

**THE MINUTES OF THE WORK SESSION MEETING OF THE MAYOR  
AND CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ  
HELD ON THIS 18<sup>TH</sup> DAY OF OCTOBER 2010**

**CALL TO ORDER**-Mayor Gerald W. Lindsey called the work session to order on Monday, October 18, 2010 at 6:06 p.m. and due to technical problems the meeting will not be recorded.

**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

**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  
Building Inspector Jeff Stoddard

**ABSENT**

Vice Mayor Monika Cronberg

**PLEDGE OF ALLEGIANCE TO THE FLAG**-Mayor Lindsey

**DECLARATION ON CONFLICT OF INTEREST**

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

**ADOPTION OF THE AGENDA**

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

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

**DISCUSSION REGARDING THE PUBLIC SAFETY ORDINANCE**

Chief Jake Weaver reported the Public Safety Ordinance we have had for many years and looking to re-add and include ordinance newly written. Tonight staff is looking for input and direction and recommendation from the Mayor and Council on any changes. Title 6 Chapter 1 Willcox Department of Public Safety establishes the Willcox Police Department and this was not previously codified along with Sections 1-11. The Chief read each section and the City Attorney Hector Figueroa explained the changes. Prior to 2008 Code the Department of Public Safety was established under the City Manager and not as a separate department. Adopted was Ordinance NS283, Chapter 7, Article (A) (B), amended to create Department of Public Safety like most City's in Arizona have. Once this particular Ordinance is adopted then City Attorney will plug in the dates adopted and the effective dates. Only difference in Powers and Duties of Department were changed to allow Municipal Code violations and Statute violations we have now consolidated Court Criminal offenses go to Justice of the Peace Court and Civil cases will be handled by City Attorney. Numbering will be corrected from 6-2-7 to 6-1-7 on Chapter 1 Page 1 of 3 which is the Rule Making Authority section with approval from the City Manager.

Chapter 2 existed previously and outlines the Volunteer Police Reserve. Some of the changes made were to US citizens who are residents of the State of Arizona, minimum age changed from 18 to 21 years of age (which is the same age required to be a Police Officer) and they must meet the minimum standards as established by the Arizona Peace Officer Standards Training Board. In the past some reserve officers lived outside the City limits. Chief explained that currently we do not have an active Reserve but have had them in the past and they are certified Police Officer and lived in Phoenix and used for special functions and not cost to the City except for minor expenses. The minor changes due reflect State law and governed by Arizona Police Officer Standards and Training Board and regulates Full Time Police Officers. The terms Jailer and Police Matron were removed and also modified Dispatcher.

City Attorney Figueroa commended the Police Chief for his work on this Ordinance and has had the most input from his department on preparing this Ordinance. Concern by Department Heads and employees was Rabies to see that State law requirements are and what they want to do in their department. Chief Weaver has provided the City Attorney with information to do changes.

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Chapter 3 Volunteer Fire Department ((Note correction to Volunteer Fire Department Page 5 of 6 Chapter 6-3-9 change "alarm1" to "alarm.") minor changes made to the number of personnel that can be brought on Board and command structure such as 2-Assistant Fire Chiefs and "as many other officers and firefighters as may be deemed necessary. Insignia on private vehicles will not be issued because we do not want firefighters responding to an alarm thinking that they can run stop signs.

Chapter 4 Police Alarm Systems already in place and carried forward. Minor adjustment was made in Alarm Businesses for the response time by the property owners. Fire Alarm installed responsibility party needs to respond within 15 minutes on notification of need, to assist police department personnel in determining the reason alarm set and the securing of the premises so that our employees are not just waiting. Those alarm system users that have outside audible alarm, siren, bells or horn can be very loud. Those nearby might complain disturbing their peace and because the Police Officer does not have access to turn it off they have to wait for responsible party to respond and shut it off. The penalty for that is decision to be made by Mayor and Council and staff is looking for their input. That concern staff will take into consideration and bring information back to Mayor and Council. Mayor Lindsey suggestion made 15 minutes and then it automatically shuts itself off and Chief's concern is that after the 15 minutes it could reset itself and turn the alarm back on. The Mayor also suggested some type of mechanism to have that outside audible system removed if Police Department receives repeated false alarms. Councilman Holloway asked if 5. Non-Monitored alarm systems that depend solely on audible devices outside of a business or residence to summon help are prohibited if that is new and Chief replied in the affirmative. The Chief does not know of any residences with this type of system and knows of only one business in town that has one. Mayor Lindsey knows of some in-house alarm systems that are very loud and loud enough to disturb neighborhood. City Attorney Figueroa explained that on Page 9 of 11 Section 5.a. All assessments shall be set by resolution of the City Council. Also on Page 9 of 11 and Page 10 of 11 C.1. An alarm user permit revoked and within 3-days after receipt discontinue use of the alarm system or the alarm coordinator may assess charges against the alarm user as stated in 6-4-5F2 and also set by resolution of the City Council. The Mayor and Council have the prerogative to set penalties. Resolution is needed if violated has to go to Consolidated Court and the City Clerk has to attest to them and send to Magistrate Court and the Judge reports to Superior Court and placed on system and all know what the fine and penalty is.

Chapter 5-Animal Control is in place and made some definition changes. Also explained rabies testing by State Law on any animal except wild rodents and rabbits can be euthanized. There is no reliable anti-mortem testing. Page 10 of 16 numbered 3. Wild Animals exception of a wild rodent or rabbit, any wild animal that bites any person may be killed to preserve the brain tissue and send to appropriate diagnostic laboratory. Changed made to the number of dogs kept from six (6) to three (3) unless kennel permit is issued. If a dog is not on a leash while outside its kennel or fenced yard it is considered Dog At Large. Exception is Police K-9 6-7-C.4. "If said dog is used as Police Working Dog during training or actively engaged in official police work." The animal is Deemed Not At Large. The City Manager Pat McCourt sent his concern to the City Attorney regarding undue risk to capture rodents or rabbits. Mr. Figueroa explained he can not insert language not in State Law. He can not put into the Code "to shoot it" and that wording is not in the State Law and, therefore, he can not do it. Chief Weaver checked it out and only deal with this in case if rodent or rabbit is observed to have signs of rabies. The City Attorney stated this can be always revisited and agrees with the Chief deal with what is there and come back if needed.

Chapter 6-Miscellaneous Offenses. Already existed 6-6-1 through 12 and added new #13 through 17. This includes Social Hosting which is in community have underage persons that are allowed to consume alcohol or drugs and other illegal activity. Ms. Sally White, WASA Coordinator, approached the Chief to bring this issue to the Mayor and Council. The Chief talked with the City Manager and City Attorney and 6-6-13 A. No person of 18 years of age in Arizona may knowingly permit or fail to take reasonable action to prevent the unlawful consumption of alcoholic beverages by an underage person... and B. A person who violates this section is guilty of a class 1 misdemeanor. There is a billboard between Benson and Willcox which deals with State Statute and was brought about due to the high number of incidences with underage drinking. The City Attorney recommends adopting that and gives local Police Department authority. Page 6 of 13 6-6-14 Restricted Smoking Materials defined and restricted smoking material sold by Smoke Houses as incense but laced with THC same as Marijuana. (2) a. through k different items kids are using or smoking. We will be able to restrict paraphernalia and punish adults that buy it for the kids. This is something that needs to be addressed for the future. Mayor Lindsey asked about B.5. Location of Sale asked if that is in reference to the referendum to legalize Marijuana. City Attorney Figueroa explained not in this Ordinance although the City of Tucson is adopting as policy because only 124 dispensaries will be licensed in the State and more than

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likely the majority will be in Maricopa County. Then would be dealing with Zoning Codes. Statute has no dispensary radius if person has prescription and dispensary nearby then that person can grow six (6) plants! Mr. Figueroa talked with the City Manager and we are going to have to deal with that. South Tucson is limiting where grown and prescriptions and the City of Willcox deals only with smoking. 6-6-15 Fireworks Rules & Regulations-this is new. Arizona Revised Statutes §36-1602 allows the Department of Public Safety restrict permits due to fire danger, display fireworks i.e. Willcox High School football games, 4<sup>th</sup> of July. Staff is asking prohibit use of fireworks or permits and City can not restrict the sale per State Law but can regarding signage fireworks sold and warnings and can not be sold to those under the age of 18 years. On Page 10 of 13 concern C(1) states sixteen years of age and Page 11 of 13 D(1)(b) age of 16. City Attorney Figueroa explained the statute permits denial of permit when there is a fire danger but not prohibition of all fireworks. Other than with permit all fireworks are prohibited. The largest Fireworks Company is TNT and on October 25h Mayor and Council and others interested are invited by them to attend a presentation to go over the Sale of Fireworks. The Mayor and Council can prohibit all fireworks discharged in the City limits but can not prohibit the sale. Councilman Johnson asked if we know the County's position and Mr. Figueroa said he does not think they have made one. The State does not have the safety and welfare of our kids only looking at revenue sources. Those things are coming and how do we restrict, manage and how dictate what to do to the Wilcox Department of Public Safety.

Councilman Irvin asked the Chief if it is his recommendation to prohibit the sale. Chief explained the State made it clear we can not restrict the sale only the use and does not want them to be used due to fire danger, we have fuel for it year around and ER response liability rather do everything we can to prevent that and the potential loss of property or life. Fireworks are discharged in the City does occurs now and it is illegal. If Mayor and Council say it is "Okay" to use in certain circumstances opening up for them to do it and tasked to respond and mitigate response and it is very expensive.

Councilman Johnson asked if fireworks are sold in Willcox and fire occurs outside the City limits we could respond. The Chief explained we have State Law Agreements upon their request we respond outside the City limits. Councilman Johnson asked if we are looking at rockets and projectiles. Chief Weaver replied the State said "consumer" fireworks or anything that gives off sparks. Display or large shells used during 4<sup>th</sup> of July or at football games.

Councilman Holloway said this is like when your Mother said "prohibit" and it is what you would do. He is not comfortable with prohibiting and Councilman Johnson said during extreme fire danger can prohibit and restrict use. Chief Weaver does not know time stipulation. The Mayor and Council have to make decision and is here to give his input. Fire danger is here all year around and if we can need to restrict its use.

Councilman Klump asked for the State Statute and City Attorney Figueroa said Arizona State Statue 36-1601 or Title 36.

Mayor Lindsey announced we are out of time and adjourned the meeting followed by a 5-minute recess before beginning the regular meeting.

**ADJOURN**

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 7:08 p.m. Mayor Lindsey requested a 5-minute recess before starting the regular meeting.

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the work session meeting of the City Council of the City of Willcox held on the 18<sup>th</sup> day of October 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

**Dated this 21<sup>st</sup> day of October 2010**

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

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PASSED, APPROVED AND ADOPTED this 1<sup>st</sup> 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