

**MINUTES
SPECIAL SESSION
MAYOR and COMMON COUNCIL
Of the
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
473 S. Main Street #106
WEDNESDAY, June 10, 2009
6:00 p.m.**

Minutes are a summary of the discussion. They are not verbatim.

1. Call to Order

Mayor Burnside called the meeting to order at 5:03 p.m.

2. Roll Call

Mayor Burnside, Vice Mayor Kovacovich, Councilors Garrison, German, Roulette and Baker were present. Councilor Whatley was absent.

Also Present:

Town Manager Michael Scannell, Town Attorney Steve, and Town Clerk Debbie Barber

3. Pledge of Allegiance

Councilor Baker led the Pledge of Allegiance

4. Possible setting the date for a Council Retreat for June 23 and 24, 2009 and authorization to retain Lance Decker, of LL Decker & Associates, Inc. to facilitate the meetings at a cost not to exceed \$3,500. (Staff Resource: Michael Scannell)

On a motion by Baker, seconded by Garrison, the Council voted unanimously to schedule June 23 and June 24 as the date for Council Retreat and authorized Staff to retain Lance Decker, of LL Decker & Associates, Inc. to facilitate the retreat at a cost not to exceed \$3,500, with staff to arrange for the facility.

Scannell explained that he had forwarded information relative to Lance Decker's experience, noting that he had worked with Council a few years ago. Several Council members shared interest in having a treat. Scannell explained that this is a new beginning and that taking seven different people with differing backgrounds was a communication challenge. He advised that Decker was trained in organizational development and in having the team function in a well-oiled fashion. Scannell advised that Decker indicated that he was delighted with the opportunity to work with the Town again and that he had substantially discounted his fee. Scannell highly recommend that Council approve this request to achieve success and he thanked Council for their concern with watching out for the Town's financial condition.

Councilor German expressed concerns that the public might not view this action favorably since many drastic cuts were made to the budget. Baker agreed and said that saving money in other areas would pay for this valuable opportunity.

Garrison and Kovacovich said that this would be a good thing for Council. Garrison said that she has not been to training in two years and the money she has saved would pay for this.

5. Discussion, consideration, and possible approval of the refinancing of Koch Financial Lease Purchase Agreement #2 and authorization for the Mayor to execute those legal documents that will facilitate the refinancing of the Koch Financial Lease Purchase Agreement #2 to include amending the Intergovernmental Agreement between the Town of Camp Verde and the Camp Verde Sanitary District, dated May 12, 2007 concerning the financing to upgrade the Sanitary District's wastewater treatment facilities. (Staff Resource: Michael Scannell)

Mayor Burnside reported that this item will be postponed until the June 17, 2009 Special Session at 5:30 p.m.

Scannell advised that there had been some late changes to the agreement, including a rise in the interest rates and the District had folded in additional costs, such as the Bond Election. He said that the savings to the Town would be

around \$15,000 instead of the \$19,000 that was originally reported. He advised that the agreement would not be ready for approval until June 17.

6. Presentation/tutorial by Steve Wene, water attorney with the firm of Moyes, Sellers, and Sims relative to water rights in the State of Arizona and the Town of Camp Verde.

Scannell introduced Steve Wene, attorney with the firm of Moyes, Sellers and Sims, explaining that the object was to have Wene share his extensive knowledge. He explained that this would be an interactive meeting with Council free to ask question that would help them gain knowledge of the water rights in the State of Arizona.

Wene explained that there has been an issue in the Verde Valley since 1865. He said that there is 'wet water' and 'paper water' and that Arizona laws treat groundwater and surface water differently. He explained that groundwater lies underneath the ground and a property owner has every right to drill a well to use it reasonably. Surface rights are on a first-come-first-served principle. Typically, in 1865 Camp Verde, water was used for agricultural purposes. In that instance, that claim has the first right to use all the water he needs.

Wene explained that subflow is water that is underground, but closely related to the river and affects the river if it is pumped out. He advised that the law has consistently changed in this area. In the early 1920s, the federal government gave massive amounts of money to states to build dams. In Arizona, damming the rivers provided irrigation for crops. Farmers filed suit to stop this dam from going in because it affected the river, but lost to organizations such as SRP. The courts said that they were pumping groundwater. He explained that this has resulted in litigation that has spanned the centuries and placed everyone in a quizzical position because Court decisions have been theoretical. The hard part is that you have to prove to the Court that you are not pumping subflow, while the other side argues that your hydrologist is wrong.

In answer to Council questions, Wene explained that the best strategy is to plan for the worst and hope for the best. In this area, you plan that your water is surface water. In answer to questions about water committees, Wene explained that there is more misinformation in these committees than he has ever seen. He advised that the best thing for members to do is to pick up a phone and ask the attorney. The attorney will put them in touch with a hydrologist who does not have an agenda. He advised that there are many hydrologists that have studied this area, but that there are people downstream who have discredited them.

Speaking to a Burgess & Niple study that showed there were available water rights to the Town, Wene advised that Camp Verde's ancestors filed water rights under the old system in 1850, some of which predate SRP. He explained that Camp Verde is one of the first areas that developed in the State of Arizona. He said that there needs to be some chain-of-title research as rights moved from irrigation to municipal use. He said there are many water rights that have been going for decades, which is an important reason to work out differences with upstream and downstream users.

Kovacovich noted that in the late 70s, his family went to SRP to drill a well because they had taken their ditch. The family drilled the well in the location that they were told and now SRP has come back and told them that they had no rights to the well.

Garrison thanked Steve Ayres for making Council aware of the water rights underneath our roads. That was a great service to our community.

Ayres advised that the Town's water rights are old and solid. Eureka Ditch was established in 1853. He said that SRP would admit that our ditches predate their rights. He said that the Water Advisory Committee was set up to straighten out matters over the Big Chino pumping. He said that he believed that Council just needed an attorney and to concentrate on the Gila River Adjudication that will ultimately determine your water rights.

Garrison pointed out that there were six different water committees and she wondered what was accomplished. Ayres said that if Council wanted to concentrate on one committee, the WAC had the purse strings and had completed several studies. However, Ayres explained that Chip Davis said that after ten years, the WAC is back where they started. Ayres advised that that is the only organization that still has everyone at the table.

Wene said that it was most important to follow ADWR and the State Legislature because that is where the threats come from.

7. Discussion or consultation with the Town Attorney relative to settlement discussions in connection with the Gila River General Stream Adjudication now pending in the Maricopa County Superior Court, acquisition of potential water rights for the Town of Camp Verde, consultation with the Town Attorney for legal advice regarding support of the water rights proposal offered by Yavapai Apache Nation, and possible appointment of

up to three Council members to give guidance to the Manager between Council meetings. Note: Council may vote to go into Executive Session pursuant to. (Staff Resource: Steve Wene)

Council took no action and gave no instruction on this item.

On a motion by Kovacovich, seconded by German, the Council voted unanimously 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, §38-431.03(A)(6) for discussion, consultation, or consideration for negotiations with members of a Tribal Council, or designated representatives of an Indian Reservation located within or adjacent to the Town, and §38-431.03(A)(7) for discussions or consultations with designated representatives of the Town in order to instruct Town representatives regarding the purchase, sale, lease or other transfer of real property).

The meeting was recessed at 5:59 p.m. and called back to order at 7:17 p.m.

8. Adjournment

On a motion by Kovacovich, seconded by Garrison, the Council adjourned at 7:18 p.m.



Bob Burnside, Mayor



Deborah Barber, Town Clerk

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 Work Session of the Town Council of Camp Verde, Arizona, held on the 10th day of June 2009. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 6 day of July, 2009.



Deborah Barber, Town Clerk