

**CITY OF WILLCOX
MAYOR AND CITY COUNCIL MEETING
*REVISED AGENDA!**

**Statement of Legal Actions
Monday, September 21, 2009
7:00 p.m.**

City Council Chambers

**NOTE NEW LOCATION: 300 W. Rex Allen Drive
Willcox, AZ**

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

**Resolution No. 2009-59
Ordinance NS298**

1. **CALL TO ORDER**-Mayor Gerald W. Lindsey called the regular meeting to order on Monday, September 21, 2009 at 7:00 p.m. looks like we have a good crew, visitors and friends he meet this afternoon from Minnesota and welcomed all.
2. **ROLL CALL** –Mayor Lindsey welcomed all present and announced that all the Council members are present except for Councilwoman Cronberg

PRESENT

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

STAFF

Public Safety Director Jake Weaver
City Attorney Hector Figueroa
City Clerk Cristina G. Whelan, CMC
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
Building Inspector Jeff Stoddard

ABSENT

Councilwoman Monika Cronberg

3. **PLEDGE OF ALLEGIANCE TO THE FLAG**-Mayor Lindsey.
4. **CALL TO THE PUBLIC**- Chris Rhodes announced that Safeway is proposing a Willcox Walks Together for a Cure walk to raise money and awareness for Breast Cancer on Saturday, September 24, 2009 beginning at 9:00 a.m. He is requesting the use of Keiller Park for sign up and refreshments, and a route that will meet the needs of the City. Local businesses are participating and sponsors for T-shirts with advertisement. Please direct any questions, comments or concerns to Safeway at the telephone numbers in the back of the brochures he handed to the Mayor and Council.

Dennis Williams stated that a few months ago he came before the Council and asked them to treat all people on an equal and fair basis. When WillcoxOne Entertainment asked for a Liquor License they were held to the letter of the law. Mr. Williams requested "that you do the same for everybody" because he said the Council approved a liquor license to an entity that does not have a non-profit status with the IRS.

Mayor stated we can not comment and Mr. Williams replied he realized that.

5. **DECLARATION ON CONFLICT OF INTEREST**

Vice Mayor Schultz declared Conflict of Interest on agenda #10 regarding the request from the Rex Allen Museum for a Bingo License.

6. **ADOPTION OF THE AGENDA MOTION:** It was moved and seconded to adopt the agenda as presented.
AMEND MOTION: It was moved and seconded to amend the motion to hold the Executive Session when the Attorney arrives and place that after item #7. The Mayor said the attorney is here, and we have a lot of people present for tonight's meeting.
VOTE AMENDMENT: Ayes: Vice Mayor Schultz and Councilman Johnson. **Nays:** Mayor Lindsey, Councilmen Norris, Klump and Donahue. **OPPOSE 4-2 DIED. ORIGINAL MOTION: CARRIED.**

7. **PUBLIC HEARINGS, PETITIONS AND COMMUNICATIONS**

Proclamation: The Mayor read and proclaimed: (1) October is **DOMESTIC VIOLENCE AWARENESS MONTH**. The Mayor gave the proclamation to Elsa Varela, Program Coordinator for House of Hope. She gave a brief presentation on the Domestic Crisis Shelters in Douglas, Sierra Vista and Nogales. The shelter's mission statement exists to provide a safe haven to female victims of physical, economic, sexual and/or emotional abuse. Primary purpose of shelters is to maintain and strengthen the family in crisis if at all possible total practical support and education. Services to all members of the family shall be readily available either through existing Shelter programs and/or referrals within/without of the agency. Ms. Varela invited all to attend the 14th Annual Candlelight Vigil on October 15th at the City Hall in Douglas and to join in the walk to the Park. They will give out candles and there will be a presentation of victims of domestic violence. **APPLAUSE.**

(2) October is **ALPHA DELTA KAPPA MONTH**- presented the proclamation to Ms. Jean Laird and she thanked the Mayor and Council for the proclamation. Ms. Laird thinks education is very important right now and the schools budgets are very pressured by teachers and educators. One of the things she has noticed is that schools are not well funded and teachers go in and do their very best in teaching the children. Right now school funds are cut from University and at all levels but the testing is still required and she appreciates our teachers. Ms. Laird has retired and if children can get a good education you can go on and do anything and if do not learn basic skills you are handicapped for life. **.APPLAUSE.**

Public Hearings: The Mayor and Council will hold 2-public hearings at the regular meeting on Monday, September 21, 2009 at 7:00 p.m., City Council Chambers, 300 W. Rex Allen Drive on:

- (1) The proposed increase In Wastewater System Rates and Charges; and
- (2) Application for Bingo License by the Rex Allen Museum at the Rex Allen Theater, 130 N. Railroad Avenue.

Mayor Lindsey opened the Public Hearing regarding the proposed increase in Wastewater System Rates and Charges at 7:19 p.m. City Manager McCourt stated the proposal is quite narrow and affects a very limited group of users of the Wastewater System. It establishes rates for septic haulers that bring septage to the Willcox Wastewater Treatment Plant (WWTP) to dispose of it properly. As the Mayor and Council is aware, we are having difficulty meeting our requirements from State regarding discharge. Staff thought perhaps part of the problem is due to the septic we are receiving. We are running a test program and we do not staff the treatment plant 24/7. We take samples during discharge that require additional staffing. We do charge for placing of septic and propose allow septic users to come in and place septic waste during certain hours at no additional staffing charge during specific hours. We understand that users on some occasions need to dispose of septage outside those hours. We will need to move staff from other tasks or call them in on overtime or holiday. We want to be receptive to the hauler's needs, and at the same time be conscious of the additional costs to the City.

Meetings have been held with the haulers. This process is trial and error. The proposal is 8:00-noon Monday-Friday at no additional charge; noon-3:00 p.m. \$50; before 8:00 a.m. or after 3:00 p.m. \$125, and on City observed Holidays \$150.00 based on our estimated costs per hour. Due to call out cost is higher during Holidays, and some are paid for overtime and some paid straight time. Councilman Johnson asked what he charges were prior to this and Mr. McCourt stated it was a trust system. Councilman Johnson said we are monitoring now and Mr. McCourt explained there is a requirement that we collect samples and we were not doing that. Councilman Johnson asked what we are looking for. Mr. McCourt replied this type of waste is anaerobic and different than the oxygen based process used by the wastewater treatment plant to eat up the waste products and convert the effluent to usable water and sludge. This also produces odor. When sludge comes in it is pretty dense and difficult to process; it also depends on the amount dumped. On some months we were receiving up to 90,000 gallons. Staff wanted to see if could reduce and level out our output and Mr. Bonner said we are in our 3rd month of testing. We wanted to see if this was causing our spikes and on WWTP proposed to do modification to the Plant which is long term and up to 150,000 gallons/month. There will be modification when enters plant and are planning on that long term. Councilman Johnson asked how many haulers are in Willcox and Mr. Bonner replied 3-4. Councilman Johnson asked if Benson comes down and Mr. Bonner said A-1 is one of the four (4). Councilman Johnson asked what do we charge and Mr. McCourt said he does not recall the current charge but its \$25/1,000 gallon. There are other WWTP that will not accept septic

dumps. Councilman Johnson said the limit now is 30,000. Vice Mayor Schultz asked Mr. Stambach what was his average and Ms. Stambach replied they were told dumping 60,000 and Mr. Bonner said that 30,000 is norm. Mr. Stambach said they dump all over including Tucson although they cannot in Benson. Only testing site is in Maricopa. Councilman Johnson asked if received any results. Mr. Bonner stated he has meet with dumpers and has 2-months results and indicated higher % removal than previously reported and with 2-years of data and 2-months showed improvement, although he does not remember the numbers. City Manager McCourt improvement in output was closer to requirements and Mr. Bonner replied that is correct. Councilman Johnson stated that basically tonight is fee schedules, and capacity is still 30,000 and Mr. McCourt replied that is correct. Councilman Johnson asked when we will get the data and Mr. McCourt said we will review it and long range is to greatly increase amount dumping. Vice Mayor Schultz stated it had a cap before, and Mr. McCourt replied this proposal is only charging during certain hours. Vice Mayor asked if this is a Statue or is there documentation that shows that violation. City Manager McCourt said it does not show on report. Vice Mayor Schultz wants to see that before he makes decision and if charging fee goes back to regulation. Councilman Norris asked if schedule work for all and Stambach said problem with septic they are not in the mid-west or back eat where mandated to be pumped and scheduled. Their business is "Help I am in trouble" driven and do not not answer their phone. They have been out at midnight at AEPCO. They have storage at shop and would not use this fee schedule anyway because (1) increased fee they would not charge this to emergency even if going to Sierra Vista. With a truck worth \$130,000 and employee he still would charge less than \$125 and thinks this is useless if not going to use it. Douglas they will take it and this Public Works employee made an anonymous phone call and they are limited now on amount they can dump and when finished in Douglas then will go to Bisbee. Ms. Stambach said Hernandez this works for them. Ms. Kathy Hernandez stated they go whenever they are called. Mr. Hernandez asked how we charge customer for additional fees. They have to pay out of their pocket because the customer will use somebody else. It will not come out of their customer's pocket due to this customer one hour one charge and another customer different charge because of time. Best is for business hours and suggested that maybe a crew of inmates could do it and knows it is a hardship loading them up. Suggested raise fees all the way across and dump during City hours and make it even. Ms. Hernandez said they leave early morning because they do not know how long it will take until they get there. Additional cost coming out of their pocket. Councilman Klump asked what is the rate in Douglas and Mr. Hernandez said \$12 and Sierra Vista it is \$31 and Ms. Hernandez said the workers are there all day long. Councilman Johnson asked for the number of employees in WWTP and Mr. Bonner replied budgeted two (2) and not always there. We have issues with lab and just changed staffing to allow one person at the lab at 40 hours per week from 7-3:30 p.m. Purpose of testing is to meet inadequacies. Councilman Johnson asked how long it takes from the time they get there, take sample and leave. Mr. Stambach and Hernandez said 10 minutes. Councilman Johnson asked if sample taken by City workers and Mr. Bonner replied they should be. Councilman Norris said after hours and Mr. Bonner said should be City staff to have quality control. The Stambach's asked why is Willcox testing because no one else is and asked if testing every single load. Mr. Bonner said we should be testing every load to understand the process. He has been to one other facility in Apache Junction and they too test every load. Mr. Hernandez said in Sierra Vista they fill out a sheet for test every load but they don't test every load they sometimes smell it and if grease is in there you will know. Vice Mayor Schultz thinks he needs to see regulation before start restricting "these people." Mayor Lindsey asked any other comments. Councilman Johnson asked if audit does the City get involved with private business. City Manager McCourt replied "not at all, they can use other facilities." Councilman Johnson asked if someone from here called Douglas is that something we need to take care of. City Attorney Figueroa said the complaint needs to be in writing with details and it can not be discussed during public hearing. Mayor Lindsey asked any further information at this public hearing. Hearing no further comments the Mayor closed the public hearing at 7:43 p.m.

Mayor Lindsey opened the public hearing at 7:44 p.m. regarding Bingo License by the Rex Allen Museum and Rex Allen Theatre. The Mayor asked if anyone wanted to present information. Mr. Bill Nolan stated he is the current President of the Board of Directors for the Rex Allen Arizona Cowboy Museum and stated they are a 501C3 charity. They also donate free tickets every year. The Rex Allen Theater is a non-profit business and part of the Museum Charity and most are volunteers. Donations received last year were over \$10,000 to keep it operating. This is an opportunity for seniors, youth and everyone in between to participate in Bingo on Thursday evenings and Saturday afternoon. Ms. Delcie Schultz stated she has paperwork that shows they are legitimate with State and IRS until October 2010. Councilman Johnson asked for the hours of operation and Mr. Nolan replied 5:00 on Thursdays and expect to be out of there between 9-9:30 p.m. NCHS ran bingo at the Elks and have offered to donate equipment that is stored so they will not have additional expense to buy the equipment. Mayor Lindsey asked if there was anything further. Hearing none the Mayor closed the public hearing at 7:48 p.m.

- 8. DISCUSSION/DECISION REGARDING THE SPECIAL MEETING MINUTES HELD ON SEPTEMBER 8, 2009** Tab 4
It was moved and seconded to approve the special meeting minutes held on September 8, 2009. **CARRIED.**

9. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-57 APPROVING AND ADOPTING THE INCREASED RATES AND CHARGES DURING SPECIFIC TIMES FOR THE WASTEWATER SYSTEM OF THE CITY OF WILLCOX AND SETTING AN EFFECTIVE DATE** Tab 2
It was moved and seconded to table this agenda item. **CARRIED.**
10. **DISCUSSION/DECISION REGARDING REQUEST FROM REX ALLEN ARIZONA COWBOY MUSEUM TO SUBMIT APPLICATION FOR BINGO LICENSE AT THE REX ALLEN THEATER** Tab 3
It was moved and seconded to approve the request from Rex Allen Arizona Cowboy Museum to submit application for Bingo License at the Rex Allen Theater. **VOTE: Ayes-**Mayor Lindsey, Councilmen Johnson, Norris, Klump and Donahue. **Nays-0- Conflict of Interest:** Vice Mayor Schultz. **CARRIED: 5-0-1 Conflict-1 Absent.**
11. **DISCUSSION/DECISION REGARDING REQUEST FROM BO DOWNEY CONTINUATION OF STREET CLOSURE FOR GUNFIGHT SHOWS** Tab 5
It was moved and seconded to approve the request from Bo Downey for the continuation of street closure for Gunfight Shows. **AMEND MOTION:** It was moved and seconded to amend the motion to continue street closure for 2:00 p.m. Gunfight Show and bring back topic at the second meeting in January for review. **AMENDMENT: CARRIED.**
ORIGINAL MOTION: CARRIED.
12. **DISCUSSION/DECISION REGARDING CHANGE ORDER #10 FOR WELL #1** Tab 6
It was moved and seconded to approve the Change Order #10 for Well #1. . **VOTE: Ayes-**Mayor Lindsey, Vice Mayor Schultz, Councilmen Norris, Klump, and Donahue. **Nays:** Councilman Johnson. **CARRIED: 5-1-1 Absent.**
13. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-58 RATIFYING AND APPROVING THE SUBMITTAL OF A BUDGET PROPOSAL TO THE ATTORNEY GENERAL’S OFFICE OF VICTIMS’ RIGHTS PROGRAM [“VRP”] ON BEHALF OF THE WILLCOX DEPARTMENT OF PUBLIC SAFETY [“WDPS”] FOR THE PURPOSE OF RECEIVING AWARD FUNDS TO BE USED FOR VICTIM RIGHTS’ SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.** Tab 7
It was moved and seconded to adopt Resolution NO. 2009-58, as stated, relating to Attorney General’s Office of VRP on behalf of the WDPS receiving award funds for Victim Rights’ Services. **CARRIED.**
14. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-59 APPROVING AND AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE COCHISE COMMUNITY FOUNDATION GRANT [“CCF”] FOR THE PURPOSE OF OBTAINING FUNDING FOR YOUTH PROGRAM ACTIVITIES, AUTHORIZING AND DIRECTING CITY STAFF TO SUBMIT SAID APPLICATION AND DECLARING AN EMERGENCY TO EXIST** Tab 8
It was moved and seconded to adopt Resolution No. 2009-59, as stated, relating to Authorizing the Submission of Application to CCF for the purpose of obtaining funding for Youth Program Activities. **CARRIED.**
15. **DISCUSSION/DECISION REGARDING RESOLUTION NO. 2009-60 TO AUTHORIZE THE REQUEST FOR FUNDS FROM THE BORDER ENVIRONMENT COOPERATION COMMISSION [“BECC”] FOR THE WILLCOX WASTEWATER TREATMENT PLANT [“WWTP”], AUTHORIZING THE SUBMITTAL OF THE REQUEST, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.** Tab 9
It was moved and seconded to adopt Resolution NO. 2009-60, as stated, relating to request for funds from BECC for the WWTP. **CARRIED.**
16. **DISCUSSION/DECISION REGARDING THE SENIOR CITIZEN GRANT DIRECTION TO STAFF ON WHICH OPTION THE COUNCIL WISHES TO PURSUE TO MOVE FORWARD.** Tab 10
It was moved and seconded to direct staff to continue discussions with NCCH to establish a Senior Citizen Center. **VOTE: Ayes-**Mayor Lindsey, Vice Mayor Schultz, Councilmen Johnson, Norris, and Klump. **Nays-0- Conflict of Interest:** Councilman Donahue apologized for not stating earlier that he has a Conflict of Interest on this item. **CARRIED 5-0-1-1.**
17. **DISCUSSION/DECISION REGARDING THE WILLCOX ROTARY CLUB FUNDRAISER** Tab 11
It was moved and seconded to approve the Willcox Rotary Club Fundraiser. **CARRIED.**

18. DISCUSSION/DECISION REGARDING TO APPROVE CITY MANAGER PAT MCCOURT PARTICIPATION IN Tab 12 THE ARIZONA TOWN HALL NOVEMBER 1-4, 2009 AT GRAND CANYON, AZ

It was moved and seconded to approve the City Manager McCourt participation in the Arizona Town Hall on November 1-4, 2009 at Grand Canyon, AZ. **CARRIED.**

19. REPORTS BY THE CITY MANAGER PAT McCOURT (CHIEF WEAVER REPORTING)

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

Senior Transport- Organization that was running that program has ceased that service. The City and SEAGO trying to get that service re-established and proposal was done and only one proposal was returned. The proposal meets all qualification and it was submitted by NCHS for Senior Transport and staff is confident it will be awarded to NCHS to provide Senior Transport Services in Northern Cochise County starting in November.

Downtown parking lot-work has been done in preparation for Rex Allen Days to let the public know it is a public parking area and providing some delineation of spaces. Also the project is moving along well on the demolition of old Police Station and hopes to be completed by Rex Allen Days.

- **Update on the Community Center** Dave Bonner, Public Services & Works Director reported doing well except for few hitches on electrical and power should be restored by tomorrow afternoon. Kitchen is basically intact and has been given a total face lift. Hooking up the plumbing today. Painting is complete. Contractors plan to meet our objective for Mayor's/Manager's meeting on Wednesday, September 30th, and the Cowboy Hall of Fame on Thursday, October 1st. The staff will do final clean up.

- **Report on City Clean Up**-Jake Weaver, Public Safety Director-reminder that the City Clean Up is Saturday, September 26 at 7:30 a.m. at Railroad Park and Kathy Smith, Chamber of Commerce, and City Manager will be there to hand out trash bags and masks. Any questions for your designated Clean Up area contact Ms. Smith at 384-2272 or Mr. McCourt at 384-4271. Also September 25 City staff will conduct their Clean Up area of City Hall, around Railroad Avenue, and Public Safety clean up area is behind their new facility.

Pat Willcox hosting Mayor's Manager's Meeting-City Manager McCourt asked Council members able to attend to contact the City Clerk.

20. COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson stated there is street lights out. He wants to hold a work session on information received from the League of Arizona Cities and Towns Conference, on City Policies and anything else the Mayor and Council want to have. Vice Mayor said he wants to shadow Councilman Johnson request for work session.

Councilman Norris wants work session to look at the 1% and wants to look at process where money is from for the Streets. Councilman Klump stated Willcox is part of Cochise County and County Fair is this weekend beginning on Friday, Saturday and Sunday and he will be there for 3-days.

Agenda Revised to include:

***21. DISCUSSION/DECISION TO ENTER INTO AN EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED Tab 13 STATUTES §38-431.03(A)(3) –DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; AND ARIZONA REVISED STATUTES §38-431.03(A)(4) - DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION.**

It was moved and seconded to enter into an Executive Session pursuant to Arizona Revised Statutes §38-431.03(A)(3), as stated for legal advice with the Attorney or Attorneys of the public body; and Arizona Revised Statutes §38-431.03(A)(4), as stated relating to the public body's position in settlement discussion conducted in order to avoid or resolve litigation. **CARRIED.**

RECESS: 8:26 P.M.

RECONVENE: 8:50 P.M.

***22. DISCUSSION/DECISION REGARDING MATTERS DISCUSSED IN EXECUTIVE SESSION RELATING TO THE ADVICE FROM ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY'S POSITION IN LITIGATION**

It was moved and seconded to accept the recommendation from the Attorney and close this matter and move forward.

VOTE: Ayes-Mayor Lindsey, Vice Mayor Schultz, Councilmen Klump and Donahue. **Nays-**Councilmen Johnson and Norris.
CARRIED 4-2-1 Absent.

23. ADJOURN-8:52 p.m.

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