

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 25th.

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 10th 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 6th and 27th. 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
Melissa M. Drake, Town Clerk

Greg Bryan, Mayor

2/15/14
Date

