

**MINUTES
SPECIAL SESSION
MAYOR and COMMON COUNCIL
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
WEDNESDAY, FEBRUARY 4, 2009
3:30 p.m.**

APPROVED

**Minutes are a summary of the actions taken. They are not verbatim.
Public input is placed after Council motions to facilitate future research.
Public input, where appropriate, is heard prior to the motion**

1. Call to Order

The meeting was called to order at 3:30 p.m.

2. Roll Call

Mayor Gioia, Vice Mayor Hauser, Councilors Smith, Garrison, and Kovacovich were present; German has submitted his resignation; there are now two seats vacant.

Also Present: Town Manager Mike Scannell, Town Attorney Sims (by telephone conference), and Recording Secretary Margaret Harper.

3. Discussion, consideration, possible direction to staff and possible approval of a Nondisclosure and Confidentiality Agreement relative to settlement discussions in connection with the Gila River General Stream Adjudication, now pending in the Maricopa County Superior Court. Council may vote to go into Executive Session pursuant to ARS §38-431.03(A)(3) for discussion or consultation with the attorney for legal advice and §38-431.03(A)(4) for discussion or consultation with the attorney in order to consider Council's position regarding contracts that are the subject of negotiation, in pending or contemplated litigation, or in settlement discussions in order to avoid or resolve litigation. (Staff Resource: Mayor Gioia)

On a motion by Hauser, seconded by Garrison, the Council voted unanimously to execute the subject Nondisclosure Agreement, dependent on if SRP would remove Item 10.

Mayor Gioia reported on the meetings he had attended with Salt River Project in connection with details that will become a part of the adjudication when it reaches the Verde Valley. The aim was to be able to find water for a large park when it becomes a reality, and avoid the possibility of being faced with a lawsuit from SRP. SRP did not wish to meet to discuss water rights and ownership unless some of the information they are willing to share was privileged, and has requested the Town to enter into the subject Nondisclosure and Confidentiality Agreement. It appears that the efforts to negotiate will bring the Town close to 600 acre feet of historic water rights underneath the Town roadways. Gioia said that Council will have the opportunity for a discussion with representatives of SRP so that everyone is informed. Payson has been successful in negotiating with SRP; Gioia will ask their water person to discuss their experience from the municipal side before the Town goes into any negotiations. Gioia explained that he previously had been given the authority by Council to discuss water rights based on the issue of trying to acquire water rights with subdivisions.

During the discussion of the subject agreement, there was strong objection expressed that such discussion was not being made public. Town Attorney Sims explained that SRP is arguing that this is all pursuant to litigation and therefore should not be public for fear that would harm the position in litigation. Sims pointed out that the nondisclosure agreement does not relate to the substance of the underlying Gila River General Stream Adjudication, and is only a preliminary step to allow the exchange of information. Sims added that he believes the Mayor is trying to assist the Town in terms of monitoring the rights relative to the Adjudication, and to avoid the expense of meeting with numerous water lawyers. Under the Open Meeting Law, an exchange of information pursuant to litigation is acceptable to be confidential. Sims suggested that Mike Scannell could call Bob Hardy in Cottonwood, based on their experience, to confirm that it is appropriate to use a non-lawyer, such as the Mayor, to participate in meetings. Sims confirmed that he is also opposed to the provisions stated in Paragraph 10. Sims recommended that the Council should decide to participate with adjudication, to delegate the Mayor to attend the meetings and to keep the Council advised with periodic updates of what is going on. Sims explained that it is Gioia's intent is to keep the

Council involved, so that Council can decide when it would be appropriate to bring in a lawyer to evaluate to protect the Town's interest, and Sims supports that recommendation.

There was no public input.

Gioia said that he will arrange a work session with SRP so that all can move forward and acquire water rights for the community of Camp Verde. Sims commented on the issue of private property owners severing and transferring water rights and his understanding that the private property owner would pay the fees; if there is disagreement that subject should be agendaized for discussion.

4. **DISCUSSIONS OR CONSULTATIONS WITH DESIGNATED REPRESENTATIVE(S) CONCERNING POSSIBLE PUBLIC AUCTION OF REAL PROPERTY IDENTIFIED AS A VACANT .36-ACRE PARCEL OF RESIDENTIAL LAND LOCATED EAST OF MCCRACKEN LANE IN THE 1200 BLOCK SOUTH, A PORTION OF PARCEL 404-02-171. Note: Council may vote to go into Executive Session pursuant to ARS §38-431.03(A)(3) for discussion or consultation with the attorney for legal advice and §38-431.03(A)(7) for discussion or consultation with designated representative(s) in order to consider Council's position and instruct its representative(s) regarding negotiations for the purchase, sale or lease of real property. (Staff Resource: Lynda Moore)**

There was no action taken.

Town Manager Scannell said that as a result of a productive meeting today, it was determined that there is no discrepancy in the survey, it is proper, and all parties are ready to move ahead with the bid openings on February 13th. Lynda Moore will be coming to Council on February 18th with a report on the bidding process and a request to consummate the sale.

There was no public input.

5. **Discussion, consideration, and possible direction to staff relative to litigation and/or possible development of Settlement Agreement among the Town of Camp Verde, California Hotwood, Inc., and business entities and affiliates related to the Zellner family. Note: Council may vote to go into Executive Session pursuant to ARS §38-431.03(A)(3) for discussion or consultation with the attorney for legal advice and §38-431.03(A)(4) for discussion or consultation with the attorney in order to consider Council's position regarding contracts that are the subject of negotiation, in pending or contemplated litigation, or in settlement discussions in order to avoid or resolve litigation. (Staff Resource: Town Attorney)**

On a motion by Hauser, seconded by Kovacovich, the Council voted unanimously to go into Executive Session.

PUBLIC INPUT

Clint Gray said that it appears to him that the Council is discussing making a deal with California Hotwood to let them stay where they are. He reiterated his belief that only a portion of the use of the property was grandfathered in, and reviewed the noise and extreme fire danger and threat to the neighborhood. He would like to see the business moved out of there.

There was no further public input.

A recess was taken at 4:16 p.m. to go into Executive Session.

On a motion by Hauser, seconded by Garrison, the Executive Session was adjourned at 5:15 p.m.

The Special Session was called back to order at 5:16 p.m.

A recess was called at 5:16 p.m.; the meeting was called back to order at 6:20 p.m.

6. **Brief summation to the public regarding a possible Plan of Action.**

Mayor Gioia announced that in connection with the Nondisclosure Agreement that is the subject of Item 3, the discussions with SRP about pending litigation are about the Adjudication and stem from discussions he has been having with SRP on considering water rights that belonged to the Town of Camp Verde and have been lost by not invoking the severance transfer of those historic water rights. With the Park development the Town could lose water rights or become another party to litigation with SRP. The Town has the opportunity to perhaps work out close to 600 acre feet that should be the Town's historic water rights and come back to the Town. The document, which Council has authorized the Mayor to sign, is for the comfort of SRP in what information they may disclose to Council in negotiations.

The statement from Council on Item 5 regarding the litigation or settlement agreement with California Hotwood, and business entities and affiliates related to the Zellner family, is that the Council exited the Executive Session with the Town Attorney with the understanding that Council since May has tried to settle by relocation of the Woodyard, by settlement agreement, and at this point no possible agreement has come forward, so it seems the Town has no choice but to respond to the litigation and the hearing is still set for early March.

7. Adjournment

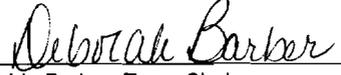
On a motion by Hauser, seconded by Kovacovich, the meeting was adjourned at 6:24 p.m.


Margaret Harper, Recording Secretary

CERTIFICATION

I hereby certify that the foregoing Minutes are a true and accurate accounting of the actions of the Mayor and Common Council of the Town of Camp Verde during the Special Session of the Town Council of Camp Verde, Arizona, held on the 4th day of February 2009. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 24 day of February, 2009.


Debbie Barber, Town Clerk