

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

CALL TO ORDER - Mayor Gerald W. Lindsey called the regular meeting to order at 7:00 p.m. on Monday, November 15, 2010. The Mayor welcomed all and stated we gained a few more persons and lost a few from work session and welcomed those interested in our council meeting.

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

PRESENT

Mayor Gerald W. Lindsey
Vice Mayor Monika Cronberg
Councilman Elwood A. Johnson
Councilman Stephen Klump
Councilman Christopher Donahue
Councilman Robert "Bob" Irvin

ABSENT

Councilman William "Bill" Holloway

STAFF

City Manager Pat McCourt
City Attorney Hector M. Figueroa
City Clerk Cristina G. Whelan, CMC
Library Director Tom Miner
Public Safety Director Jake Weaver
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-John Cropper, stated he is a County resident and is very grateful to receive gas services from the City of Willcox. Statement he has is on the Solid Waste Ordinance that they will be considering him soon and how effects him as non City resident. They are being asked to approve it is not surcharge to non city residents it is requirements of non-City residents to purchase from City vendors it is that he will have to comply with 19 pages not related to what he is purchasing from the City. Thanked the Mayor and Council.

DECLARATION ON CONFLICT OF INTEREST-Vice Mayor Cronberg declared conflict on agenda item #22 relating to Resolution No. 2010-116 LTAF II and Councilman Donahue declared the same conflict. Councilman Klump declared conflict on agenda item #19 relating to Sulphur Springs Valley Historical Society's request fees waived.

ADOPTION OF THE AGENDA

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

SECONDED: Councilman Klump 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-HF no request tonight.

City Attorney Hector Figueroa stated he had no request tonight.

RECESS TO EXECUTIVE SESSION, IF APPROVED

RECONVENE FROM EXECUTIVE SESSION

DISCUSSION/DECISION AND/OR DIRECTION TO STAFF ON MATTERS RELATING TO THE EXECUTIVE SESSION

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 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.

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

- 11A. RESOLUTION NO. 2010-113 APPROVING AND ADOPTING THE CDBG CONTRACT #112-11 BETWEEN THE CITY OF WILLCOX [“CITY”] AND THE SOUTHEASTERN ARIZONA GOVERNMENTS ORGANIZATION [“SEAGO”] FOR THE PURPOSE OF ADMINISTERING THE DEPARTMENT OF HOUSING (ADOH) FY2010 REGIONAL ACCOUNT AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST**

MOTION: Councilman Irvin moved to adopt the Consent Agenda item as presented regarding Resolution NO. 2010-113.

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

PUBLIC HEARINGS, PETITIONS AND/OR COMMUNICATIONS

Communications: Mayor Lindsey read the Second Reading of Ordinance NS301 Creating, Approving And Adopting City Code Title 6, Chapters 1 Through 6 [Police And Public Safety], By Reference, Repealing Title(S), Chapter(S), Section(S) , And All Ordinances Passed And Adopted Relating To All Repealed Title(S), Chapter(S), Section(S) , And All Ordinances Enumerated In Section 2 Below; and

The Second Reading of Ordinance NS302 Amending The Willcox City Code, Title 4, Chapter 1, Article A [Business Permit Regulations], Section 4-1A-11 [Sunset Clause], By Reference, Repealing The Current Section 4-1A-11 And Part Of Ordinance NS298 Relating To Repealed Section 4-1A-11 With All Remaining Provisions Remaining Unchanged As Enumerated Herein; and

Public Hearing: The Mayor announced that the Mayor and Council will hold two (2) public hearings on Monday, November 15, 2010 at 7:00 p.m., 300 W. Rex Allen Drive, regarding Ordinance NS301 Creating, Approving And Adopting City Code Title 6, Chapters 1 Through 6 [Police And Public Safety], By Reference, Repealing Title(S), Chapter(S), Section(S) , And All Ordinances Passed And Adopted Relating To All Repealed Title(S), Chapter(S), Section(S) , And All Ordinances Enumerated In Section 2 Below; and

Ordinance NS302 Amending The Willcox City Code, Title 4, Chapter 1, Article A [Business Permit Regulations], Section 4-1A-11 [Sunset Clause], By Reference, Repealing The Current Section 4-1A-11 And Part Of Ordinance NS298 Relating To Repealed Section 4-1A-11 With All Remaining Provisions Remaining Unchanged As Enumerated Herein; and

All members of the public are invited to attend. For those persons wishing to comment and are unable to attend the public hearing written comments will be accepted in the Office of the City Clerk, 101 S. Railroad Avenue, Suite B, until 4:00 p.m. the day of the public hearing.

Mayor Lindsey opened the public hearing regarding Ordinance NS301, as stated, at 7:14 p.m. and asked if anyone wished to comment on this particular Ordinance. Again the Mayor asked is there any comments. Hearing none Mayor Lindsey closed the public hearing regarding Ordinance NS301 at 7:15 p.m.

Mayor opened public hearing for Ordinance NS302 and asked for any comments. Again the Mayor asked is there any comments. Hearing none Mayor Lindsey closed the public hearing regarding Ordinance NS302 at 7:16 p.m.

DISCUSSION/DECISION AND/OR DIRECTION TO STAFF REGARDING TO PURSUE A CONTRACT WITH REVENUE DISCOVERY SYSTEMS (RDS)

MOTION: Councilman Klump moved to approve to pursue a contract with Revenue Discovery System.

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Councilman Klump stated he is in favor of it and had one person who is a non-city resident although he is a business person in the City and actually does tax reporting for other people and is not in favor because ‘it’s’ another paper.’ The person stated they are already bombarded with paperwork and that is all he has heard against it. Councilman Johnson asked Finance Director Ruth Graham if there is going to be addition to the form where file Arizona Department of Revenue (ADOR) or just one file to RDS. Ms. Graham replied they still file with the State and a separate form to RDS. RDS encourages online filing and payment which is much more efficient. Mayor Lindsey stated that is the only negative he has heard that they have to file 2-reports and that they only file one at this time. Councilman Klump asked if filing quarterly now will they continue to file the same as with the State. Ms. Graham believes they will continue the same filing process and only the form will be changed. Councilman Klump stated unless the State changes then they change. Ms. Graham will check on that. City Manager Pat McCourt replied it is the same. Vice

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

Mayor Cronberg thinks one of the advantages is allowing the opportunity for more people who are currently not paying their sales tax. We may find we do have an increase because more people able to participate. Also we would have more expedited revenue flow and thinks that could only be to the good for the City overall. The Vice Mayor said she sees this as a good thing. Mayor Lindsey stated also it might increase our revenue on those Special Events as Councilman Johnson talked about in the Work Session and it would give the City an opportunity to look at those that were there. Councilman Johnson thinks it's a double edged sword; \$25,000 what we would pay to RDS on an average, divided by 69 employees or \$360/employee and that cost we could pay for an employee. Vice Mayor Cronberg said if we start increasing revenue asked if there might be possibility down the line result in raise. Councilman Johnson fears by implementing this we will see businesses go away too. Mayor Lindsey said he does not share that with him since they are required to be paying the taxes now and they are not being audited by the State. Councilman Johnson said he believes in "less government and more free enterprise." Vice Mayor Cronberg said free enterprise is how we can generate the revenues which directly affect our immediate area.
CARRIED.

DISCUSSION/DECISION REGARDING ORDINANCE NS301 CREATING, APPROVING AND ADOPTING CITY CODE TITLE 6, CHAPTERS 1 THROUGH 6 [POLICE AND PUBLIC SAFETY], BY REFERENCE, REPEALING TITLE(S), CHAPTER(S), SECTION(S) , AND ALL ORDINANCES PASSED AND ADOPTED RELATING TO ALL REPEALED TITLE(S), CHAPTER(S), SECTION(S) , AND ALL ORDINANCES ENUMERATED IN SECTION 2 BELOW

MOTION: Councilman Johnson moved to approve Ordinance NS301, as stated, relating to City Code Title 6, Chapters 1-6 [Police and Public Safety] with the amended Fireworks Section 6.6.1-6 option "to allow use of fireworks in the City."

SECONDED: Councilman Klump seconded the motion. **DISCUSSION:** Councilman Klump had questions on the dog kennel changed from 3-dogs to 4-dogs need kennel license. Chief Weaver explained that originally wrote 3-animals and 5-animals for kennel. Rewritten to allow up to 4-dogs and 5-10 dogs kennel would be required. Councilman Klump agreed with that and could not get jump from 3-5. He also asked how much is kennel permit and sure it was set in the past. Chief Weaver stated because they have not had anyone approach them for kennel permit and does not believe fee established.

City Attorney Figueroa explained what we have done in the past when adopted the different code sections we put in adopted fees and fines schedule by Resolution. Because if didn't do that each time codified, every time change fee we would have to do that. Most Cities have done that and adopted by Resolution. The fees and fines schedules are not done yet because did not know which option they would choose which will have date and rules and regulations developed. If adopted without option we would have fee schedules today. Fee schedules and permits etc. will be in addition to adoption of the Code. Chapters 1-6 were proposed hearings and there have been some changes to some of the chapters based on comments made by the public and those have been incorporated into final chapters. The only one not incorporated is the option. Today considering Ordinance as presented and motion made to adopt with the option and best way to do that is to make motion to pass an adopt Ordinance 301 as was presented and then amended motion if that is what they want for the option. Because the Council did not have option until today and when hearing held earlier they did not have option at previous hearing. Mayor Lindsey asked if approved without the option and Mr. Figueroa explained if majority are inclined for the option then you would not approve the Ordinance with Chapter 6 as written for Section 6.6-16. The City Attorney stated rather than someone makes amended motion to approve and if passes then main motion is mute. That is the way it should be done and did not have opportunity to say something before someone made the motion. However, he does not think that that motion is out of line with exception we had Public Hearing and the option was not presented. Vice Mayor Cronberg asked didn't the option result from other previous discussions and so why the original motion incorrect. Mr. Figueroa explained it is not the best motion and members can vote on the option and discussion was made last time considered with Councilman Klump then he put option together. Vice Mayor Cronberg said what staff is saying is option was not considered in the public hearing prior to last time. Mr. Figueroa agreed that prior to last time and is considered today and can be considered. The Council can proceed since motion has been made and then amend motion to adopt the option because we let the public know and it is part of the agenda. Mayor Lindsey said if members do not want to approve this with the option as a part of it then you should vote "No." City Manager McCourt added that staff internally had many discussions on this Ordinance and the options that are available to Mayor and Council for selection which way to go. There are essentially 3-options and option talking about is consumer fireworks. Consumer Fireworks are now permitted to be sold anywhere in the State of Arizona. The question is the use of consumer fireworks. There are 3-options and option proposed by staff is to ban the use of consumer fireworks within City limits; 2nd ban use except for special occasions approved by Mayor and Council and 3rd option is to permit use of consumer fireworks in the City of

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

Willcox. It was discussed prior to putting Ordinance together and there was dissent among staff which way to move. Mr. McCourt selected Public Safety direction and Chief Weaver's recommendation to request the Council ban the use of consumer fireworks within the City of Willcox. The City Manager wants the Mayor and Council to be very aware whatever option the Council may choose the Fire Marshall has authority under this Ordinance in case feels fire hazard can declare consumer fireworks may not be used within the City of Willcox. Mayor Lindsey said "that would be expected." Vice Mayor Cronberg stated basically ended up with one option being attached and the other 2-options are not. Mr. McCourt explained the basic option in the Ordinance bans the use of consumer fireworks within the City. What was requested and was prepared is the option and is a replacement for Section 6.6.16 and if that is what he understands the motion was corrected which is to adopt Ordinance with that replacing what is in 6.6-16. If Council pass motion before you will permit the use of consumer fireworks within City of Willcox. If motion is defeated then have to start over. **CARRIED.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-114 DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "TITLE 6, CHAPTERS 1, 2, 3, 4, 5, 6 OF THE WILLCOX CITY CODE, BE AND IS HEREBY ADOPTED, BY REFERENCE, AS "TITLE 6, POLICE AND PUBLIC SAFETY".

MOTION: Councilman Johnson moved to approve Resolution NO. 2010-114, as stated, relating to Declaring as a Public Record and filed with the City Clerk on "Title 6 Chapters 1,2,3,4,5,6 of the Willcox City Code, be and is hereby adopted, by Reference as "Title 6, Police and Public Safety: and with the added amendment to Title 6.6.

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

DISCUSSION/DECISION REGARDING ORDINANCE NS302 AMENDING THE WILLCOX CITY CODE, TITLE 4, CHAPTER 1, ARTICLE A [BUSINESS PERMIT REGULATIONS], SECTION 4-1A-11 [SUNSET CLAUSE], BY REFERENCE, REPEALING THE CURRENT SECTION 4-1A-11 AND PART OF ORDINANCE NS298 RELATING TO REPEALED SECTION 4-1A-11 WITH ALL REMAINING PROVISIONS REMAINING UNCHANGED AS ENUMERATED HEREIN.

MOTION: Councilman Johnson moved to approve Ordinance NS302 as stated relating to City Code Title 4, Chapter 1, Article A [Business Permit Regulations], Section 4-1A-11 [Sunset Clause].

SECONDED: Councilman Donahue seconded the motion. **DISCUSSION:** Councilman Johnson asked "how much in tune is this going to play with RDS [Revenue Discovery Systems] as well." City Manager McCourt replied "this works extremely well and very much in tune." Councilman Johnson asked Chamber of Commerce Director Kathy Smith if she has received any input. Ms. Smith replied she has not received any phone calls other than not quite sure what is Sunset Clause and has not received any objections. Vice Mayor Cronberg said the Sunset would go down and there would never be another renewal of it. The Vice Mayor thinks fees for Business Permit in the City of Willcox are extremely reasonable and the renewals and thinks it is a good thing for our community to have in place. Mayor Lindsey said the recent addition of the business list on the City web site is a benefit to businesses to have a permit and part of our plans for decision making and future years also.

City Attorney Figueroa said in response to question about the Sunset Clause in that particular Title 4 Chapter 1 Article A the last provision the Sunset Clause was to establish a date by which if no further actions by the Mayor and Council that provision would end and that date was going to be December 31, 2010. Action needed to occur to keep it from expiring that is this Ordinance. Councilman Klump said everyone knows how he feels about it and this was not a popular thing when it was first brought up and has been scaled back, some of the promises are finally coming to light where the business list is all in one place for public viewing and should have happened a long time ago. Still sees it as a tax and does not see that it helps the City and will still vote "No" again it is a tax and thinks other ways to still get the job done. **VOTE: Ayes-**Mayor Lindsey, Vice Mayor Cronberg, Council members Johnson, Donahue and Irvin. **Nays-**Councilman Klump. **Absent-**Councilman Holloway. **CARRIED 5-1-1.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-115 DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "TITLE 4, CHAPTER 1, ARTICLE A, SECTION 4-1A-11 [SUNSET CLAUSE]" OF THE WILLCOX CITY CODE, BE AND IS HEREBY ADOPTED, BY REFERENCE, AS THE BUSINESS PERMIT REGULATIONS.

MOTION: Councilman Johnson moved to approve Resolution No. 2010-115, as stated, relating to Declaring as a Public Records and filed with the City Clerk and entitled "Title 4,..." relating to Sunset Clause as the Business Permit regulations.

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

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

DISCUSSION/DECISION REGARDING ART LEAGUE OF WILLCOX REQUEST FEES BE WAIVED FOR USE OF THE COMMUNITY CENTER, SETTING UP ON SUNDAY, APRIL 3, 2011 THROUGH SUNDAY, APRIL 10, 2011

Public Services & Works Director Dave Bonner stated the dates have been changed by staff and noted in the Council Action Form. There is the potential we would have construction under the third phase at the Community Center. The Art League came back and asked to change the dates.

MOTION: Councilman Klump moved to approve the Art League of Willcox request fees be waived for use of the Community Center, setting up on Sunday, February 20, 2011 through Sunday, February 27, 2011.

SECONDED: Councilman Johnson seconded the motion. **DISCUSSION:** Mayor Lindsey requested City look at actual cost on the use when waive fees. City Manager McCourt replied that fiscal impact is to the General Fund in loss of revenue. Staff is preparing that information on actual out-of-pocket costs on a daily basis on use of facility such as daily average costs for refuse, water, gas, and sewer on structure. Staff is working on that and current plan is to take that to the Parks & Recreation Advisory Committee to review that proposal prior to bringing it to the City Council. Mayor Lindsey stated that most requests they get are direct benefit to the community and we do not want to cripple their ambitions to further their activities in Willcox. Vice Mayor Cronberg stated we have some precedence in place although that doesn't mean we can't take opportunity to review and possibility look at other ways with the groups that do have events. **CARRIED.**

DISCUSSION/DECISION REGARDING REQUEST FROM SULPHUR SPRINGS VALLEY HISTORICAL SOCIETY FEES WAIVED FOR USE OF THE COMMUNITY CENTER ON SATURDAY, MARCH 19, 2011

MOTION: Councilman Johnson moved to approve the request from Sulphur Springs Valley Historical Society fees waived for use of the Community Center on Saturday, March 19, 2011.

SECONDED: Vice Mayor Cronberg seconded the motion. **VOTE:** Ayes-Mayor Lindsey, Vice Mayor Cronberg, Council members Johnson, Donahue and Irvin. **Absent:**Councilman Holloway. **Abstained:** Councilman Klump. **CARRIED 5-0-1-1.**

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

City Manager McCourt reported the City now has the second draft from AZDEQ. The original draft came to us in early October and AZDEQ wanted the City to accept that by today. The City Manager, Mr. Bonner, Mr. John Bowen and Mayor sat in conference calls with AZDEQ. Discussion was held and they clarified several points and some AZDEQ will not move on. One is the date Consent Order goes into effect because based upon the date there is mandated timelines for certain tasks which have to be completed i.e. review of our Sewer Ordinance to be done within 90 days and brought back to Mayor and Council for consideration. Within 30 days of Consent Order we have scheduled ACC Aquifer Protection Permit. We currently have Aquifer Protection Permit and amendment to that permit pending. AZDEQ is indicating we need to withdraw that amendment and file a new amendment with updates when going to start the WasteWater Treatment Plant and establish standards on what will come out of that. Concern was we would not have Engineer on board in a timely fashion to get involved in that process which involves the final design and what is going on with the Plant. We needed time to do Request For Qualifications (RFQ) and bring it back and get that person on board. Mr. McCourt referred to Page 8 Section 3 of the draft. Within 60 days of that meeting have to submit a complete application to the amendment. Staff was concerned on meeting these timelines because there are mandatory penalties set on a daily basis for failure to meet the timelines. Staff did not feel we could meet these timelines with the acceptance date for this month for example. Latest discussions staff feels we could meet these timelines if we don't get agreement approved by mid January and that was suggested to AZDEQ and they seemed to be receptive to that. Mayor Lindsey stated he felt AZDEQ were more than willing to work with us as we move forward with it. Also felt the fact that one indicated they could walk very slowing going from one office to another; and we do not object to that at all Mr. McCourt said. Another timeline is on Page 9 E that within 180 days submits to ADEQ for approval a Pretreatment Toxic Control Plan. Goes on to state what has to be included in that plan. We also have to have effective date for certain actions. The big ones staff is concerned with are A & E. Violations start on the bottom of page 10 mandatory and Force Majeure. On page 12 the City not having any money is not force majeure. Force majeure is an act of God and they don't care. Staff has major concern because currently working with USDA to get through the funding process and staff felt need additional time to receive assurance we will get the funding to move forward. Thinks the discussions have gone as well

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

as we can expect them to go. Vice Mayor Cronberg's question is where Tetra Tech fits in this part of the process and what we can expect from them in terms of helping us meet the timelines or is that an unreasonable expectation. City Manager McCourt explained Tetra Tech hired preliminary to do the Environmental Analysis which we have received copies. USDA said we need to go out and get Request For Qualifications (RFQ). Tetra Tech can respond to the RFQ. The RFQ will be brought back and Council will select engineering firm to take us through the design which we have the money and our plan is to take it through design and construction. Engineer would be watching what is going on and how it is going on. One of the options having some discussion is the Design Built concept where we will get the Engineering Construction under one contract rather than under separate contracts to move forward on the project. That typically moves the project faster because they can concurrently do the task. The Vice Mayor said she that was a gap in information as to the part they are truly playing and the expense. Mr. McCourt stated Tetra Tech contract ends with the PVR and the Environmental Analysis. They have worked with the City a long time and know the system well and they may be the firm selected. Vice Mayor Cronberg had in her mind an understanding whether misguided or not that they were sort of "in the door" and planning on doing any additional engineering work and did not realize we were going out for another RFQ. Mr. McCourt said some time back we did not realize that either and USDA told us how that was the way it was going to be i.e. Golden Rule. Councilman Johnson said we have not received whether or not accepted and this letter is dated October 8th and we are not in compliance right now. There is no date on the actual Consent Order. Mr. McCourt explained there is no date and once approved and signed then that is the effective date. They did not tell us when the effective date was going to be. Staff had concern when we would sign it because we were uncomfortable that they would walk slowing and does that mean day, week or an hour. Councilman Johnson then asked if we have changed or altered any of our services at the WWTP since this letter came about or is it still business as usual for our past discussed we had such as allowing septic to dump. Or have there been changes and they as Council have not been notified. Mr. McCourt replied he sent emails to Mayor and Council indicating that it appeared we were not complying with our City Ordinance as far as septage in. In the current City code there are limitations on what we can accept in and this goes back to Clean Water Act particular section Plumage standards. The City in 1992 or 1994 adopted set of standards on what strength could be going into WWTP. Asked where came from he does not know although it seems to be common standards approved by other cities to accept Plumage. In response to Councilman Johnson did send out emails to Council members in late August and early September that we are applying the City Ordinance and following the City Ordinance. At first he looked at perhaps just changed City Ordinance and then should have known it is not as easy when dealing with EPA and ADEQ. There is a process to go through which requires you must be able to demonstrate that raising those standards will not cause any past through or effect on the output. We can not do that. Currently working on this and working on the RFQ and working on the funding is what we do to get pretreatment in place to allow us to accept septage and treatment. Vice Mayor Cronberg question to consider right now is "yes" and Mr. McCourt recommends do not take action tonight and staff will bring newest agreement with minor clerical changes to it maybe decision probably early December or mid-December and effective January 15-17, 2011. Vice Mayor then could table until further draft can be accomplish. Mayor Lindsey stated the Consent Order they have is not the updated consent order which will be sent out.

MOTION: Vice Mayor Cronberg moved to table this item.

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

DISCUSSION/DECISION/DIRECTION TO STAFF REGARDING AMENDING THE SOLID WASTE ORDINANCE OPTIONS ON REQUIRING SERVICE

City Manager McCourt reported under public hearings discussion on who is covered under the Ordinance. The proposed Ordinance requires anybody who is using City services part of contractual right has to sign up for Solid Waste. Several Council members wanted to see other options. In their packets are two (2) additional options: Alternate 1: service only required within the corporate boundaries of the City of Willcox and so we would change those sections of the proposed Ordinance to reflect what is listed. Alternate 2: indicates it would be for everybody within the City and users of City water and utility service whether within or without the City. Currently have 2-users of City water services outside the City and one is commercial and one residential. Councilman Klump said this really isn't going to help us much currently. Said we wanted to get a bigger group per vendor and if actually only adding two (2) water usages he asked what about gas. City Manager McCourt replied gas, per Public Works Director Dave Bonner, is about another 10 along Airport Road. Mr. McCourt thinks we need to have more discussion on this. Part of staff's role is we are getting more and more discussion from people wanting to do residential outside the City and not adjacent to the corporate City limits that want to hook into water service. A lot of staff thought was we would like to when and if those development agreements occur that we would then bring those people in with

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

trash service and that would then make the future transition into City much easier. Current contract in use the new purchasers of the land would start on that basis and staff thinks that has potential to increase our base over long term period. Vice Mayor Cronberg asked if that is something that could actually be written into the codes that deal with development rather than this ordinance. Mr. McCourt thinks we could write that into development agreements and each development agreement has to come back to Mayor and Council for approval. Personally his opinion is if in fact the Council feels that is direction want to move in this would establish more permanent policy that does have built in. Vice Mayor Cronberg said to her that would make sense to her especially that this doesn't seem to generate some of the possibilities that they had sort of talked about with broadening that base with potential clients and not right now anyway. Councilman Klump asked Mr. John Cropper, who spoke earlier, what he currently uses for trash. Asked do you takes it to transfer station and Mr. Cropper said he does take it to transfer station or to Tucson where has a residence and takes a 30 gallon bag per month. Vice Mayor Cronberg said if they are not ready to decide on one of these option asked what would staff like them to do right now. City Manager McCourt replied if not ready to choose option we can not go to publication until chose one and could consider them and perhaps amend them into ordinance for future date. Councilman Klump said then we don't really need action tonight. Mr. McCourt said he was asked to bring options and did. Mayor Lindsey or they could go ahead and approve one of the options tonight and then have the other discussion on future development at some another time. That would allow staff to publish regulations. The City Manager replied unless directed otherwise staff will publish the Ordinance as discussed. Vice Mayor Cronberg stated which has been open to public comment. Councilman Klump feels they would be better off not to have any restrictions or any additions to our Solid Waste by adding it to any of the other or to people that use our services currently. If we don't change that with what it currently is thinks better off than picking and choosing one of these. If going to do it Councilman Klump thinks have to do it to all of them and he is not a fan of having another regulation that you have to get this because you have that. Mr. McCourt explained that Alternate 1 would do this with system currently. Vice Mayor Cronberg stated that is the one she is most comfortable with because it does deal with those within the City and does not essentially change anything and thinks open the door by reviewing the language in other codes. To get it rolling that would be the Vice Mayor's preference to maintain it as a service within the City and live in City need to have the service.

MOTION: Mayor Lindsey moved to go to Alternate 1 regarding Amending the Solid Waste Ordinance Options on Requiring Service.

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

DISCUSSION/DECISION/DIRECTION TO STAFF RESOLUTION NO. 2010-116 APPROVING THE DISTRIBUTION OF ARIZONA DEPARTMENT OF TRANSPORTATION LOCAL TRANSPORTATION ASSISTANCE FUNDS ["LTAF II"] TO SELECTED RECIPIENTS FOR THE PURPOSE OF FUNDING SPECIFIC PROJECTS AND AUTHORIZING THE MAYOR TO EXECUTE THIS RESOLUTION AND DECLARING AN EMERGENCY TO EXIST

City Manager McCourt reported this is funding the City receives from the Lottery. State shut this off last February and had we had had 4-years of receiving this. LTAFII can only be used for mass transportation, if not it goes back to State. The State Audit found funds. Fiscal Year 2007 (FY07) and Fiscal Year 2008 (FY08) equally divided between the School and Hospital. In FY09 Catholic Community Services (CCS) requested funds and split 3-ways. CCS stopped providing service and the Hospital has picked it up. FY10 applications received from Hospital and to the School. The proposed distribution is 2/3 Hospital and 1/3 School. When staff received decided to continue to do the same to those two entities. The Mayor and Council may want to change that either 50/50 or all to one or another manner. Staff's hope was which money has not been received, to get direction from Mayor and Council with that direction once monies arrive then cut checks to entities that should receive it. Mayor Lindsey stated the question is as far as Resolution is concerned could those percentages be changed without amending the Resolution. City Attorney Figueroa explained the numbers put in the Resolution because that is what staff's cover sheet had. The Resolution can be amended approval and have new resolution at the next meeting and ratify the action. Council member can make motion 50-50 and approve and then come back and ratify that action at the next meeting. Right now as it stands City Attorney Figueroa said the funding distribution is 2/3 and 1/3. Councilman Klump asked if we know if the Hospital provides twice as much service as the School. Mr. McCourt said he does not know how to measure that. He does know they did pick up the transport service from Catholic Community Services and that was in their application and thought that was justification for distributing money. As far as units of service does not know if we have a way to measure. Councilman Klump asked if using this money to get people to Senior Center. Mr. McCourt replied in the affirmative

MOTION: Councilman Klump moved to approve Resolution No. 2010-116, as written relating to the Distribution of Arizona Department of Transportation LTAFII to selected recipients.

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

SECONDED: Mayor Lindsey seconded the motion. **DISCUSSION:** Councilman Johnson goes back again to 50/50 and split in the past that way. The School is in financial trouble and did not get their bond approved and NCCH and City we are all in trouble. We get a little money and strictly for transportation. Mayor Lindsey thought was the Hospital is providing service as a rule for the average citizen in the City of Willcox and if he understands it correctly, and may not be correct on this, the School would be using it for transporting students which they already do. Councilman Irvin asked transporting them where? Mayor Lindsey replied to the school. Councilman Irvin asked no activities or anything like that and Mayor replied he did not know. Finance Director Ms. Graham explained the School said funds will assist the District for transportation special needs of children and purchased another bus and very happy with bus. The Hospital said they have been providing transportation to residents of the community of Willcox, San Simon and would like to continue this program. **VOTE: Ayes -**Councilman Klump. **Nays-**Mayor Lindsey, Councilmen Johnson and Irvin. **ABSENT:** Councilman Holloway. **ABSTAINED:** Vice Mayor Cronberg and Councilman Donahue. **FAILED: 1-3-2-1**

MOTION: Councilman Johnson moved to approve Resolution No. 2010-116 allocating 50/50 to the School and NCCH.

SECONDED: Councilman Klump seconded the motion. **DISCUSSION:** City Attorney Figueroa stated that can be done by amending the Resolution by changing the wording divided 50-50 and will bring Resolution to ratify this action at the next meeting. **VOTE: Ayes-**Mayor Lindsey, Councilmen Johnson, Klump and Irvin. **ABSENT:** Councilman Holloway. **DECLARED CONFLICT:** Vice Mayor Cronberg and Councilman Donahue. **CARRIED 4-0-1-2.**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-117 RATIFYING, APPROVING AND AUTHORIZING THE SUBMISSION OF THE APPLICATION TO THE BORDER ENVIRONMENT COOPERATION COMMISSION [“BECC”] UNDER THE ENVIRONMENTAL PROTECTION AGENCY FOR FUNDS FOR THE REHABILITATION/RECONSTRUCTION OF THE WASTE WATER TREATMENT PLANT AND DECLARING AN EMERGENCY TO EXIST.

Mayor Lindsey asked the City Manager to comment and Public Works Director Bonner reported that BECC helped fund Environmental Report in \$50,000 grant. When the City first received Notice of Violations we had very rough numbers and staff was told to apply. The City did and they turned us down because we did not have enough information. They came back said we were ready and we applied again for \$8.5M for funding. Staff will continue process with USDA and we will not end up with that amount. Ultimately staff wants to get to point closer to relieve burden on the citizens of Willcox and hope 100% funding. Mayor Lindsey stated “if we can get it let’s go get it!” One question on the requirement by the State is that it has to be 62 miles from Border or “as the Crow fly’s.” Mr. Bonner explained that the southern most border of Willcox falls within 3-4 miles. The City has received funding before based on those criteria.

MOTION: Councilman Irvin moved to approve Resolution No. 2010-117, Ratifying, Approving and Authorizing the Submission of the Application to the BECC under the Environmental Protection Agency for funds for the Rehabilitation/Reconstruction of the WWTP.

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

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-118 APPROVING THE PURCHASE OF A HALE 2.1 FOAM SYSTEM FOR FIRE ENGINE 1 AND DECLARING AN EMERGENCY TO EXIST

Chief Jake Weaver reported that the foam system housed in Engine 1 is 10 years old and failed and broke down in June. Tried to get replacement parts and they no longer makes parts. There are no other options other than for a foam system for that truck. If they do it without foam system it increases the water flow, increases the likelihood of damage such as smoke and water damage to property and structures. Certain chemicals that they apply the foam to react to sprayed water and having foam system reduces the amount of damages caused by the water. Foam system at a fire brings temperature down has cooling capabilities and without foam system will have to run straight water. This is not a budgeted item they did not anticipate equipment failing. The amount requesting to purchase and install is \$8,633 and they sat down and looked at what budgeted and in Small Equip Purchase take \$1,000 out of that and held several fund raiser past years and help to pay replacement and want to pull \$3,500 and \$4,500 take out of State Wildland which is monies State pays department to help fight fires. That is how they would like pay for this if approved.

MOTION: Councilman Johnson moved to approve Resolution No, 2010-118, as presented, relating to purchase of a Hale 2.1 Foam System for Fire Engine 1.

SECONDED: Vice Mayor Cronberg seconded the motion. **DISCUSSION:** Councilman Johnson commended the Chief on juggling of finances in order to not put burden on tax payers and appreciates that. He asked when the next Golf Tourney is. **CARRIED.**

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

DISCUSSION/DECISION REGARDING RESOLUTION NO. 2010-119 RATIFYING AND APPROVING THE TRANSFER OF RESPONSIBILITY FOR FORFEITURE PROCEEDINGS FROM THE COCHISE COUNTY ATTORNEY'S OFFICE [CCAO] TO THE CITY ATTORNEY'S OFFICE AND DECLARING AN EMERGENCY TO EXIST.

MOTION: Councilman Johnson moved to approve Resolution No. 2010-119, as stated, relating to ratifying and approving the Transfer of Responsibility for Forfeiture Proceedings from CCAO to the City Attorney's office.

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

REPORTS BY THE CITY MANAGER PAT McCOURT

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

- **Report on the Willcox High School Football Team**-the Cowboys beat the Benson Bobcats! Ended the season 10-0 and unfortunately got outplayed and lost to Thatcher 28-41.
- **Report on All Employee Meeting/Letter of Appreciation**-on Friday, November 19, 2010 at 2:30 p.m., City Council Chambers draft letter to be distributed to employees needing their signature.
- **Report on new Chairs at Community Center**-We have new folding chairs joint venture with the Chamber. Thank You to the Willcox Chamber of Commerce & Agriculture for purchasing chairs for the Community Center. Councilman Irvin asked what will be done with the old chairs. City Manager McCourt replied if no use within City we may save part or put up for auction. Mr. Bonner stated we need to continue using 100 chairs we have until get another 100 chairs. In October the Cowboy Hall of Fame used 300 chairs. Can be used in other outside activities. Mayor Lindsey asked if City has storage for i.e. Rex Allen Days or Special Events that they could be used. City Manager McCourt explained when SEACAP moved to the Depot it opened up a room at the Community Center and we have quite a bit of storage to maintain that equipment.
- **Report on Library Grant**-The Arizona State Library, Archives & Public Records has approved the \$5,000 Grant application for full funding! Funds are matching funds and will allow the Library Renovation Project to be fully completed mostly dealing with ADA access into the Library.
- **Reported Medical Marijuana Bill has passed**-The City Manager understands that the Arizona Department of Health Services (AZDHS) has 120 days to write regulations. During that time the City will be reviewing that and perhaps consider steps the City has to make for implementation.
- **Report Chamber 50/50 Raffle**-City Manager McCourt reported on the 50/50 Raffle by the Chamber of Commerce. The drawing is December 14, 2010 and the Chamber has tickets.

COMMENTS NOT FOR DISCUSSION FROM MAYOR AND COUNCIL MEMBERS.

Councilman Johnson requested copies of the 92-95 Ordinance on Septage and Sewer and copy of Section 5 which is the residential weeds pick up as well. Wished everyone Happy Thanksgiving!

Councilman Irvin's concern about what is going on in our community with the gas prices which are fluctuating daily. While in Tucson on Saturday paid \$2.57 and Circle K in Willcox is \$2.91 and no one else followed and eventually some did. Today Circle K is \$2.95 and wished there was something as a City we could do to stabilize the gas prices.

ADJOURN

There being no further business before the Mayor and Council, Mayor Lindsey adjourned the meeting at 8:35 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 15th day of November 2010. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 10th day of January 2011

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

**THE MINUTES OF THE REGULAR MEETING OF THE MAYOR AND
CITY COUNCIL OF THE CITY OF WILLCOX, COCHISE COUNTY, AZ
HELD ON THIS 15TH DAY OF NOVEMBER 2010**

PASSED, APPROVED AND ADOPTED this 18th day of January 2011.

/S/ GERALD W. LINDSEY
MAYOR GERALD W. LINDSEY
Signed: 01-19-2011

ATTEST:

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