

FINAL

TUSAYAN TOWN COUNCIL REGULAR MEETING

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, January 18, 2012 @ 6:00 P.M.

Best Western Squire Inn, Zuni Conference Room

74 State Route 64, Tusayan Arizona

TOWN COUNCIL REGULAR MEETING MINUTES

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Bryan called the meeting to order at 6:02pm and the Pledge of Allegiance was recited.

2. ROLL CALL

Upon roll call, the following were present:

MAYOR BRYAN

COUNCILMEMBER FITZGERALD

COUNCILMEMBER MONTOYA

VICE MAYOR MANIACI - absent

COUNCILMEMBER RUETER

Also present: Town Manager Ochoa
Town Clerk Sutton
Town Attorney Sims
Assistant Clerk Garver

3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Urban Visser of Great Western Survey greeted the Council and gave a brief description of his familiarity and extensive knowledge with the Tusayan area. He suggested that his company could be of service to the Town.

4. CEREMONIAL AND INFORMATIONAL MATTERS

No ceremonial or informational matters were presented.

5. CONSENT AGENDA

A. Consideration and possible approval of Administrative/Treasurer's Report

- i. Acceptance of the Finance Report
- ii. Approval of the Payment of Bills
- iii. Approval of Minutes
 - a) January 4, 2012 Regular Meeting
 - b) January 9, 2012 Workshop
 - c) January 11, 2012 Annual Retreat

Council Member Rueter moved to approve the consent agenda as presented.

Council Member Montoya seconded the motion. All were in favor. The motion passed.

6. COMMITTEE REPORTS

No committee reports were presented.

7. PUBLIC HEARING

A. Liquor License Request by Owners of the Proposed Plaza Bonita Restaurant in Tusayan, Arizona

1.) Open Public Hearing at 6:09pm.

2.) Presentation by Staff/Attorney

The Town Manager and Attorney Charles Huellmantel briefed the Council. A Liquor License application was provided to the owners of the business entitled Plaza Bonita and interviewed them. Notice of Liquor License application with a complete packet was posted on the physical premises of the future business site indicating January 18, 2012 as the date set for a Hearing before the Tusayan Town Council. The application was posted in the physical presence of Mr. Luis Espinoza. Presentation by the Applicant Mayor Bryan reviewed that the Applicant's State application had been sent by the State to the County where it had stayed for a period of time before being finally sent to the Town for action. When the Town realized it had an application that needed to be addressed we did several things: 1) we sent the Town Manager to a seminar on handling Liquor Licenses so we could determine what needed to be done; 2) we hired a consultant to help set up a process for handling liquor license applications and he created an application for the Town to use and agreed to help us through this first application so it could be handled properly. All of this was done in very short order with a desire to not hold up any applications, yet to be sure they were handled properly for the benefit of the Applicant and the Town. Much time had been lost when the Town did not receive the State application until very late in the 60 day processing period. The Mayor asked the Applicant if he was aware of these impacts and action the Town had taken. He indicated that he was aware of these actions.

Luis Espinoza stated that he and Miguel Arceo own 7 other restaurants in Arizona and have received liquor licenses at all locations and have had no issues with complying with the law. Upon arriving in town, they had difficulty in locating the offices for building permits, liquor application and fees. He stated that they had received no formal notice in the mail of the meeting and had not received a deadline date in writing.

3.) Public Comment

Clarinda Vail, landlord, wrote in support of the applicants. In regards to the need of building permits, said that she had just received the plans from 1993, during the Denny's remodel. Those would indicate if any remodeling had taken place and permits would be needed. Willdan had received the wrong parcel number and were incorrect in their assessment and had not issued a formal work stop order.

Council Member Rueter stated that he thought the liquor license should not be denied due to building permit problems.

4.) Close the Hearing

Hearing was closed at 6:36pm

8. ACTION ITEMS

A. Consideration, discussion and possible approval of Liquor License Request by Owners of the Proposed Plaza Bonita Restaurant in Tusayan, Arizona.

Council Member Montoya moved to recommend denial of the application. Mayor Bryan seconded the motion for discussion purposes. Discussion proceeded with questions of the Staff. The Town Manager said that he attempted to contact the owners by going to visit the restaurant to get the contact information. The applicant was contacted by telephone and a meeting was scheduled with the applicant. An application was delivered to the applicant and an appointment made to review the application with the applicant on January 4, 2012 at 4:00pm. Mr. Huellmantel, Town Consultant, determined that the application had differing information than the license and it was not correctly filled out. Information was missing on the felony count. Another application was given to the applicant with a request to resubmit the application by no later than Jan 13, 2012. It was received on Jan 17 with the application fee. Staff had suggested that the Applicant withdraw the application and re-submit, which would allow them to provide all the information needed in a timely manner for the Council to review. Staff spoke with the applicant's attorney and suggested the same. The Attorney agreed and recommended this course of action to the applicant. The applicant did not want to pursue this recommended course of action.

In light of the discrepancies' in the information provided, the insufficient answers regarding the specific information requested of the applicant in the application, and the applicant's unwillingness to provide the requested information and follow the various Town rules and regulations, staff recommends denial of application. When the applicant was asked by the Mayor if they would be willing to withdraw the Applicant, they said no. When the vote was taken, the motion to recommend denial of the Application to the Liquor Board was passed with all in favor.

Mayor Bryan clarified that it wasn't the Council who actually approves the liquor license, but it is the State.

B. Consideration, discussion and possible approval of an IGA- Intergovernmental Agreement between the Town of Tusayan and the Coconino Elections Department for the Provision of Services to hold a Special Election on March 13, 2012.

The approximate cost to the Town would be \$2000; it is based on past elections. Council Member Rueter moved to approve the IGA for the provision of services to hold a special election on March 13, 2012.

Council Member Montoya seconded the motion. All were in favor. The motion passed.

C. Consideration, discussion and possible approval of an IGA- Intergovernmental Agreement between the Town of Tusayan and the Coconino Elections Department for the Provision of Services to hold a Special Election on May 15, 2012.

The Town would have the same approximate cost of \$2000.

Council Member Montoya moved to approve the IGA for provision of services to hold a special election on May 15, 2012.

Council Member Rueter seconded the motion. All were in favor. The motion passed.

D. Consideration, discussion and possible approval of an IGA- Intergovernmental Agreement between the Town of Tusayan and the Grand Canyon School District for Facilities Use, Maintenance and Repair.

Pete Shearer said that Superintendent Allen had been authorized to enter into the agreement and to go with the term stated in paragraph 2.

Council Member Montoya moved to approve the IGA agreement with the Grand Canyon School District for facilities use, maintenance and repair with the intentional omission of paragraph 14 and other minor language changes.

Council Member Rueter seconded the motion. All were in favor. The motion passed.

E. Consideration, discussion and possible approval of funds for attendance by Council and Staff to a Municipal Financial Seminar sponsored by Hienfeld, Meech and Co. in Mesa Arizona on January 20, 2012

Council Member Fitzgerald and the Town Manager requested the Councils approval for the expenditure to attend the seminar, including costs of travel and lodging.

Council Member Fitzgerald moved to approve the motion.

Council Member Rueter seconded the motion. All were in favor. The motion passed.

F. Consideration, discussion and possible approval of Holidays to be recognized and celebrated by the Town of Tusayan during year 2012.

Mayor Bryan stated that this should be discussed during the upcoming policy and procedures workshop. No action was taken.

9. DISCUSSION ITEMS

A. Zoning Code Revision Workshop Update Plan and Timeline For Adoption

The document has been reviewed and Mr. Turner is working on some of the last issues. The workshop is planned for February 8, 2012 at 5:00pm. The Design Review Overlay may be added to the meeting.

B. Council Policies and Procedures Workshop, Plan and Timeline

Workshop is scheduled for January 25, 2012 at 5:00pm. Council member comments on the draft need to go to Town Manager Ochoa.

C. Application, Nomination and Appointment Process for P&Z Commission Timeline

The Town Manager has received 3 applications. The Council has requested that the deadline be extended to February 1, 2012 and the applicants be interviewed at a special meeting at 5:00pm prior to the regular Council Meeting.

D. Town Attorney re Hearing Officer versus Board of Adjustments

The Town Attorney informed the Council that they are required to adopt a Board of Adjustments or a Hearing Officer and done quickly due to the Dec. 30th appeal

E. Report of Town Attorney regarding alleged conflict of interest and other matters concerning Council Member Bill Fitzgerald.

The Town Attorney was requested by Council Member Fitzgerald to review the matter during a Council Meeting rather than in Executive Session. Council Member Fitzgerald waived the ten day period for review required by the Town Ethics Policy. On Dec 22, 2011, Stilo Development made 5 allegations against Council Member Fitzgerald- 1) Violation of Town Ethics, 2) Violation of the Hatch Act, 3) Violation of US Postal Service rules, 4) allegation of non-disclosure, and 5) conduct unbecoming of an elected official. Town Attorney Sims said that after his investigation, he recommended to refer the violation of the Hatch Act to a US attorney. He also suggested to Council Member Fitzgerald to voluntarily recuse himself from anything to do with the development until the election on May 15, 2012. He thanked Council Member Fitzgerald for his cooperation.

Council Member Fitzgerald stated that neither he nor his employers had ever received any complaints about his work, that he was not a government employee and the Hatch Act did not apply he did not retaliate on anyone who disagreed with him, or lost mail on purpose. To file complaints, constituents may call-1-800-ASK-USPS. Council Member Fitzgerald wanted to differentiate between "statements" and "allegations". He said that some of the letter gave "statements" and not "allegations". During this time period, the Council may have to invoke the Rule of Impossibility (invoked after conflicts are declared, and there isn't a majority to vote on an action item. When that occurs, all can vote so that business can move forward). If that occurs the Council Members can vote but will have to declare their conflict of interest prior to voting. Council Member Fitzgerald agreed to voluntarily recuse himself from anything dealing with the Stilo development.

Mayor Bryan gave options that the Council has: 1) Schedule a vote to Censure at the next Council meeting; 2) Refer the situation to another attorney for an independent investigation of all allegations; 3) Accept the recommendation of voluntary recusal by Councilman Fitzgerald. After consideration the Council chose to accept the voluntary recusal of Councilman Fitzgerald on all matters dealing with the Stilo development agreement and related actions such as rezoning and annexation until after the May 15, 2012 vote. Mayor Bryan thanked Councilman Fitzgerald for his working through this challenge and understanding the mistake made. He hoped the Council can now move forward in harmony.

10. TOWN MANAGER'S REPORT

A. Community Activities

A basketball competition took place at GC High School, Congressman Gossar visited Tusayan and held a meeting, and the Chamber held their Annual Luncheon Meeting.

B. Professional Activities

The Annual Arizona Asian Chamber of Commerce Conference will be held on Feb 11, 2012 in Phoenix, Arizona and the Council has been invited.

Az City & County Manager Association Conference will be held Feb 1-3 and the Town Manager will attend the 2nd and 3rd.

- C. Annual Retreat Highlights**
The retreat was held in the Best Western in Williams, Az and it was a positive and productive experience in identifying and setting long and short range goals for the Town of Tusayan.
- D. Cemetery Services for the Town of Tusayan via the County**
Follow up still needed.
- E. IGA for Judicial Services with the Coconino County**
The draft was received and forwarded to the Town Attorney.
- F. Report on CUP transfer from Coconino County to Town of Tusayan**
The Town Attorney had contacted the County Attorney to do a straight transfer of the CUPS. The County wants to keep the originals. Copies will be made and arrangements will need to be made.
- G. Airport Property Rental for Town Employee Housing Plan**
Four lots are available in the immediate future; they are close to water and sewer. The Council is still waiting for ADOT to come back with rent rates.
- H. Town Hall Modular and Parking Progress**
The Town Manager thanked Council Member Rueter for all the time and effort he has put into this project. He has saved the Town monies that would have possibly doubled in total for the preparation for install and the parking lot construction. Council Member Rueter expressed that he has been thanked enough and gave more detail and said possible completion can be in February and no later than March.
- I. Lighting District Update**
The lighting district still exists and the County is the fiduciary. It is only on Highway 64, 150 feet from the center line on either side. More discussion is needed as the neighboring business are being assessed to pay the lighting bill.
- J. Holiday Decorations**
The Council thanked Kevin Hartigan of APS for taking down and storing the holiday lights.

11. SET ADDITIONAL ACTION ITEMS FOR NEXT REGULAR MEETING

- P&Z applications
- Police report
- Escrow agreement for 40 acres
- Legislative Session – authorization of Town Manager and Mayor

12. SET ADDITIONAL DISCUSSION ITEMS FOR NEXT REGULAR MEETING

- Lighting District
- ACC Report
- Modular Financial Update and status
- Liquor License process

13. COUNCIL MEMBERS' REPORTS

- No reports were given.

14. MAYOR'S REPORT

- Mayor Bryan met with the Park Superintendent. They spoke about getting a natural gas line into the area and sharing the costs. The Park is having the same problems with broadband internet service and is willing to work with Tusayan as well. The

Tusayan Shuttle bus schedule into and out of the National Park will be the same as last year. Mayor Bryan also discussed with him about the development, water issues, zoning, the Tusayan Area Plan, Housing Committee participation, the Green Way Trail being brought into Tusayan and what was the feeling on the marathon.

The Arizona League of Cities and Towns has a meeting every Monday at 10:00am for a weekly report from the legislature. They are requesting the Town's support in opposing Governor Brewer continuing the 7 million assessment fee to Cities & Towns to fund the AWDR. They also have a concern that HURF funds will continue to be used, as last year, to stabilize the State's budget for DPS & other departments. Government reform, having all elections to take place in the fall of all even numbered years, a change to State and local taxes, requiring cities to self-certify permits (not just building permits), are just some of the items that are a concern to the League and will affect the Town of Tusayan.

15. MOTION TO ADJOURN INTO EXECUTIVE SESSION for the following purpose:

Council Member Montoya moved to adjourn into executive session.

Council Member Rueter seconded the motion. All were in favor. Motion passed.

Council adjourned into executive session at 9:00pm.

Council Member Rueter recused himself because of his employment with Camper Village.

Council Member Fitzgerald recused himself because of his conflict of interest with the Stilo development.

A. Appeal concerning Camper Village CUP Modification Request.

Council returned to regular session at 9:11pm.

16. MOTION TO ADJOURN MEETING

Mayor Bryan announced that the Council will work towards P&Z Commission members and a Board of Adjustments.

Council Member Rueter moved to adjourn the meeting.

Council Member Montoya seconded the motion. All were in favor. Motion passed.

ATTEST: On this date, February _____, 2012.

Enrique Medina Ochoa, Town Manager

Greg Bryan, Town Mayor

Bill Sutton, Town Clerk