

**(Corrected)SPECIAL SESSION
MAYOR and COMMON COUNCIL
of the
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
Wednesday, JULY 8, 2009
5:30 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 5:30 p.m.

2. Roll Call

Mayor Burnside, Vice Mayor Kovacovich, Councilors Garrison, Whatley, German and Roulette were present; Baker arrived at 5:50p.m.

Also Present: Town Manager Michael Scannell, Attorney William Sims, Town Clerk Debbie Barber, Deputy Town Clerk Virginia Jones, and Recording Secretary Margaret Harper.

3. Pledge of Allegiance

The Pledge was led by Roulette.

4. Discussion or consultation with the Town Attorney for legal advice concerning the Town's use of certain personal property rights. 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 in connection with the Town's use of certain personal property rights. (Staff Resource: Town Attorney)

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

A recess was called at 5:32 p.m. to go into Executive Session.

The meeting was called back to order at 6:15 p.m. in the Town Gymnasium in order to accommodate the public in attendance.

Bill Sims, Town Attorney, continued the Special Session with the explanation that three items had been agendaized for a possible Executive Session, one of which has been already discussed. As for the two additional items, Sims said that the Council has decided to get the legal advice in public so that the public could hear that advice. One item concerns liquor liability, which is also the subject of the Work Session that is scheduled for 6:30 p.m., and the other is the Constitutional provision regarding separation of Church and State, which is a subject to be discussed during the Special Session. The Town Code requires the Mayor to convene the Work Session precisely at 6:30, which at this time would only allow about 12 minutes. Sims recommended discussing the liquor liability issues as part of the Work Session since it is the subject of that session; the only other item to discuss in Executive Session, now public, is advice concerning Church and State. Sims explained that under the Town Code this discussion will have to be recessed in order to convene the Work Session at 6:30, recess that meeting, and come back to the Special Session so that the discussion can be completed in order for the public to have the opportunity to speak and hear the legal advice that will be given to the Council.

The Council agreed with the procedure recommended by the Town Attorney, and the discussion on separation of Church and State continued.

(Note: Item 6 was addressed prior to Item 5)

**5. Discussion or consultation with the Town Attorney for legal advice relative to liability associated with the sale and/or consumption of alcohol on Town property. 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. (Staff Resource: Town Attorney)
There was no action taken.**

Sims first suggested that after providing his legal advice on the issue of alcohol sales, the discussion continue as part of Item 4 on the Agenda for the 6:30 Work Session that is currently in recess during the remainder of this Special Session; the Council agreed and the proceedings continued accordingly.

Sims reviewed the long history of Council concern about the Town's liability in connection with the Parks & Recreation Department being the purveyor of liquor at events held by the Town and the eventual decision to remove the Town's responsibility for the events and to bring in outside promoters to take over those events. Sims said he believes that had the Town continued to be the promoter of events and sell liquor, there probably would have been a liquor liability claim. Sims then distributed copies of case law to support his opinion that by divesting itself of the responsibility for managing or controlling the sale of liquor on Town property by turning events over to outside promoters, the Town would not be liable for claims for injury. The controlling, administering and selling the liquor imposes the liability, not simply having an ownership interest in the property. Insurance would cover the expense of defending the Town against any claims since it would not have been involved in the control or sale of liquor, and there could be no dispute of that.

Sims recommended that since the Town has every right to allow persons to use Town property to sell, possess or consume alcohol, such decision should be made on policy grounds, not on liability grounds. Sims cautioned that the Town would have the right to control and require certain spaces for sales of liquor, but further controls such as requiring a specific number of stations, checking of I.D.s, could impose liability. The Town should use a third party as the promoter, and narrowly prescribe providing insurance and naming the Town as additional insured, but not participate in the control of sales.

There was discussion regarding the issues of enforcing the rules and monitoring compliance by the promoters with the rules and regulations; the Town Clerk reminded the Council that the draft Special Event Permit Handbook on the Agenda for the Work Session will have many answers to the questions being discussed, including assignment of responsibility for ensuring compliance. There was further discussion on the subject of insurance requirements. The Council agreed to continue the discussion during the Work Session; the Special Session was then adjourned accordingly.

6. DISCUSSION OR CONSULTATION WITH THE TOWN ATTORNEY FOR LEGAL ADVICE RELATIVE TO THE SEPARATION OF CHURCH AND STATE. 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. (Staff Resource: Town Attorney)
There was no action taken.

Town Attorney Sims outlined his legal advice regarding the obligation of the Town of Camp Verde in connection with Item 6, separation of Church and State, pursuant to the decision of Council to publicly hear such legal advice, prior to addressing Item 5, summarized as follows.

Sims reviewed the history of the framing of the United State Constitution, the State Constitution, and the background of the doctrine of separation of Church and State, and outlined recent case law, all of which supported his legal advice that public buildings are allowed to have religious symbols to be used in the public buildings for religious reasons, but then that symbol is either to be removed or to be covered for public use, a compromise that is perfectly permitted under the law.

On a motion by Roulette, seconded by Baker, the Council voted unanimously to recess the Special Session in order to call the Work Session to order at 6:30 p.m.

The Work Session was called to order at 6:30 p.m., whereupon a recess was taken following roll call.

On a motion by Garrison, seconded by Baker, the Council voted unanimously to call the Special Session back to order at 6:34 p.m.

Sims added to his previous comments the opinion of the State Attorney General that it is prohibited for a government to communicate a message to the people that seems to suggest the endorsement of any one religion or the preference of one over the other. Sims then reiterated his advice that if a public building is used for public purposes, and then a public service agency that has a religious orientation is permitted to use that building, their symbols of religious affiliation may be shown during the period of time they are providing the service. They would be asked to remove any such symbols following the completion of their service so that the public building can then revert back to typical government use, with no implication that the government entity has recommended one religion over another, or recommended a religion over no religion.

Mayor Burnside next invited the public to offer their comments.

PUBLIC INPUT

(Comments from the following individuals are summarized.)

Shirley Brinkman objected that the Bread of Life cannot even store their Cross on the Town property, she agrees that the Cross should be left up and covered.

Charlotte Salsman suggested that the person who objected to the Cross at the Easter Egg Hunt not be allowed to attend that event in the future. As a volunteer at many occasions, Ms. Salsman commended the staff for their courteous and professional handling of events. She would like to see the Cross remain on the wall to honor the good work that the Bread of Life does.

Debbie Roulette commented on the Mayor's request for no applause; she asked how else can the people let the Council know how they feel. *Mayor Burnside agreed to allow that show of support.*

Tony Gray reminded everyone that when Thomas Jefferson was President he requested Congress for funding to purchase 20,000 Bibles to be used in the schools. The Bread of Life brings together different denominations. The wall of separation of Church and State was intended to prevent attack on the churches.

Nidia Bolden said that if someone is renting a property, why can they not display the Cross anymore. *Sims confirmed that the right to display the cross exists, as he explained previously.*

Robert Frasier expressed his fear that when one person can come in and take the prayer out of school, and in our small Town they have taken away the Cross; what will happen next. *If I call myself a Christian will I be put in jail?*

Mark Payne said that the people will be like the Boston Tea Party, there will be change, and he added that "we will not allow the Government to stop us."

Leslie Braden commented that the way the country is now she will have to concede with the Cross being hung and covered; this Nation was originally a Christian nation; it is sad that the Cross has to be covered.

There was no further public input.

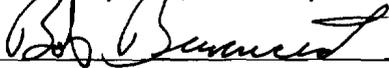
Mayor Burnside announced that the issue of alcohol, Item 5, will be coming back to the Council for a decision on July 15th as well as Item 6, the separation of Church and State, for further discussion and possible direction to staff. Sims re-confirmed the legal obligation of the Town regarding the religious symbols; they must be removed or covered during the time the building is providing a public service, as outlined above, under the law.

On a motion by Garrison, seconded by Kovacovich, the Council voted unanimously to recess the Special Session at 7:05 p.m.; following the recess the meeting was moved back to the Council Chambers and reconvened at 7:14 p.m.

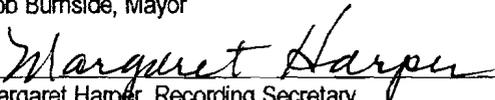
The Council then agreed to address Item 5 and publicly receive legal advice concerning sales of alcohol on Town property.

7. Adjournment

On a motion by Baker, seconded by Kovacovich, the meeting was adjourned at 7:36 p.m.



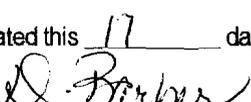
Bob Burnside, Mayor



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 8th day of July 2009. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 17 day of July, 2009.


Debbie Barber, Town Clerk