

**MINUTES
REGULAR SESSION
MAYOR and COMMON COUNCIL
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
WEDNESDAY, FEBRUARY 1, 2006
at 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 Baker, Councilors Hauser, Smith, Kovacovich, Parrish and Parry were present.

Also Present: Community Development Director Will Wright, Town Attorney Brad Woodford, Sr. Planner Nancy Buckel, Deputy Town Clerk Virginia Jones, and Recording Secretary Margaret Harper.

3. **Pledge of Allegiance**
The Pledge was led by Mayor Gioia.

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) Regular Session – January 18, 2006
 - b) **Set Next Meeting, Date and Time:**
 - 1) Joint Work Session w/ P&Z Commission – February 8, 2006 at 6:30 p.m.
 - 2) Regular Session – February 15, 2006 at 6:30 p.m.
 - 3) Council Hears P&Z – February 22, 2006 at 6:30 p.m.
 - c) **Possible approval of Resolution 2006-671, a resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting the Camp Verde Hazard Mitigation Plan.**
 - d) **Possible approval of letter of support to Tom O'Halleran regarding HB 2462 – Reference Title: Adequate Water Supply, HB 2465 – Reference Title Water Resources, Regional Planning and House Bill regarding Economic Development Tax Incentives.**

On a motion by Hauser, seconded by Baker, the Council unanimously approved the Consent Agenda, with the exception of Item 4d).

A motion by Gioia, seconded by Hauser, to approve a letter of support to the Natural Resource Committee, Chairman Tom O'Halleran on House Bill 2462, Adequate Water Supply, and House Bill 2465, Title Water Resources, and the Regional Planning and House Bill regarding Economic Development Tax Incentives, failed by a 3-4 vote, with 'no' votes by Baker, Smith, Kovacovich and Parrish.

Vice Mayor Baker requested that Item 4d) be pulled since she felt that there had not had enough time to read all the documentation. It was suggested that because the Committee would be voting on the issue very soon it would be a moot point if saved for the next Council meeting.

5. **Call to the Public for Items not on the Agenda.**
Charlotte Salsman announced a trail dedication for the Beaverhead Trailhead scheduled for Saturday, February 4th at 10:00 a.m.; all are asked to join in and attend this event that will also be attended by County dignitaries.

Robert Dodd commented on his continuing complaint about the overgrown lot in the Clear Creek West neighborhood. No action has been taken to date, and he questioned why this violation of the Code has not been enforced.

6. **Presentation by Diane Joens regarding clean up days in local cities and Towns. This may be followed by discussion and possible direction to staff to research the possibility of forming a cleanup group similar to Cottonwood's Stewards of Public Lands and associated costs related to the effort.**

There was no action taken.

Staff was requested to discuss with the Stewards and the leaders of this effort what heavy equipment they might need to help in the cleanup effort.

The presentation by Diane Joens included input from other principals involved in Cottonwood's project, including a Power Point presentation illustrating areas before and after clean-up efforts by the Stewards. There were also some questions from and discussion with the Council during the presentation.

PUBLIC INPUT

Norma Garrison asked about reinstating the system of free dump days as one measure that would help to prevent illegal dumping; she was advised that a major problem was the high cost for the County, but efforts are being made to bring that back.

Fran Arries commented on the short life of modern appliances, and suggested that perhaps they should be dumped on the properties of the manufacturers to get their attention.

There was no further public input.

7. **Presentation by Arizona Engineering concerning the proposal to study the drainage issues on Finnie Flat Road followed by possible discussion.**

There was no action taken.

Staff was directed to look into whether the County and perhaps ADOT will do maintenance as soon as possible and inform Council of the outcome; share with Council whether the County has a maintenance plan; and bring the project back to Council for review.

Dan Burke, of Arizona Engineering, said he was present to answer questions about the subject proposal for the Channel that runs from Finnie Flat Road north and ties into the Verde River. He explained the bases for the calculations that have been made, adding that he would be happy to recalculate the flows, but recommended that in order to save costs and maximize the project it would be best to proceed with the discharges that were previously studied.

The Council discussed with Mr. Burke the proposed work planned for the Channel, recent development upstream, the upstream detention facilities, a possible County maintenance plan for the area, responsibility of the Town maintenance staff, and the Town's liability, among other issues.

There was no public input.

- 7a. **Discussion, consideration and possible appointment of a designee to participate in a roundtable discussion at the February 11, 2006 Joint Forum on the Establishment of a Verde River Basin Partnership.**

On a motion by Baker, seconded by Smith, the Council unanimously approved the appointment of Brenda Hauser to represent the Town of Camp Verde on the Verde River Basin Partnership.

Following explanation from the Council of the purpose of the subject Joint Forum to discuss and pursue the formation of the Partnership in response to public fears and concerns for water issues in our region, **Diane Joens** outlined the extent of anticipated ongoing participation by the selected appointee if the group decides to commit time to make the establishment of a Verde River Basin partnership happen. Councilor Hauser expressed her interest in participating.

There was no public input.

8. **Discussion, consideration, and possible approval of Resolution 2006-673, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, adopting Final Plat 2006-02 for Millwood Estates Subdivision located on 50.36 acres consisting of parcels 404-04-021 and 404-05-085. This project is located off Quarterhorse Lane and will consist of 30 lots.**

On a motion by Gioia, seconded by Hauser, the Council **voted 4-3 to not to approve Ordinance 2006-A319**, based on concerns that the stipulations that Council included on the Preliminary Plat were not met, and that there are issues of adverse topography, periodic inundation, adverse soils, high water table and natural or man-made hazards to life or property; **with 'no' votes by Kovacovich, Smith and Baker.**

On a motion by Parry, seconded by Smith, at 10:40 p.m. the Council voted 6-1 to go into Executive Session for discussion with the Town Attorney; with a 'no' vote by Baker.

Note: At the February 8th Special Session, on a motion by Gioia, seconded by Baker, the Council voted unanimously to approve the February 1, 2006 minutes, with the notation that it was Council's intent to deny Resolution 2006-673, rather than Ordinance 2006-A319. They further noted that Ordinance 2006-A319 was still in effect.

Director Wright said that this subdivision has attracted a lot of attention, and it is important to note that Council did approve the Preliminary Plat on November 16, 2005 with stipulations to be addressed regarding ground water, septic, traffic and the Diamond S Ditch Company concerns. Luke Sefton, SEC, has provided documentation from County agencies indicating approval at a minimum level. The applicant is proposing to double the size of lots allowed by the zoning, and the development falls within the General Plan Land Use Designation.

Tony Cullum, a Flagstaff attorney specializing in real estate law, spoke on behalf of the applicant, indicating that the engineer, Luke Sefton, was prepared to certify that all the requirements of the final plat have been met. Mr. Cullum reviewed his understanding of the elements of the Arizona Revised Statutes as they pertain to the proposed development, comparing those elements that permit discretionary decisions, as opposed to those that impose a legal obligation, the category under which the subject project falls, and asserting that the developer has met the necessary engineering standards and is therefore legally entitled to a final plat. In response to a request from Council, Mr. Cullum also compared zoning, which establishes absolute property rights and densities allowed, and downzoning which is at the discretion of the property owner.

Luke Sefton, SEC, asserted that the concerns that the Council had at the time of approval of the Preliminary Plat have been satisfactorily addressed, including traffic, flooding, drainage, septic approvals from the County, and water issues. As a registered professional engineer it is his responsibility to the public to make sure that the development would not be subject to flooding and that there is no increase in flooding to any of the adjacent property; he reviewed in detail and discussed with the Council his calculations and engineering program planned to satisfy those concerns. Mr. Sefton also said that the developer and Diamond S Ditch Company appear to be

close to a resolution of some of the Ditch issues. Mr. Sefton reiterated that he feels the stipulations have been addressed, including obtaining approvals from other agencies backing what he has done, and agreeing and finding no exception with the drainage report. The Council also expressed concern that the developer had not met with the residents as he had formerly indicated he would.

During the Council discussion Attorney Woodford suggested that the Council call an Executive Session in order for him to advise the Council in response to a question regarding responsibility for liability.

A recess was called at 8:40 p.m.; the meeting was called back to order at 8:50 p.m.

PUBLIC INPUT

Jane Everts, owner of property that abuts the proposed development commented that in her personal opinion the attorney during his presentation made a veiled threat of litigation in the event of a denial; she is opposed to the project, citing several issues including lack of notification of meetings with the developer, her understanding of the General Plan, water issues and traffic.

Rick Maybery, attorney for the Diamond S Ditch, said that as a result of multiple meetings with the developer's principals, there appears to be a potential solution to the issues regarding drainage. The Ditch is not a drainage ditch, and it is of vital importance for the Town to make sure the misconception that the ditch is a drainage ditch does not continue. History shows that the ditch will overflow, so drainage to prevent harm to a development is of extreme concern to Diamond S Ditch.

Jim Sullivan, one of the principals of SEC, said that they have handled their hydrology, and still intend to work with the Ditch Company to get the off-site flooding issue resolved. In order to do that there have to be permits for the construction to be able to proceed, which has nothing to do with approval of the final plat. Mr. Sullivan reiterated and defended as appropriate and professional the engineering planning done by Luke Sefton, that it was not biased in favor of the firm, and the stipulations have been addressed.

Kevin Hauser read into the record his letter to the Council in opposition to the development, a copy of which had been provided in the agenda packet. Luke Sefton countered some of the flooding concerns noted by Mr. Hauser, outlining the design for construction of the units, which Mr. Sefton said has been approved by County Flood Control and the Town Engineer. Based on his experience farming the subject parcel, Mr. Hauser insisted that there is a potential hazard, that it will flood, and that is just a matter of when, not if, responding to comments from the Council regarding a new diversion that had been created on the other side of 260.

Frank Geminden supported the statements offered by Mr. Hauser, confirming that there was flooding in 1994 and that the ditch spilled over. However, the concern here is the drainage that comes from up above, through Diamond Creek in a wall, with great velocity causing the ditch to breach. The need is to find a way to bring all that water over the ditch and on down safely past the houses and to the river; those 30 new units will almost certainly flood otherwise.

Mitch Dickinson spoke in favor of a private property rights, and concern about the possibility of a principle being set and what it will do to the future of the Town for everybody; the owner of the property had intended one day to develop it for a retirement nest egg. The drainage issues can be worked out, and the issue of septic has been resolved. Others in the same area have subdivided large portions of property, made profits, without any of the current scrutiny. The development should be approved; the only right call is to allow private property rights to survive.

Richard Tinlin, introducing himself as Dr. Tinlin, presented what he termed "a highly sophisticated chart," hand generated, to illustrate the drainage studies he has made as a

concerned neighbor and hydrologist with considerable experience, offering a detailed explanation of his calculations and predictions. Based on his perception of the major problem with creating an off-shot, considerations regarding ground water, surface water, contamination of wells, alternative waste treatment systems, and apparent regulatory glitches, he believes the development would have major problems. The Council reminded the speaker, in essence, that decisions are based on the duty of the members to uphold the law and that they have to rely on the engineers and outside sources to resolve potential problems.

Bob Womack said he has never seen so many "experts" assembled in one place at one time, adding that his expertise is property rights and that he believes the man has the right to develop the property and to reasonably expect to make a fair profit. Mrs. Shill has the right to sell her property and receive as high a price as possible; that is the American Way. Mr. Womack added his opinion that Councilor Parry has a conflict of interest, as a neighbor, and that he should step down. **Jane Everts** spoke again to counter Mr. Womack's assertion regarding property rights, using an example of someone perhaps unknowingly purchasing land that was a toxic waste site that cannot be developed; do property rights then apply? The developer should have done more research and found that the property is not suitable for this much development.

Jeremy Bach, of AZ North, the developer, agreed that the property has problems and that is the reason there were perc holes done, ground water tests from wells; those concerns were known at the beginning. He believes all the concerns have been addressed and they are working diligently with the Ditch Company for a solution for the liability issues. AZ North has tried to work on developing the property in a very responsible fashion; Mr. Bach added that he would greatly appreciate approval of the final plat, with direction that they can continue to keep working with the Diamond Ditch and come up with a solution. There has been a huge expense in addressing all the concerns up to this point. The agencies have all been satisfied; they are the dictating forces behind the final plat approval. **Richard Tinlin** spoke again, questioning the testing that the developer did, and protesting Mr. Womack's assertion that he has a conflict of interest.

Robin Bruno, as a resident on the south side of the development, said that the area of flooding shown on the chart displayed by Tinlin shows the water is headed right for her front yard. She questioned who would be liable, and who would be liable for damage to personal property of the owners of the new homes as a result of that flooding. She also wondered if the Gila River adjudication would apply to homes being built that close to the river.

Fran Arries understood that Mrs. Shill's deceased husband had stipulated that he did not want the property to be developed.

Ben Pemberton commented on the problems mostly occurring during the summertime during the heavy rains; his rain gauge has registered as much as 6 inches-plus, and that happens within 3 hours. The computer read-out based on 14 hours is misleading. The big question is liability and whoever is responsible for the resulting flooding.

Bob Meacham said that he, too, was not notified of the meetings, which is a serious issue. He believes the lawyer has said that the Town would be liable if the development is denied. But the County has placed the liability on the Town of Camp Verde. Mr. Meacham referred to the ditch as a time bomb; flooding will happen and whom will it happen to. He said the Council did not strongly support passing the preliminary plat. His objections included the conflict between the zoning and the density that the property would support, doubt that the issues can be worked out, conflicts between agencies, overwhelming opposition being voiced, engineering obstacles presenting serious liability issues, lack of solid support from the Council. Mr. Meacham believes the real consideration is not just the development, but the future of the Town of Camp Verde, and the Verde Valley. He said the Town should not be intimidated by the threat of legal action, and that the major issues have not been addressed.

Claudia Hauser expressed no sympathy whatsoever for Mr. Bach and what he had said about the expense, saying that he chose the path he took.

Randy Cramer said that in addition to the flooding, one of his major concerns is the issue of traffic and safety. Quarter Horse cannot even carry the traffic that it has today.

Chet Teague reviewed several issues, including flooding that he remembered as a child, and the history of the area. Since creating the diversion, there is now less than half the floodwater coming through. Mr. Teague also commented on provisions for septic, the wells, as well as the health and safety issues including traffic and horses, which are now the result of the existing homes having been built on farming land. Growth is inevitable. Mr. Teague read an excerpt from the Declaration of Independence, that begins with, "We hold these truths to be self-evident,...." and cites inalienable rights that include property, health, privacy, safety and respect. Mr. Teague requested that the Council not trample on anybody's right tonight.

Frank Geminden spoke again regarding the reference to conflict of interest, acknowledging that everyone in the area has a conflict of interest; however, whoever is involved in growth must bear the costs of that growth.

There was no further public input.

The Council Chamber was temporarily closed to the public at 10:40 p.m. in order to hold an Executive Session, following which the meeting was resumed at 11:28 p.m., with Mayor Gioia summarizing the concerns of the Council that the stipulations placed on approval of the Preliminary Plat were not met, and after citing other factors as well the motion to deny was made and voted upon.

9. **Discussion, consideration, and possible approval of a Memorandum of Understanding with Northern Arizona Council of Governments to operate a voucher transit system.** On a motion by Baker, seconded by Gioia, the Council unanimously approved the Memorandum of Understanding with Northern Arizona Council of Governments to operate a voucher transit system.

Wendy Escoffier gave a brief summary of the subject request, saying that staff is recommending that the Town fund the voucher program in the amount of \$17,375 during the period from February, 2006 to June 30th; minus the administration fees for NACOG the remainder of the funds will go directly to the vouchers. The Council questioned some of the language in the MOU; Escoffier explained the intent and will make sure it is clarified in the document.

There was no public input.

10. **Discussion, consideration, and possible direction to staff to sign a change order with SWCA to fulfill the Coconino Forest Service requirement to provide a hard copy of the biological and archaeological survey report for the Camp Verde Park and Trailhead Project #7794.**

There was no action taken.

Staff was directed to further research why the hard copy of the subject biological and archaeological survey report was not a part of the original agreement.

Director Wright said that he understands that the hard copy is the requirement of the Coconino Forest and was not part of the original bid request, and the additional money is required to meet that additional requirement.