

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 18TH DAY OF OCTOBER 2010**

CALL TO ORDER-Mayor Gerald W. Lindsey called the regular meeting to order on Monday, October 18, 2010 at 7:08 p.m.

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

PRESENT

Mayor Gerald W. Lindsey
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman William "Bill" Holloway
Councilman Robert "Bob" Irvin

ABSENT

Vice Mayor Monika Cronberg

STAFF

Public Safety Director Jake Weaver
City Attorney Hector M. Figueroa
City Clerk Cristina G. Whelan, CMC
Library Director Tom Miner
Finance Director Ruth Graham
Public Services & Works Director Dave Bonner
HR Generalist Sherry Van Allen
Building Inspector Jeff Stoddard

PLEDGE OF ALLEGIANCE TO THE FLAG-Mayor Lindsey.

CALL TO THE PUBLIC

Ms. Kathy Smith, Executive Director, Willcox Chamber of Commerce & Agriculture, had conversation with staff i.e. Community Center utility cost. When they asked for fees waived for the rental of the Community Center its because they can to events if had to pay the set rental fee. Although they do feel they should pay the utility cost and has a check for 2-days and apologized did not do that in the past and will here on do it in the future. **APPLAUSE!**

Mr. Kelly Rowden asked if the Council is still thinking about Skate Park at the old Police Station location. He read a prepared statement and said he does not think the Skate Park in that spot is viable. Concerned with lighting; concrete slab is useless, it was poured in 3-levels; possibly it would take lots of work to make it usable; area is far from hub and very little adults around after dark and users will probably cause vandalism after dark in this area. Physical hazards need to be removed and best use is for public parking lot for events such as Rex Allen Day's. The Parks & Recreation Commission (P&R) made very good progress last 10 years at Keiller Park with the walking trails, basketball courts and ball fields. There is a lot of adult presence and P&R have suggested keeping the ball rolling at Keiller Park and to construct a Skate Park at this location. Thanked the Mayor and Council for their time.

DECLARATION ON CONFLICT OF INTEREST

There was no response from the Mayor, Council members or staff.

ADOPTION OF THE AGENDA

MOTION: Councilman Johnson moved to adopt the agenda as presented.

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

**DISCUSSION/DECISION ENTER EXECUTIVE SESSION PURSUANT TO ARIZONA REVISED STATUTES § 38-431.03A(3)
DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC
BODY**

Mayor Lindsey asked Legal Counsel if there was a need to enter into an Executive Session pursuant to ARS § 38-431.03A(3), as stated, relating to consultation for legal advice with the attorney(s) of the public body. City Attorney Hector Figueroa replied "no."

CONSENT AGENDA

Items that are considered to be routine by the City Council will be enacted by one motion without discussion. The consent agenda is a timesaving device and Council members have received documentation on these items for their review prior to the open meeting. Any Councilmember may remove any item from the consent agenda for discussion and a separate vote as deemed necessary. The public may view the documentation relating to the consent agenda 24 hours prior to the meeting at

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the City Clerk's Office, 101 S. Railroad Avenue, Suite B, Willcox, AZ from 8:30 a.m. to 4:30 p.m. or at the Elsie S. Hogan Library, 100 N. Curtis Avenue during normal working hours Monday-Saturday.

10A. THE REGULAR MEETING HELD ON OCTOBER 4, 2010 AND THE WORK SESSIONS HELD ON JUNE 21, 2010, OCTOBER 2, AND 4, 2010 Tab 2

10B. RESOLUTION NO. 2010-105 APPROVING AND AUTHORIZING THE CITY OF WILLCOX TO PARTICIPATE IN THE ARIZONA STATE RETIREMENT SYSTEM (ASRS) SECTION 457(b) SUPPLEMENTAL SALARY DEFERRAL PLAN (SSDP) FOR THOSE CITY EMPLOYEES DESIRING TO ELECT SUCH PLAN, AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST. Tab 3

MOTION: Councilman Holloway moved to adopt the Consent Agenda items as presented.

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

DISCUSSION/DECISION REGARDING APPOINTMENT TO THE PARKS & RECREATION ADVISORY COMMISSION (Note: Should be Committee) TO FILL UNEXPIRED TERM, TERM TO EXPIRE DECEMBER 31, 2010

MOTION: Councilman Johnson moved to approve the appointment of RaeAnn Kiesling to the Parks & Recreation Advisory Committee to fill the unexpired term, term to expire December 31, 2010.

SECONDED: Councilman Holloway seconded the motion. **DISCUSSION:** Mayor Lindsey thanked Ms. Kiesling for her interest in serving on this Committee. The Mayor also announced that there will be three (3) vacancies on this Committee as of December 31, 2010 and all are welcomed to resubmit letters of interest to continue serving. **CARRIED.**

DISCUSSION/DECISION REGARDING REQUEST FOR EXTENSION OF TIME TO MAKE RENT PAYMENTS BY STOUT'S CIDER MILL (RON STOUT)

MOTION: Councilman Johnson moved to accept the request for Extension of Time to make rent payments by Stout's Cider Mill.

SECONDED: Councilman Klump seconded the motion. **DISCUSSION:** Mr. Ron Stout addressed the Council and stated his letter was written in haste and can not do it by November although he can make \$500 payments every two (2) weeks. Mayor Lindsey asked if talked with Finance and have exactly what is owed. The Mayor asked him if his Sales Tax is current and Mr. Stout replied it is and their business provides salary for eight (8) families in Willcox and hopes the recession ends. Mr. Stout is very excited about his new campaign which started with customers that came in and son is in Iraq and sold her jars of Apple Pie in A Jar. She sent them to him and had great response from the service men. Anyone can purchase the jars of Apple Pie in A Jar and mailed them especially for those in the service. Mayor Lindsey said if pay \$500 every two (2) weeks until the end of March. He asked if this included Sales Tax for the next three (3) months and Mr. Stout said talking about 21 months right now. Councilman Klump suggested waiting to make decision until obtain information. City Attorney Figueroa advised the Mayor and Council that they have already gone past the dead line. Demand letter sent was not his idea that was requested by City staff and some to Council members when made demand and said Mr. Stout's option tonight does not comply with time frame in contract and the Council have a right to terminate lease or amend. The Leasee has to be in compliance with the Lease in order to Amend. Now asking to wait to do amendment to lease in writing and specify actual history of payments of Utilities and report he received from the Finance Director showed Stout's only paid when they have shut-off notice and that has been going on for 1-2 years or longer. As Legal Counsel has to comply with Lease or Mayor and Council if do make determination to terminate (1) utilities have to be paid on time or pay additional deposits; and (2) insurance request from Finance Department to Stout's there has been no response. If Mayor and Council decide to do this we need exact terms in writing and no deviations. We can not waive right for the future although can direct him and City Manager to work out terms and amend this agreement and accommodate. The original contract, which he did not write, the Mayor and Council have right to default. It is a very hard decision. Mr. Figueroa reminded the Mayor and Council that this is tax payer property and they were elected to safe guard that property. We can work it out but it will not work with letter in November now difficult and Mr. Stout needs to understand if get letter he will have to abide by the Lease and if not will have to terminate lease. Mayor Lindsey asked if they could extend the lease and Mr. Figueroa said only if he is in compliance but they can do a payment plan and worked out in writing.

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Mayor Lindsey directed staff to look at terms and conditions with Mr. Stout present and bring back to mayor and Council for consideration. City Attorney Figueroa stated that a motion and second has been made and can vote it down and direct staff as stated. Mayor Lindsey asked for **Vote: Ayes 0-6-1 Absent** Vice Mayor Cronberg. **Nays-6-0-1 Absent** Vice Mayor Cronberg. **Motion failed.** Mayor Lindsey again directed staff to put together an agreement and bring back to the Mayor and Council for decision.

DISCUSSION REGARDING CONSENT ORDER FROM ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY & CONTROL (AZDEQ) CONCERNING THE WASTEWATER TREATMENT PLANT (WWTP)

Public Services & Works Director Dave Bonner handed out a copy of the letter sent to AzDEQ on October 8th and reported staff held a teleconference with them last Wednesday. The Mayor, City Manager and he participated and found AzDEQ to be more amiable for their time line proposed for the WWTP. Once signed withdraw application and apply for new APP for the new system. Mr. Bonner does not believe ready without Engineer. AzDEQ wanted reasonable time frame. Talked with Tetra Tech and W.C. Scoutten Engineer today and asked if we have to revise the Consent Order. Once get time frame then move forward so that we do not get into fiscal trouble. Mayor Lindsey added there are things in Consent Order detrimental to the City of Willcox and through conference call able to work out some difference and looking to work with us and gave us leeway. Once conditions changed then we will have to sign Consent Order. Mr. Bonner stated the Mayor and Council have to do this by the second meeting in November.

DISCUSSION REGARDING CITY VEHICLE FLEET POLICY

HR Generalist Sherry Van Allen reported modifications on terms and definitions were made to the policy. Section 517.3 defines and outlines maintenance, minimum standards, all drivers, abuse, and administration and how property to report if involved in an accident. Some Cities, Towns and School Districts have reported decrease in Workman Compensation Claims and hopes approved in the near future.

Councilman Johnson asked if involved in an accident are they drug tested. Ms. Van Allen replied it is in the City policy and can be added to section 517.10. Chief Weaver said only to CDL's required to be drug tested and can be added and bring that back to Mayor and Council. City Attorney Figueroa stated it may conflict with policy and in regards to Drug Treatment. If employee suspected of having substance abuse he or she can be enrolled in program for treatment. He will look into that. Ms. Van Allen believes the policy says "employee knowingly admits to problem" then directed to proper channel. Councilman Klump stated if Zero Tolerance Drug Policy for all employees to sign when employed and if get into accident know they will be tested. The Councilman does not accept it on his job site and why should it be by the City. Ms. Van Allen also stated added provision to check Driver Licenses to see that it is valid once a year.

REPORTS BY THE CITY MANAGER PAT McCOURT (in his absence Chief Weaver)

Consideration, discussion and/or decision regarding the following topics by Chief Weaver:

- Report on the Willcox High School Football Team**-the Cowboys beat Tombstone 69-0; next game was against Bisbee and Cowboys won 34-0. Next game is against Thatcher and finale with Benson in Willcox. He also reported that the Willcox Soccer Team will host Desert Christian at 4:00 p.m., Thursday here in Willcox.
- Report on next Solid Waste Ordinance work session**-the next work session on the Solid Waste Ordinance will be held on Monday, November 1, 2010 at 6:00 p.m.
- Report on Wine Festival**-held on 16-17 in Railroad Park and he heard there were lots of positive comments and buses that came in from the Phoenix area.
- Report on new items on web**-the Business Permits and Home Occupancy information is now on the web!
- Report on Business Permits**-Ordinance will be presented and public hearing scheduled for November 1, 2010
- Report on Revenue Discovery Systems**-will be presented on the November 1, 2010 agenda.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson reported the Wine Festival was successful with lots of people locally and outside the City. There were 9-Wineries represented.

Mayor Lindsey read Proclamation from the Rotary "World Polio Day" on Sunday, October 24, 2010. This is a great organization and they have done a lot of good work in the projects they have undertaken.

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Councilman Holloway feels better about his purchase of Windows Software from Bill Gates which contributed to the Rotary Polio Campaign.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 7:57 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 18th day of October 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 26th day of October 2010

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

PASSED, APPROVED AND ADOPTED this 1st day of NOVEMBER 2010.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY
Signed: 11-01-2010.

ATTEST:

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