

**THE MINUTES OF THE REGULAR METING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 3RD DAY OF MAY 2010**

CALL TO ORDER -Mayor Gerald W. Lindsey opened the regular meeting on Monday, May 3, 2010 at 7:00 p.m. welcomed all extras here tonight and stated it was "good to see you." He welcomed back those from the work session and welcomed the others. Appreciates attendance and looks forward to seeing more in the future.

ROLL CALL-City Clerk Cristina G. Whelan, CMC, called the roll.

PRESENT

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

STAFF

City Manager Pat McCourt
City Attorney Hector M. 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
Building Inspector 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-Councilman Donahue declared a conflict on agenda item #12 regarding Northern Cochise Community Hospital.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented and to adopt with Consent Agenda items numbered **8-** regarding the minutes of the regular meeting held on April 19, 2010; **11-** Resolution No. 2010-36 Ratifying, Approving And Authorizing A Letter Of Support For The Cochise County Arizona Centennial Committee's Applications For Arizona Centennial 2012 Legacy Project And Events Designations And Authorizing The Mayor To Execute This Resolution And Declaring An Emergency To Exist; **13 -** Resolution No. 2010-42 Approving And Authorizing The Submission Of An Application To The 2010 Rural And Volunteer Fire Assistance Grant Program For Funds To Be Used For Wildland Fire-Fighting Training And Purchasing Firefighter Protective Equipment, Directing City Officials To Submit Application Documents And Declaring An Emergency To Exist; **14-** Resolution No. 2010-43 Approving And Authorizing The Submission Of An Application To The Tohono O'dhom Nation ("Nation") Pursuant To A.R.S. 5-601-02 12% Gaming Distribution, Directing City Officials To Submit Application Documents And Declaring An Emergency To Exist ; **17-** Resolution No. 2010-46 Approving And Authorizing The Submittal Of An Application For A Transportation Enhancement Grant (TEG) For The Construction Of Sidewalks And ADA Corner Ramps On Arizona Avenue, Authorizing The Mayor To Execute This Resolution And Declaring An Emergency To Exist; and **18-** Resolution No. 2010-47 Approving And Authorizing The Submittal Of An Application To The Highway Safety Improvement Program (HSIP) For The Replacement Of Signs In Accordance With New Manual Sign Standard, Authorizing The Mayor To Execute This Resolution And Declaring An Emergency To Exist as Consent Agenda; those are all general housekeeping and approve at one time..

SECONDED: Councilwoman Cronberg seconded the motion. **CARRIED.**

PUBLIC HEARINGS, PETITIONS AND COMMUNICATIONS

Proclamation: Mayor Lindsey read and proclaimed: (1) the month of May as **National Historic Preservation Month**; and (2) May 9-15, 2010 as **Peace Officers Week** and May 15, 2010 as **Police Officers Memorial Day**. Mayor Lindsey presented proclamation to Chief Jake Weaver. **APPLAUSE!** Chief Weaver thanked the Mayor and Council and citizens for passing this proclamation which means a lot to him and his family and his police officers. There were 126 police officers who lost their lives last year across the country and families and children that no longer have a Mom or Dad. This year seems to have an increase it is up to 59 lost. Appreciates the proclamation and thanked everyone and will continue to do what they have to do to keep everyone safe. Mayor Lindsey stated we certainly appreciate efforts of our local department on our behalf and all the citizens of Willcox.

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Consent Agenda. (City Clerk informed Mayor that the Consent Agenda is not an option on this agenda. Council members' proceeded. *Note: per City Attorney to City Clerk after the meeting to add Consent Agenda to future agenda's along with to enter into Executive Session for consultation with the City Attorney on any agenda topic.*)

MOTION: Councilman Johnson moved to approve consent agenda items #8, 11, 13, 14, 17 and 18 as follows:

#8 DISCUSSION/DECISION REGARDING THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 19, 2010

#11 DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-36 RATIFYING, APPROVING AND AUTHORIZING A LETTER OF SUPPORT FOR THE COCHISE COUNTY ARIZONA CENTENNIAL COMMITTEE'S APPLICATIONS FOR ARIZONA CENTENNIAL 2012 LEGACY PROJECT AND EVENTS DESIGNATIONS AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

#13 DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-42 APPROVING AND AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE 2010 RURAL AND VOLUNTEER FIRE ASSISTANCE GRANT PROGRAM FOR FUNDS TO BE USED FOR WILDLAND FIRE-FIGHTING TRAINING AND PURCHASING FIREFIGHTER PROTECTIVE EQUIPMENT, DIRECTING CITY OFFICIALS TO SUBMIT APPLICATION DOCUMENTS AND DECLARING AN EMERGENCY TO EXIST.

#14 DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-43 APPROVING AND AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TOHONO O'DHOM NATION ("NATION") PURSUANT TO A.R.S. 5-601-02 12% GAMING DISTRIBUTION, DIRECTING CITY OFFICIALS TO SUBMIT APPLICATION DOCUMENTS AND DECLARING AN EMERGENCY TO EXIST

#17 DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-46 APPROVING AND AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR A TRANSPORTATION ENHANCEMENT GRANT (TEG) FOR THE CONSTRUCTION OF SIDEWALKS AND ADA CORNER RAMPS ON ARIZONA AVENUE, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST Moved to Consent Agenda.

#18 DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-47 APPROVING AND AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) FOR THE REPLACEMENT OF SIGNS IN ACCORDANCE WITH NEW MANUAL SIGN STANDARD, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST Moved to Consent Agenda.

SECONDED: Councilwoman Cronberg seconded the motion. **CARRIED.**

DISCUSSION/DECISION REGARDING BRIAN BROWN/WILLCOX GIRLS SOFTBALL REQUESTS FEES BE WAIVED FOR CITY EMPLOYEES TO WORK THE BALL FIELDS DURING THE REX ALLEN DAYS TOURNAMENT

MOTION: Vice Mayor Schultz moved that the requested fees by Brian Brown/Willcox Girls Softball be waived for City employees to work the Ball Fields during the Rex Allen Day's Tournament.

SECONDED: Councilman Johnson seconded the motion. **DISCUSSION:** Councilwoman Cronberg thinks they ought to allow representatives that are here to at least make any statements they might have. Knows there has been a lot of concern and may not be directly to waiver of fees and could be indirectly and would like to hear what they have to say. Mr. Brian Brown involved since 2007 and started with 55 kids and this year 150 kids. They have 10 teams and travel teams to Tucson, SV and Douglas to pay. Have teams come from Elfrida, Douglas and Sierra Vista to play here.

Mr. Brown wanted to discuss paperwork issues and fees required to pay as League now. When first started they did not have to pay for lights, field marking caulk informed this year they have to pay for and they have purchased that. Involved in paperwork Mr. Schultz, Mr. Johnson and Mrs. Cronberg they all attended the meetings held at the Elk's and those work sessions were regarding the paperwork. Last year contacted the City of Willcox to see what they needed to do to be put on calendar and what the calendar was supposed to do was to be able to schedule their games. The City wanted times, days, so they could work their maintenance around it and would know what was going on. In 2008 they did not have any problems and took down their playing schedule and gave it to the City and they put them on the main calendar. Last year after they had all those work sessions and Pat McCourt made it to a couple of those work sessions and he was going to get some guidelines, they needed to follow as far as policy and

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procedures on the way the City wanted them to handle this. They had 2-3 meetings and Mr. McCourt asked for input from both leagues which is Willcox Girls Softball and Willcox Little League and before they got back to Mr. McCourt these policies, he guesses, were already into effect.

Notices were put up on all their concession stands and buildings and read 'This facility may be reserved at any given time. It is possible that you could be asked to vacate the area IF the proper paperwork is presented for a specific date/time. To reserve this facility please contact the City of Willcox' After receiving this notice he contacted Mr. Bonner and asked him what they needed to do and Mr. Bonner said they basically needed to come down and fill out paperwork which they do not have problem with that everybody has rules and regulations. They were not aware these policies were already put into effect without the City consulting with them. He knows the City does not have to consult with them and that was the whole purpose of all these work shops and felt wasted 3-Saturdays in 3-4 hours to discuss all this and all of a sudden the City does not include them in the policies and procedures before they were made. Email received from Mr. McCourt 'I do not clearly understand the statement on turning in the application. We have recommended to the City Council some policies for adoption to the City Code 17A-4-A7 which the Council has not acted upon on this day. I have also adopted Administrative Policies under General Administration, Supervision and Control of the Affairs of the City Code 7A4-A1 this provides a manner of all associations, the resources of the City and even the handle the methods of City citizens and groups who may wish to use public owned resources.' And he Mr. Brown read '...this is to reduce miscommunication of dates, times, services, avoid confusion with our maintenance schedules. To ensure all members of the public are treated fairly and on equal terms.' Mr. Brown started to turn in paperwork back in September of '09 after receiving these signs on their door and talked with Mr. Johnson, Mr. Schultz and Mr. Figueroa and Mr. Figueroa made him aware that none of these policies had been made into effect. Mr. Brown did not turn in paperwork.

Email from Mr. Bonner wanting to know if still wanting to use fields and how come he had not turned in paperwork. Mr. Brown had Rex Allen Days Tournament coming up and plus they were still playing Fall Ball and went down there and got the paperwork. After talking "with these guys" he really didn't feel they needed to turn in if it was not approved yet. Thought it was just paperwork making them do when it was not voted on or agreed by members of the Council.

In January 2010 meet with Mr. Bonner and asked him what he needed do to get League started in January. Wanted to start first part of February and try to move their schedule up and Mr. Bonner informed him they had a big tournament coming in February and asked not to turn in paperwork until March 1st. Paperwork turned in on February 1st and copy of that paperwork on the back states what they are obligated to do. Took this down to the City and only had clean ball field and concession stand and Dawn Adame "grabbed the paperwork" from him and she checked every box and told him he would be responsible for everything on that list. Mr. Brown does not feel it is their responsibility to take care of filling in the holes in the Batters Box or filling in the holes in all the bases. He did attach to the application that on Field #1 they were going to use it everyday from March 1-December 31 and Field #2 they were going to use it on Monday-Wednesday-Friday and reason did that was to get it on the calendar. There is another League in town Willcox Little League which also uses this field and at the work sessions told they needed to put Monday-Wednesday-Friday or whatever days they wanted to use it and the times so they could work on maintenance. Received call from Mr. Bonner and informed him he is not responsible for days and times to use the fields and according to the paperwork that is basically what they wanted. Feels doing paperwork the way supposed to be done and feels getting a lot of flack from the Public Works Department and thinks it has gone beyond Mr. Bonner. Mr. Brown thinks Mr. Bonner taking this to another level and thinks it is personal. All they are asking for is to be taken care of, they are all tax payers, all about the youth and does not think it should become a personal issue and needs to go back to a professional manner.

Mr. Brown asked for dugout roof to be replaced, it had blown off back in December, and contacted Councilman Johnson. They let it go until about January and when Councilman Johnson called Mr. Bonner and he told him that had just blew off a couple of weeks ago which is not right it had blew off back in December. Email received from Mr. Bonner saying he is going to try to get the roof put back on and he asked to please try to get it by Opening Day. This was back in January and Opening Day was last Saturday and as of this time they still do not have a roof on their dugout. They do not ask for a lot and they do quite a bit at the fields and already spent about \$10,000.00. They had fence installed and it was donated at a cost of \$6-\$7,000; scoreboard put in last year cost about \$7-8,000 and at no cost to the City of Willcox. The League is upgrading fields "slowly but surely" and all asking the City of Willcox is to maintain the fields the way they should be maintained.

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The paperwork the City is making it a big issue. Turned in paperwork and approved on February 15 and on February 18 turned in paperwork for Rex Allen Days Tournament that he has and has not yet received that paperwork back. Mr. Brown talked with Mr. McCourt about the paperwork and he agreed they did not need to pay another \$50 deposit. They have already paid a \$50 deposit to use the fields. The entire tournament is a fund raiser for the kids plus during Rex Allen Days brought in close to about 300 people last year that stayed in motels and everything else. Mr. Brown needs paperwork back to start this tournament but has yet to receive the paperwork back. Knows the Council has received copies of some of the emails and shows some of the issues he has to deal with. He emails Mr. Bonner and it may take a couple months or couple of weeks before he gets a response. Mr. Brown is not asking for the next day response only asking for response. Already paid \$150 fees this year and asked "did the Council approve us having to pay those fees?" Mayor Lindsey replied: nor do they approve any one else that uses facilities in Willcox. Mr. Brown asked why is they paying the fees if nobody else is and why are they turning in this paperwork? Councilwoman Cronberg clarification is the \$150 a deposit and Mr. Brown said it is three (3) different deposits and Councilwoman said there is distinction between fees and deposits. Mr. Brown agreed and that is \$150 that their League puts out that they could use for uniforms, and now having to buy caulk they could use that money. Went to talk to Mr. Bonner to try to get for them approval to turn in paperwork for 5-years. He asked the Council members if that is one of the policies that they can turn in paperwork for 5-years and asked if that was correct. Councilman Johnson said it is part of discussion and does not think it has been approved. It is part of what they had planned on how to move things forward and thinks that is part of the old policy and we incorporate into new policy which they have not finalized. Mr. Brown said the Willcox School District was able to turn in a Facilities Agreement for 5-years and he tried to do the same thing and Mr. Bonner told him that since his organization has not been established over 7-years he could not turn it in for 5-years. Present tonight are coaches that have coached ASA and Bobby Sox for the last 30 years. Councilman Norris too knows quite a lot about Bobby Sox. It is a big part of this community and it seems to him that there are a few members that work for the City that are trying to run organizations off. By the time they put the money out, spend a lot of time on paperwork, which he has taken paperwork 4-5 times, made changes to it just so that they could get it approved.

Mr. Brown has emails from Dawn Adame who "was very rude" asking where his deposit was and he was not aware that they needed to pay another deposit and would have paid it at that time. The paperwork is not getting approved because he does not have a deposit. Paid deposit on February 15th for the Rex Allen Days Tournament that he needs paperwork still has not received and found out still needs a deposit. After talking with Mr. McCourt he agreed they did not need to pay another deposit since already has the fields from February 1 to December 2010. Still he has no paperwork and went down there and again paid for the deposit.

After discussion with Mr. Bonner on trying to turn in paperwork for 5-years he was told he could turn one in for one year. That's another \$50 had to pay for deposit to reserve fields for next year. The City wants them to turn in paperwork to reserve the fields, the days and times and another League trying to use the same thing but they do not want to get involved as far as scheduling the fields and asked what is the purpose of the paperwork when they want to know the days and times. Mr. Brown has asked tonight a few questions of the Mayor and Council and stated "none of this stuff has been approved" and why spending his time and the kids' money to pay for all these deposits and fees when it has not been approved yet. He asked if they know they had to pay for their own field caulk this year. Councilwoman Cronberg stated she knew from his email. Mr. Brown stated Councilman Norris has been involved with Bobby Sox for a long time and asked if the Councilman remembers having to pay for field caulk or lights. Councilman Norris said does not remember if Bobby Sox did and the Women's League had to pay for lights and took up donations. Mr. Brown said they are here for the youth there is a lot of youth in this town, he is a volunteer, and the board members are all volunteers and only asking for a little work. They put in fence and scoreboard and all they are doing is upgrade to the fields at no cost to the City, all they want is a little bit back. They want to be able to work with Public Works Department, City Manager and work with the Council members they may have kids or grandkids that play softball.

Councilman Johnson asked if in 2008 what the City do to participate helping get the fields ready. Mr. Brown stated that in 2008 he had to review his notes and Councilman Johnson asked "did the City caulk the fields, level the fields, and if they did that?" And the Councilman asked "did they do that for Little League?" Mr. Brown said recalls prisoners caulked the fields during the day if they had time and that is just hearsay because he does not know that for a fact. Councilman Johnson asked staff if Little League has paid for their deposits. Mr. McCourt replied staff is waiting for Mr. Brown to finish before responding.

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Mr. Brown stated this is a long summer program to keep kids out of trouble and asking City for a little help. Everything they do ask for is a fight. Thanked Mayor and Council for their time. Mr. Brown explained that they do use Field #1 and the Bobby Sox Field has always been Field #2. While working with Little League it seems when he gets email back from Mr. Bonner "the Little League agreed to share field with you" and that has always been a Bobby Sox Field. They share main field with Willcox High School Girls which takes away from them and they share the other field with Willcox Little League. They now do not have a field and they can put money into Field #2 just as easy as they did with Field #1. Mr. Brown asked the Council for them to be able to use Field #2 full time and share with High School Field #1. They work very well with the School. And he asked the Council to be able to use Field #2; put it back as Bobby Sox Field the way it has always been; and that Field #1 has never been Little League field because that is why the field does not have a pitchers mound. Quail Park has a mound on its fields and asked why not let Little League use both of those fields and feels Bobby Sox is entitled to Field #2. Mayor Lindsey explained that is not on the agenda and they can not address that tonight and they work on this on where we need to go in a work session. **APPLAUSE.** (From the supporters of the Bobby Sox League in attendance.)

Mayor Lindsey asked the City Manager to respond. City provides general basic level of services to all the public. Fees come into place when require higher level of services. Special groups or special interest and require higher level of service and that is when fees come in. The \$50 are deposits and refundable and overall City policy that has been under discussion.. City Code does give him administrative authority and that is what he has done and told Mr. Bonner to follow that procedure until the Mayor and Council adopts a policy. Mr. McCourt did have a conversation with Mr. Brown and did not understand the second \$50 and relayed that with Mr. Bonner. A lot of issues raised we will need Mr. Bonner to respond. Councilwoman Cronberg stated the request is to waive fees for personnel during Rex Allen Day's and during the tournament and asked if that was correct. Her addendum to that question is: with the fact that there has been a request to use the field for their Softball activities for a certain number of months and asked if that does not include the time for the tournaments they might be staging or does each event that they do require a separate request, application and deposit. Mr. McCourt asked to make sure he understands what they feel or approving. They are going to have tournaments on weekend and we turn out staff to rake fields and take care of running the tournaments and we pay them overtime. Councilwoman Cronberg replied that is not her question. Mr. McCourt asked if that is what the Council what they are looking at. Councilwoman Cronberg explained she is relating it directly to the waiver of fees as requested in this agenda item being for the Rex Allen Days Softball tournament that they want to host. Mr. McCourt asked if the Mayor and Council are indicating for us to do is to turn out City employees, pay overtime to rake and maintain those fields during the tournament. Councilman Johnson asked do those fields need to be raked during the tournament and have they ever been raked during the tournament. Mr. Brown replied they have always done it themselves in the past and they are a small group. Ms. Brown added that there were 4-adults took care of it last year that took care of it during the 3-days of the tournament. Councilwoman Cronberg asked if that is what they are asking for that for every tournament that they host. Mr. Brown stated that last year the School system came to them and offered them the use of gator, loaned them caulk to take care of fields and everything they needed for those field. They had volunteer school employees that donated their own time to help them. The tournament takes a lot of work because the fields do get torn up between games and with games going on all day for 2-days it does require a lot of work. They are asking for fees waived because they do not have the equipment or the manpower to take care of those fields during those days. Councilman Johnson asked during those tournaments how many teams come from out-of-town. Mr. Brown responded that last year they had 11 teams total and some came from Phoenix, Tucson, Douglas, Rio Rico, and Las Cruces, New Mexico and most stayed in Willcox. Councilman Johnson said they are here for 2-3 days. Ms. Brown explained they had a couple of families that had to go to Benson because Willcox did not have rooms and Mr. Brown added they also make reservations for 15-20 empires and put in motels and pay them plus their mileage. Last year Mr. Brown had a tough time getting the empires their room and hopes this year works better. Councilman Johnson stay in our motels, eat in our restaurants buy groceries and spend their money and then they leave. Mrs. Brown had families that went out to Apple Annie's and they said they enjoyed that very much. The teams go out and spend money and said they were coming back during the summer whether they had a tournament or not they were coming back to Apple Annie's which is supporting the City too.

Councilwoman Cronberg what they are looking at specifically tonight is the Rex Allen Day's tourney requesting waiver of fees. Any other issue would require some "sit down time" with Mr. McCourt and Mr. Bonner and some real discussion on what some future expectations might be. Tonight in her view and scope has enough clarification and know what she is talking about now and thanked them. Councilman Norris stated this year they are asking for 8-hours work from the City. Mr. Brown explained probably for a total of 8-hours and with the help from their volunteers and probably take work off. They do not have items such as gators for

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the different sand needed to haul in or access to some of that sand. Fields get in bad shape especially to the pitchers mound. Probably they are looking at 8-hours for the whole weekend. That was his first year tournament and pleased with the total number of teams. Usually they are doing good to get 4-5 teams. For the other tourney the City took all the bleachers, they had no place for the parents to sit, they had no water, and they were accused of not having insurance after having played the whole season. He was out of town at the time and his wife was able to take the insurance copy of what he turned in last January. They had a lot of issues, made a little bit of money for the kids and program. Umpires cost over \$3,000 and they are here for the kids and better the program. Vice Mayor Schultz said his question is for the other organizations during Rex Allen Day's did we provide City help at no cost to them? Such as the Rodeo clean up, or parade. Mr. McCourt stated we provide police for the parade and that is a public safety issue. He asked are we saying we are going to provide 8-hours of labor or are we saying how ever much they want during Rex Allen Day's of labor for this tournament. Councilwoman Cronberg thinks what it says is they are requesting up to 8-hours and physical impact is approximately \$200.00. Mr. McCourt asked if that is what we are approving. Mayor Lindsey said it has not been approved. Mr. McCourt assuming that is approved is that the motion. Mayor said motion made and seconded was to approve the waiver of fees or up to \$200 or equates back to 8-hours of personal. Mr. McCourt wants to make sure what we are approving. Mayor Lindsey thinks we need further discussion and his concern is everyone is treated equally. And not one group favored another group and that all of the citizens have access to facilities and that we do not discriminate by charging one group more than another group or we don't provide more services for one group than we provide for another group. Mr. Brown stated when they first started in 2007 they received a light bill for \$750 which they paid. Little League has been going for how many years at Keiller Park and they have not received a light bill. He does not agree with what the Mayor said that everyone is being treated equally. Mayor Lindsey concern is that not everyone is treated equally and we need to focus on that. He wants to be kept in the loop and said he has never been invited to any functions and eliminated him from emails when looked at other council members email. Mr. Brown said he has emails where he invited him and one is dated 9-21-2009 and none sent this year. Mayor Lindsey stated we need to work together to get it done and thinks that is the key to the entire situation. Councilman Holloway referred to the Council Action 'however actual hours worked is what would be charged.' Waiving the cost of the labor or the cost of the fee and asked if that is correct. And not really waiving the cost of the labor waiving the \$25 fee and asked if that is right. Mayor Lindsey said his understanding is waiving up to \$200 in time from City employees. He asked if any disagreement with that and Councilwoman Cronberg said that is her understanding and Councilman Johnson said that is what it said. The Mayor stated that at this point and Mr. Tim Alexander said as far as dug out as safety issue the kids need a place for shade. They can not stand out in the sun during the summer time. That is a big safety issue. Adult league can see fees. These are kids in our community, parents work here, buy things here and asked why can't we do something for the youth it is not for adults it is for kids to keep them off the streets. Tim Alexander. Mayor Lindsey stated that is part of the over all problem and need to work on. **CARRIED.** Mr. Brown thanked the Mayor and Council for time. Mr. Alexander thanked the Police Department for good escort this weekend they did a great job. Mayor Lindsey added that he feels like we still need to have a work session and sit down and talk about some of these issues and see what can be resolved. City Manager McCourt stated staff will prepare response to the points for their consideration.

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-30 FOR THE PURPOSE OF APPROVING AND ADOPTING THE REVISION TO SECTION 516 [CELLULAR (CELL) PHONE USAGE] OF THE WILLCOX EMPLOYEE HANDBOOK, ESTABLISHING THE EFFECTIVE DATE AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Donahue moved to approve Resolution NO. 2010-30, as stated, relating to Section 516 Cellular (Cell) Phone Usage.

SECONDED: Vice Mayor Schultz seconded the motion. **DISCUSSION:** Councilman Johnson thinks again if there is issue here that needs to be addressed then bring it back to Council. The policy was written as intended. Thinks as far as clarity goes one thing that should be added to that is 516.6 and everything else should revert back to original policy. Councilwoman Cronberg is "okay" with some of the revision and still thinks that taking out 'to conduct business' if you blend this to saying that for that reason the City prohibits employees using cell phone while they are driving a City vehicle that also make 516.3 redundant. We do not need to say in there you are not going to allow sending or reading text messages because that requires using a Cell phone. If do this then are we going to say "you can't use Cell Phone to take pictures" because somebody might do that. There are so many uses any more so many "apps" on those phones and again asked what is the next thing that is going to come up when somebody is using their cell phone and say "but I wasn't texting" and so it's okay. Does not think that is necessary. If go to language submitted to include the exclusion for Public Safety and deletion of words "to conduct business" and leave everything else as it

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was. Councilman Johnson asked how many cell phones the City supplies to the employees. City Manager McCourt replied he does not know how many cell phones are supplied for City employment and will get that information. Councilman Johnson also asked how many employees use their personal cell to conduct City business that is required. Again the City Manager replied he does not know how many employees use personal cell phones to conduct City business and will see about getting that information. Councilman Johnson said his question is that IRS just recently ruled as far as using your personal cell phone for business use it has been disclosed that you can't unless it is mandated by the employer that you can write off your personal cell phone for business use or un-reimbursed employee expenses. He asked what City employees are issued a City cell phone and if that person is either on call or out on a site checking things and using their own personal cell phone and thinks that should be turned off when you walk in. If employees i.e. Tom (Miner, Library Director) use your own personal cell phone for City use you can take it off your taxes. Mayor Lindsey stated we have had 3-runs on this already. and Councilman Cronberg asked if appropriate to do an amended motion and asked what does the Council think about "as presented minus 516.3." Councilman Klump asked if you can text message on anything else that is not a phone i.e. pdf or whatever other electronic means. Asked if you could text message on something other than a phone, which you could not actually speak on, but you could send out email messages. Councilwoman Cronberg asked if talking about Smart Phone and asked if have to go to different policy. City Manager McCourt read section "not allowed sending or receiving text messages or any other information over a cell phone while operating a city vehicle." Councilman Johnson stated they shouldn't be doing that while they work either. Councilman Donahue thinks they got as close as they are going to get on 516.1 provided telephones, 516.2 states it is for driving safely, exception 516.6 Public Safety, 516.5 personal cell phone are to be turned off or left outside the work place and thinks that is as clear as we are going to get. Does not see what else we can do. In its previous forms he concurs with his colleagues that it was not clear. Policy can very easily become a double edge sword and employee can wheel it again an employer. It has to be clear and 516.5 are clear and exception and specific instruction on use of City Cell phone. Councilman Cronberg said if more comfortable could include not to be used for text messaging "then so be it. I am really tired of this." Councilman Johnson asked who is going to monitor it. Mr. McCourt replied that is done by all supervisors of the City. Councilman Johnson said if that is done then why they are going over the policy. **VOTE: Ayes-**Mayor Lindsey, Vice Mayor Schultz, Council members Norris, Cronberg, Klump and Donahue. **Nays-**Councilman Johnson. **CARRIED 6-1.**

DISCUSSION/DECISION REGARDING THE AGREEMENT BETWEEN THE CITY AND NORTHERN COCHISE COMMUNITY HOSPITAL(NCCH) ON SENIOR CENTER

MOTION: Councilman Johnson moved to approve the agreement between the City and NCCH on Senior Center.

SECONDED: Vice Mayor Schultz seconded the motion. **DISCUSSION:** City Manager McCourt explained the item cost requested for the chip seal and indicated staff would have that cost this evening. The cost is approximately \$6,060 and also needs the labor and equipment added. The City Manager is asking if that is included in motion because not on staff report. If yes then arrange budget line in General Fund Programs to pay for these costs. EJ asked if part of in-kind for grant. Pat City has applied to grant and chip seal is definitely not in the grant. More clarification that the hospital and City working jointly to provide service to Boomers and wants to make clear both in as partnership. The grant originally talked about to continue to work on project and other costs as they come up that need to be addressed. Staff wants to be sure fulfilling the Council's wishes and in budget need to be aware what purpose. Approving City crews to make connection from the main utility line to buildings and needed cost for chip seal and asked the Council if that was intended to be included in the motion.

Councilman Johnson asked how much money was donated for the Senior Center over the last 2-years because we had one line for the Skatepark and one for the Senior Center. Finance Director Graham said we did have line item and is not aware of any donations for the Senior Center. Councilwoman Cronberg stated we had a line for the Senior Center. Councilman Norris stated that the first car show held all the proceeds were to go to the Senior Citizens and Vice Mayor Schultz said that was the same thing done last year. Mayor Lindsey stated the question is where did the funds go? Vice Mayor Schultz suggested asking Kathy Smith from the Chamber. Councilwoman Cronberg has received a few calls wanting to know if there is a way to donate to it because they have not seen anything publicized and we need to turn that information to the surface and let people know we did have a few years ago a way to do that and knows a few people that still want to do that.

City Manager McCourt stated that he personally is not aware about that and will have staff research that. If anybody wanted to donate funds for that specific purpose they would be maintained in a Trust Account. Councilman Johnson stated that according to policy he can spend up to \$25,000 and anything over \$10,000 needs to come back to Council to let them know where he spent it.

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City Manager said still has to plan for it and does not think they are giving him authority to do that anytime he wished. The Mayor and Council ultimately have to be able to control the budget and know how money is being used. It is an expansion of services and is in line with the Hospital on what was discussed and get services delivered. Wants to make sure this is "okay" and know how to proceed and put in budget and schedule crews and work around the rest of our road projects so that we do not want to take from general the citizens in delivering the services to them. He is asking we know what it will cost us to do the hook ups, we know the estimated cost of the materials and asking if okay. Councilman Johnson said so far we are at \$10,113 less the cost of labor to put the chip seal. He asked Mr. Smith for update where we are at with the Senior Center and what is the timeframe. Mr. Smith reported they ordered the building and is waiting; they have the soil sample taken care of; waiting for them to tell them to bring it. Have to level area and are ready to go once they get the okay for hookups. Councilman Johnson asked once hookups are in place, the building in place and the parking lot is set and asked if Mr. Smith has an idea what they will be doing and operating. NCCH has hired a lady to run the Senior Center for them and she has already setup to serve meals to the seniors. They are ready and are in motion and just need a place. Councilman Johnson asked if there is anything more they will be asking the City to help participate or help pay and Mr. Smith said they are going to do it regardless. Councilman Johnson ultimate cost is this something to get it ready and set. Mr. Smith if get grant would like to work with that and would like City's help if they could. Councilman Norris said we still do not have the grant. City Manager McCourt explained we have applied, we have contacted HUD, we are now trying to go through Congresswoman Gifford and we are hitting a blank wall and we have not gotten the award or response letter. Staff knows of no reason why we have not received this award. Minor changes were made and they were immediately sent back. We have sent emails, asked for update and no response. Mr. Smith stated the Hospital is going ahead with a Senior Center irregardless of the grant. The community needs this and they are ready to move forward with it regardless this would be wonderful and thinks could buy better equipment and already have a 54" flat screen television donated and he too wants to setup something for donations. If the grant comes that is great if not they will figure out a way to move forward. Councilman Norris said that has been set aside for Senior citizens. Councilwoman Cronberg stated her concern is that no matter what we still need to maintain City presence as a partner in the process otherwise that may negate some of the grant language and thinks if it is supposed to be City project we need to maintain that presence and that it is known. Mr. Smith stated they will all be invited to anything they do and if volunteer they would love it. Mayor Lindsey thanked him and he thanked them too Mayor wanted to be sure specify and Councilwoman Cronberg asked if need to amend original language to include the dollar amount. City Manager McCourt wants it in the minutes authorizing City resources for chip seal, hook ups and extension to the building. Mayor Lindsey asked if council wanted to amend motion to include dollar amount he has no objection to that. **VOTE: Ayes-Mayor Lindsey, Vice Mayor Schultz, Council members Johnson, Cronberg, Norris and Klump. Nays:-0-. Declared Conflict-Councilman Donahue. CARRIED 6-0-1.**

Mayor Lindsey acknowledged the presence of Ms. Pat Fleming, State Representative, and appreciates her attending and if she wanted to say a word or two. The City Manager thanked her for input on behalf of the City. Honorable Fleming stated it is great to be back home in Cochise County. The hardest part for her was not being able to get out due to Special Sessions. The decisions she made are public and whenever she asks for input on any effect to Cities and Towns she does look to the League and then contacts communities. She is home and in touch with legislative office. Vice Mayor Schultz stated the initial meeting with ADOT and DMV Ms. Fleming got it started.

DISCUSSION/DIRECTION/DECISION REGARDING RESOLUTION NO. 2010-44 APPROVING AND AUTHORIZING THE PURCHASE OF NATURAL GAS ON A FORWARD PRICING CONTRACT BASIS AND ON THE SPOT MARKET UNDER THE BASE CONTRACT BETWEEN THE CITY AND BP ENERGY COMPANY ["BP"], AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Donahue moved to approve Resolution No. 2010-44, as stated, relating to Authorizing the purchase of Natural Gas on a Forward Pricing Contract Basis between the City and BP Energy Company.

SECONDED: Councilman Johnson seconded the motion. **DISCUSSION:** Councilman Johnson stated this is a way to save our tax payers money. Finance Director Graham gives us opportunity to purchase gas on regular basis. Also hopes it is a cost savings. Mayor Lindsey stated he knows Ms. Graham spends a lot of time looking at those things and deciding when is the time to buy and it has saved us money in the past. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-45 APPROVING AND AUTHORIZING THE EQUIPMENT LEASE WITH JAN KORTSEN INS., LLC D.B.A. MVP ("LESSEE") AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

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MOTION: Councilwoman Cronberg moved to approve Resolution No. 2010-45, as presented, relating to equipment lease with MVP.

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

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-48 APPROVING AND AUTHORIZING THE PROPOSAL FROM BROWN & CALDWELL (“C&B”) TO CONDUCT FUEL TANK REMEDIATION SERVICES AND THE SUBMITTAL OF AN APPLICATION BY C&B TO THE ADEQ LEAKING UNDERGROUND STORAGE TANK (LUST), AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilwoman Cronberg moved to approve Resolution NO. 2010-48, as presented, relating to Fuel Tank Remediation Services.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Councilwoman Cronberg wonders how sure we are in the reimbursement line. Pat replied this is attempt covered under the Leaking Underground Storage Tank before it expires. Councilman Norris said in his place they solicited because they had underground tanks, completed a few things, and they even poured new cement where they had to bust the old. Councilman Klump asked if this relieves our liability once it is done. It is not something that can ever be fixed in Willcox and it is Superfund money that ADEQ is trying to get at. Are they coming back in 2-years? City Manager McCourt thinks it is possibility they may come back in the future regardless. It does relieve some cost and getting this work done. City Attorney Figueroa stated we can never “relieve your selves completely.” This is a step required to begin with and should have been completed a long time ago and it wasn’t. Review of records found case not close. One step is to remediate and close the project and the second is if did do due diligence this is what we have done and if any liability it is diminished. The City Attorney felt comfortable to recommend to the Mayor and Council this approve. Mayor Lindsey stated it appears this should have been done 10 years ago. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-49 APPROVING AND AWARDED THE BID CONTRACT TO DUNLAP OIL COMPANY (“DOC”) FOR PURCHASES OF UNLEADED GAS AND DIESEL, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

MOTION: Councilman Donahue moved to approve Resolution NO. 2010-49, as stated, relating to awarding the Bid Contract to DOC for purchases of Unleaded Gas and Diesel.

SECONDED: Councilman Johnson seconded the motion. **DISCUSSION:** Councilman Johnson asked on bid opening sheet noticed that Freeway Texaco was “complete” and Dunlap was not marked “complete.” As far as diesel Dunlap has marked “yes and no discount” and asked for clarity. Finance Director Graham explained diesel fuel consumption is relatively low and fuel price 7 cents off of pump for diesel and unleaded fuel. Councilman Johnson asked if it is a signed paper or card or key in driver. Not too long ago we had issue on purchases and unknown person used card. Ms. Graham stated that every vehicle has a card and person has personal identification to insert at the pump and the mileage on vehicle. **CARRIED.**

REPORTS BY THE CITY MANAGER PAT McCOURT

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

- **Report on City Clean Up Day** -Pat McCourt, City Manager, City Clean Up Day held Friday & Saturday, April 16-17th and 1.5 Tons of trash picked up by volunteers and City employees that worked a couple of hours on Friday.
- **Informational Fair**-Pat McCourt, City Manager, several community organizations are participating on Wednesday, May 5, 2010 for a Community Informational Fair. It will be held at the Community Center from 5 PM to 8 PM. The Exhibitors’ are providing information about their organization and also Census Information will be available. Inform community various services available and one is the Census and maybe pick up more participation.
- **Sale of City Property**-Pat McCourt, City Manager, advertised in the local newspaper, City bulletin boards, web site, several public places, and City newsletter of the Sale of City Property. Bid packets can be obtained from the City Clerk’s office, Development Services office and on the web. All bids are due Friday, May 28, 2010 at 3:00 p.m. in the Office of the City Clerk. Few packages have been picked up.
- **Mayors/Managers Luncheon**-Pat McCourt, City Manager, hosted by Cochise County on May 13, 2010 in Sierra Vista. If considering attending notify the City Clerk.
- **Run For The Wall**-Chief Jake Weaver- will be held on Thursday, May 20, 2010 the 22nd Annual Run For The Wall. It is cross county motorcycle ride conducted by veterans to raise awareness for prisoners of war, MIA, and US service members killed in action. Lunch and brief ceremony at the Elk’s Lodge, 247 E. Stewart Street, around 12:30 p.m., and program lasts about an

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- hours. Also accepting donations and ask for Pat Stark 520.384.2131 at the Elk's Club and primarily looking for water, fruit to provide the motorcycle riders. Vice Mayor Schultz said they have a flag that Rex Jr., had signed by them last year when he was back east and would put it on loan to display it if they would like. Chief will contact him.
- **Work Session Wastewater Treatment Plant and Tour**-Pat McCourt, City Manager, the work session on the WWTP will be held on Monday, May 10, 2010 at 6:30 p.m. Staff will be available for those persons interested in touring the facility beginning at 5:30 p.m.
 - **Set Date for Joint Work Session with Planning & Zoning**-Jeff Stoddard, Building Inspector, looking at Infill Incentive in July.
 - **Set Date and Time for Walk Through of the Arizona Avenue Houses**-Jeff Stoddard, Building Inspector, tentatively date has been set for Monday, May 17th at 5:30 p.m. for Mayor and Council and Planning & Zoning Commission.
 - **Fireworks**-Chief Weaver reported donations for 2010 Fireworks from Eurofresh Inc., Rotary Club, Grande Vista Mobile Home, Far West Pump, Pioneer Title Agency, anonymous cash donation, Mick's Auto Care, Robin & Doris Jones, Monty's Trucking, Inc., Willcox Elk's Lodge, Willcox Auto Parts, Car Quest, Willcox Lodge 10, Apple Annie's Orchard, Willcox Chamber of Commerce, Northern Cochise Community Hospital, J&J Electronics, Radio Shack, Cochise Credit Union, Maid Rite Feeds, Andrew Terry, Rustic Rooster, Caldwell Banker, Charles Leighton, Jr. Hospice, Walker Family Medicine, Keeling Schaffer Vineyards, Rix's Tavern, and Westlawn Chapel. Donations totaled \$4,070 in addition of \$3,500 from Mayor and Council from Community Programs for a total of \$7,570.00. The approximate bill for this year's fireworks is \$8,500 and the difference he is confident they will be able to make that up.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson stated that as the budget process comes to an end we have 4-weeks left before approve the tentative budget. Wants to see numbers it has been nice seeing presentation on what has been done and what's planned to be done. Wants to see numbers broken down like done in the past. Turned budget book in and has not gotten it back and stated nice to see numbers, on what they are looking at.

Councilwoman Cronberg announced that Kathy Klump is not here this evening and wanted to make sure the people realize that the 15th is what she considers to be Willcox History Day the culmination of Historic Preservation Week and lots of events planned that day beginning about 9:00 a.m. to 5:00 p.m. In conjunction with that the Willcox Wine Country is having their Spring Wine Festival on May 15-16 at Railroad Park and starts at 11:00 a.m. to 6:00 p.m. and encouraged people to combine both activities on Saturday and Sunday. Also citizen in community advised her there is a 'Picnic in the Park' and anyone is welcomed to come. It is a good chance to meet candidates running and it is also a chance to learn other things important in the community and assert awareness of the Census. If they haven't turned in information, which is something that is viable to community and it is at Keiller Park starting at 10:00 a.m. this weekend and everyone is welcome.

Councilman Donahue stated he is "still in shock for being beaten up by Bobby Sox" and said he has "never taken such a whapping." Thanked Chief Weaver for his hard work he is doing and all the hard work "his guys" do and it is an honor well deserved.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 8:36 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 May 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 14th day of September 2010

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

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PASSED, APPROVED AND ADOPTED this 20th day of SEPTEMBER 2010.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY
Signed: 09-21-2010.

ATTEST:

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