

TUSAYAN TOWN COUNCIL MEETING

October 27, 2010, 10:00 a.m.
Best Western Squire Inn, Zuni Conference Room
74 State Route 64, Tusayan Arizona

MINUTES

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Shearer called meeting to order at 10:00 a.m. and the Pledge of Allegiance was stated.

2. ROLL CALL

Council Members present: Mayor Pete Shearer, Vice Mayor Greg Bryan, Council Members: Al Montoya, Ann Wren and Clarinda Vail were present. Also present was Legal Counsel, Cameron Williams.

3. CALL TO THE PUBLIC

Mayor Shearer asked the public if anyone would like to address the Council on any matter not on the agenda.

Teresa Weigel, 400 RP Drive, Apt. 2, Tusayan AZ, thanked the board members and I believe that this is the last time that Mayor Pete and Council Members Wren and Vail will be on the Council. She expressed that they did a good job and appreciated them stepping up to the plate.

John Dillon, S.R. 64, Building 469, Tusayan AZ, would like to thank the appointed Council for the hard work that they have done and all of those, including Teresa, for participating in this progress. Have attended most Council meetings and it has been a lot of hard work, with difficulty and challenges that faced the Board. This is historic, and he believes everyone agrees, and it has many consequences good and bad. Secondly, he would beseech you and request humbly that the Council not make decisions today regarding the appointment of the P&Z Commission and other items. Please leave these decisions to the elected incoming Council Members.

4. APPROVAL OF PREVIOUS MINUTES

The minutes from the meeting of October 13, 2010 need to be approved. Vice-Mayor Bryan informed Council that he had received the rough draft October 13 minutes and he will review them and get them back to the Clerk. The Clerk will have those minutes to all Council Members to review by the end of the day for their comments.

5. ADMINISTRATIVE/TREASURER'S REPORT

a. Finance Report

Vice-Mayor Bryan had given to each Council Member copies of the check register (see Attachment "A"). The outstanding bills that were requested to be paid at the last meeting were paid and the only other item that was requested was the opportunity to set up phone lines for the interim town manager.

b. Discussion and possible action regarding Payment of Bills

Vice Mayor Bryan stated that he has no recommendations as treasurer regarding payment of bills.

Council Member Wren suggested paying any outstanding bills that this Council has encumbered, that bills be paid in full with this Council going out of office. If there are no corrections and no mistakes found from Clark Hills bill that it be paid in full.

Mayor Shearer seconded Council Member Wren's motion to pay Clark Hill in full.

Vice Mayor Bryan stated that at the last council meeting it was agreed upon by Council that the bills would be reviewed by the Town Manager for accuracy and be verified. He cannot support or recommend paying the bills without a review being done.

Council Member Wren restated her motion, adding that barring any corrections after bills are reviewed, the next Council should not be encumbered by the current Councils bills. Bills should be paid in full after the corrections are made.

Vice-Mayor Bryan asked if Council Member Wren's motion is intended to say that once the review of the billing has been made, that it be paid off. Council Member Wren agreed.

Council Member Vail asked to clarify the motion again so she understands it completely.

Council Member Wren restated her motion that Clark Hill be paid in full in a reasonable time after any corrections are done to the exiting final bill of about \$71,200.

Legal Counsel asked that it be decided by the Council whether those Town Site Act charges are appropriate or not. It would be difficult for the incoming Council or the interim town manager to decide what the intent of the previous Council was regarding the issue other than from written records. Perhaps the Council may consider deciding today whether those charges were legitimate or not.

Legal Counsel clarified the Policy 1.1 to Council and informed them that under the position under Policy 1.1, the Firm is authorized to act in direction from the Mayors instructions. The Council could ratify those actions at this point.

Motion still on the floor for Clark Hill to be paid in full in a reasonable amount of time after review.

Council Member Vail seconded the motion. Motion carried with a 3 to 2 vote.

Council Member Vail moved to pay cost related to the Town Site Act. Council Member Wren seconded the motion. Motion carried with a 3 to 2 vote.

Council Comments: Fiscally irresponsible not to review the bills in detail by a professional; lawsuit situation changed the amount of Attorney fees incurred; Town Site Act charges; no authorization of fees incurred; Town Site Act is important and any work that has been done will be valuable.

6. Discussion and possible action – PRESENTATION BY KEVIN HARTIGAN ON TUSAYAN LED STREET LIGHTING, APS REPRESENTATIVE

Local APS representative, Kevin Hartigan, gave a presentation on three rate options on LED luminaries for the proposed street light upgrade. Kevin passed out information regarding all three options the Council could choose that would best fit the Towns need, explanation of add-ons, and quotes from street light manufactures (see Attachment "B").

Kevin explained what the accessories included, gave a brief description of all three rate options, and explained what the cost of \$91,000 +/- covered.

To help this move forward Mayor Shearer asked Kevin if he could work with the new Town Council and ADOT to find the answer regarding the monies in the Lighting District so that the Town could proceed.

Council Member's comments: Responsibility for the ADOT round-about lights; Lighting District monies available;

Council Members thanked Mr. Hartigan for all his hard work.

7. Discussion and possible action – PRESENTATION BY ANGELA PARKER, TUSAYAN DISTRICT RANGER

Angela Parker, Tusayan District Ranger wanted to thank the Council along with Mayor Pete Shearer, Council woman Clarinda and Vice-Mayor Greg. She said it was good to see the Council working together in the interest of Tusayan. She said she has enjoyed working in Tusayan as the District Ranger. She introduced Margaret Kanga who was assisting her today.

Angela gave a presentation on the Greenway Trailhead System with The Forest Service and the Park Service are working together on the project.

Questions from the public ranged from parking, ADOT round-about, the potential for a community park, pedestrian and equestrian trail usage.

Another topic presented was the Travel Management Environmental Assessment document in regards to vehicle off road use. Angela briefly explained the no motorized big game retrieval alternatives.

Angela informed the Council that Margaret Kanga would take over as Tusayan District Ranger until the position is filled.

Angela read the Town Site Act and what it entails. A copy of the Act can be provided by the Forest Service.

The Council thanked Angela and Margaret for their presentations.

8. Discussion and possible action – SELECTION AND APPOINTMENT OF THE TUSAYAN PLANNING & ZONING COMMISSION

Mayor Shearer stated that the Planning & Zoning Commission Ordinance was passed in September and feels it is time for each Council Member to appoint a person and put another name into the hat and draw two more people for the Commission.

Discussion ensued between Council Members regarding the need for an application process for the appointed P&Z Commission.

Council Member Wren voiced that she has worked very hard as part of the Council. She said it has been an uphill battle from day one and she has seen the Town in a direction she never thought it could be; Tusayan being this divided. Anything that is done now will further divide the town. Everyone can see the writing on the wall; where this is going and doesn't like it and doesn't like the part of that process. She would hope that any future Council would have the clarity and good heart to keep Tusayan as the forefront and keep personal agendas out of it. She is not ready to go forward with this issue. She doesn't want her final meeting to end in a battle. Council Member Wren then excused herself as she had a prior commitment. Mayor Shearer thanked Council Member Wren for her dedication and hard work.

Legal Counsel informed the Town Council that according to Section 3 of the adopted ordinance, each of the four Council Members have the ability to appoint one person to the P&Z Commission. If any Council Member fails to appoint then those P&Z Commissions seats remain open. In addition, the Town Council as a whole will select by lot two individuals and so if there is a majority of the Town Council present, they can draw the two names out of the hat. With Council Member Wren's position, her selection would go unfilled on that committee. Legal Counsel stated that if Council Members wish to appoint somebody to fill that vacant spot, they can make that appointment to the Commission. Council Members can also offer their nomination into the hat that requires a majority of the Council to choose to select those two names out of the hat. Each Council Member is empowered to appoint one person regardless of the majority of the Council.

John Thurston, 291 RP Drive, Tusayan AZ, would like to put his resignation in from the Housing Advisory Committee. Appreciated working on the committee, however it's been a struggle.

Council Member Vail is ready to submit her name for appointment and if it wants to be removed in the future, she feels the next Council should show just cause as to why; as she feels her person is a very qualified applicant. Mayor Shearer would follow in the same venue and is ready to appoint one and throw one in the hat. He further stated that if the future Council decides to do something different with this P&Z Commission this can all be reversed.

Vice-Mayor Bryan and Council Member Montoya spoke in favor of an application process for the Planning & Zoning Commission.

At this time Council Member Vail appointed Robbie Evans and Mayor Shearer appointed John Vail to the P&Z Commission. Vice-Mayor Bryan stated that he has no appointment at this time, and Council Member Montoya is not ready to appoint anybody and would like to see some applications.

The Town Clerk will get the OML information as well as the Loyalty Oath to the two names appointed to the P&Z Commission.

Council comments: Absolute need for an application process; balance of power; representation of the elected voters; the Courts and the Town Council acting as the P&Z Commission; urgency of the appointment; voter fraud; "split" sides; negative past videos and publicity. The majority of the public in attendance voiced very strongly about appointing the P&Z Commission without an application process.

Public comments: Absolute need of an application process for the P&Z Commission.

9. Discussion and possible action – TENDERING FUNDS TO GRAND CANYON UNIFIED SCHOOL DISTRICT #4

Sharyl Allen, Grand Canyon School Superintendent, spoke to the Council and the public regarding a concept that came from community members of Tusayan regarding a potential option for some joint use that would benefit the students from the school district who live in Tusayan and at the same time be able to meet some of the needs that exist with the families that live in the Tusayan area in the relation area of recreation.

To move forward with the school site construction and development they are ready to begin civil engineering and then will need additional funding and support from the community and County. The School District has \$54,000 supporting resources available and targeted specifically toward the Tusayan school district site.

Sharyl informed the Council and public that today at the direction of the governing board she is giving information and an update of where the School district is in this process. She sees the big challenge as the ongoing maintenance.

Vice-Mayor Bryan stated that there were three Council Members present at the special school board and it had not been posted, but as a Council Member he did not participate in any discussion on any of the items beforehand.

Vice-Mayor Bryan asked Sharyl to keep the Council updated with the progress of the project.

Council Members thanked Sharyl for her presentation.

Council Member comments: Suggested the School Board possibly seek funding \$25,000 at a time. IGA between the school and Tusayan as a partnership;

Public comments: Hold fundraisers; get volunteers to help with construction and development on the school site.

10. Discussion and possible action – TOWN ETHICS CODE

Vice-Mayor Bryan commented about concern being expressed about potential violations resulting from emails sent out by Vice-Mayor Bryan and Council Member Montoya regarding the code of ethics and conflicts of interest proposal. He stated that the information was shared by email with no intent to escape or avoid Open Meeting Laws in any way. To his knowledge nothing was any different then what was already expressed in public and in prior Council meetings.

Council Member Vail asked for Section 4-A in the Town Ethics Code be changed to read majority (see Attachment "2"). B

Legal Counsel informed the Town Council that State Statute provides in the conflicts of interest provision that if there are sufficient conflicts of interest, then a public body cannot act. State law will not allow that public body just to freeze. At that point, the Statute directs each Council Member before the beginning of the discussion to disclose all potential conflicts of interest they have and move forward.

Council Member Vail moved to approve Ordinance 2010.10.27.01 with the change to Section 4-A to read "not any 2 members but at no time shall a majority". Mayor Shearer seconded the motion to bring it to a vote. Motion tied with a 2 to 2 vote, thus meaning the motion failed.

Council Comments: Open Meeting Law; Town Ethics Code has wide sweeping impacts; conflicts of interest is a huge part of ethics; liability issues to the Firm, individuals, or Council Members; Legal Counsel confer with anyone regarding the Ordinance; some parts needs revised; conflicts are an ongoing concern; getting main frame for emails;

Public Comments: This ethics code is not right or ethical; support an ethics code; companies possibly being affected; respect of community residents.

Mayor Shearer requested a 5-minute recess.

Regular Council meeting returned at 12:45 p.m.

11. Discussion and possible action – POSTING FOR A TOWN ATTORNEY

Vice-Mayor Bryan with the current Council's permission will post for applications for a town attorney. Vice-Mayor Bryan moved to authorize the Vice-Mayor to post for position of town attorney. Council Member Montoya seconded. Motion failed with a 2 to 2 vote.

Vice-Mayor Bryan asked Legal Counsel that if after this meeting, is the Firm finished with Tusayan since the current bill from Clark Hill is marked final? Legal Counsel stated that he is not resigning and he believes the Town Attorney, Russ Kolsrud, is willing to continue work in case the Council wanted to pay all bills and start clean going forward with the new Council.

12. Discussion and possible action – CURRENT P&Z ISSUES/CUP ZONING EXTENSION REQUEST

The Grand Canyon Sanitary District requested a one month extension for their Conditional Use Permit and the County has requested the Town Council take action to allow them to post and publish so it can be heard before November 30th of this year (see Attachment "D").

Mayor Shearer moved that the Council authorize the County Community Development to post and publish so they can bring the Conditional Use Permit from the Grand Canyon Sanitary District back to the Town Council for action before the end of November. Council Member Vail seconded the motion. Motion carried unanimously.

Council comments: Town Council should not deal with zoning and CUP's and so forth of applications; letter dated October 8; Community Development should take care of their roll of staff as stated in the IGA with them.

13. Discussion and possible action – HIRING OF INTERIM TOWN MANAGER

Vice-Mayor Bryan sent an email to all Council Members with a copy of the Proposal submitted by Interim Public Management (IPM) (see Attachment "E") Only change to that proposal was the 33% reimbursable expenses down to 15% and contract agreement would begin November 1, 2010. Vice-Mayor Bryan's recollection is that he and Council Member Montoya were authorized to meet with IPM, negotiate, and do a contract. Asking again, for permission from Council to have the contract signed.

Vice-Mayor Bryan read the rough draft minutes from the meeting held 10/13. Minutes reflected that there was clear authority for him to enter into an agreement with IPM with a motion seconded by Council Member Wren, and all Council Members agreeing unanimously according to the minutes from the meeting held on 10/13/10.

Council Member's comments: urgency of a town manager; have a fully functioning town; application process to apply; posting of position.

14. Discussion and possible action – IGA WITH COCONINO COUNTY

Legal Counsel stated the IGA with Coconino County was passed, accepted and signed by the County Board of Supervisors and copies will be mailed to the Council. The IGA for law enforcement was accepted by the Board also. The IGA for Planning & Zoning services ends December 1, 2010.

Mayor Shearer requested Vice-Mayor Bryan contact Bill Towler or Sue Pratt of Coconino County regarding the packet that included the Proposal for Services.

Council comments: no packet received from the County P&Z, Bill Towler.

15. Discussion and possible action – ADOT AGREEMENT FOR MAINTENANCE ON BUS SHELTERS

Legal Counsel informed the Council that they are still working with ADOT based on responsibilities of the bus shelters insurance coverage. Vice-Mayor Bryan sent out an email that the Town insurance cannot cover the shelters if they are not Town owned property.

16. Discussion and possible action – ADOT AGREEMENT FOR ROAD MAINTENANCE

Legal Counsel informed the Council that they are still working with ADOT on the agreements. Mayor Shearer informed the Council that ADOT is working with the Grand Canyon Sanitary District on installation of meters for the landscaping along the highway within the ADOT right of way. ADOT will be inquiring, in the future, of the Council who will be responsible for the landscape maintenance and water usage.

17. Discussion and possible action – TOWN HALL OPTIONS

Mayor Bryan informed the Council that there is an immediate town manager office location at the airport for a short time, at a rate of around \$150 a month. Papillon also has an open office that can be utilized at the same rate per month. Difference is longevity. The Papillon office is already set up with internet access, phone, and fax lines just need to be activated. The Papillon office would be ready to move into by next week.

Continue to look into long term locations of the Airport, an undisclosed location in town, and the 2 acre parcel on the Best Western property.

18. Discussion and possible action – OPEN MEETING LAW (OML)

Mayor Shearers wanted to remind the new council that emails are to be kept within the parameters of the OML.

Council Member Vail stated that something needs to be established where there is a database that emails can't be deleted.

Clayann Cook suggested that an exchange server on each persons desktop might be a solution.

Mayor Shearer said that with the Interim Town Manager on board, all communication should go through the Manager.

19. Discussion and possible action – SET NEW TOWN COUNCIL MEETING POSTING LOCATIONS

Council Member Vail asked Legal Counsel if there is no one that the agenda cannot be distributed to? Legal Counsel stated that agendas can be distributed to the public and anyone that asks for it.

Vice Mayor Bryan moved that the posting location be the Tusayan General Store and Best Western Squire Inn, as well as the Leagues site.

Vice-Mayor Bryan suggested possibly in the future charge an annual rate for anyone that wants copies of agendas.

Vice-Mayor Bryan withdrew his motion as stated earlier.

Vice-Mayor Bryan moved that the posting locations be the Tusayan General Store and the League's website. Mayor Shearer seconded the motion. All Council Members agreed unanimously.

As Statute requires some postings need to be posted at three physical locations, the Town will continue to post at the Tusayan General Store, Best Western Squire Inn, Red Feather Lodge, and the Leagues site.

Election Financial Statement needs to be kept posted through Election Day, November 2, 2010.

Public comments: Chamber website is available for posting.

20. HOUSING ASSESSMENT STUDY REQUEST FOR PROPOSAL (RFP)

No Housing Study RFP to report.

21. INSURANCE ON PROPERTY COVERAGE

Greg stated that the Risk Pool informed him that the Town Council cannot insure property we don't own. Town does have liability coverage that protects the Town from if someone getting hurt. ADOT will have to address this issue. *Attachment "C"*

- **Prior Minutes Approval**

Minutes from the October 13 and October 27, 2010 meeting will be on the agenda for the Meeting on November 17, 2010. New Council will motion to approve them with the outgoing Council to sign as they agree to the content.

22. ADJOURNMENT

Vice-Mayor Bryan moved to adjourn the Town Council Meeting at 1:25 p.m. Council Member Vail seconded the motion. All agreed unanimously.

Respectfully submitted,



Pam Parsons, Town Clerk

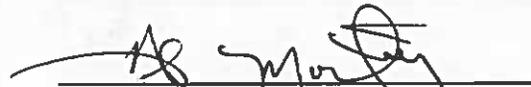
~~Mayor Pete Shearer~~ *Bob Blasi*

~~Mayor Pete Shearer~~

~~Vice Mayor Greg Bryan~~

~~Vice Mayor Greg Bryan~~

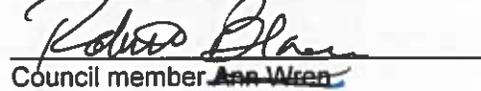
Dated: 12-1-10



Council member Al Montoya

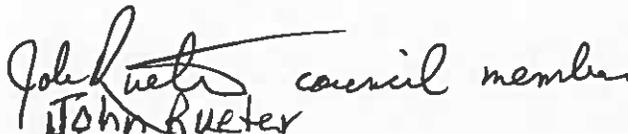


Council member Clarinda Vail



Council member Ann Wren

BOB BLASI



John Rueter council member

10-27-10 #13 Corrections to minutes to be approved per audio recording

~~XXXXXXXXXX~~
Addition to
minutes per
Meeting 12/1/10

After paragraph 2 item #13; Please insert the following from the audio recording:

Mayor Shearer received a call from a person interested in this position and after reviewing their qualifications they are most qualified to set up a town and to start a town and he is not sure that we need to hire a firm to do the work that we have spent the last seven months doing. He thinks that we should open this up for other people to put in their applications for interim town manager. Mayor Shearer does not see the urgency to have an interim town manager when we have done all the leg work and we have a fully functioning town. Councilman Montoya says that after talking with Ken Strobeck of the Az League of Cities and Towns that there is an application process and he would recommend that the applicant should put his or her application in to get the process started. Councilman Montoya added, "To circumvent the process and to just appoint somebody that you think is qualified is not the way it's done."

Mayor Shearer agrees with Councilman Montoya and would like to post {interim town manager} this for 2 weeks and to make maybe December 1st the deadline to receive applications to allow the new town council to hire the new town manager who they will be working with which makes more sense than us hiring a person which we will not be here for.

Vice Mayor Bryan says that the Mayor did not take very good notes. {He reads from the rough draft of the October 13th minutes of ^{which} ~~whom~~ only Vice Mayor has a copy}, "which is clearly an agenda item, and it says here that the minutes will show that Council Member Montoya moved to give Vice Mayor Bryan approval to enter into an agreement with IPM for an interim town manager." The draft 10-13 minutes as read by the Vice Mayor say that Council member Wren seconded the motion. And that all council members agreed unanimously. Vice Mayor Bryan is just asking for clarification. Barring change Vice Mayor Bryan just wanted the minutes to reflect that there was clear authority and that his recollection was that it had been approved. Mayor Shearer says that it was approved for Vice Mayor Bryan to enter into negotiations with IPM. Vice Mayor Bryan again says that it was to enter into an agreement. He once again reads from his sole copy of the draft 10-13 minutes reflecting that the motion had been made and passed unanimously. He says that based upon the motion presented that he would move forward in doing what the minutes as read by him authorized him to do.

Council member Vail asks the question about the negotiations regarding the percentage change to the contract.

Mayor Shearer states that without the council having the minutes he thought that the council had authorized the Vice Mayor to fine-tune the agreement and not to enter into an actual contract. Vice Mayor says that his notes reflects and he wants to affirm so that no one can come back and say that he acted without authority.

Mayor Shearer states that he shares the same concern {as stated earlier} that we have not opened it up to other people who would possibly do the same job with more experience in running a town and not just in setting up a town government and also for a less amount of money. And so, being fiscally responsible to the town, he has to voice that opinion.

Council member Vail says that if that's what the minutes say it could be some valuable work and help save some wiggle expenses.

ENCLOSURE

10-27-10

TUSAYAN TOWN CHECK REGISTER

Town Account #711974089

Date	Ck #	Vendor	Inv #	Amount	Deposits	Balance
7/10/2010		DOR Urban Funds			\$12,166.62	\$12,166.62
7/26/2010		Business licenses			\$30.00	\$12,196.62
7/28/2010	999990	William/GC News	5/1-6/30/10	\$2,044.23		\$10,152.39
7/28/2010	999991	AZ Risk Pool	#6451	\$2,239.00		\$7,913.39
8/9/2010		Business licenses			\$20.00	\$7,933.39
8/10/2010		DOR Urban Funds			\$12,166.59	\$20,099.98
8/11/2010	999992	League of AZ Cities/Towns	Montoya Trng	\$165.00		\$19,934.98
8/11/2010	999993	AI Montoya	Trng Exp	\$319.10		\$19,615.88
8/11/2010	999994	G. Bryan	Trng Exp	\$644.24		\$18,971.64
8/11/2010	999995	P. Shearer	Trng Exp	\$415.00		\$18,556.64
8/19/2010		Deluxe Forms	Checks	\$60.16		\$18,496.48
8/20/2010		Az DOR	July Sales Tax		\$1,828.68	\$20,325.16
8/24/2010		Business licenses			\$80.00	\$20,405.16
8/26/2010		AZ DOR	July Sales Tax		\$42,558.41	\$62,963.57
8/31/2010		Business licenses			\$80.00	\$63,043.57
9/2/2010		ADOR	July Sales Tax		\$45,616.21	\$108,659.78
9/3/2010	1000	Moyes Sellers & Sims	Paym't on Litigation	\$11,901.00		\$96,758.78
9/3/2010	1001	Clark Hill	Paymt on fees	\$30,297.00		\$66,461.78
9/3/2010	1002	Greg Bryan	Misc expenses	\$568.41		\$65,893.37
9/10/2010		Az DOR	July Sales Tax		\$66,058.26	\$131,951.63
9/10/2010		DOR URBAN FUNDS	STREV Funds		\$12,166.59	\$144,118.22
9/16/2010		AzDOR	July Sales Tax		\$73,709.79	\$217,928.01
9/20/2010		Business Licenses			\$50.00	\$217,978.01
9/17/2010	1003	AzDOR	TPT License	\$2.00		\$217,976.01
9/27/2010	1004	Moyes/Sellers Sims	Paym't legal fees	\$8,925.28		\$209,050.73
9/27/2010	1005	Clark Hill	Legal fees	\$22,723.25		\$186,327.48
9/27/2010	1006	Pete Schearer	Travel Reimb'mt	330.00		\$185,997.48
9/27/2010	1007	Greg Bryan	Trav'l Reimb'mt	\$650.00		\$185,347.48
9/27/2010	1008	Az League	Conf Reg-Schearer	\$300.00		\$185,047.48
9/27/2010	1009	AMRRP	Ins Premium Paym't	\$1,119.50		\$183,927.98

ORDINANCE NO. 2010-10-27-___

AN ORDINANCE OF THE TOWN OF TUSAYAN, ARIZONA, CREATING A TOWN ETHICS AND CONFLICTS OF INTEREST CODE.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF TUSAYAN, ARIZONA:

Section 1. Code of Ethics - Necessity and Purpose. It is recognized that high moral and ethical standards among officials for the Town of Tusayan (the "Town") are essential to the conduct of local government; and that a code of ethics for the guidance of Town officials is necessary in order to prevent conflicts of interest in public office, improve standards of public service, and promote and strengthen the faith and confidence of the people of the Town in their governing body.

Section 2. Definitions.

(A) "Public Official" means all elected Town officials including the mayor and members of the Town Council, together with appointive members of Town boards, commissions and committees and all other persons directly employed by the Town in any capacity.

(B) "Special" privileges or exemptions, and "personal" interests relate to privileges, exemptions or interests which are peculiar to an individual, as distinct from the rights and interests of the public generally, or identifiable classes of the public.

(C) "Town Council". For the purposes of this Code of Ethics only, Town Council or "Council Members" also includes members of Town boards, commissions, committees or other multi-member bodies appointed by the Town Council.

(D) "Family" means spouse, parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, grandparent or any parent-in-law, son or daughter-in-law or brother or sister-in-law.

(E) "Remote Interest" means where an individual is an unpaid officer, board member or other person who functions in a decision making capacity which can influence policy or funding of a corporation partnership joint venture or other entity.

Section 3. Privileges or Exemptions Prohibited. No Public Official or Town Council Member shall use his or her position to secure special privileges or exemptions for himself or herself, a spouse, child, parents, other persons or employers. Nor shall any public official or public employee accept anything of value that may tend to influence him or her in the discharge of duties, or which could have influenced him or her in the discharge of past duties.

Section 4. Incompatible Employment Prohibited, Council Member Ineligibility.

(A) At no time shall any two members of the Town Council be an officer, director, partner, attorney, agent or employee of the same company or entity (including all parent, subsidiary, and related companies) who, for services rendered during the preceding twelve (12)-month period received or has been promised compensation of any kind or amount.

(B) No Public Official or Town Council Member shall engage in or accept private employment or render services for private individuals or entities or engage in any business or professional activity when the employment, service or activity is incompatible with the proper discharge of official duties, or when it would require or induce him or her to disclose confidential information acquired by reason of his or her official position.

Section 5. Conduct of Council Members and Officials. Town Council Members and Public Officials (herein "Members") will conduct themselves according to the following rules of conduct as they pertain to work for and on behalf of the Town:

(A) Members shall maintain decorum and set an example for conduct when the Members represent the Town. Members shall conduct themselves so as not to bring disgrace or embarrassment upon the Town.

(B) A Member shall always represent that opinions stated are the Member's own and do not necessarily represent those of the Town unless the Town Council has voted and passed an ordinance, resolution or motion that so states the expressed policy.

(C) If a Member writes to a citizen, the Member may use Town stationery. However, the form and language must clearly state that opinions are those of the writer unless the Town has taken some official action.

(D) A Member must obtain approval of the Town Council by motion to represent the Town to any organization if the Town financially supports the organization.

(E) A Member must obtain approval of the Town Council by motion to attend any activity for which the Town will pay two hundred dollars (\$200.00) or more for travel and other expenses.

(F) A Member shall make public any conflict of interest of any sort that the Member or the Member's family has with respect to any issue under consideration by the Town and shall not participate in discussions and/or votes regarding said issue. A conflict of interest includes but is not limited to:

i. The Member or the Member's family has a personal, financial or property involvement in the subject;

ii. The Member has close professional or social ties to the participants; or

iii. The ordinances of the Town or the statutes of the state of Arizona prohibit the Member's involvement.

(G) A Member shall not use his or her office for personal gain, especially financial gain, including particularly the acceptance of gifts and gratuities.

(H) A Member shall not make false statements on which the Town Council, Public Officials or other agencies rely to establish policy or make important decisions. A Member violates this rule if he or she knows it is untrue, or if the person has knowledge that would lead a reasonable person of ordinary prudence to conclude that the statement is untrue.

Section 6. Financial and Personal Interest - Disclosure, Disqualification Required.

(A) A Town Council Member who has a financial or other private or personal interest, including a Remote Interest in any ordinance, resolution, or other action pending before the Town Council shall disqualify himself or herself from participating in any discussion and/or vote on the matter and shall disclose on the records of the Town Council the nature and extent of the interest, and the interest as disclosed shall be incorporated in the minutes of the Town Council's proceedings. The disclosure shall include but shall not be limited to the following:

i. The name of any private business corporation, firm, or enterprise affected by the Town Council action, of which the Council Member or the marital community is or has been during the preceding twelve (12) months an employee, shareholder, bondholder, secured creditor, partner, joint entrepreneur or sole proprietor.

ii. The name of any such private business or corporation, firm or enterprise of which the Town Council Member or spouse is or has been during the preceding twelve (12) months an officer, director, partner, attorney, agent or employee who, for services rendered during the preceding twelve (12)-month period or to be rendered in any such capacity has received or been promised compensation or any kind or amount.

Section 7. Confidential Information - Disclosure Prohibited.

(A) No Town Council Member or Public Official shall, except as required in the performance of his or her duties, or in the course of any conduct reasonably believed to be in the performance of his duties, disclose confidential information, gained by reason of his official position, nor shall he or she otherwise use the information for personal interest. Confidential information shall include:

i. Personnel information applications, and any files maintained for Town employees, appointees or elected officials;

ii. Information required of any taxpayer or Town license holder in connection with the assessment or collection of any tax or license fee if the disclosure of the information to other persons would tend to violate the taxpayer or licensee's right to privacy or may result in unfair competitive disadvantage to such taxpayer or licensee;

iii. Specific intelligence information and specific investigative files compiled by investigative law enforcement and penology agencies and those state agencies

vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

iv. Information revealing the identity of persons who file complaints with investigative law enforcement or penology agencies; except as the complainant may authorize;

v. Test questions, scoring keys and other examination data used to administer license, employment or civil service examination;

vi. The contents of any real estate appraisals made for or by any agency, including the Town relative to the acquisition of property by the Town until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three (3) years after the date of the appraisal;

vii. Valuable formula, designs, drawings and research data obtained or produced by the Town, its officers, employees and agents within five (5) years of any request for disclosure thereof, when disclosure would produce private gain and public loss;

viii. Preliminary drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action;

ix. Records which are relevant to a controversy to which the Town or any of its officers, employees or agents is a party and would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts; and

x. Any other information as is declared confidential by other specific statutes;

(B) The confidential areas hereinabove listed shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interest, can be deleted from the specific records sought.

Section 8. **Restrictions after Leaving Town.**

(A) For one year after leaving the Town, a Council Member may not hold or acquire a financial or remote interest direct or indirect personally or through their family in any contract made by through or under their supervision or accept directly or indirectly any compensation gratuity or reward from any person interested in such a contract or transaction

(B) For one year after leaving the Town a Council Member may not assist anyone in proceedings involving the Town where such Council Member worked on a matter in which they were officially involved in the course of their duties nor may they represent any private person as an advocate on a matter in which they were involved or compete for a Town contract when they were involved in determining the scope of work or the selection process.

Section 9. **Ethics Committee.**

(A) There is created an Ethics Committee (herein the "Committee"). The purpose of this Ethics Committee is to issue opinions on the provisions of this Code of Ethics and to investigate and report to the Town Council and public on any alleged violations of this Code of Ethics. The Committee shall be composed of five members and one alternate member none of which shall be a Town Council Member or Public Official. The Committee members shall be appointed by the Town Council and the term of each Committee member shall be six (6) years. The Chair of the Committee shall be elected by majority vote of the five Committee members with the alternate member breaking any ties. In the event a Committee member must recuse himself or herself or otherwise be unavailable to conduct Committee business, the alternate member shall serve in his or her place. If a second alternate member is required the Committee shall select such alternate member from a pool consisting of prior Committee members or from members of the public if none are available.

(B) A majority of the Ethics Committee shall constitute a quorum. The Committee shall meet as frequently as it deems necessary and in accordance with the provisions of this Code of Ethics. The Committee shall adopt procedures consistent with the provisions of this Code of Ethics governing the conduct of its meetings investigations hearings and the issuance of opinions.

(C) Any person may submit a written complaint to the Committee Chairman alleging one or more violations of this Code of Ethics by a Town Council Member or Public Official. The allegation must set forth specific facts with precision and detail. In addition the complaint must set forth the specific sections and subsections of this Code of Ethics that the facts violate and the reasons why.

(D) The Committee shall conduct an investigation of all written complaints and shall render a written opinion setting forth its findings of fact and conclusions and opinion as to whether or not the individual against whom the complaint was filed has violated the Code of Ethics.

(E) The Committee may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation by the Committee or in connection with any hearing conducted by the Committee. In the event any person disobeys a subpoena the Committee may invoke the aid of any Superior Court of the State. Such court may issue an order requiring such person to appear before the Committee to produce documentary evidence and/or to provide testimony, and any failure to obey such order may be punished by that court as contempt.

(F) No opinion may be issued by the Committee unless a person or entity complained against has had an opportunity to present information on his her or its behalf at a hearing before the Committee. A copy of the written opinion shall be delivered to the Town Council and the complaining party within seven calendar days of conclusion of the hearing.

(G) If the findings of the Committee disclose a violation of this Code of Ethics, the Town Attorney shall initiate appropriate action to effectuate the purposes of this Code

of Ethics; provided, that if the findings of the Committee disclose a violation by the Town Manager or Town Attorney, then the Mayor shall initiate appropriate action to effectuate the purposes of this Code of Ethics.

(H) In the event the advisory written opinion provides that the individual against whom the complaint has been filed has violated the Code of Ethics, the Committee may take any of the following actions:

i. Admonition. An admonition shall be a verbal public statement made by the Town Council to the individual.

ii. Reprimand. A reprimand shall be administered to the individual by letter. The letter shall be prepared by the Town Council and shall be signed by the Mayor.

iii. Censure. A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the Town Council to receive the censure. Public notice shall be given at least twenty 20 days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. The individual shall not make any statement in support of or in opposition thereto or in mitigation thereof.

iv. Removal. In the event the individual against whom the complaint has been filed is a Council Member or Public Official, the Ethics Committee may, by a majority vote, remove the individual from such Town Council position or terminate the services of any Public Official.

(I) The Ethics Committee may also render written opinions concerning the applicability of the Code of Ethics to hypothetical circumstances or situations upon the request of any person. The Town shall release copies of any written advisory opinions or opinions resulting from an investigation of a complaint and any written censures or reprimands issued by the Town Council in response to public records requests.

(J) The Town Manager shall provide staff as he or she deems appropriate to assist the Ethics Committee and Committee members shall be reimbursed by the Town for reasonable expenses incurred in its exercise of the official business of the Committee consistent with the expense reimbursement policies of the Town.

Section 10. Willful Violation - Penalties.

(A) Any Town Council Member or Public Official who knowingly and willfully violates any provision of this Code of Ethics shall be guilty of a Class 1 misdemeanor. In addition to the penalties herein provided, violation may constitute a cause for suspension, removal from office or employment, or other disciplinary action, which may include restitution or judicial action for recovery of any loss to the Town that resulted from violation of this chapter.

(B) The element of willfulness is satisfied if an individual acts knowingly with respect to the material elements constituting a violation of this chapter.

Section 11. False Charge - Violation. Any person who files a false charge of misconduct on the part of any Town Council Member or Public Official when the person knows it is false shall be guilty of a Class 1 misdemeanor. In addition to the penalties herein provided any person convicted of a violation of this section shall also pay the costs and expenses of the Ethics Committee's investigation.

Section 12. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Tusayan, Arizona, this 27 day of October, 2010.

APPROVED:

Pete Shearer, Mayor

ATTEST:

Pam Parsons, Town Clerk

APPROVED AS TO FORM:

Cameron Williams, Town Attorney

Re: Property coverage

From: **greg bryan** (gbtusayan@gmail.com)
Sent: Thu 10/14/10 5:59 PM
To: EBantel@berkleyrisk.com; Williams, Cameron J. (CWilliams@clarkhill.com); pam parsons (pptusayan@hotmail.com); pstusayan@hotmail.com

Thank you ed -

I had a hunch that would be the case. I will pass this on to our Council for their consideration in our Maintenance IGA with ADOT.

Respectfully,

Greg

On Thu, Oct 14, 2010 at 4:54 PM, <EBantel@berkleyrisk.com> wrote:

Hi Greg,

I would really need to take a look at your contract. I don't really see how you could insure ADOT property against damage of others. You may be doing the maintenance but you have no control over whether or not someone vandals the property or runs into it with a car. The reason you can't insure their property for those kinds of losses, is you have no insurable interest in their property. It would be like me hiring you to do maintenance work at my house. If someone else damaged my property you would have no obligation to fix it, since the damage was not caused by you. Does that make sense?? You shouldn't have to incur any expense through insurance or out of pocket for third party damage to their property. Let me know if I'm missing something here.

As far as Council goes, you don't have to do anything. We insure the positions and the people that are in them, so once they become Council Members, they are automatically covered.

Ed Bantel
AMRRP Program Administrator

Southwest Risk Services
14902 North 73rd St.
Scottsdale, AZ 85260

Direct Phone 602-368-6618
Direct Fax 602-368-6582
Email ebantel@berkleyrisk.com

From: greg bryan <gbtusayan@gmail.com>
To: EBantel@berkleyrisk.com
Date: 10/14/2010 04:38 PM

Subject: Property coverage

Hi ed -

I had asked you about whether we have coverage for liability insurance if we accept the maintenance responsibility for another's property and you said yes based upon contract liability coverage. My next question is whether the property that is owned by ADOT but we maintain it under an IGA would be covered for property damage if damaged by others?

We are going to maintain some roadside bus shelters paid for by the National Park Service, but located in the ADOT right-a-way. We are okay with maintaining them but want to be sure that if a car hits them or major vandalism takes place that we would not be all out of pocket on repairs or replacement. Please advise what options we have to be covered.

With our new Council coming on board Nov 3, when do we need to advise you of names and take out coverage?

Thanks for your help.

Greg Bryan
Town of Tusayan

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