

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 3RD DAY OF AUGUST 2009**

CALL TO ORDER-Mayor Gerald W. Lindsey, called the regular meeting to order on Monday, August 3, 2009 at 7:02 p.m.

ROLL CALL Mayor announced all council persons are present.

PRESENT

Mayor Gerald W. Lindsey
Vice Mayor Larry Schultz
Councilman Elwood Johnson
Councilman Jimmy Norris
Councilwoman Monika Cronberg
Councilman Stephen Klump
Councilman Christopher Donahue

STAFF

City Manager Pat McCourt
City Attorney Hector Figueroa
City Clerk Cristina G. Whelan, CMC
Public Safety Director Jake Weaver
Library Director Tom Miner
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
Code Enforcement Jeff Stoddard

PLEDGE OF ALLEGIANCE TO THE FLAG-Mayor Lindsey.

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

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

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to remove agenda item #9 relating to direction to staff on Cochise Fish Farms/Stout's Cider Mill and adopt the agenda as presented.

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

PUBLIC HEARINGS, PETITIONS AND COMMUNICATIONS

Communications: Mayor Lindsey read the First Reading of: (1) Ordinance NS296 Relating To The Privilege License Tax; Adopting "The 2009 Amendments To The Tax Code Of The City Of Willcox" By Reference; Establishing An Effective Date; Providing For Severability And Providing Penalties For Violations; and

(2) First Reading of Ordinance NS297 Relating To Taxation: Levying Separate Amounts to Be Raised For Primary and Secondary Property Tax Levies Upon Each One Hundred Dollars (\$100.00) Of The Assessed Valuation Of Property Subject To Taxation Within The City Of Willcox For The Fiscal Year Ending June 30, 2010 And Declaring An Emergency To Exist;

Public Hearing: The Mayor and Council will hold public hearing on Monday, August 3, 2009 at 7:00 p.m., City Council Chambers, 300 W. Rex Allen Drive, regarding FY2009-2010 Budget; and

The Mayor and Council will hold 3-public hearings on Monday, August 17, 2009_at 7:00 p.m. City Council Chambers, 300 W. Rex Allen Drive, are regarding the following:

(1) Application for Person Transfer, Individual, Liquor License Series #06 Rattlesnake Room, Eddie Andre McIntyre, 116 E. Maley, Willcox, AZ 85643; and

(2) Ordinance NS296 Relating To The Privilege License Tax; Adopting "The 2009 Amendments To The Tax Code Of The City Of Willcox" By Reference; Establishing An Effective Date; Providing For Severability And Providing Penalties For Violations.

(3) Ordinance NS297 Relating To Taxation: Levying Separate Amounts To Be Raised For Primary And Secondary Property Tax Levies Upon Each One Hundred Dollars (\$100.00) Of The Assessed Valuation Of Property Subject To Taxation Within The City Of Willcox For The Fiscal Year Ending June 30, 2010 And Declaring An Emergency To Exist.

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All members of the public are invited to attend. For those persons wishing to comment and are unable to attend written comments will be accepted in the Office of the City Clerk until 4:00 p.m. the day of the public hearing.

Mayor Lindsey opened the Public Hearing on the FY2009-2010 Budget at 7:08 p.m. The Mayor asked if anyone wanted to address the Mayor and Council concerning the FY2009-2010 budget. Again the Mayor asked if anyone would like to comment. Hearing no comments Mayor Lindsey closed the public hearing at 7:09 p.m.

DISCUSSION/DECISION REGARDING THE REGULAR MEETING MINUTES OF MAY 18, 2009 AND JULY 20, 2009

MOTION: Councilman Klump moved to approve the regular meeting minutes of May 18, 2009 and July 20, 2009.

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

**DISCUSSION/DECISION REGARDING DIRECTION TO STAFF ON COCHISE FISH FARM/STOUT'S LEASE
REMOVED FROM AGENDA BY MOTION!**

**DISCUSSION/DECISION REGARDING A CHANGE OF MEETING DATE TO HOLD THE FIRST REGULAR MEETING IN
SEPTEMBER ON TUESDAY, SEPTEMBER 8, 2009 DUE TO LABOR DAY HOLIDAY ON THE FIRST MONDAY**

MOTION: Councilman Norris moved to change the meeting date to hold the first regular meeting in September on Tuesday, September 8, 2009 due to Labor Day Holiday on the first Monday.

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

**DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-45 APPROVING AND ADOPTING THE LEASE
AGREEMENT RENEWAL BETWEEN THE CITY OF WILLCOX ["CITY"] AND ARIZONA DEPARTMENT OF PUBLIC
SAFETY ["ADPS"] CONTRACT NO. 98-206 FOR PARCEL OF LAND AT 1101 N. CIRCLE I ROAD AND AUTHORIZING THE
MAYOR TO EXECUTE THIS RESOLUTION AND THE LEASE RENEWAL AND DECLARING AN EMERGENCY TO EXIST.**

MOTION: Councilman Johnson moved to adopt Resolution No. 2009-45, as stated, relating to the ADPS lease renewal at 1101 N. Circle I Road.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Councilman Norris stated he stressed this concern last year that he has a problem with the State with us paying their utilities and they are not paying for anything. They have deeper pockets than we have and opposes. Councilman Johnson asked if we pay everything and Kathy Smith, Executive Director of the Willcox Chamber of Commerce & Agriculture said they pay half and the Chamber pays half. City Manager McCourt stated this is the same contract as last year. Councilman Norris said we are giving them the land for nothing. The City Manager explained the problem last year was they wanted City to assume any and all liability. Our City Attorney advised the Mayor and Council not to do that. City Attorney Hector Figueroa stated he does not know what they pay and the City Finance Director may be able to tell you if they are paying. Finance Director Ruth Graham replied she can not tell the Mayor and Council right now what the City pays, although they have electric and does not know if the City provides the water. Mayor *Lindsey asked staff is there is a time table on approving this. City Manager McCourt responded the lease expired on June 30, 2009 and did not get it from the State prior to that date to present it to the Mayor and Council. If the Mayor and Council desire staff to research this they do not have to approve the lease this evening. (*Corrected by motion 08-17-2009 to change Leighton to Lindsey.)

AMEND MOTION: Councilman Norris moved to amend motion to give staff time to research costs for utilities that the City pays on behalf of the State for the facility. Hearing no second to amend the motion City Attorney Figueroa said the Mayor and Council can amend a motion but need second to vote. City Manager McCourt stated a motion to table is always in order.

MOTION: Councilman Norris moved to table this item.

SECONDED: Vice Mayor Schultz seconded the motion. **CARRIED.**

**DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-46 TO RATIFY, APPROVE AND ADOPT THE CONTRACT
AMENDMENT BETWEEN THE CITY OF WILLCOX ["CITY"] AND AECOM USA, INC. ("AECOM"), TO COMPLETE THE FINAL
SCOPING LETTER AND ENVIRONMENTAL CLEARANCE FOR THE FORT GRANT CONNECTIVITY ENHANCEMENT
PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO
EXIST.**

MOTION: Councilwoman Cronberg moved to adopt Resolution No. 2009-46, as stated, relating to approve and adopt the Contract Amendment with AECOM USA, Inc.

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

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-47 APPROVING AND AUTHORIZING THE WRITE-DOWN ALLOCATION OF LEHMAN BROTHERS HOLDING INC. IN THE LOCAL GOVERNMENT INVESTMENT POOL ("LGIP") FOR GAS FUND AND FIREMEN'S PENSION FUND HOLDINGS, AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Vice Mayor Schultz moved to adopt Resolution No. 2009-47, as stated, relating to the Write-Down Allocation of Lehman Brothers Holding Inc. in the LGIP for Gas Fund and Firemen's Pension Fund holdings.

SECONDED: Councilwoman Cronberg seconded the motion. **DISCUSSION:** Councilman Johnson stated it is \$49,159.48, and Councilman Norris asked if there are any other alternatives or legal action. City Manager Pat McCourt responded the State Treasurer continues to pursue this and hopes he is able to recover some monies. Councilman Norris asked if this action stops us from getting anything. Mr. McCourt stated this Resolution does not prohibit us from collecting. If Mayor and Council chose not to adopt Resolution then our Audit is not fairly representing the accounts of the City. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-48 DECLARING AS A PUBLIC RECORD _____ Tab 11 THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "THE 2009 AMENDMENTS TO THE TAX CODE OF THE CITY OF WILLCOX".

MOTION: Councilman Klump moved to adopt Resolution No. 2009-48, as stated, relating to Public Record and filed with the City Clerk and entitled "The 2009 Amendments to the Tax Code of the City of Willcox."

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Councilwoman Cronberg asked staff to clarify what this Resolution really does so that there is no confusion to the public. Finance Director Ruth Graham replied this Resolution does four (4) things: 1. Amendment changes the violations to petty offense; 2. If any section of the ordinance or the amendment is held to be invalid or unconstitutional, such decision will not affect the validity of the remaining portions; 3. Sets out the effective dates of the provisions of the amendment; and 4. We are members of the Model City's Tax Code. Vice Mayor Shultz asked if increase taxes and Ms. Graham replied "no it will not." Councilwoman Cronberg stated that whenever we see tax code puts citizens in concern. City Attorney Figueroa added that the penalties were changed from Misdemeanor to a Petty Offense by the State Legislature. The City has adopted Model City Tax Code and amendments made by the Legislature we have to adopt those amendments. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-50 ADOPTING THE BUDGET OF THE CITY OF WILLCOX FOR FISCAL YEAR 2009-2010

MOTION: Councilman Donahue moved to adopt Resolution No. 2009-50, as stated, relating to the adoption of the Budget for the City for FY2009-2010.

SECONDED: Councilwoman Cronberg seconded the motion. **DISCUSSION:** Councilman Norris stated that he is not comfortable with the \$727,423 deficit and thinks the City is not being responsible with taxpayers' money. Councilman Johnson stated there is no clear concise plan for cutbacks. It's "business as usual, quality of life," and asked staff if the June Tax Dollar report been received and what is the trend on that. City Manager McCourt replied staff did receive the numbers to close out Fiscal Year June 30. The Local Sales Tax remains slightly up from previous years. Finance Director Graham added her department is in the process of getting numbers together because they are still getting revenue for June and will have them ready to present at the next meeting. Councilman Johnson asked if figures are better than in May and Ms. Graham replied she believes they are. Mr. McCourt replied the final numbers look much better than projected. The ending date of June 30, 2009 was less during the budget process and directly in line during the budget discussions. The State has been slow in making its payments. Councilwoman Cronberg said she does not think any of us are comfortable were we are. We need to put confidence on staff who are on the front line to monitor and it's up to the Mayor and Council how we spend and we have to be very careful and not spend as much and continue watchfulness and guardianship. Mayor Lindsey stated we know we have to be diligent watching every cost that we have and we have to look in areas that we can make any savings. We can not continue to operate as we are right now. **VOTE: Ayes-** Mayor Lindsey, Vice Mayor Schultz, Council members Cronberg, Klump and Donahue. **Nays:** Councilmen Johnson and Norris. **CARRIED 5-2.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-51 APPROVING AND ADOPTING A NOTICE OF INTENTION TO INCREASE RATES AND CHARGES OF THE WASTEWATER SYSTEM OF THE CITY OF WILLCOX.

City Manager McCourt explained notice to the public hearing on September 8, 2009 specifically explains the rates to be charged to septic haulers that deliver these services outside the City and requires call out of City employees. This is time and if outside of established hours they will have to pick up the cost for that additional time. The City Manager explained the cost savings is to the

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general public. Our first obligation is to operate a Wastewater Treatment for the citizens of Willcox and if problem is directly linked to individual then we are able to charge them. This is in effort to pay charges directly by the operation of the individual.

MOTION: Councilwoman Cronberg moved to adopt Resolution NO. 2009-51, as stated, relating to Adopting Notice of Intention to Increase rates and charges of the Wastewater Treatment Plant.

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

REPORTS BY THE CITY MANAGER PAT McCOURT

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

- **Report on speed bumps change to speed humps at North Fremont and Bisbee**-Dave Bonner, Public Services & Works Director-City Manager reported staff is working with the Schools and Public Works and Public Safety to change pick up points. Using N. Fremont and that is road for Park and Pool which in the past we have had problem with excessive speeds and speed bumps were put in. Changing to speed humps which are much longer and broader. Councilman Johnson asked what the cost is of that replacement and was it budgeted. Public Services & Works Director Dave Bonner replied it was not budgeted and the cost was about \$2,500 for the 3-additional speed humps. Mayor Lindsey's concern east bound traffic across Bisbee and asked if there were any studies on the congestion making loop back onto Bisbee. We already have problem with that and asked if any thought was given to that? Public Safety Director Chief Jake Weaver replied that an official study was not conducted at that intersection. After years of concern the Department is aware of some congestion and there is no easy solution to that "traffic pile up." Amount of pedestrian and amount back of traffic on Bisbee was a concern to the current School District. They wanted to explore another option and a much safer one. Mainly concern was the school busses stacked up on Bisbee and they were not able to get out. Hoping this route will alleviate that. Councilwoman Cronberg believes some of this is in response to the new construction for Cochise College and that is taking off part of the pattern to drop off kids and something had to be addressed. Mr. Bonner added traffic movement on Fremont with removal of the speed bumps and installation of the speed humps will be more effective. That change was completed last Friday.
- **Report Airport Ad Hoc Committee anticipate recommendation to Mayor and Council 2nd Meeting in September**-Pat McCourt, City Manager-Public hearings held and preparing draft for consideration by the Mayor and Council and anticipates bringing that by the second meeting in September. Our local newspaper has done excellent coverage.
- **Report from Railroad Park Ad Hoc Committee**-Pat McCourt, City Manager-This is stakeholders meeting and not Ad-Hoc use of \$75,000 grant Union Pacific awarded to the City. Anticipates before Mayor and Council for review at the next regularly scheduled meeting August 17, 2009.
- **Request for Public Input**-Pat McCourt, City Manager, regarding Policy on Use of City Facilities will be held on Saturday, August 15, 2009 from 1:30-3:00 p.m. Elk's Club, 247 E. Stewart. Written comments will be accepted until 4:00 p.m., Friday, August 14, 2009 in City Manager's Office. Mr. McCourt also has a speaking engagement at the Chamber Luncheon tomorrow.
- **Direction to staff regarding donation of a Globe File Cabinet**-Pat McCourt, City Manager, reported a gentleman approached him on a donation of a Globe File Cabinet used by the Railroad at the turn of the 20th Century. Donate to City and requested a tax receipt for that. The Cabinet is in keeping with our Railroad Heritage. Mr. McCourt concern was its condition and sent pictures which shows it is in good condition. With the Mayor and Council approval he will plan to proceed to get it delivered and add a small plaque so visitors can see what it is, where it came from and how it was acquired by the City. It is large and thinks we have enough room for it at the Depot. Councilman Norris thinks it would be good item and Mayor Lindsey said it would blend in with our Depot. Mr. McCourt added the gentleman said he will deliver it from beyond the Hooker Ranch and needs help to unload.
- **City Manager Vacation**-Pat McCourt, City Manager-before joining City obligation was made and as of September 3-13, 2009 he will be gone.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Mayor Lindsey commented he appreciates the micro phone being used by staff, although he still can not hear very well and thinks TV camera people will hear better and it was an improvement.

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ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 7:43 p.m.

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Willcox held on the 3rd day of August 2009. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 5th day of August 2009

/s/ Cristina G. Whelan, CMC
City Clerk Cristina G. Whelan, CMC

PASSED, APPROVED AND ADOPTED this 17th day of AUGUST 2009.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY
Signed: August 18, 2009

ATTEST:

/s/ Cristina G. Whelan, CMC
City Clerk Cristina G. Whelan, CMC