

## AGENDA

### TUSAYAN TOWN COUNCIL REGULAR MEETING

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

Wednesday, February 5, 2014 at 6:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town council will hold a meeting open to the public on Wednesday, February 5, 2014 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

### TOWN COUNCIL REGULAR MEETING AGENDA

#### 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

#### 2. ROLL CALL

MAYOR GREG BRYAN

VICE MAYOR AL MONTOYA

COUNCILMEMBER BILL FITZGERALD

COUNCILMEMBER JOHN RUETER

COUNCILMEMBER CRAIG SANDERSON

❖ *One or two Council Members may attend by telephone*

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

***Members of the public may address the Council on items not on the printed agenda. The Council may not discuss, consider or act upon any matter raised during public comment. Comments will be limited to three minutes per person.***

***Members of the audience who wish to speak to the Council on an item listed as Public Hearing should complete a Request to Speak Card and turn it into the Town Clerk. Speakers will be limited to three minutes each.***

#### 4. CEREMONIAL AND/OR INFORMATIONAL MATTERS

**Presentation from Tusayan Fire District Chief Robbie Evans on the Tusayan Community Wildfire Protection Plan**

#### 5. CONSENT AGENDA

**ITEMS ON THE CONSENT AGENDA ARE ROUTINE IN NATURE AND WILL BE ACTED ON WITH ONE MOTION AND ONE VOTE. PUBLIC HEARING ITEMS ARE DESIGNATED WITH AN ASTERISK (\*). MEMBERS OF THE COUNCIL OR STAFF MAY ASK THE MAYOR TO REMOVE ANY ITEM FROM THE CONSENT AGENDA TO BE DISCUSSED AND ACTED UPON SEPARATELY.**

- A. Minutes of the Town Council Regular Meeting on 1/22/14
- B. Accounts Payable Billings
- 6. COMMITTEE REPORTS
  - A. Update on the Community Park Committee
  - B. Update on the Planning and Zoning Commission
- 7. ACTION ITEMS
  - A. Consideration, discussion, and possible approval of Resolution No. 2014-02 in Support of Restoration of HURF Distribution to Cities, Towns, Counties, and State Highways
  - B. Consideration, discussion, and possible designation of Tusayan representative (and alternate) to the Northern Arizona Council of Governments (NACOG) Regional Council
  - C. Consideration, discussion, and possible action to direct staff to proceed with the purchase of a maintenance truck
- 8. DISCUSSION ITEMS
  - A. Discussion of possible Town of Tusayan ordinance prohibiting approaching and/or feeding wildlife
  - B. Discussion of possible Town of Tusayan ordinance prohibiting distracted driving
  - C. Discussion of possible application for Post-2017 Resource Pool of Hoover hydroelectric power
- 9. TOWN MANAGER'S REPORT
- 10. FUTURE AGENDA ITEMS
- 11. COUNCIL MEMBERS' REPORTS
- 12. MAYOR'S REPORT
- 13. MOTION TO ADJOURN

**CERTIFICATION OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this \_\_\_\_\_ day of January, 2014, at \_\_\_\_\_ pm in accordance with the statement filed by the Tusayan Town Council.

\_\_\_\_\_  
Signature of person posting the agenda

ITEM NO. 5A

## **TUSAYAN TOWN COUNCIL REGULAR MEETING**

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

Wednesday, January 22, 2014 at 5:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

### **TOWN COUNCIL SUMMARIZED MINUTES**

#### **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Bryan called the meeting to order at 5:02pm and the Pledge of Allegiance was recited.

#### **2. ROLL CALL**

**MAYOR GREG BRYAN  
VICE MAYOR AL MONTOYA  
COUNCILMEMBER BILL FITZGERALD  
COUNCILMEMBER JOHN RUETER  
COUNCILMEMBER CRAIG SANDERSON**

Also present were:

Will Wright, Town Manager  
Melissa M. Drake, Town Clerk

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

None.

#### **4. CEREMONIAL AND/OR INFORMATIONAL MATTERS**

**Presentation from Tami Ryall (Interim Public Management) and Pat Walker (Pat Walker Consulting, LLC) on Town of Tusayan Permit Fee Study**

Tami Ryall introduced the topic and gave some background on the reasons for the study. She introduced Pat Walker and Ms. Walker began the presentation by discussing standard practices for building permit and inspection services and fees. Cherie Wright with Meech and Heinfeld spoke about the analysis the team performed of the historical and current building permit fees and processes in use by Willdan Engineering.

Pat Walker discussed analysis of the building permit processes and fee structures from other jurisdictions in northern Arizona.

She then covered the following recommendations:

- Develop a Request for Proposal (RFP) for providing services to the Town
- Require deposits for building permits/inspections and plan review fees
- Adoption of the International Building Code (IBC) evaluation table and comparable fee schedule by Council
- The Town should collect and record revenues and expenditures for the building permit/inspection and plan review fees

The Council asked questions about the report including:

- Including in the fees the costs of travel to Tusayan from the consultant's location
- Defining the cost evaluation of individual projects
- The Town collecting fees instead of the consultant
- Defining levels of service to the public and required from the consultant
- Possibly subsidizing the costs of services

Mayor Bryan requested that the final report include content recommendations for the RFP.

Mayor Bryan asked for public input on the topic. Clayann Cook stated that her request, as a member of the public, is consistency of charges.

## **5. CONSENT AGENDA**

### **A. Minutes of the Town Council Workshop and Regular Meeting on 1/8/14**

### **B. Accounts Payable Billings**

Vice Mayor Montoya made a motion to approve the Consent Agenda. Councilmember Rueter seconded the motion. Mayor Bryan and Vice Mayor Montoya recused themselves on individual items of reimbursement to themselves. The motion passed on unanimous vote.

## **6. COMMITTEE REPORTS**

### **A. Update from the Community Park Committee**

Manager Wright stated that there has not been a meeting of the committee since the last Council meeting. Mayor Bryan mentioned the previous request from the Kaibab Learning Center for wood chips from the park. He stated that he has witnessed a member from outside the community taking wood chips from the park and he informed them that they are not free for the taking.

### **B. Update from the Planning and Zoning Commission**

Manager Wright stated that the design review for the expansion of Big E Steakhouse was approved. Other items will be covered under individual items below.

## **7. PUBLIC HEARING**

**Final Draft of Tusayan General Plan 2024 (Staff recommends continuation until March 5, 2014 after Planning & Zoning Commission consideration on February 25, 2014)**

Mayor Bryan stated that this item will be continued until after the next Planning and Zoning Commission meeting since they continued it until February 25<sup>th</sup>.

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COUNCILMEMBER BILL FITZGERALD  
COUNCILMEMBER JOHN RUETER  
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## 8. ACTION ITEMS

### A. Consideration, discussion, and possible approval of Design Review Case No. DR2013-06, a Design Review for Interim Housing at Camper Village (continued from 1/8/14)

Manager Wright introduced the topic and gave a brief overview of the staff reports which are contained in the Agenda Packet. He stated that the Planning and Zoning Commission recommends approval of the request and he corrected his staff report by stating that the Commission allowed a possible 2 year extension after the initial 5 years to conclude the use approved by the Town.

Robb Baldosky, spoke as the applicant, introducing the request for design review of Phase 1 and Phase 2.

Carolyn Oberholtzer spoke on behalf of Redfeather Properties and outlined the issues surrounding opposition by Redfeather including:

- Perimeter setbacks are not consistent with regulations
- Flood plain management overlay issues which may affect Redfeather Properties which are downstream from this property

Redfeather Properties requests the following, if the Council approves the design tonight:

- Section 8C of the original development agreement required that the interim housing not exceed a period of 3 years. They request that an approval of this design be for a period of 3 years to coincide with the original agreement. They also request that any extension possibility be limited to 1 year extension, not 2.
- They request installation, or at least applications for building permits, for privacy fencing and landscaping submitted within 60 days.

Councilmember Fitzgerald mentioned an August 2012 letter from Ted Smith, hydrologist from Coconino County approving the project and he asked Ms. Oberholtzer why his approval was not satisfactory. Ms. Oberholtzer stated that the approval was just an agreement in the appraisal of the paths for the flood plain and flood way. The Town has requirements for flood plain overlay zoning and the Town has not met those requirements.

Vice Mayor Montoya asked Ms. Oberholtzer if there were studies showing how Redfeather Properties may be affected. She stated that the law puts the burden on the applicant to show that it won't affect downstream properties.

Mayor Bryan stated that the applicant originally applied when the Town was using the County Zoning Ordinance and since then, the Tusayan Zoning Ordinance has been adopted. When it was realized that a site plan had not been brought to the Planning and Zoning Commission and the Council, the stop work order was issued by the Town until it could be reviewed. Now the Planning and Zoning Commission has recommended approval and it is up to the Council. The engineers report has been filed and accepted by the County, all other permits have been issued. This review should have preceded all of that.

Mayor noted that the applicant stated in the Planning and Zoning Commission meeting that, by Town ordinances, the Town has 45 days to approve or deny an application, otherwise the request is deemed approved. The applicant agreed to one continuance but would not agree to another.

Vice Mayor Montoya made a motion to approve DR 2013-06 design review based upon staff and Planning and Zoning Commission recommendations and to impose a limit of 5 years and with a possibility of one 2-year extension. Councilmember Sanderson seconded the motion. Councilmember Sanderson asked about the request from Redfeather Properties for the 60 day requirement for the fencing. Mayor Bryan asked the applicant if they were agreeable to the request of Ms. Oberholtzer. Robb Baldosky (applicant) agreed to install fencing on the west and south boundaries within 60 days, and to delay installation of landscaping due to winter conditions.

Town Manager Wright stated that Section E required an improvement schedule (which would include fencing and landscaping) be submitted for Manager review within 30 days. This may need to be modified to 60 days. Mr. Baldosky stated that developing an improvement schedule in 30 days may not be possible due to approvals and permitting. Mayor Bryan clarified that the 60 day requirement requested by Ms. Oberholtzer was in reference to Section D, not Section E. Vice Mayor Montoya and Councilmember Sanderson agreed to modify their motions to include the 60 day timeline requirement in Section D. Mayor Bryan restated the motion: to accept the recommendation to approve the site plan for DR2013-06 with the modifications of Item D having a 60 day timeline (excluding landscaping) and Item F has a period of 5 years with the possibility of one 2-year extension.

Councilmember Fitzgerald asked if there is a provision to require removal of the housing after the 5 or 7 year deadline. Manager Wright stated that is the intent of the recommendation of the Planning and Zoning Commission.

Mayor Bryan stated that the Pre-Annexation Development Agreement (PADA) defined this temporary housing as a permitted use. It also limited the terms of the lease. Ms. Oberholtzer quoted the PADA language of Section 8, Interim Housing, "units that are not sold shall be offered on 3-year leases and all units will be subject to 3-year licenses to use a site at CV."

The Council took a break at 6:44pm for the Mayor to contact the Town Attorney, Bill Sims, for his opinion on whether the PADA or the Design Review conditions would prevail on this matter.

The Council reconvened at 6:57pm. The Mayor reported that the Town Attorney stated that there is potential conflict between the PADA which provides for the use and these design review conditions. Mr. Sims recommended altering Section F, "the interim housing shall be good for a period of 5 years, at which time the applicant will need to seek an extension with the Town Council."

After additional discussion about permitted use, timelines, and requirements to return to the Council for extension approval, Vice Mayor Montoya again amended his motion to limit Interim Housing to 5 years and a request for extension would have to come before the Town Council as recommended by the Town Attorney. Councilmember Sanderson seconded the motion.

The vote was 4 in favor and 1 abstention. Councilmember Rueter abstained due to his employment at Camper Village.

**B. Consideration, discussion, and possible action on the First Amendment to the Pre-Annexation Development Agreement (PADA) between the Town and the Stilo Group and approval of Resolution No. 2014-01**

**The Town Council may decide to go into executive session pursuant to A.R.S. § 38-431.03.A.3 and A.4 for legal advice from, and to consult with, the Town Attorney concerning the current Stilo Development Agreement and the draft First Amendment. Following the executive session, the Town Council may elect to go into open session and to give the Town Attorney and Town negotiating representatives directions regarding negotiations concerning an amendment to the Stilo Development Agreement or to authorize the execution of the First Amendment.**

Vice Mayor Montoya made a motion to take the Council into Executive Session to discuss this item with the Town Attorney. Councilmember Fitzgerald seconded the motion. The vote was 4 in favor and 1 abstention. Councilmember Rueter recused himself from this topic due to his employment at Camper Village.

The Council, without Councilmember Rueter entered executive session at 7:10pm.

The Council Discussed the First Amendment to the PADA with the Town Attorney. At 7:48pm Vice Mayor Montoya made a motion to adjourn the executive session and return the Council to open session. Councilmember Sanderson seconded the motion and it passed on unanimous vote.

The Council took a short break and reconvened in open session at 7:53pm.

Mayor Bryan introduced Town Attorney Bill Sims who was on the conference phone. Mr. Sims gave some background on this amendment, discussions with the Redfeather Properties' attorney, the stop work order at Camper Village, and the design review requirement. He covered a summary of the changes which had been made to the amendment since last published in the November 7, 2013 draft. This summary was also distributed to the public attending the meeting.

Mayor Bryan stated that the date for the blank in Section 8.(C)(iii) must be provided by Stilo since they must have time to get together the survey, the title of the land, and the escrow instructions. Andy Jacobs, representing Stilo, requested 60 days to do this. Mayor Bryan requested 45 days. Mr. Jacobs agreed. Mayor Bryan stated that the blank should be completed with "410" which includes the 45 days plus the 365 days already specified. Mr. Jacobs agreed with the total.

Carolyn Oberholtzer thanked the Council for delaying the decision from November but also stated that the public has not been given enough time to review the document. She requested that the Council delay a decision again to allow the public to review it. She stated that the PADA doesn't have an end date and she hasn't heard of another development agreement in the state without an end date. She also stated that Stilo is required to pay for the Forest Service

application for access and as long as they are paying, the Town is required to continue the process. She also stated that other entities, including the Center for Biologic Diversity, could initiate suits against the Town.

Councilmember Fitzgerald asked Mr. Sims about possible lawsuits by other entities. Mr. Sims stated that Stilo would be responsible for anything over \$100,000.

Alycin Gitlin spoke in opposition to the agreement on behalf of the Sierra Club. She stated that their opposition was based primarily on the lack of water resources available. She also requested additional time to review the changes presented tonight. She also stated concern over the application to the National Forest for access.

Mayor Bryan stated that the PADA still requires proof of water supply, among other requirements to proceed. Mayor Bryan asked Ms. Gitlin if there was any language the Sierra Club would support. She stated that she didn't have the authority to approve but the Sierra Club would support a development of the "right scale".

Vice Mayor Montoya stated that he has taken all comments and concerns into account and he believes that there are enough safeguards in the amendment for the Town and the community and he made a motion to approve the First Amendment with the changes outlined in the Town Attorney's summary and the 45 days in Section 8.(C)(iii) discussed earlier. Councilmember Sanderson seconded the motion.

Councilmember Fitzgerald stated that he voted against the PADA originally and still has concerns with the PADA and this amendment. He also stated that he participated in crafting this amendment to try to improve the town's position. He doesn't believe a town this size should set a precedent of permanently vesting zoning. He feels the Town's "hands are tied" with the restrictions on the property the town will own. He also said there weren't enough requirements concerning the water issue. This gives the developers too much control. There may be alternative options for the town to explore which could be closer to town and require less water. He believes there should be a time limit as Ms. Oberholtzer requested. Councilmember Fitzgerald doesn't think there is a reason to move forward with the amendment.

Mayor Bryan stated that his reason for wanting to incorporate the town was to develop affordable housing. Stilo is aware of his disappointment in the time it is taking to move forward. This amendment gets the town additional acreage; this development will take 30-50 years to get even half the development planned. Approvals are still required for anything in the future and there are other controls built into the agreement. He believes this document or any other document will not meet the approval of some entities opposing any development in Tusayan. He stated that he has looked into other alternatives that are not as advanced as this. He stated that this amendment bolsters the Town's position and is not a blanket approval for Stilo. He stated that he hopes that if approved, we can move forward in a positive manner and get the affordable housing that is so greatly needed.

Councilmember Fitzgerald stated that it was a glaring fault that other alternatives have not been brought before the Council.

Mayor Bryan read the recital of Resolution 2014-01. Mr. Sims stated that the motion should be to approve Resolution 2014-01, instead of approving the Amendment. Vice Mayor Montoya withdrew his motion and Councilmember Sanderson withdrew his second.

Vice Mayor Montoya made a motion to approve Resolution 2014-01. Councilmember Sanderson seconded the motion. The motion passed on a vote of 3 yeas, 1 no (Councilmember Fitzgerald), and 1 abstention. Councilmember Rueter abstained based on his employment at Camper Village. The Mayor directed staff to prepare the amendment, adding the 45 days, and to distribute it to the public.

**C. Review of first draft of a request for proposal for engineering, planning, and building services and consideration, discussion, and possible determination of method of selection(s)**

Manager Wright stated that based on the presentation on the building permit fee and inspection presentation earlier this evening and new information from NACOG he received today, that this be continued until the next draft is developed.

**9. DISCUSSION ITEMS**

**A. Council Retreat**

Not all of the Council are available for dates previously discussed for a retreat. The Council chose Friday February 21, 2014. Manager Wright stated he would contact the League to see if a presenter would be available and asked the Council for topics. The Council requested a review of accomplishments and actions from last year's retreat, budget discussions, a review of Robert's Rules, meeting decorum, and Home Rule. Mayor Bryan requested information on Home Rule prior to the next meeting.

**B. Future Meeting Dates**

Mayor Bryan requested changing the April meetings to the second and fourth Wednesdays of the month, 4/9/14 and 4/23/14. The Council agreed.

**10. TOWN MANAGER'S REPORT**

There were no questions from the Council on Manager Wright's report which was included in the agenda packet.

**11. FUTURE AGENDA ITEMS**

- February 5
  - Discussion of ordinance regarding feeding and approaching wildlife
  - This meeting may cancel if additional items are not scheduled
- Invite Mr. Simino to a future meeting

**12. COUNCIL MEMBERS' REPORTS**

None

**13. MAYOR'S REPORT**

- The Mayor just received notification that the 10<sup>th</sup> Annual Arizona Tourism Unity Dinner will be at Keirland Westin Resort and Spa on February 12, 2014 at 6pm. They will be recognizing the Grand Canyon as the major attraction for tourism to the state. Table sponsorship for 10 seats will cost \$1200 and the Mayor would like to invite Grand Canyon National Park Superintendent Uberuaga, the Shearers, the Vails, and the Town Manager. Councilmember Rueter supports idea and thinks the Council should be there and the new Grand Canyon Chamber and Visitors' Bureau President.
- There are CPWAC meetings on February 6<sup>th</sup> and 27<sup>th</sup>. The Grand Canyon has put a hold on their participation in the Water Feasibility Study. We sent a letter notifying them that the town will also be holding our contribution since our participation relies on the Grand Canyon.
- The effort to pass legislation to allow local entities to keep the Grand Canyon open (and other National Parks) during government shutdowns continues.
- Federal funding increases to the National Park Service were less than what was lost to Sequestration.
- There is a meeting tonight of GAMA (Greater Arizona Mayors' Association) with state legislators. The Governor is not supportive of a request to stop a \$199M raid on HURF funds to support the Department of Public Safety. For Tusayan that equates to about \$7,000 per year. For some communities, that means millions of dollars.

**14. MOTION TO ADJOURN**

Councilmember Rueter made a motion to adjourn the meeting at 9:16pm. Councilmember Sanderson seconded the motion and it passed on unanimous vote.

**ATTEST:**

**Melissa M. Drake, Town Clerk**

**Greg Bryan, Mayor**

**Date**

CERTIFICATION

State of Arizona        )  
                                  ) ss.  
Coconino County        )

I, Melissa M. Drake, do hereby certify that I am the Town Clerk of the Town of Tusayan, County of Coconino, State of Arizona, and that the above minutes are a true and correct summary of the meeting of the Council of the Town of Tusayan held on January 22, 2014. I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 29<sup>th</sup> day of January, 2014

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Town Clerk

ITEM NO. 7A

**RESOLUTION NUMBER 2014-02**

**A RESOLUTION OF SUPPORT FOR RESTORATION OF HURF DISTRIBUTION  
TO CITIES, TOWNS, COUNTIES AND STATE HIGHWAYS**

**WHEREAS**, the State of Arizona taxes motor fuels and collects a variety of fees and charges relating to the registration and operation of motor vehicles on the public highways of the state including gasoline and use-fuel taxes, motor-carrier taxes, vehicle-license taxes, motor vehicle registration fees and other miscellaneous fees; and

**WHEREAS**, these revenues are deposited in the Arizona Highway User Revenue Fund (HURF) for distribution to the cities, towns and counties and to the State Highway Fund; and

**WHEREAS**, these taxes represent a primary source of revenues available to the state and local governments for street and highway construction, improvements and other related expenses; and

**WHEREAS**, in the last ten years, more than \$200 million in city and town HURF funds have been transferred to the Department of Public Safety, including more than \$34 million in each of the last three years of money intended for municipal use and approximately \$6,936 from the Town of Tusayan; and

**WHEREAS**, the impact of this revenue loss is leading to the increased deterioration of our essential transportation infrastructure as well as a loss of construction-related jobs; and

**NOW, THEREFORE, BE IT RESOLVED** by the Tusayan Town Council, that in 2014 the Governor and State Legislature restore full funding of the HURF account to cities, towns, counties and the State Highway Fund according to the statutory distribution methodology for the intended purposes of road, street and highway construction, maintenance and preservation, and that all future HURF revenues be protected from diversions to other purposes.

**PASSED AND ADOPTED BY** the Town Council of the Town of Tusayan this 5<sup>th</sup> day of February, 2014.

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Greg Bryan, Mayor

ATTEST:

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Melissa M. Drake, Town Clerk

APPROVED AS TO FORM:

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Bill Sims, Town Attorney

# Legislative Proposal

## – 2-Year DPS/HURF Proposal – No Executive Recommendation

- Under permanent law, up to \$10 M of Highway User Revenue Fund can be used for DPS Highway Patrol expenses
- In 10 of the last 12 years, Legislature reduced DPS General Fund costs by using more than \$10 M of HURF
- The current Legislative proposal would entirely eliminate the HURF shift in '15 and '16 at a cost of \$238 M
- The proposal would increase local HURF by \$119 M over 2 years and increase statewide highway construction by a like amount

ITEM NO. 7B



# Northern Arizona Council of Governments

119 EAST ASPEN AVENUE • FLAGSTAFF, ARIZONA 86001-5222  
(928) 774-1895 • FAX (928) 773-1135 • E-MAIL: [nacog@nacog.org](mailto:nacog@nacog.org)

CHRIS FETZER  
EXECUTIVE DIRECTOR

January 23, 2014

Mayor Greg Bryan  
Town of Tusayan  
PO Box 709  
Tusayan, AZ 86023

Dear Mayor Bryan:

According to the NACOG By-laws, NACOG member governments are required to annually designate, in writing, their representative to the NACOG Regional Council. The member may also name an alternate who is an elected official to vote in case of absence of the official representative.

Since it has been several years since the last call for written designations and several changes have occurred, it is a good time to officially update our files. Please send me a letter, at your convenience, indicating the Town's official representative on the NACOG Regional Council. Remember that you may also designate an elected official alternate if you prefer to avoid proxies.

I have enclosed a calendar of this year's meeting dates, so that you will know when making your membership designation of the time commitment involved with Regional Council service.

Please feel free to contact me if you have any questions about NACOG or the Regional Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Fetzer", written over a white background.

Chris Fetzer  
Executive Director

Cc:

Will Wright



## Northern Arizona Council of Governments Regional Council Meetings

<u>Date</u>	<u>Location</u>
February 27, 2014	High Country Conference Center
April 24, 2014	High Country Conference Center
June 26, 2014	High Country Conference Center
August 28, 2014	High Country Conference Center
October 23, 2014	High Country Conference Center

Time:	Executive Committee	9:00AM - 10:00AM
	Regular Session	10:00AM - 12:00PM
	Lunch	12:00PM - 1:00PM

High Country Conference Center  
201 West Butler Ave.  
Flagstaff, Arizona  
(928) 523-7778  
Fax: (928) 523-7779

ITEM NO. 8A

**TOWN OF TUSAYAN, ARIZONA  
ORDINANCE 2014-XX**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF TUSAYAN,  
COCONINO COUNTY, ARIZONA, PROBITING APPROACHING AND/OR FEEDING  
WILDLIFE**

**WHEREAS**, Article XXXXX of the Tusayan Town Charter gives the Town Council the power to protect and safeguard the health and safety of its citizens and inhabitants; and

**WHEREAS**, the Arizona Game and Fish Department has encouraged local jurisdictions to adopt regulations to discourage humans from approaching and/or feeding wildlife, as doing so may cause animals to lose their natural fear of humans, thereby increasing the risk that humans may be injured by wildlife and their property damaged; and

**WHEREAS**, the Grand Canyon National Park regularly contacts visitors that are approaching and/or feeding wildlife and that a prohibition on the approaching and/or feeding of wildlife will aid in a consistent message to all visitors of the Grand Canyon National Park and the Town of Tusayan; and

**WHEREAS**, feeding wildlife may attract numbers of animals which may result in damage to property and irritation to property owners; and

**WHEREAS**, feeding wildlife food that is not part of their natural diet may cause the wildlife to become sick or starve when the unnatural food source on which they depend is not consistently provided; and

**WHEREAS**, uneaten food may attract rodents, insects and other pests, thereby increasing the potential for transmittal of disease to other animals, domesticated animals, and humans; and

**WHEREAS**, the Town Council recognizes that many citizens of Tusayan live in the community because of the opportunity to see wildlife; and

**WHEREAS**, the Town Council recognizes that many visitors of Tusayan come to the community because of the opportunity to see wildlife; and

**WHEREAS**, the Town Council believes that a prohibition on the approaching and/or feeding of wildlife will not interfere with the ability of residents and visitors to enjoy wildlife at a safe distance and will protect the health of the wildlife.

**NOW, THEREFORE, BE IT ORDAINED BY THE Mayor and Council of the Town of Tusayan, Arizona, as follows:**

**SECTION 1. APPROACHING, FEEDING AND PROTECTION OF WILDLIFE**

**A. Definitions. In this Section unless the Context otherwise requires:**

1. "Approach" means willfully remaining near or approaching wildlife, within ANY distance that disturbs or displaces such wildlife and within the following distances regardless of the animals behavior:
  - a. One hundred (100) yards of bears; or
  - b. Twenty five (25) yards of other wildlife is prohibited.
2. "Feeding" or "to feed" means placing edible material in a location where it can be consumed by wildlife.
3. "Attracting" or "to attract" means placing edible material in a location likely to entice wildlife to the source of the edible material.
4. "Edible material" means any human or animal food, food by-product, salt organic material, refuse, garbage or water.
5. "Wildlife" means all wild mammals and/or wild birds.
6. "Public employees" means any federal, state, county or city employees.

**B. Approaching, feeding or attracting wildlife prohibited**

**Option (1)**

It is unlawful for any person to intentionally, knowingly or recklessly approach and/or feed wildlife or to attract wildlife.

**Option (2)**

It is unlawful for any person to intentionally or knowingly approach and/or feed wildlife or to attract wildlife.

**Option (3)**

It is unlawful for any person to knowingly approach and/or feed wildlife or to attract wildlife.

**C. Applicability**

This section applies to all areas within the Tusayan Town limits.

**D. Exceptions**

This section does not apply to:

1. Public employees, or their authorized agents, acting pursuant to A.R.S. Title 17 or Game and Fish Commission rule or order or acting, within the scope of their authority for public safety or wildlife management purposes.
2. Edible material located in a residence, closed vehicle, fully enclosed storage structure, or in a closed trash container.
3. A person feeding their own horses or domestic animals.
4. Seeds, nectar, and other material for birds or tree squirrels placed specifically for attracting wild birds and/or tree squirrels in a closed top container placed at least four (4) feet above the ground.
5. Growing plants or parts of growing plants, including gardens and fruit bearing trees or plants and the parts of those plants that may have fallen to the ground from those plants.
6. Compost piles that are fully contained and made inaccessible to wildlife.

#### **E. Limitations to Exceptions**

The exceptions do not apply to any person who knows or has reason to know that an activity is attracting wildlife other than birds or tree squirrels. To avoid a violation, a person shall modify placement of any edible material, immediately cease the activity, or take such actions as the situation may require.

#### **F. Enforcement**

An Arizona Game and Fish officer, animal control officer or any state certified peace officer may issue a written warning or citation for the violation of this section.

#### **G. Separate Offenses**

Each violation pursuant to this section shall constitute a separate offense and each day a violation remains unabated may constitute a separate offense.

#### **H. Penalties**

1. Upon a first violation of this section, an officer may issue a written warning or citation and provide the person with wildlife educational materials. If cited, the first violation is a petty offense punishable by a fine not to exceed seventy five dollars (\$75.00)

- 2. If there is a second violation of this section where the person has previously been convicted for violating this section, the new violation is a petty offense punishable by a fine not to exceed one hundred and fifty dollars (\$150.00).
- 3. If there is a third violation of this section where the person has previously been convicted of violating this section, the new violation is a petty offense punishable by a fine not less than one hundred and fifty dollars (\$150.00) and not more than three hundred dollars (\$300.00).
- 4. If there is a fourth violation of this section where the person has previously been convicted three or more times of violating this section, it is a class three misdemeanor punishable by a fine of not more than seven hundred and fifty dollars (\$750.00) and thirty (30) days in jail and up to one year of probation.

**SECTION 2. SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent decision, such decision shall not affect the validity of the remaining portions thereof.

**SECTION 3. CLERICAL CORRECTIONS**

The Town Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary, related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form or consistency within thirty (30) days following adoption by the Town Council.

**SECTION 4. EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days following adoption by the Town Council.

**PASSED, ADOPTED, AND APPROVED** by the Mayor and Council of the Town of Tusayan, Coconino County, Arizona this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

APPROVED:

\_\_\_\_\_  
Greg Bryan, Mayor

Date: \_\_\_\_\_

ATTESTED:

Approved as to form:

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Melissa M. Drake, Town Clerk

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William J. Sims III, Town Attorney

DRAFT

ITEM NO. 8B

## Distracted Driving Ordinance Implementation

January 27, 2014

- The Coconino County Attorney's office has reviewed the state statute to determine the applicability of the proposed Distracted Driving ordinance within the corporate boundaries of the various municipalities within the county.
- The Coconino County Attorney's office is relying on A.R.S. §11-251.05(D), the language that provides the authority to for counties to enact ordinances. A.R.S. §11-251.05(D) states:

"An ordinance adopted under this section may apply to the unincorporated and incorporated areas in the county if the ordinance is not in conflict with an existing city or town ordinance or state law or otherwise regulated by the state. If the ordinance is intended to apply to any incorporated area of the county, prior to the ordinance becoming effective within the boundaries of a city or town, the city or town council shall consider the ordinance and, if the council finds that the subject matter of the ordinance is not either a matter of local concern or governed by an existing city or town ordinance, the council shall approve by resolution the application or enforcement of such ordinance within the boundaries of the city or town. Upon thirty days' notice to the county, a city or town council may rescind such approval by resolution if the subject matter of the ordinance is governed or to be governed by a city or town ordinance. An ordinance may apply to the unincorporated areas of the county, to part or parts of such areas or to a combination of incorporated and unincorporated areas of the county, to part or parts of such areas or to a combination of incorporated and unincorporated areas of the county, as the board deems appropriate and subject to the approval of a city or town as specified in this subsection."

- After the County adopts an ordinance it does not go into effect until 30 days after the date it is adopted (due to the possibility of a referendum.) The statute does not provide a timetable for cities to consider the ordinance. At some point in time after the ordinance goes into effect, each municipality in the county (outside of reservation communities) should consider the ordinance.
- If a town or city council finds that it is not a matter of local concern or governed by an existing ordinance, the municipality must pass a resolution authorizing the enforcement of the ordinance within the corporate boundaries of the municipality. Since the county ordinance is presumably in effect (no referendum has been filed), the municipality would enforce the ordinance upon the passage of the resolution. The city may also enact its own ordinance.
- A municipality can also authorize the enforcement or application of the county ordinance and subsequently, after providing 30 days' notice, rescind the approval and either adopt or indicate it will adopt its own ordinance. If the municipality adopts its own ordinance the provisions of that ordinance will apply within the city (providing the city is authorized to regulate the activity and the regulation is not preempted by the state).

## *Distracted Driving*

### Magnitude of Problem

- Each year in the United States, more than 3,300 people are killed and more than 380,000 people are injured in crashes as a result of distracted driving.
- Distracted driving is driving while doing another activity that takes your attention away from driving. There are three main types of distraction:
  - Visual: taking your eyes off the road
  - Manual: taking your hands off the wheel
  - Cognitive: taking your mind off of driving
- Distracted driving activities include, but are not limited to:
  - Cell phone use
  - Texting
  - Using in-vehicle technologies (such as navigation systems)
  - Grooming
  - Reading
  - Adjusting a radio, CD player or MP3 player
  - Eating and drinking
  - Talking to passengers
  - Smoking
- More than 213 million adults in the United States use cell phones. Of the adults that own cell phones, 75% report they have talked on a cell phone while driving.
- At any given time, 11% of drivers on the road are using hand held cell phones and are as impaired as drivers with a blood alcohol level of .08 percent (presumptive intoxication).
  - Drivers talking on handheld or hands-free cell phones are 4 times more likely to be involved in a car crash.
  - Drivers on handheld or hands-free cell phones have a 6 times greater risk of a crash when dialing a phone.
  - Texting drivers have a 23 times greater risk of a crash.

### Myths

- Myth #1 – Drivers can multi-task.
  - Reality: The human brain is not designed to multitask. Concentration, reaction time and efficiency of completing tasks are affected when a person tries to multi-task.
- Myth #2 – Talking to someone on a cell phone is no different than talking to someone in the car.
  - Reality: Drivers distracted by cell phones are more oblivious to changing traffic conditions. Adult passengers tend to adjust their talking when traffic is challenging. People on the other end of the driver's cell phone cannot do that.

### State Response to this Public Safety and Health Issue

- 47 states have a ban on distracted driving
- 41 states have a specific ban on texting
- Many towns, cities and communities have successfully adopted distracted driving bans.

### Do Bans Work?

- States with “strong” bans (i.e., those which universally outlawed texting/primary violation) experienced an 8% reduction in fatal single-occupancy, single-vehicle accidents.

States with “weak” bans (i.e., texting illegal for certain subsets of the population – novice drivers, young adults) showed no significant improvement in the single-occupancy, single-vehicle accident fatality rate.

**Arizona’s Response**

- Currently, only bus drivers are banned from using cell phones.
- Since 2007, 24-related bills have been introduced in the Arizona House and Senate.
  - None of these bills have become law.
- Navajo Nation: Effective May 4, 2009, bans hand-held devices and texting while driving. Permits use of hands-free devices only.
- The cities of Phoenix (2007) and Tucson (2012) have enacted texting while driving prohibitions.
- 92% of Arizona AAA members support a statewide ban on mobile device use.

**Coconino County’s Draft Ordinance:** “Ban of Portable Communication Devices and Texting While Operating a Motor Vehicle”

- Applies to all drivers in incorporated and unincorporated areas of Coconino, excluding drivers on sovereign tribal nations
- Illegal Motor Vehicle Driver Activities include:
  - Using a handheld portable communications device
  - Composing, sending, reading, accessing, browsing, transmitting, saving, or retrieving electronic data such as email, text messages, or webpages
  - Viewing, taking or transmitting images, including video
  - Playing games
- Exemptions:
  - When the driver uses a hands-free mobile device
  - When the purpose of the call is to communicate an emergency to police or fire department, a hospital or physician’s office, or ambulance
  - Law enforcement or emergency personnel in the performance of official duties
  - Amateur radio operators when operating an amateur radio under the direction of authorized first responders in the event of an emergency.
  - When a person is driving a motor vehicle on private property
- \$100 Fine; \$250 if driver’s actions result in a motor vehicle crash
- Six Month Warning/Educational period

**Community Discussion**

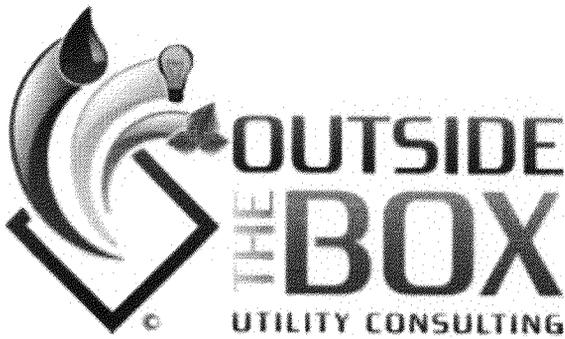
- CCPHSD staff presented a draft Ordinance to its District Health Advisory Board, County Attorney, Board of Supervisors, and representatives from law enforcement.
- CCPHSD has listened to the concerns and have made revisions accordingly – expanded exemptions to include amateur radio operators, allowed drivers to use hands-free devices, and clarified fines.

**Call to Action**

Distracted driving is dangerous and the data clearly indicates distracted driving is a primary factor in vehicular fatalities and injuries. At the current rate, without intervention, the World Health Organization (WHO) projects that by 2030 crash fatalities will become the 5<sup>th</sup> leading cause of death, surpassing HIV/AIDS, cancer, violence and diabetes.

Coconino County and incorporated areas within the County have an opportunity to be leaders within the state of Arizona. Enacting a Distracted Driving ordinance will help to protect the health and safety of all Coconino residents and visitors.

ITEM NO. 8C



**Outside the Box Utility Consulting, LLC**  
**3240 E. Union Hills Dr. Suite 121**  
**Phoenix, Arizona 85050**  
**Phone: 602.568.2209**  
**Fax: 602.296.4871**  
**E-mail: cliff@ostbuc.com**  
**Website: www.outsidetheboxutilityconsulting.com**

January 29, 2014

Mr. Will Wright, Town Manager  
Town of Tusayan  
PO Box 709  
Tusayan, Arizona 86023  
928.638.9909

RE: Post-2017 Hoover Allocation

Good Afternoon Will,

On December 31, 2013 the U.S. Bureau of Reclamation (BOR) published marketing criteria and is calling for applications from all interested parties regarding the allocation of the Post-2017 Resource Pool of Hoover hydroelectric power.

For your information, BOR has been analyzing what it would use as determining factors in the allocation of this resource and has been conducting public meetings regarding this process. As the marketing criteria has been published and I have reviewed the criteria in relation to whether the BOR would allow an application from your municipality, I would like the opportunity to discuss how I can be of assistance in completing the required formal application and associated tasks in order for you to be considered as an eligible applicant.

The formal application calls for specific, required information. I have the experience, education and understanding that can assure you that the formal application is substantiated, completed and submitted as mandated before the predetermined deadline of March 31, 2014.

Within the criteria, each entity is limited to a maximum of 3,000 kW or 3 Megawatts of contingent capacity and associated firm energy. The entity is required to be "Ready, Willing and Able" to take delivery of the resource. You currently meet this criteria, and we have to meet this option for this as well.

Additionally, BOR will base allocations to eligible applicants on actual loads experienced in one of the last three calendar years. This criteria can be determined by creating the necessary documentation, based on available data you currently have.

I believe you have an opportunity to secure a lower cost power supply to meet a portion of your electrical requirements. This opportunity does not come around very often; in fact this allocation is for a 50 year contract. No one knows when the next Federal resource will become available to then current non-recipients of Federal power.

I will call your office on Monday to speak with you if I have not heard from you either by response to this email or by phone call.

Thank you for taking the time to read this important information regarding a once in a lifetime opportunity to a Federal Hydroelectric power allocation.

Regards,  
|s|  
Cliff Cauthen

ITEM NO. 9

Manager's Report  
February 5, 2014

- I. ADMINISTRATION:
  - a) I have talked with the Local Government Investment Pool (LGIP), which the Chase Bank representative indicated appears to be the best investment strategy for the town.
  - b) I contacted Coconino County regarding possibility of working with them for Building Services in Tusayan.
  - c) Staff is awaiting input from Pat Walker and Tami to complete the RFQ and RFP for building services, planning and engineering services for the town.
- II. ADOT – I haven't received an answer to my email with ADOT representative regarding permits and/or assistance for replacing the pole by the south roundabout that held several service agency banners, extending the sidewalk on the southeast corner to FS Road 302, what options are available for improving the safety for the crosswalks in town, and to obtain the necessary permitting to add the Gateway Community sign to an existing sign. I did complete and resend Encroachment Permits for the pole and placement of the Gateway Community sign, but haven't received any response yet from ADOT. ADOT did fix the curbing by the Seven Mile Lodge access road.
- III. AIRS – Mark Venuti, who works for Guardian and sits on the AIRS board, made a presentation at the October 2nd Council meeting on the AIRS program. He gave good information and direction for the town to join this program, but it will cost approximately \$35,000 and I plan to follow up with representatives soon on this matter.
- IV. BROADBAND – ADOT received a letter from GOVnet (see attached) about putting in a new tower and bringing increased broadband into the area. We'll follow up with them. Still working to get with Bolin, contractor for IT for Coconino County and Jim Simms, another IT business owner familiar with Coconino County and Tusayan. Still working to get with the Mayor and/or Councilmember Rueter to for a discussion on what is needed to proceed with improvements to our system.
- V. BUDGET – received info from the League that we'll use to begin putting FY14-15 budget numbers together for Council consideration.
- VI. CDBG – Staff met with NACOG representative and completed various forms for the ERR (environmental review report) which is required before we get final approval for this project. ADOH sent an email that the ERR completed by NACOG is almost complete, which will mean the town will receive notification of approval to move forward.
- VII. COMMUNITY PARK – A crew from the Coconino Jail has come out a couple of times to continue clearing and grubbing of small brush and to do some rock work and apparently will continue this practice with the most recent help coming on 1/14/14. L.P.'s Excavating has been bringing in dirt from the Grand Hotel project. The Park Committee met and will present info to the Council at the February 5<sup>th</sup> meeting. In addition, I need to follow up with Art Babbott regarding the County Parks and Open Space (CPOS) program to express Tusayan's interest in participating in this program.

VIII. COUNCIL FOLLOWUP:

- a) Fire District interviewed for the Administrative position which should conclude soon;
- b) Coconino County Health Dept. submitted data on animal control that I emailed to Council and will follow up with them about costs for these services; and
- c) I understood the Council decided February 21st (Friday) for a retreat, which staff has been in preliminary discussion with League staff regarding topics of interest.

IX. DEVELOPMENT/P&Z MEETING – On January 14, 2014 the P&Z Commission approved the Camper Village Interim Housing Development site plan with design review and forwarded on to the Council for their action at their January 22, 2014 meeting. However, the draft of the General Plan did not fare as well and the Technical Review Committee will meet on February 4<sup>th</sup> with the draft going again to the Commission on February 25<sup>th</sup>. The DR for a small addition to the Big E Steakhouse was approved by the Commission. Lawrence Tomasello is the new planner from Willdan. His email is [lawrence\\_tomasello@yahoo.com](mailto:lawrence_tomasello@yahoo.com) and his number is (520) 826-9352. I know he's worked as a planner in California and in Arizona, but don't have the specifics to share as yet. He is helping with amending the draft General Plan.

X. DRAINAGE – J2 Engineering is continuing to work on phase 2 of the drainage study which will be under the \$40,000 cap for estimated costs for this study. I'm trying another way to obtain aerial maps of this area from ADOT that could assist J2's drainage study of Tusayan. These maps would also be useful to the town on other projects.

XI. MUNICIPAL CODE – Working through a process of putting municipal code information together for the Council to review according to schedule shown on future meetings. Staff recently provided an overview of the codes that had been approved by the Council and a schedule of the remaining codes to be considered by the Council. Staff is working to put approved codes in a binder for Council to have as we move forward. The Council approved the Building Codes at their last meeting in January 2014.

XII. PUBLIC OUTREACH – Chief Robbie Evans will present the Tusayan Community Wildfire Protection Plan (TCWPP) to the Council on February 5, 2014. Tami Ryall and Pat Walker made a presentation on January 22, 2014 regarding their work on the town's building services program and will follow up with a final report that incorporates Town recommendations from the 22<sup>nd</sup> meeting. James Simino is the new Forest Service District Ranger for the Tusayan District, which we plan to invite to a future Council meeting.

XIII. SIGNS – town hall signs were installed and still trying to find a way to add the address at a reasonable cost. Also, will need signage for park with new rules which the Council approved at their December 4, 2013 Council meeting. I did find out that the Park Service also creates signs and that we may be able to utilize their service for future signage.

XIV. STILO – The amendment to the Pre-Annexation Development Agreement (PADA) with Stilo was passed by the Council in their January 22, 2014 meeting. The Town is now awaiting Stilo to sign it which they have 45 days or until early March to accomplish that.