

**MINUTES
REGULAR SESSION
&
COUNCIL HEARS PLANNING & ZONING
MAYOR AND COUNCIL
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
WEDNESDAY, DECEMBER 19, 2007
6:30 P.M.**

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 6:30 p.m.

2. **Roll Call**

Mayor Gioia, Vice Mayor Hauser, Councilors Garrison, Kovacovich, and Elmer were present; Smith was present, having rescinded his resignation; there is currently one seat vacant.

Also Present: Town Manager Mike Scannell, Town Attorney Bill Sims, Community Development Director Nancy Buckel, Deputy Town Clerk Virginia Jones, and Recording Secretary Margaret Harper.

3. **Pledge of Allegiance**

The Pledge was led by Kovacovich.

Mayor Gioia announced that in response to a request, Items 7 and 15 have been moved to this point in the Agenda; those items were then addressed in that order.

4. **Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as consent agenda items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of Council requests.

a) Approval of the Minutes:

- 1) December 5, 2007 – Regular Session
- 2) November 14, 2007 – Executive Session – Taped
- 3) November 14, 2007 – Regular Session

b) Set Next Meeting, Date and Time:

- 1) Council Hears Planning & Zoning – December 26, 2007 – **CANCELLED**
- 2) Regular Session – Wednesday, January 2, 2008 at 6:30 p.m.
- 3) Work Session – Wednesday, January 9, 2008 at 6:30 p.m.
- 4) Regular Session – Wednesday, January 16, 2008 at 6:30 p.m.
- 5) Council Hears Planning & Zoning – Wednesday, January 23, 2008 at 6:30 p.m.

c) Possible authorization to purchase two patrol vehicles for the Camp Verde Marshal's Office.

On a motion by Hauser, seconded by Kovacovich, the Council voted 5-1 to approve the Consent Agenda as presented; Councilor Smith abstained.

Mayor Gioia requested staff to contact Council members regarding availability since there are two Commissions that would like to meet in Work Sessions with Council; he suggested checking with the Chairpersons and perhaps set up one meeting with both Commissions.

5. **Call to the Public for Items not on the Agenda.**

(Comments from the following individuals are summarized.)

Deborah Moody, a resident in the Verde Lakes neighborhood, a high density area with many children who have motor scooters, creating problems, and there is no regular police patrolling of the streets. Ms. Moody is afraid of retaliation from neighbors; she has called the Marshal's Office to complain about loud music and has been advised that her calls for help amount to harassing the neighbors. *Mayor Gioia said that the Marshal is in charge of law enforcement in the Town, and the Town Manager is in charge of the Marshal.*

Jerry Tobish, owner of the Ancient Bear Gallery, explained how important the sandwich board signs are to the local businesses and urged the Council members to keep that in mind when the issue comes before them for a vote after being heard by the P&Z Commission; he recommended that the signs be allowed for at least the next two years. *Attorney Sims cautioned that his recommendation should properly be made to the P&Z Commission.*

James Strava spoke regarding the Salt Mine Group sewer issue, and said the Council should be more aware of what is happening in the neighborhoods that are not being served by the sewer.

Perry Haddon, Chairperson of the Trails & Pathways Commission, said that for 17 years the Town has worked on gaining access for a trail way through the Jackson Flat area, and he understands that according to the Forest Service the Indian Tribe is trying to gain control of that area. Mr. Haddon suggested that if they are successful the Town negotiate with the Tribe for a Right of Way for eventual roadway and utilities.

There was no further public input.

6. **Council Informational Reports**

Smith relayed what he felt was good news from Yavapai Title regarding their number of escrows being handled. Smith **requested an agenda item** for discussion and consideration of putting two new officers into school; the Police Academy starts soon; more police presence is needed on the streets.

Garrison also **requested an agenda item** to address the issue of Lance Decker and bring it to a vote to help work through some issues. Garrison thanked staff for a marvelous Christmas party, and the public for their Christmas cards and wishes. Garrison added that she has been elected to the Tourism subcommittee of NACOG.

Kovacovich added his appreciation for the Christmas party and all the employees who worked on it; he wished everybody a Merry Christmas.

Elmer thanked all the community who sent him Christmas cards and snacks.

Hauser echoed what everybody had said; today was election of officers at the Verde Watershed Association.

Gioia reported on his attendance at Sedona's Verde Valley Realtors Association; the realtors are still in good spirits. Gioia also reported on the Verde River Citizens Alliance meeting Saturday morning and the WAC meeting today. He wished everyone a Merry Christmas and Happy Holidays.

7. **Discussion and consideration of the resignations of Ron Smith and Mike Parry and possible direction to staff to advertise for letters of interest from the general public to fill the vacancies left by the resignations of Councilors Ron Smith and Mike Parry. *RON SMITH RESCINDED HIS RESIGNATION ON DECEMBER 13, 2007. Note: Council may vote to go into Executive Session pursuant to ARS §38-431.03.A3 for discussion or consultation for legal advice with the attorney concerning the requested rescission and other matters related to the Council members resignations. Council agreed to move this item to the beginning of the meeting.***

On a motion by Hauser, seconded by Kovacovich, the Council voted unanimously to go into Executive Session, with the caveat that the members leave the Council Chambers to a separate location for the Executive Session, and the public to remain.

Staff was directed to advertise to fill the vacancy left by the resignation of Councilor Parry.

Pursuant to the request from the Town Attorney, Councilor Smith remained in the Council Chambers pending a decision on the effect of the rescission of his resignation.

A recess was called at 6:32 p.m.; the meeting was called back to order at 6:54 p.m.

Town Attorney announced that upon the rescission of his resignation, Councilor Smith then became once again a member of the Council, based on the law of the State of Arizona which protects the right of an individual who was voted into an office to choose to rescind his or her resignation; the will of the voters is the will to be most adhered to. That individual has the right to rescind his resignation up to the time the seat is filled. Furthermore the previous vote by Council to accept Smith's resignation was purely ceremonial; a person has the right to resign, just as he has the right to rescind such resignation.

PUBLIC INPUT

Nancy Floyd cited the close number of votes between Parry and Duke, and wondered if there is some way to take that into consideration in selecting a replacement for Parry.

There was no further public input.

8. **Discussion, consideration, and possible appointment of a Council member or direction to staff concerning the temporary assignment of a staff member to the Verde Valley Transportation Planning Organization.**

There was no action taken.

Councilor Smith confirmed that he would be interested in continuing his assignment on the Verde Valley Transportation Planning Organization; therefore, this item became a moot issue.

9. **Discussion, consideration, and possible clarification on Section 804 of the Town's Personnel Manual, which refers to additional assignment of pay when employee has taken on "Special Assignment".**

On a motion by Gioia, seconded by Hauser, the Council unanimously approved the recommendation of Human Resources for a 5% addition assignment of pay when acting in the capacity, as the Manager is, of another department head, retroactive to the first day of the acting capacity.

Dave Smith, Human Resources Director, said he had brought forth this item with a request to interpret a section of the Personnel Policy that appears to provide for a 5% addition of pay. After the Town Manager was hired and began his job, it became necessary for him to also perform the duties of Finance Director. It was acknowledged by the Council that the Town Manager has been spending a good portion of extra hours working with the Finance Department, and there was agreement that the additional assignment of pay should be retroactive pursuant to the Personnel Policy. It was also agreed that assignment of additional pay when acting in the capacity of another department head would in the future be standard procedure by the Town Manager, unless there were budget issues which would then be brought to Council.

There was no public input.

10. **Discussion, consideration, and possible appointment to the Parks & Recreation Commission for the term ending September 2010.**

On a motion by Smith, seconded by Kovacovich, the Council voted unanimously to appoint Therese Tobish to the Parks & Recreation Commission for the term ending September 2010.

Town Manager Scannell said that an application for the above position had been received from Therese Tobish, who was then given the opportunity to let the Council know of her interest.

Therese Tobish, a local business owner, confirmed her interest in an appointment to the Parks

& Recreation Commission as a way to get more involved in the community.

There no public input.

11. **Discussion, consideration, and possible authorization to move funds in the amount of \$985.14 from the Parks Equipment line item and \$985.14 from Maintenance Equipment line item to Parks & Recreation Salaries line item for the purpose of moving Gerry Dillinger from the AARP Program to a part time receptionist with the Parks & Recreation paying half of the wages and the Street Department paying half through the end of the FY 07/08 budget year.**

On a motion by Hauser, seconded by Kovacovich, the Council voted unanimously to reallocate the funding for Gerry Dillinger's position until the end of the FY 07/08, as set forth.

Parks & Recreation Director Lynda Moore explained how Gerry Dillinger had come to the Town as a Receptionist through the AARP Program, adding that she had proven to be a valuable employee that both of the subject departments depend upon. Moving the funds as requested would allow Ms. Dillinger to work 28 hours per week through the end of the current fiscal year. Town Manager echoed Moore's remarks about Ms. Dillinger, commenting that he personally has observed that she is a great ambassador for the Town and incredibly valuable; he strongly recommended that the funding be taken through the current year, as well as considering allocating the necessary funding during the FY 08-09 budget process to be able to retain Gerry Dillinger.

12. **Discussion, consideration, and possible approval of Resolution 2007-736, A Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting final plat 2007-01 for Sleepy Hollow Town Homes located on Parcel 404-30-029D consisting of 20 Town home units on 2.40 acres. This project is located off of Nichols Street and east of Town Hall.**

On a motion by Garrison, seconded by Smith, the Council unanimously approved Resolution 2007-736, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting final plat 2007-01 for Sleepy Hollow Town Homes located on Parcel 404-30-029D consisting of 20 Town home units on 2.40 acres.

STAFF PRESENTATION

Community Development Director Buckel said that staff has reviewed all the documentation in connection with this application for the final plat. The matter was continued from last week and update letters have been received regarding the Sanitary District confirming that the existing system will be sufficient for service to the project. The stipulations placed on the Preliminary Plat pursuant to the Town Engineer's request have been negotiated further between the developer and the Town Engineer, and the stipulations changed or added to have been included in the subject Resolution 2007-736 that is being presented for approval. The Town Engineer has recommended that there should be a formal development agreement between the Town and the developer setting forth the responsibilities of each party as to the offsite improvements that have been requested in connection with curbs, sidewalk and the Town's dedication of an additional Right of Way from the maintenance yard directly across Fain Street. Staff is recommending that the development agreement be brought back to Council for approval and recorded at the same time the plat is recorded.

The Council discussed some of the issues with Buckel, including the statement from the Department of Water Resources finding the water supply to be inadequate to meet the subdivision project needs. Buckel explained the basis for that statement that will be included on the recorded documents in order to put the buyers on notice. Until a water study required by ADWR is completed by the Camp Verde Water Company, the Town or the developer, a letter of adequate water supply cannot be issued by ADWR. In response to concern about the water issue, Town Attorney Sims reviewed the law as it exists and said he believes the Town is discharging its duty under the law by requiring that the notice be included on the final plat

documents. There was also further discussion regarding the request for Town property to be dedicated for the required additional Right of Way on Nichols and Fain Streets. The members were reminded that final approval is based on technical review only; requests for changes or additions are made during the preliminary planning stage. There was a request that staff bring the issue of a developer omitting sidewalks in the internal design to the Council's attention in the future. Buckel reminded the members that the project will be subject to the Design Review process at which time onsite improvements are considered.

PUBLIC HEARING OPEN

Applicant's Statement

Dugan McDonald, owner of Heritage Land Survey & Mapping, said his firm had prepared the final plat for the project, and he was available to answer questions.

COMMENT FROM OTHER PERSONS

(Comments from the following individuals are summarized.)

Jim Bullard, Camp Verde Water Company, said that they have submitted the paperwork to ADWR for the 100-year supply; they should be hearing from ADWR in January.

Jackie Baker spoke in favor of not requiring sidewalks on private property unless they are absolutely necessary; she believes that the less the Town can pave over its land, the better off the community will be. If sidewalks are necessary, there are environmentally helpful materials that can be used in place of concrete.

There was no further public input.

APPLICANT'S REBUTTAL

There was no rebuttal necessary.

PUBLIC HEARING CLOSED

Council Discussion

McDonald confirmed that the design of the town homes includes stair-stepped roofs; pathways in place of sidewalks were planned in order to save costs on the town homes, which are anticipated to provide work force housing.

A recess was called at 9:11 p.m.; the meeting was called back to order at 9:19 p.m.

13. **Discussion, consideration, and possible approval of Resolution 2007-738, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona approving a Use Permit 2007-06 to allow for one FFA project pig on parcel 404-30-170 as submitted by Pam Sterrett for her daughter allowing for care, feeding, and grooming of said pig from November 2007 to May 2008.**

On a motion by Hauser, seconded by Elmer, the Council voted 5-1 to approve Resolution 2007-738, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona approving a Use Permit 2007-06 to allow for one FFA project pig on parcel 404-30-170 as submitted by Pam Sterrett for her daughter allowing for care, feeding, and grooming of said pig from November 2007 to May 2008; **with a 'no' vote by Smith.**

STAFF PRESENTATION

Buckel said that the subject application is for a Use Permit to allow an FFA project on a parcel that is less than ½ acre. The P&Z Commission has recommended approval, noting that Council should be aware that the approval is in direct violation of the CC&Rs for that subdivision. Copies of the application have been provided in the agenda packets along with a letter from the FFA Advisor certifying that the youth is enrolled to raise a swine as a market project. Letters of both support and opposition have also been included. The applicant has submitted a site plan showing placement of the pen to be in compliance with the setback regulation.

During a discussion regarding the suggestion that it would be a violation of the CC&Rs to allow a farm animal, Attorney Sims advised the Council that unless there were violations of the Constitution, the Town has no duty to enforce CC&Rs, which amount to a contract among private citizens. Granting the Use Permit would be enforcing the Use Permit zoning regulations of the Town Code. There was a protest expressed during the discussion that by granting the Use Permit the Town would be imposing its authority, and by doing so violating the CC&Rs and the rights of the property owners who have agreed to abide by those restrictions when they purchased their properties. Sims responded that the property owners have the right to adjudicate such violation among themselves; the Town cannot police every private property dispute. Mayor Gioia outlined in detail the steps that the FFA follows to resolve complaints regarding a youth's livestock project, as set forth in their policy statement. If there still is no resolution, the Nuisance Ordinance of the Town would be the next option available.

PUBLIC HEARING OPEN

Applicant's Statement

Pam Sterrett, the applicant, said that her daughter had met with the required number of neighbors within the 300 foot area shown on the map; the complaints received are from those outside the map. Furthermore, she has had a pig project for the last six years with no complaint.

COMMENT FROM OTHER PERSONS

(Comments from the following individuals are summarized.)

David (Unintelligible) said that the Home Owners Association in the subdivision has been inactive for years; he supports the application 100 percent.

Lyndall McElhaney believes that the CC&Rs expired 10 years after the date of adoption; in the last 10 or 15 years there has been no HOA. Mr. McElhaney said he has never been aware of any smell or noise from the daughter's projects. There are checks and balances available; the youth who is doing something productive should be supported.

Jackie Baker agreed with Mr. McElhaney's comments, and urged the Council to keep the Town rural-Western and have less rules and bureaucracy interfering; there have to be some reasonable ways to resolve the issues, hopefully between neighbors.

Kimberly Stone, who lives directly behind the Sterretts, said she is an escrow officer and stressed that the CC&Rs for subdivisions are part of the recorded documents; they are signed by the homeowners when they buy the properties and they are aware that no livestock are allowed. Ms. Stone added that she can smell the pigs while sitting on her porch.

Jody Stone, in addition to his wife's preceding comments, said that the Sterretts have been keeping pigs for the last six years without a Use Permit; the pen had been kept up against the property line and the smell was offensive. Mr. Stone said there have been complaints, he was never contacted by the applicant, and there was no neighborhood meeting. If the pig is allowed to remain, the only recourse of the neighbors is to seek court action.

Brian Ritzenthaler, a resident in the subdivision, said he was never contacted regarding the issue. He believes the CC&Rs are developed to restrict undesirable activities and take precedence over other regulations, and quoted directly from the CC&Rs regarding the restriction of livestock. Mr. Ritzenthaler is in opposition to the application for a Use Permit.

There was no further public input.

APPLICANT'S REBUTTAL

Ms. Sterrett explained that the suggestion to raise the animal at another location was not an option; the animals are tended from morning to night and that takes a lot of work. Ms. Sterrett listed the other animals on the property besides the pig: Two dogs, a cat, two birds and a parrot.

PUBLIC HEARING CLOSED**Council Discussion**

The Council briefly discussed what had been presented, both the negatives and the positives, and generally agreed that the Use Permit process is an effective tool to monitor the activity. There was a request that whatever decision is made that everybody would allow the process some latitude and trust that it works out well for the youth of Camp Verde and the neighbors, and it will help those youths learn to respect the laws and their neighbors.

14. **Discussion, consideration, and possible approval of Resolution 2007-737, a resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting Final Plat 2007-03 for Circle C Ranches located on parcels 403-21-007F, 403-21-007K, and 403-21-007L consisting of 6 residential lots on approximately 12 acres. This project is located at the end of Apache Trail and adjacent to the northern boundary of the Verde River Meadows subdivision.**

On a motion by Kovacovich, seconded by Gioia, the Council voted 5-1 to approve Resolution 2007-737, a resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting Final Plat 2007-03 for Circle C Ranches located on parcels 403-21-007F, 403-21-007K, and 403-21-007L consisting of 6 residential lots on approximately 12 acres; this project is located at the end of Apache Trail and adjacent to the northern boundary of the Verde River Meadows subdivision, including adding to the CC&Rs the dedication language for the School District; **with a 'no' vote by Hauser.**

STAFF PRESENTATION

Buckel said that this is a small subdivision consisting of 6 lots on the 12 acres. The plat approved a private roadway, and the only stipulation that was placed at the request of the School District was that they have access to the private roadway to make sure they would be able to pick up all their students. Buckel said she believes that requirement, in addition to being on the Final Plat, should also be added to the CC&Rs, requiring them to provide access to the Camp Verde School District bus. Buckel also reviewed stipulations regarding no chain link fencing and maintenance of drainage easements. Further documentation is to be provided before moving forward with the recordation. Buckel confirmed that the road provides adequate turning radius at the end of the cul de sac as approved by the Fire Department and the School District.

PUBLIC HEARING OPEN**Applicant's Statement**

Tom Coury said he was available to answer questions.

COMMENT FROM OTHER PERSONS

There were no comments from other persons.

APPLICANT'S REBUTTAL

There was no rebuttal necessary.

PUBLIC HEARING CLOSED**Council Discussion**

There was a brief discussion with Buckel regarding a request to return to using Power Point presentations or using overhead projection of vellums in the alternative, the current workload in the Planning Department, and providing information checklists in ring binders that are available to all.

15. **Discussion regarding the roles, responsibilities, and authority of the Manager, Mayor, and Council as practiced versus what is defined by the Town Codes, Arizona Revised Statutes, and any other applicable documents such as, but not limited to, the Code of Ethics, the Personnel Manual, etc. This item may include possible direction to the Town Manager to take orders and instructions from the Council, pursuant to Town Code, Section 3-2-1.E.1, "when sitting in a duly convened meeting of the Council, and**

no individual Council member shall give orders or instructions."

There was no action taken.

Councilor Garrison explained to Town Attorney Sims that she had requested this item because she felt she needed some ground rules to follow, in particular how the Council should police their own actions and how to correct possible circumventions of Town policies. Sims distributed copies made from a slide presentation on the Council-Manager form of governance which he believed would answer some of the questions he had anticipated from the language of the agenda item, including the authority of the Mayor in certain instances. Councilor Garrison gave Sims some hypothetical examples of possible misconduct or violation of policy. Sims reviewed the authority and obligations of individuals under the Council-Manager form of governance; as for internal policing of misconduct by Council members, Sims reviewed the two remedies, censure and/or recall. In response to a direct request from Council for specifics, Councilor Smith cited what he believed were policy violations in connection with specific actions of the Mayor, who in turn defended several of the issues point-by-point explaining that he had handled them properly. A lengthy discussion followed, ending with the suggestion that it might be helpful for the Council to consult once again with the mediator, Lance Decker.

PUBLIC INPUT

(Comments from the following individuals are summarized.)

Deborah Moody scolded the members for what she felt was the excessive rudeness that is displayed at Council meetings.

Jackie Baker thanked Garrison for the agenda item that led to an open discussion of problems, and thanked Smith for pointing out the issues that he felt had gotten out of control.

There was no further public input.

16. **Call to the Public for Items not on the Agenda.**

(Comments from the following individuals are summarized.)

Eric Schweizer started to speak, saying that the Council had disappointed him very much, beginning to refer to the agenda item on the youth pig project. *Mayor Gioia informed the speaker that he had had the opportunity earlier to speak on the issue, could not bring up the subject again, and further comments would not be allowed. That action was supported by the Town Attorney.*

Leonard Krautbauer asked when the Council would finish the Animal Ordinance; it has gone on since February, and how much has it cost the Town. He urged the members to come out and look at the property where the pigs are being raised, and alluded to having to contact the Aspey Watkins Diesel Law Firm.

There was no further public input.

17. **Advanced Approvals of Town Expenditures****a) There are no advanced approvals.**

There were no advanced approvals.

18. **Manager/Staff Report**

Scannell said he had submitted his Manager's report; tomorrow morning the 4 or 5 applicants for Finance Director will be interviewed.

19. **Adjournment**

On a motion by Hauser, seconded by Smith, the meeting was adjourned at 10:24 p.m.

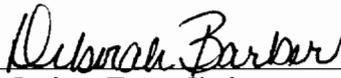


Margaret Harper, Recording Secretary

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 Regular Session of the Town Council of Camp Verde, Arizona, held on the 19th day of December 2007. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 9 day of January, 2008.



Debbie Barber, Town Clerk