep 19th article in the paper.

Here is a person who loves their local Library so much, that she would take part of her meager Social Security fixed income to help us out. That clearly illustrates how important the Library is to the people in this community. And she is not alone...

The fine couple that run the local County Airport here, Louise and Jim Walden, saw the article in the paper and called me and asked if I could use a couple of extra computers they had on hand. That afternoon we had two more computers on "long-term loan" here at the Library. I owe them a debt of gratitude. (Now, if I could just get VTC over here to integrate them!). And it keeps getting even better...

Due to the fact that about all of my stolen equipment was purchased through various Grants, I notified both the County Library and the State Library of the burglary. We thought initially that the City's Insurance deductible was going to be \$1,000. I did not have an extra \$1,000 anywhere in my Budget, so I was lamenting the fact and wondering out loud how we were going to come up with it. Lise Gilliland, the County Librarian, said "Let me see if there is anything we can do down here. I'll call you back." Sure enough, later that day she called and said "Don't worry, we'll cover the deductible. The County will pay for it." That clearly demonstrates the close cooperation and support that we get from Cochise County. Now, even better news: when we looked more closely at the Insurance certificates, the deductible is only \$250.00, not a thousand, so it is a win-win for both us and the County! This is by far, the greatest Library District I have ever had the privilege of working with. But there is more...

The day after the burglary, I had to attend a mandatory Library Statistics workshop up in Tucson, taught by the lady Librarian that approves all of my LSTA and SGIA-C Grants, Ms. Laura Stone. I apprised her of the situation, since two of our stolen computers came from the BTOP 1 Grant, and were just installed this past April, six months before the burglary. She frowned for a moment, and turned to me and said, "You know Tom, I have a little bit of money left in the Grant, about enough to cover two more computers. Maybe we can help each other..." Well, of course I told her I was happy to help out any way that I could, plus, we really had no money in our budget to replace two computers worth \$2,500.00! Have any of you folks ever seen a short, fat guy do back flips? This is another clear example of the support and cooperation this Library has received from the fine folks up at the State Library! Laura has approved more than \$132,500 in Grants for us (Willcox) since I have been the Director. They all deserve a big round of applause!

So, all in all, more GOOD things have happened as a result of this burglary, than bad. Thank you for your time and attention. Are there any questions?

**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 10
Tab Number: 4
Date: 12-03-2012

Date Submitted:
11-20-12
Date Requested:
12-3-12

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject: City acting as the Fiscal agent for grant Application: for Chamber, Wings over Willcox, and Stephan Fairfield.

TO: MAYOR AND COUNCIL

FROM: City Manager

DISCUSSION: The City of Willcox (City) has been approached by the Willcox Chamber of Commerce and Agriculture (Chamber) to see if the City would be willing to act as the Fiscal Agent for; Wings Over Willcox (WOW) and Stephan Fairfield (Fairfield), who wish to apply for a grant from Artplace America (Artplace). The Grantee (proposed to be the City) must be a 501c3 organization, (neither the Chamber, WOW, nor Fairfield qualifies).

The proposed grant is outlined in the attached letter of Interest. The City was approached in early November, but not early enough to place the item on a November Agenda. The proposed grant would provide large artwork highlighting the "Birding" in the area, provide advertising of the "Birding" in the area, and provide some study of the bird populations.

We are unable to estimate the probability of receiving this grant as the City is unfamiliar with the Grantor.

The City would be committing to providing; staffing for reporting, safeguarding of the monies, and assuring the project is moving toward its goals in a timely manner. The City is not committing any money as match or to make up any shortfall in project costs. During the grant submittal phase the City involvement is minimal. If the Grant request is funded the City will have additional administrative work to accomplish the grant. The proposed Grant has the possibility of helping the Willcox area continue to develop as a "Birding" destination. This in turn helps provide a boost to our local economy.

RECOMMENDATION: Authorize the City Staff to continue to work with the Chamber, WOW, and Fairfield in the grant submittal.

FISCAL IMPACT: There will be the expense of City Staff working on the grant application and the necessary record keeping and reporting if the grant is received.

Prepared by: Pat McCourt

Approved by:



City Manager

If you wish to apply, please use this worksheet to prepare all your responses before completing the Letter of Inquiry online at www.artplaceamerica.org/loi. ArtPlace will only review Letters of Inquiry submitted through its website. All requests must be submitted by November 5, 2012.

Throughout this Letter of Inquiry please be specific about the work for which you are seeking support and avoid jargon.

Name of organization or individual applicant: Stephen Fairfield, Public Art Sculptor

EIN #/Taxpayer ID #: 26-0703539

Name of project: Willcox Is For The Birds!

One sentence description of the work for which you are seeking support:

Highlighting a monumental, interactive, new media (solar powered light emitting diodes) stainless steel public art gateway to the city of Willcox, we propose a synergistic, comprehensive cultural and economic development plan targeted at drawing increased numbers of both winter birdwatching and 'snowbird' visitors to Willcox.

Amount requested from ArtPlace: \$300,000

Total project budget: \$300,000

Project request type (capital, programming, both): Programming

Describe the work you want to do for which you are seeking ArtPlace support. (250 words maximum)

We wish to build on Willcox's distinctiveness to create and launch a major economic development plan with an emphasis on it being a winter migratory birdwatching destination. A key component would be the creation of a highly visible monumental new media public art sculptural gateway to the city located adjacent to Interstate 10 passing the city's northern edge, as well as a major advertising campaign and signage. Additional seasonal educational activities would focus on birding and ecological and environmental concerns, as some populations (sparrows) are declining. Collaborative joint research with The University of Arizona's Ecology and Evolutionary Biology Department would be developed to explore the reasons for this.

There is a 20 year old nationally recognized birding program, Wings over Willcox (<http://www.wingsoverwillcox.com/>). We seek to increase promotion to draw more winter tourists and visitors to the area to bring more resources into the community to help support lodging, restaurants, shops, etc. and build the vitality of this fascinating small city in rural Arizona.

The area is an overwintering location for tens of thousands of Sandhill Cranes, numerous raptors like the Ferruginous Hawk, and a variety of species of sparrows. In addition, Willcox has a very distinctive position as an historic "Wild West" rural cattle town, along with being the hometown of Rex Allen and Tanya Tucker. Found within the region are fruit and nut orchards, a major commercial hydroponic tomato grower,

and vineyards. For the outdoor enthusiast there is world-class rock climbing, hiking, horseback riding, and major opportunities for rock hounds.

How does your project embody the Principles of Creative Placemaking in our guidelines? (250 words maximum)

Our project places art as the gateway into a cultural and economic development plan. Additional sculpture(s) at bird viewing sites, development of an advertising campaign, and the creation of print promotional and educational resources fill out the plan. It capitalizes on the local creative potential already in place with Wings Over Willcox, the all-volunteer run internationally known birdwatching program, talents and contacts of the Willcox Chamber of Commerce, the municipal government, and the State University. The project seeks to stimulate the local economy by significantly increasing annual day and overnight visitors to the region providing more employment opportunities for people of all incomes who work in the service industry - motels, bed and breakfast lodging, restaurants, and service stations. The project seeks to create a holistic vision of Willcox as an incredibly distinctive locale, with a rich ranching, railroad and Wild West history, along with the opportunity to witness literally tens of thousands of migratory birds overwintering at a variety of locations in the area. Visitors to the city can stroll picturesque businesses along Railroad Avenue, eat at Big Tex's BBQ - a restored railroad dining car - and visit the Headquarters Saloon where Wyatt Earp's youngest brother Warren was shot dead. Willcox, as the birthplace of Rex Allen and Tanya Tucker, and its storied history is definitely a place where people want to go, linger, explore, stroll the streets in the evening; a classic southwestern cattle town, steeped in history, striving to develop economic opportunities for all its residents.

Please submit the bio of the artistic director, curator or principal artist who will be responsible for delivering the artistic quality of this project. (Upload in pdf format.)

Please describe the larger portfolio of strategies to transform your community in which your project is integrated. Name the major partners in the development and execution of those strategies. Describe how you will build on current momentum. (250 words maximum)

The Willcox Regional Economic Development Alliance has a large portfolio of strategies to transform the community. The strategies include improving the health and educational system, retaining existing businesses and attracting more businesses to the Willcox region, providing more and higher paying jobs to local residents, enhancing the tourist appeal for day and overnight visitors to draw more visitors into the area, and overall to make Willcox and surrounding areas a more affordable, desirable place both to live and raise a family, and to visit. The major partners include Sulphur Springs Valley Electric Cooperative, a very large electric power cooperative in southeast Arizona, The Willcox Chamber of Commerce and Agriculture, The City of Willcox, Cochise Community College, Eastern Arizona College, Northern Cochise Community Hospital, The Arizona Range News, and Eurofresh Farms.

There are several ways this project will build on existing momentum: enhanced national print and media advertising for Wings Over Willcox birding opportunities will promote Willcox's amenities and available services as well as tourist opportunities. The fabrication and installation of new media solar powered sculpture as the city's gateway, and at migratory bird viewing areas will stimulate new ideas in the school's

art departments, encouraging students to “think outside the box” and explore new technologies for a variety of purposes. Increased visitors to the region will learn about local history, work and recreational opportunities, and provide a cross fertilization of ideas to foster connections between visitors to the area and local residents and business owners.

Has your community applied to or received funding from a federal program within the past year that relates to your project? If so, please explain this federal alignment. (50 words maximum) N/A

Have you contacted elected officials such as your mayor, county executive or congressional delegation to discuss your project with them? If so, please describe what has resulted from this conversation. (50 words maximum)

The Willcox City Manager has been contacted and is very much in favor of any proposal that will provide for regional economic development, “pull” more tourists/visitors into the area, and draw attention to the underutilized assets in the region like the presence of Sandhill Cranes and other species of birds.

ARTPLACE

ArtPlace is a collaboration of eleven leading national and regional foundations, eight federal agencies including the National Endowment for the Arts, and six of the nation's largest banks to accelerate creative placemaking across the U.S.

ArtPlace is investing in art and culture at the heart of a portfolio of integrated strategies that can drive vibrancy and diversity so powerful that it transforms communities. To date, ArtPlace has awarded 80 grants to 76 organizations in 46 communities across the U.S. for a total of \$26.9 million.

Participating foundations include Bloomberg Philanthropies, The Ford Foundation, The James Irvine Foundation, The John S. and James L. Knight Foundation, The Kresge Foundation, The McKnight Foundation, The Andrew W. Mellon Foundation, The William Penn Foundation, The Rockefeller Foundation, Rasmuson Foundation, The Surdna Foundation and two anonymous donors. In addition to the NEA, federal partners are the departments of Housing and Urban Development, Health and Human Services, Agriculture, Education and Transportation, along

with leadership from the White House Office of Management and Budget and the Domestic Policy Council.

ArtPlace funds in all 50 states and U.S. territories. Certain ArtPlace funders have a deep commitment to their local communities and have provided funding for specific states or communities. Currently, these include: Akron, Charlotte, Detroit, Macon, Miami, New York City, Philadelphia, San Jose, and St. Paul, as well as communities in Alaska, Arizona, California, Iowa, Michigan, Minnesota, New Mexico, North Dakota, Oregon, South Dakota, Washington and Wisconsin. Therefore, we particularly invite projects in these areas, although applications are welcome and grants are awarded to projects from all across the US. We continue to expand our funding with the goal of supporting the broadest possible geographic array of communities.

Funds committed to ArtPlace are overseen by the Nonprofit Finance Fund, a nonprofit lender and financial consulting organization that serves as investment and grant manager for the collaboration.

ArtPlace is also supported by a \$12 million loan fund capitalized by six major financial institutions and managed by the Nonprofit Finance Fund. Participating institutions are Bank of America, Citi, Deutsche Bank, Chase, MetLife and Morgan Stanley.

ArtPlace works to accelerate creative placemaking by making grants and loans; by striking important partnerships with those who share our passion; with solid but imaginative research; and with communication and advocacy that we hope will influence others to engage in this work.

© 2011 ARTPLACE

DESIGNED BY OCD

DEVELOPED BY RUBENSTEINTECH

CITY OF WILLCOX
Request for Council Action

Agenda Item: 11
Tab Number: 5
Date: 12-03-2012

Date Submitted:

October 17, 2012

Date Requested:

November 5, 2012

Action:

Resolution

Ordinance

Formal

Other

Subject:

Install Natural Gas
Backup Power System
for Well #3

To: Honorable Mayor and City Council

From: John Bowen, Utilities Supervisor

Discussion:

This item failed to pass at the November 5, 2012 Council meeting. After having further discussion at the November 26, 2012 work session; Council has asked that this item be brought back as an agenda item.

During a past emergency preparedness assessment, staff concluded that the delivery of potable water to citizens was our prime area of concern. The City of Willcox Water Section has three domestic water wells located approximately five (5) miles north of town. Two wells pump in excess of 1,000 gallons per minute each with the third pumping approximately 300 gallons per minute. This third well (Well #3) produces approximately 432,000 gallons per day. Our 1.5 million gallon storage tank is on automatic set points controlling the level between a high of 1.4 million gallons and a low of 900,000 gallons.

In 2011 daily water usage during the four coldest months of November, December, January, and February, when no one is irrigating landscaping or running evaporative coolers, was approximately 394,000 gallons per day. Staff reasoned that the 4 cold months more accurately showed the necessary household water consumption.

Based upon this assumption, we investigated various methods to insure water delivery from Well #3 in the case of an extended electrical power outage.

Electric backup generators were the first option considered. It was calculated that a 130 KW natural gas generator would be required to start the pump under full load. Natural gas is available at the well site and is a less expensive fuel than either gasoline or diesel, both possibly being in short supply in a natural disaster.

The natural gas generator proved to be more cost than budgeted at more than \$35,000 with cost, taxes, freight and required electric transfer switch. The larger V-10 6.8 L engine in the generator would be fuel inefficient compared to other options.

Councilman Klump suggested a right-angle pump drive as used by local farmers. Investigation found the City of Douglas and City of Tombstone are currently or have used a combination electric/natural gas right angle pump drive to pump water in the event of a power outage (See attached). The much smaller V6 direct drive application will run more efficiently and at a more than \$10,000 initial savings.

In the event of an electrical outage, a serviceman will go to Well #3, switch off the electrical disconnect, start the natural gas engine and allow it to warm up sufficiently before engaging the clutch to the right angle drive. Once electric power is restored, the process is reversed and the electric pump motor is started.

This engine will only be operated in an outage situation with the exception of maintenance operation twenty to thirty minutes a month. Southwest Gas has estimated a \$43 monthly fee plus gas consumption.

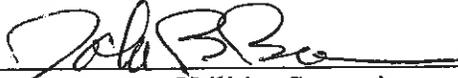
Staff requested quotes from five (5) pump companies and three (3) responded. They were: Bill's Pump Service - \$24,837.38; Gilbert Pump and Equipment - \$26,608.31; and Bestway Electric Motor Service - \$28,167.30. The Webber Group and Farwest Pump failed to submit a bid.

Recommendation:

Staff recommends contracting with Bill's Pump Service to retrofit Well #3 to operate on Natural Gas as an alternate power source.

Fiscal Impact:

\$24,837.38 from Water Capital Improvement (\$28,000 Budgeted)

Prepared By: 
John Bowen, Utilities Supervisor

Approved By: _____
Dave Bonner, Director Public Services & Works

Approved By: 
Pat McCourt, City Manager

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

RESOLUTION 2012-87

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, ARIZONA, ("CITY") APPROVING THE PURCHASE OF A NATURAL GAS BACKUP POWER SYSTEM FOR WELL NUMBER THREE IN THE CITY OF WILLCOX WATER SYSTEM FROM BILL'S PUMP SERVICE; DIRECTING AUTHORIZED CITY OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION; AND, DECLARING AN EMERGENCY TO EXIST.

WHEREAS, the CITY is empowered pursuant to Arizona Revised Statutes, Title 9, Section 9-240(A) to have control of the finances and property of the corporation and authorized pursuant to A.R.S. §9-240(B)(6) to provide the City with water; and,

WHEREAS, the CITY has determined that during an electrical outage, delivery of potable water to the citizens of CITY requires CITY to install a natural gas backup power system to Well No. 3 in the CITY'S water system; and,

WHEREAS, CITY staff requested quotes from five (5) companies for such natural gas backup power system and Bill's Pump Services responded with the lowest quote of \$24,837.38; and,

WHEREAS, the Mayor and City Council have determined that formal action on this Resolution is in the best interest of the CITY and its citizens; and,

WHEREAS, it is necessary for the preservation of peace, health, and the safety of the City of Willcox, Cochise County, State of Arizona, that an emergency be declared to exist and directing that this Resolution shall become effective immediately upon its passage and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, as follows:

SECTION 1: The Mayor and City Council hereby authorize and approve the purchase of the natural gas backup power system for Well No. 3 in the CITY's water system from Bill's Pump Services responded with the lowest quote of \$24,837.38; and,

SECTION 2: CITY Officials and Administrators are authorized and directed to take all action required to purchase of the natural gas backup power system for Well No. 3 in the CITY's water system from Bill's Pump Services responded with the lowest quote of \$24,837.38; and,

SECTION 3: That the Mayor is authorized and empowered to execute the Resolution as presented; and,

SECTION 4: That the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage by the City of Willcox, Cochise County, Arizona.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WILLCOX, ARIZONA, this 3rd day of December, 2012.

APPROVED/EXECUTED:

ROBERT A. IRVIN, MAYOR

ATTEST:

VIRGINIA A. MEFFORD, City Clerk

APPROVED AS TO FORM:

ANN P. ROBERTS, City Attorney

RESOLUTION 2012-87

This Resolution was first presented to the Mayor and City Council on the 5th day of November, 2012, at which time the Resolution failed. This Resolution was presented again to the Mayor and Council on the 3rd day of December for consideration and subsequently ____ failed ____ passed.



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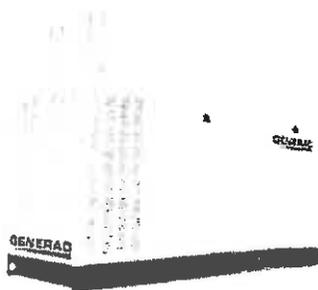
TOOLBOXES | RESOURCES | SERVICES | WORLDWIDE | DETAIL PARTS | Enter keyword or part number

Outdoor Equipment > Generators > Standby Generators

GENERAC Standby Generator, 130kW, 120/208V, 3Ph

Automatic Standby Generator, Liquid-Cooled, 130 kW, 162.5 kVA Rating, 120/208 Voltage, 451.5 Amps, 3 Phase, 60 Hz, Natural Gas Fuel, Engine RPM 3000, Engine Size 6.8 Liter, Length 116 In, Height 55 In, Width 37 In, 1-1/4 Fuel NPT Pipe Connection, Battery Requirements 12 Volts, Battery Requirements Min Amp Hr 525 CCA, Battery Requirements Group 24F, Sound Level dBA 65, Installation Requires Local Permits For Gas Piping, Concrete Foundation, Electrical Inspection And Approval

Grainger Item #	2ZNR7
Price (ea.)	N/A
Brand	GENERAC
Mfr. Model #	QT13068GNSY
UNSPSC #	28111604
Ship Qty.	1
Sell Qty. (Will-Call)	1
Ship Weight (lbs.)	3073.0
Availability	Item no longer available
Catalog Page No.	N/A
Country of Origin	Not Available
<small>(Country of Origin is subject to change.)</small>	



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California Proposition 65

See Compliance & Restrictions for important safety & regulatory information.

⚠ This item no longer available and cannot be ordered online.

Some item(s) may be available through your local branch. An alternate item(s) may be available online. See the Alternate Products tab below.

OR

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	Standby Generator, 130kW, 120/208V, 3Ph >More Details...	GENERAC QT13068GNAC	Item ships within 16 business days from manufacturer	\$32,463.00
2ZNT6	Country of Origin: USA			

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Standby Generator, 130kW, 120/208V, 3Ph
Brand: GENERAC
Grainger Item #: 2ZNT6
Price (ea.): \$32,463.00
Qty [Add to Order](#)

Poly Scoop Shovel

Brand: WESTWARD
Grainger Item #: 6YU33
Price: \$32.60
Qty

Handheld Leaf Blower, Gas

Brand: TANAKA
Grainger Item #: 2YFJ2
Price: \$316.00
Qty

Contractor Water Hose, 450 PSI, 918 GPH

Brand: SWAN
Grainger Item #: 2P662
Price: \$43.40
Qty

Hose Reel, Multi-Mount, 14 Ga Steel

Brand: LIBERTY
Grainger Item #: 2LRK9
Price: \$149.45
Qty

AUTOMATIC COMBINATION DRIVE

Electrical power failures don't have to mean a shutdown, or a mad scramble to manually convert to an alternate power source.

Amarillo Gear Company's Automatic Combination Right Angle Gear Drive provides a dependable transfer to stand-by power.

When the alternate power source starts, the clutch automatically engages and directs the power through the gear drive to the pump headshaft. There are no pins to align, bolts to replace or set screws to tighten. And the clutch assembly is virtually maintenance free; in most cases, requiring no lubrication.

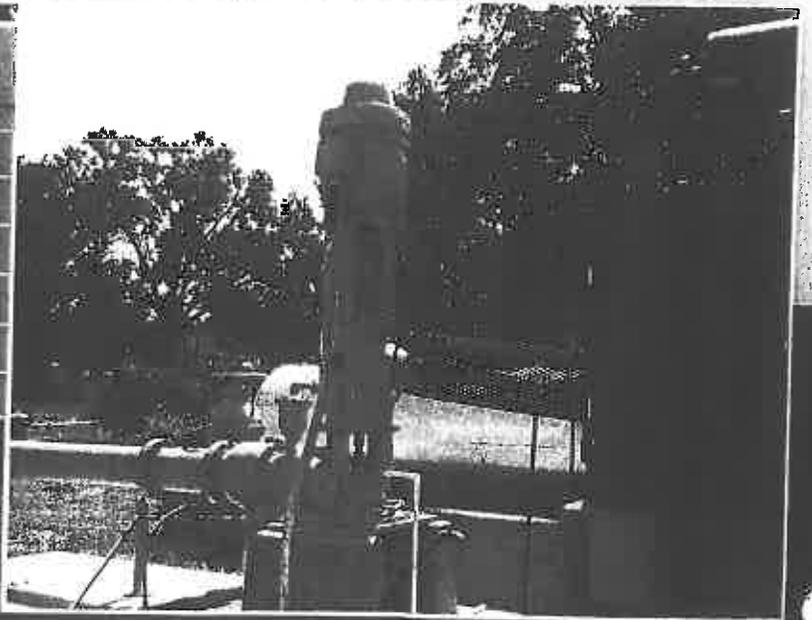
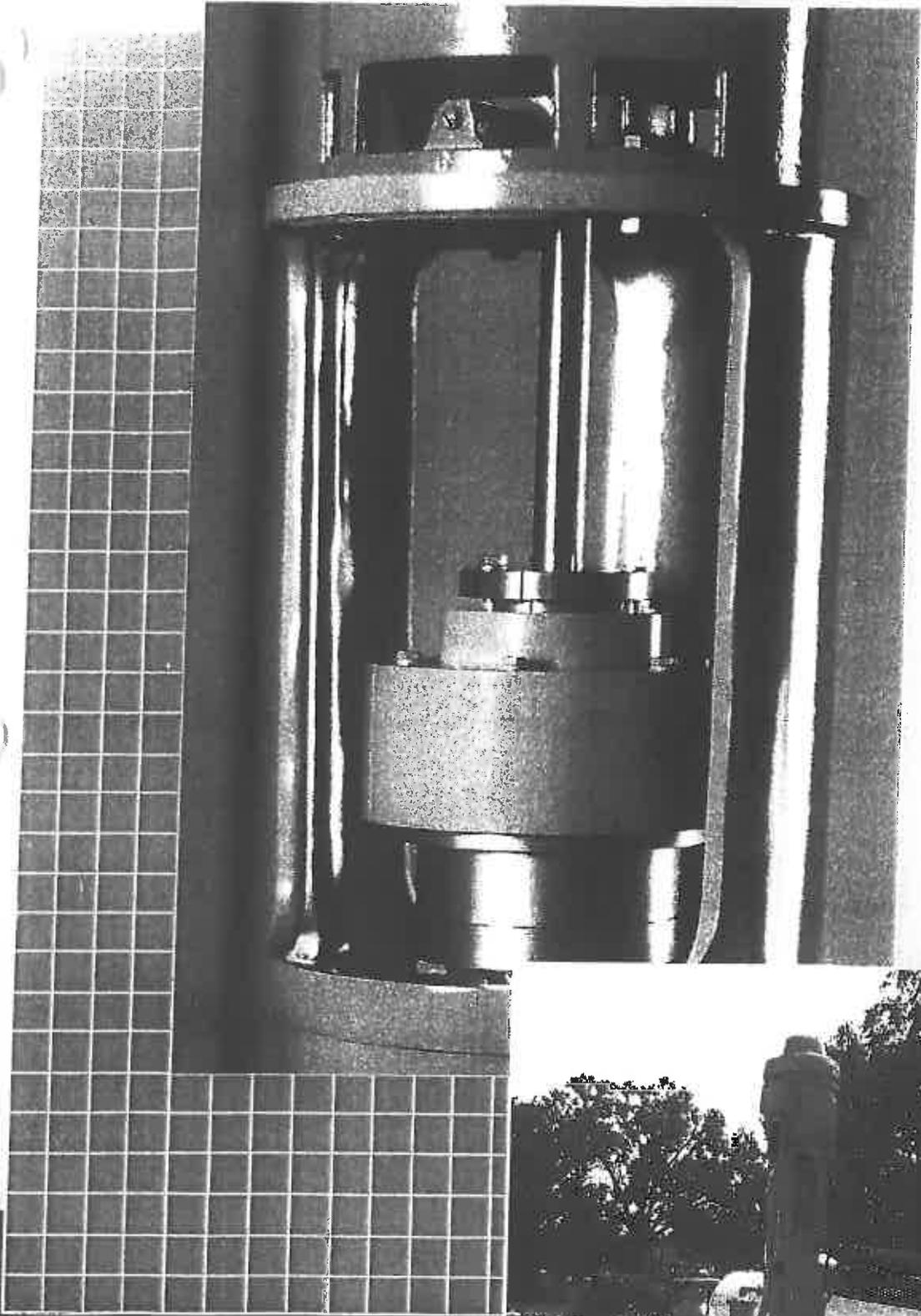
For no-hands protection against shutdowns due to power failure, use the Automatic Combination Right Angle Gear Drive from Amarillo Gear.



SWITCH TO BACK-UP POWER

AMARILLO GEAR COMPANY

Post Office Box 1789, Amarillo, TX 79105 ☎ 806/622-1273
2401 Sundown Lane (79118) FAX 806/622-3258



MUNICIPAL WATER SYSTEM



**CITY OF WILLCOX
REQUEST FOR COUNCIL ACTION**

Agenda Item: 12
Tab Number: 6
Date: 12-03-2012

Date Submitted:
11-20-12
Date Requested:
12-3-12

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject:
Formal Approval of
SSVEC Franchise
Agreement by
Ordinance NS312

TO: MAYOR AND COUNCIL

FROM: City Attorney

DISCUSSION:

On August 6, 2012, the Mayor and City Council passed and adopted Resolution No. 2012-71, which approved for placement before the qualified electors of the City, a 25 year Franchise Agreement to be granted to Sulphur Springs Valley Electric Cooperative, Inc.

On September 17, 2012, the Mayor and City Council passed and adopted Resolution No. 2012-79, which set forth in full, the text of the 25 year Franchise Agreement to be granted to Sulphur Springs Valley Electric Cooperative, Inc., which was then published in the Arizona Range News on October 3rd, 10th, 17th, 24th and 31st as required by law prior to the general election which was held on November 6, 2012.

On November 6, 2012, the qualified electors of the City of Willcox, Arizona, approved Question No. 1, the 25 year Franchise Agreement between the City of Willcox and Sulphur Springs Valley Electric Cooperative, Inc., by 659 votes, which was confirmed when the Mayor and City Council approved the canvass of the vote by Resolution 2012-95 on November 19, 2012. Ordinance NS312 memorializes the language of the Franchise Agreement approved by the qualified electors of the City of Willcox, Arizona.

RECOMMENDATION: Approve Ordinance NS312.

Prepared and Approved by: Ann P. Roberts, City Attorney

CITY OF WILLCOX, COCHISE COUNTY, ARIZONA

ORDINANCE NO. NS312

(Franchise Agreement – Voter Approved 11/06/2012)

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF WILLCOX, ARIZONA, GRANTING TO SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., AN ARIZONA CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE AN ELECTRIC ENERGY TRANSMISSION AND DISTRIBUTION SYSTEM WITHIN THE PUBLIC RIGHTS-OF-WAY WITHIN THE CORPORATE LIMITS OF THE CITY OF WILLCOX; PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS; PROVIDING FOR THE SUBMISSION HEREOF TO THE ELECTORS FOR THEIR APPROVAL; AND DECLARING AN EMERGENCY.

Section 1 – Grant of Franchise: There is hereby granted to Sulphur Springs Valley Electric Cooperative, Inc., a non-profit membership corporation organized and existing under and by virtue of the laws of the State of Arizona, its successors and assigns (herein called “Grantee”), a franchise (herein called the “Franchise”) to construct, maintain, repair, replace, relocate and operate upon, over, along, across and under the present and future streets, avenues, alleys, highways, public drainage ways, bridges and other public rights-of-way or public utility easements (herein called “public rights-of-way”) in the City of Willcox, Arizona (herein called “City”). Grantee’s system includes, electric light and power lines, together with all necessary or desirable appurtenances, including substations, poles, streetlight fixtures, towers, wires, cables, transmission lines, underground conduits and structures, distribution lines, transformers, switches, and communication lines (herein called “Facilities”), for its own use, and for the purpose of supplying electric energy and communications services to said City, its successors, the inhabitants thereof and persons, entities, and corporations either within or beyond the limits thereof, for light, heat, power and other purposes.

Section 2 – Grantee’s Compliance with City Standards; Plans Submitted for Approval; City Construction near Grantee’s Facilities: All construction under Franchise shall be performed in accordance with established rules and regulations of the City with respect to the use of such public rights-of-way, as applicable at the time of any such construction, and with the laws of this state. Before Grantee constructs, relocates, or installs any facilities in the public rights-of-way, Grantee shall obtain such permits as are required by the City, to be issued for other similar construction work in the public rights-of-way, pay applicable permit fees, submit for approval a map showing the location of such proposed installations to the City Engineer, and comply with all other applicable requirements for any such work. Notwithstanding the foregoing, Grantee may make emergency repairs without first obtaining a permit. In the event of such an emergency, Grantee shall make reasonable efforts to contact appropriate Public Works personnel, prior to making the repairs, to advise them of the emergency and the work to be performed within the public rights of way.

Section 3 – Construction and Relocation of Grantee’s Facilities; Payment: All facilities installed or constructed pursuant to this Franchise shall be so located or relocated and so erected as to minimize the interference with traffic, or other authorized uses over, under or through the public rights-of-way. In that regard, the parties shall meet regularly to review their respective construction plans and coordinate construction activities to minimize the cost to the general public. Activities related to the construction of Grantee’s facilities within the rights-of-way, including but not limited to traffic control, excavation, backfilling, compaction and paving, and the location or relocation of lines and related facilities shall be subject to regulation by City. Grantee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to City in a mutually acceptable format. Upon completion of new or relocation of existing underground facilities in the public rights-of-way, Grantee shall, upon request or direction from City, provide City’s Engineer or the Director of Public Works with corrected drawings showing the actual location of the underground facilities in those cases where the actual location differs significantly from the proposed location.

A. If City requires Grantee to relocate Grantee’s facilities that were lawfully located before the public dedication of the associated public street or right-of-way, or before the acquisition of that property by the City, the entire cost of relocating Grantee’s facilities (including the cost of purchasing a new private easement if necessary) shall be borne by the City. City shall also bear the entire cost of all subsequent relocations of any relocated, pre-existing facilities required by City, until such time as City condemns or purchases rights of way. Grantee will use good faith efforts to advise City of any such situation that may require City financial responsibility during the planning and design phase of any such City project, as necessary, to allow City to mitigate any such potential expense.

B. Except as covered in paragraph A above, Grantee shall bear the entire cost of relocating its facilities located within the public rights-of-way, including the acquisition of new private easements, if necessary, provided the relocation is deemed necessary for City’s carrying out of its governmental functions. Any such removal and relocation shall be completed within a reasonable time period following written notification from City. Notwithstanding the foregoing, if Grantee is requested by City to perform work of a temporary nature on a governmental project to relieve construction problems which could be relieved by other reasonably available and less costly means, the cost of said temporary work will be borne by City or City’s contractor working on the governmental project. Governmental functions are those duties imposed on City, where the duties involve a general public benefit, not in the nature of a corporate or business undertaking for the corporate benefit and interest of City. Governmental functions include, but are not limited to, the following:

1. Any and all improvement to City’s public rights-of-way;
2. Establishing and maintaining public streets, traffic control devices, transit bus shelters/pullouts, domestic water systems, sanitary sewers, storm drains, and related facilities;

3. Establishing and maintaining municipal parks, parking spaces, parkways, pedestrian sidewalks/malls, multi-use paths, or grass, shrubs, trees and other vegetation for the purpose of landscaping any street or public property;
4. Providing fire protection and other public safety functions; and,
5. Collection and disposal of solid waste and recyclables.

C. City will bear the entire cost of relocating any of Grantee's facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of the City in furtherance of a proprietary function. All functions of the City which are not governmental are proprietary.

D. If City participates in the cost of relocating Grantee's facilities for any reason, the cost of the relocation to City shall not include and upgrade or improvement of Grantee's facilities as they existed prior to relocation.

E. City will not exercise its right to require Grantee's facilities to be relocated in an unreasonable or arbitrary manner, or to avoid its obligation under the Franchise. City agrees to notify Grantee during the planning and design of City's projects in rights-of-way that may require relocation of Grantee's facilities and to coordinate its construction plans and schedules with Grantee to determine the most cost effective design to mitigate Grantee's cost to relocate its facilities. City will consider reasonable alternative designs, as proposed by Grantee, that may require less relocation expenses for Grantee, provided that Grantee agrees to bear any incremental costs incurred by the City in connection with the alternative and the alternative will serve the public interest in substantially the same manner as the original design.

F. City agrees it will use best efforts not to require Grantee to relocate its facilities, located within the public rights of way, without providing Grantee adequate space within the existing rights-of-way, to relocate the facilities that must be moved, to the extent reasonable under the circumstances.

Section 4 – Indemnification: The Grantee indemnify, defend and hold harmless the City from and against any and all claims, losses, liability, costs, and expenses (including reasonable attorney's fees) arising out of this Franchise by said Grantee.

Section 5 – Restoration of Rights-of-Way: Whenever Grantee shall cause any opening or alteration whatsoever to be made for any purpose in any public right-of-way, the work shall be completed with due diligence within a reasonably prompt time. Grantee will restore the disturbed property to substantially its former condition with comparable materials, or in conformance with the applicable City construction standard, whichever is more stringent.

Section 6 – Franchise Fee: As a further consideration for the Franchise hereby granted, during the first five years of this Agreement, Grantee will pay to the Municipality a sum equal to 2.5% of the gross receipts of the Grantee from the sale of electric energy as determined by its base rates, as approved by the Arizona Corporation Commission, within the present and any further corporate limits of the Municipality, as shown by the

Grantee's billing records; such payment to be due and payable monthly. During the next succeeding ten years of this Agreement, the sum shall be 3.0% of the gross receipts set forth above. In the final ten years of this Agreement, the sum shall be 3.5% of the gross receipts set forth above. Such payment shall be in lieu of all fees or charges for permits issued for the construction of the Grantee's facilities within Municipality's rights-of-way hereunder or for inspections thereof. For the purpose of verifying the amounts payable hereunder, the books and records of the Grantee shall be subject to inspection by duly authorized officers and representatives of the Municipality at reasonable times. Said inspection shall be limited to the preceding 48 calendar months from the date of inspection. It is expressly understood that the above computation in regard to Grantee's base rates shall be defined, equal to and the same as the rate base as provided for in Arizona Revised Statutes Section 42-5063, as may be amended from time to time, for the calculation of Arizona Transaction Privilege Tax. Provided, however, if it is shown that Grantee has failed to pay the amounts due hereunder solely due to its failure to include in its calculations energy sales within an area or areas that have come within the corporate limits of Municipality subsequent to the date of this Agreement, and Municipality did not provide Grantee timely notice of such annexation, then Municipality shall have no right to collect such payments based on energy sales within the areas omitted for the first twelve months following the area's annexation.

Section 7 – Additional Fees and Taxes: Notwithstanding any provision contained herein to the contrary, Grantee shall pay, in addition to the payment provided in Section 6, the following charges, taxes, and fees as established in a code or ordinance property adopted by the City:

1. General ad valorem property tax;
2. Transaction privilege tax as authorized by law and collected by Grantee, for its retail sales to its electric energy customers, within the present and future corporate limits of City;
3. Other charges, taxes or fees generally levied upon businesses by City, provided that the annual amount of such fees does not exceed the amount of similar fees, paid by other businesses operated with City; and,
4. Applicable and customary permit and inspection fees, as established by ordinance or regulation.
- 5.

Section 8 – Use of Grantee's Poles: The City shall have the right, without cost, to make attachments to poles owned and used by the Grantee within the City, for City's wires used by it in connection with its governmental operations, such as fire alarm, police signal system, utility system controls or for seasonal decorations. Such attachments to be installed and maintained in accordance with the requirements of the National Electrical Safety Code pertaining to such construction, and only after written notice to the Grantee, in accordance with Grantee's procedures for pole placement. Grantee shall assume no liability nor be put to an additional expense, in connection therewith and, provided further, that the City's use thereof shall be in such manner as not to interfere with the Grantee's use of the same. The Grantee shall have the right to make attachments to its poles owned and used by the Grantee within the Municipality for its own use.

Section 9– Term: This Franchise shall continue and exist for a period of twenty-five (25) years from January 1, 2013, provided, however, that upon mutual written consent, both parties may meet and discuss minor revisions of the terms of this agreement after the close of the fifth (5th) year, or renegotiation if economic or other conditions warrant such consideration.

Both City and Grantee agree to meet and resolve through arbitration or mediation, any dispute associated with any material covenant or term governed by this Franchise. If conflict resolution is not forthcoming, either party may take additional legal action. Any legal dispute shall be construed and governed according to the Laws of the State of Arizona with controlling venue in Cochise County, Arizona.

Section 10 – Franchise; Non-Exclusive: This Franchise is not exclusive, and nothing contained herein shall be construed to prevent City from granting other like or similar grants or privileges to any other person, firm, or corporation as provided by law.

Section 11– Conflicting Ordinances: All ordinances and parts of ordinances in conflict with the provisions hereof, to the extent applicable to a franchised public service corporation, are hereby superseded. Nothing herein shall limit the City’s legal obligation to maintain control of and to regulate the use of the subject public streets and ways.

Section 12 – Independent Provisions: If any section, paragraph, clause, phrase, or provision of this Franchise, other than Section 6, shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole or any part of the provisions hereof other than the part so adjudged to be invalid or unconstitutional. If Section 6 shall be adjudged invalid or unconstitutional in whole or in part by a final judgment, this Franchise shall immediately terminate and shall be of no further force or effect.

Section 13 – No Third Party Beneficiaries: There are no third party beneficiaries to this Franchise agreement between City and Grantee.

Section 14 – Voter Approval Required: This Franchise is subject to the approval of the electors of City. Grantee shall pay all of the costs incurred in conducting the franchise election, except that, if one or more additional propositions are presented to the electors at such election, Grantee shall pay only that portion of City’s election expense determined by dividing all of City’s expenses by the number of issues presented on the ballot. Grantee shall pay all appropriate publication costs associated with this Franchise.

Section 15 – Assignment and Transfer: The right, privilege, and franchise hereby granted may not be transferred in whole or in part by the Grantee, its successors and assigns, without the prior written consent of City and, if required, the Arizona Corporation Commission. No consent shall be required in connection with an assignment made as security pursuant to a mortgage or deed of trust or in connection with subsequent transfer made pursuant to any such instrument.

Section 16 – Stock: No stock shall be issued by said Grantee, nor by any corporation holding or doing any business under this Franchise on account of said Franchise.

Section 17 – Notices: Any notice required or permitted to be given hereunder shall be in writing, unless otherwise expressly permitted or required, and shall be deemed effective either (i) upon hand delivery to the person then holding the office shown on the attention line of the address below, or, if such office is vacant or no longer exists, to a person holding a comparable office, or (ii) on the third business day following its deposit with the United States Postal Service, first class and certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To City: City Clerk
City of Willcox
101 S. Railroad Ave., Suite B
Willcox, Arizona 85643
- B. To SSVEC: Chief Executive Officer
Sulphur Springs Valley
Electric Cooperative, Inc.
350 N. Haskell Ave.
Willcox, AZ 85643

Section 18 – Adoption: We, the undersigned, have adopted this document on the dates written below in accordance with the results of the City of Willcox Election on November 6, 2012.

City of Willcox

SSVEC

By _____
Robert A. Irvin, Mayor
On behalf of the City of Willcox

By _____
Creden Huber, CEO
On behalf of Sulphur Springs
Valley Electric Cooperative, Inc.

Date: _____

Date: _____

Section 19. To preserve the public peace, health and safety, it is necessary that this Ordinance become immediately operative. It is, therefore, declared to be an emergency measure to take effect upon its enactment by the Mayor and City Council of the City of Willcox, following its submission to the electors of the City of Willcox as required by law and its approval by said electors and upon compliance with requirements as to publication or posting.

ATTEST:

APPROVED TO FORM:

Virginia A. Mefford, City Clerk

Ann P. Roberts, City Attorney

This Franchise Agreement was originally published on October 3, 10, 17, 24 and 31, 2012, in the Arizona Range News and was approved by the voters on November 6, 2012.