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TOWN OF JEROME

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MINUTES

REGULAR MEETING OF THE JEROME TOWN COUNCIL
JEROME CIVIC CENTER - 600 CLARK STREET - COUNCIL CHAMBERS
TUESDAY, FEBRUARY 10, 2015 AT 7:00 P.M.

<p>ITEM #1:</p>	<p>CALL TO ORDER/ROLL CALL</p> <p>Mayor/Chairperson to call meeting to order. Town Clerk to call and record the roll.</p> <p><i>Mayor Currier called the meeting to order at 7:00 p.m.</i></p> <p><i>Town Manager/Clerk Candace Gallagher called roll. Present were Mayor Lew Currier, Vice Mayor Doug Freund and Councilmembers Alex Barber and Abe Stewart.</i></p> <p><i>Other staff in attendance at roll call included minute taker Joni Savage, Deputy Town Clerk Rosemarie Shemaitis, Zoning Administrator Albert Sengstock, and Finance Director Rebecca Cretti. Town Attorney Bill Sims joined the meeting at approximately 7:45 p.m.</i></p>
<p>ITEM #2:</p>	<p>PLEDGE OF ALLEGIANCE</p> <p>Mayor/Chairperson to lead the Pledge.</p> <p><i>Mayor Currier led the Pledge of Allegiance.</i></p>
<p>ITEM #3:</p>	<p>STAFF REPORTS</p> <p>Written staff reports by the Town Manager/Clerk, Deputy Town Clerk, Utilities Representative, Public Works Department, Building Inspector, Library, Municipal Court, Police Chief, Fire Chief and Water Liaison.</p> <p><i>Mayor Currier asked if there were any comments. Councilmember Freund commented that he was sorry to see Deputy Clerk Rosemarie Shemaitis leave. Councilmember Stewart stated that her body of work was impressive.</i></p> <p><i>Mayor Currier inquired about the Horseshoe Pit restoration/wall project. Ms. Gallagher explained that Chief Blair would like to move forward with one piece of the restoration – the concrete ceiling/roof at the top of the brick structure there. Mayor Currier would like further details before he begins, including how he plans to shore up the roof.</i></p> <p>Motion: Vice Mayor Freund made a motion to accept the staff reports. It was seconded by Councilmember Barber. The motion passed with 4 ayes, 0 nays and 0 abstentions.</p>
<p>ITEM #4: 7:04 pm</p>	<p>FINANCIAL REPORTS</p> <p>Issued checks and Budget to Actual reports for the month of January 2015. Figures included therein are presumed accurate as of the report's preparation date, but are subject to adjustment as further information is gained.</p> <p><i>Councilmember Stewart asked about very large percentage figures that appear at the bottom of some of the pages. Ms. Gallagher explained that the large percentages are due to the tiny amount (just a few cents) shown as the bottom line in the "budget" column for those budgets. When actual numbers are compared to those amounts, percentage variations appear enormous. Those budgets, such as water, are actually budgeted to zero out¹. Mayor Currier commented that the cash numbers are meaningful, but the percentages are confusing.</i></p> <p><i>Vice Mayor Freund questioned the January expenditure for dispatch fees in the police budget (over \$17,000) versus the budgeted figure for January of approximately \$2,900. Ms. Gallagher explained that dispatch fees are not paid monthly, but quarterly or biannually. However, the budget to actual reports reflect the annual figure prorated monthly. She said</i></p>

¹ Clerk's note: Ms. Cretti has explained that the few cents that appear in the "net" budget column on the budget to actual reports are the result of dividing the budgeted figures by 12, which rounds to the nearest cent.

	<p>that the line item shows as over for the year to date, but should be balanced by year end. Mayor Currier pointed out that the "year to date" column in the budget to actual reports represents the budget prorated through the current month, and not the budget for the entire year.</p> <p>Motion: Councilmember Stewart made a motion to accept the financial reports. It was seconded by Vice Mayor Freund. The motion passed with 4 ayes, 0 nays and 0 abstentions.</p>
<p>ITEM #5: 7:07 pm</p>	<p>PLANNING AND ZONING AND DESIGN REVIEW MINUTES/ RECOMMENDATIONS/ZONING ADMINISTRATOR'S REPORT</p> <p>Minutes are provided for the information of Council and do not require action.</p>
<p>ITEM #6: 7:07 pm</p>	<p>COUNCIL MEETING MINUTES</p> <p>January 13, 2015 special meeting; January 13, 2015 regular meeting</p> <p>Motion: Upon motion by Vice Mayor Freund, seconded by Councilmember Stewart, the minutes of January 13, 2015 were unanimously approved as submitted.</p>
<p>ITEM #7: 7:09 pm</p>	<p>PETITIONS FROM THE PUBLIC</p> <p>Pursuant to A.R.S. § 38-431.01 (H), public comment is permitted on matters not listed on the agenda but the subject matter must be within the jurisdiction of the Council. All comments are subject to reasonable time, place and manner restrictions. All petitioners must fill out a request form with their name and subject matter. When recognized by the chair, please step to the microphone, state your name and please observe the three (3) minute time limit. No petitioners will be recognized without a request. The Council's response to public comments is limited to asking staff to review a matter commented upon, asking that a matter be put on a future agenda, or responding to criticism.</p> <p><i>Jerome resident Jane Moore addressed Council regarding safety issues. She said that more and more vehicles are traveling on the Town's back roads and getting stuck there. Someone recently tried to turn around on Gulch Road and got hung up on the rock wall sideways. Our Town crew and a construction crew assisted in getting them turned around, and the road was blocked while this was happening. This has occurred on County Road also, she said, and she asked Council to please keep this in mind when considering public access to back road neighborhoods. It is definitely a health and safety issue. She suggested that perhaps we need to install a larger sign to keep drivers off of those roads.</i></p>
<p>ITEM #8</p>	<p>PRESENTATIONS</p>
<p>7:11 pm</p>	<p>ITEM #8A: YAVAPAI-APACHE NATION FUNDING AWARD</p> <p>The Town of Jerome has applied for, and has been awarded, funding from the Yavapai-Apache Nation toward the purchase of a new Town shuttle. Representatives of the Nation will be present to make an official presentation to the Town of \$16,874.67.</p> <div data-bbox="318 1409 899 1829" data-label="Image"> </div> <p>Mayor Currier informed the Council that the Town had been given an award by the Yavapai Apache Nation. He welcomed Tribal Chairman Thomas Beauty.</p> <p>Chairman Beauty thanked Mayor Currier for the opportunity to address the Council, and introduced Vice Chair, Darlene Rubio, Council member Billie Gardener, and his wife, Nadine Beauty. He explained that, in 2002, the State of Arizona passed a law for tribal exclusivity for tribal nations in Arizona to have casinos and conduct gaming. Part of that law requires that the casinos give part of their revenue to local cities, towns and counties. They have been doing that since 2002, he said. This year, the Tribal Council opted to divide the funds between all of the Verde Valley towns and the County. He presented a check to the Town of Jerome in the amount of \$16,874.67, and noted that there are no stipulations regarding what the funds can be used for. The Town can do with it what it sees fit.</p>

	<p>Mayor Currier thanked Chairman Beauty, and photographs were taken of Chairman Beauty and his group with the Jerome Town Council.</p>
	<p>** At this time, Council addressed Item #11, then took a brief recess and returned to Item #9A. The items are presented in the minutes in numeric order for the sake of continuity. **</p>
<p>ITEM #9:</p>	<p>ORDINANCES</p>
<p>7:45 pm</p>	<p>ITEM #9A: DISCUSSION ONLY: ORDINANCE NO. 414, AN ORDINANCE TO AMEND ARTICLE 8-3, "BUSINESS LICENSE TAX," OF THE JEROME TOWN CODE REGARDING BUSKING, AND ADD NEW ARTICLE 8-6, "BUSKING."</p> <p>Two versions of an ordinance amending the Jerome Town Code regarding street performances were presented to Council at the last meeting. A committee was asked to review the ordinances and make recommendations to the Town Manager. The committee has requested additional time in which to make its recommendations.</p> <p><i>An email from Suzy Mound, who had put together the committee to review this issue, was included in the meeting packets. It read, "The committee is comprised of myself, Doree Christiansen, Chad Hembrough, Nathan Payne and Abe Stewart, all of whom attended the first meeting on January 19th. We discussed pros and cons in both ordinances including adding a no visible intoxication stipulation. We also discussed the possibility of expanding the nuisance ordinance instead of writing a new ordinance. We feel the parade steps and parks are the best locations. The second meeting on 1/26/2014 was attended by myself, Doree and Nathan. I addressed the need for an ordinance and permit as suggested by our police chief. I have yet to find an ordinance regarding nuisance. I did find nuisance covered in the Town Code. Since the last meeting, it has been called to my attention, though I have not yet seen the article in the Red Rock News, there's a current article regarding Sedona's new rules regulating busking. I feel it is imperative to consider the new rules set forth in Sedona before making a final decision for Jerome. The Committee requests more time before making a recommendation to the Town Council."</i></p> <p><i>Ms. Gallagher stated that she contacted Sedona's Town Manager, and was told that staff has been charged with drafting regulations, but nothing has been adopted at this point.</i></p> <p><i>Mayor Currier noted that Council had received a letter from Nathan Payne expressing his view of the ordinance.</i></p> <p><i>Councilmember Stewart and Ms. Mound commented regarding the first meeting. Mr. Stewart felt that there had been consensus at the first meeting, and that recommendations would be presented to the Town Manager. Ms. Mound said that, after the first meeting, she was disappointed that some members did not continue to participate. New or different members are needed, she said, to provide different opinions. Sedona is in the middle of writing an ordinance, she said, and she recommended that we wait and see what they are going to do, because consistency on this issue with our nearby communities would be good.</i></p> <p><i>Mayor Currier recalled that, the last time Council discussed this, Mr. Stewart was thinking along the lines of ignoring the busking issue but tightening up our nuisance code. Councilmember Stewart concurred. Mayor Currier said he would prefer to go in that direction, and Mr. Stewart said that he believes that the nuisance ordinance would address the busking issue.</i></p> <p><i>Mayor Currier said that he had left a message for Chief Muma about this, and the Chief had responded to Ms. Gallagher. Ms. Gallagher informed the Council that Chief Allen Muma would prefer a permit process, but if Council wishes not to do that, he would strongly recommend that we beef up the nuisance code, and also include something about aggressive panhandling.</i></p> <p><i>Vice Mayor Freund stated that he does not feel we should enact a permit process at this time.</i></p> <p><i>Councilmember Barber agreed, and added that she, too, feels we should wait to see what Sedona is going to do.</i></p> <p><i>Ms. Mound said that, after the first committee meeting, she called Chief Muma to get his input, and he felt strongly that a permit process should be in place. It is her understanding that Sedona requires a business license, which is valid for one year, and that they are considering limiting performers to two hours in their designated spot.</i></p>

	<p>Town Attorney Sims said that, by using the nuisance code to address this, we would enhance our position relative to possible First Amendment rights ... freedom of speech. The nuisance code is easier to enforce, he said, and it would be "a better way to go."</p> <p>It was generally agreed that staff will review our nuisance codes, and that the issue of busking would be tabled for the time being.</p>
<p>8:04 pm</p>	<p>ITEM #9B: FIRST READING – ORDINANCE NO. 415, AN ORDINANCE TO AMEND ARTICLE 8-3, "BUSINESS LICENSE TAX," OF THE JEROME TOWN CODE</p> <p>Council will review, and may conduct the first reading of an amendment to our Town Code regarding business licensing. The proposed amendment would make issuance of a business license specifically contingent upon review and approval by the Zoning Administrator, Fire Department and Building Department, as well as procurement of a Transaction Privilege Tax license, if required, and any necessary permits from the Yavapai County health department. It would also clarify that fees are not prorated, and provide that licenses not renewed within 90 days of expiration will be cancelled. In addition, it would eliminate the current exemption for businesses grossing under \$2,500 per year, remove other rarely used provisions and generally clarify the language of the existing Code.</p> <p><i>Ms. Gallagher explained that this ordinance would strengthen our current business license code. At present, she said, we have no way to deny a business license, because there are no criteria in the Code for rejection. This amendment would require approvals by the Zoning, Fire and Building departments prior to issuance of a license. It would also eliminate the current exemption for businesses which gross under \$2,500 per year. (Council later decided not to eliminate that exemption. See below.) She added that she would recommend one change to the language presented to Council at this meeting – a clarification to the definition of home occupation. She recommended that the last phrase of that definition be changed as follows: "... in connection with which there are no employees other than a member of the immediate family, which member resides residing in the dwelling unit."</i></p> <p><i>Attorney Bill Sims approved this verbiage.</i></p> <p><i>Discussion ensued, and a few additional changes were made to the draft ordinance.</i></p> <p><i>It was clarified that zoning, fire and building approvals must be furnished within five business days of receipt of the application by the Town.</i></p> <p><i>Vice Mayor Freund asked whether individuals doing business in a common space would each need a business license. Mayor Currier asked if each artist in the Artists Co-op is required to have a business license. Ms. Cretti responded that the Co-op itself has a business license. Conversely, the Art Park is comprised of individual artists selling their own work, and each has their own license.</i></p> <p><i>It was discussed and generally agreed that an address change should trigger new approvals, therefore a provision in the draft ordinance was deleted which would have provided that a new license would not be required when there is an address change.</i></p> <p><i>Councilmember Stewart asked if bands coming into the Town require a business license if they are being hired by the Spirit Room. It was confirmed that they operate under the business license of the bar.</i></p> <p><i>Attorney Sims commented that, if bands are selling CD's to the public, then they would require a business license. He recommended that the \$2,500 threshold be put back into the ordinance. In that way (and as it is now), businesses grossing under \$2,500 would not be required to obtain a business license.</i></p> <p><i>Jane Moore asked if she would need a separate business license if she makes pots from home and sells them at the pottery shop under consignment. She also asked if someone doing odd jobs done in town would need a license. Mr. Sims again recommended that the \$2,500 exemption be put back into the ordinance, as it would cover things like this.</i></p> <p><i>Liz Gale spoke as Vice President of the Chamber of Commerce. She said that she would like time to inform her members that this is coming up. Mayor Currier confirmed this was a first reading only. There will be time for the Chamber members to learn more about this before it is adopted.</i></p> <p><i>Ms. Gallagher noted that Chief Muma recommended that the penalty clause be changed so that the first offense would be considered a petty offense with a fine of up to one and one-half times the cost of the business license. Subsequent offenses would fall under our general penalty clause. Council agreed.</i></p>

	<p>Regarding an existing provision which states that licenses are not transferrable without permission by the Council, Vice Mayor Freund asked if that has ever come up. Neither Ms. Gallagher nor Ms. Cretti could recall any instance of that. It was discussed and agreed to change the word "Council" to "Town."</p> <p>Mayor Currier asked if Arizona Public Service has a business license. Ms. Cretti explained that they pay a franchise fee.</p> <p>Ms. Gallagher will make the changes discussed, and will provide a revised draft to the Chamber for their review within the following week.</p> <p>The Mayor then read Ordinance 415 in title only, constituting its first reading.</p>
ITEM #10:	UNFINISHED BUSINESS
8:20 pm	<p>ITEM #10A: VACATION RENTALS</p> <p>Council will discuss the Jerome Zoning Ordinance and enforcement of same with respect to vacation rentals. During discussion, Council may enter into Executive Session for the purpose of discussion or consultation for legal advice with the Town Attorney, pursuant to A.R.S. § 38-431.03 (A)(3) and (A) (4).</p> <p><i>Mayor Currier said that, at the last meeting, Council decided to stand on the present code. The Code, he said, provides that the Zoning Administrator will interpret the Code. "The Council has its chance when it writes or modifies the code," he said. "Council has now said what it will say, and it is up to the Zoning Administrator."</i></p> <p><i>Zoning Administrator Albert Sengstock stated that he has concluded that vacation rentals, or short term lodging, have always been and continue to be prohibited in residential zones, and allowed in commercial districts with a use permit. He said that he will making contact with those operators and offering them the opportunity to discuss their issues and all possible alternatives. They will be apprised of their appeal process, he said, and he intends to meet with each of them.</i></p> <p><i>Mayor Currier concluded, "Staff has direction to enforce the code." He asked if there were any questions or comments. Ms. Moore thanked the Council.</i></p>
ITEM #11:	NEW BUSINESS
7:16 pm	<p>ITEM #11A: JFD WORKSHOP: CONTROLLING PARADISE TREES</p> <p>Council will review and may approve a workshop proposed to be hosted by the Jerome Fire Department for property owners regarding options to control Paradise trees, including chemical, manual, mechanical and biological methods of treatment.</p> <p><i>Assistant Fire Chief Bill Volk addressed Council. He explained that a gentleman from California was here last June, and noticed the problem with the proliferation of paradise trees (Ailanthus) near the Douglas Mansion and throughout town. He offered to assist us in teaching people how to control these trees, either by manual, mechanical or chemical means (usually a combination of the three). He would like to come back in late June and conduct a workshop here. The auxiliary will cover that cost, and the owner of Bobby D's has offered his property to demonstrate "before and after." Mr. Volk said that these trees are a big problem around the fire station and at the sewer treatment plant. They are not native to Arizona, he said -- they originated in China. He said that they are a fire hazard and pose a danger to APS power lines, and we need to be proactive about controlling them.</i></p> <p><i>Jane Moore asked what type of pesticide would be used, and if it is Roundup. Mr. Volk said that there are several different types that can be used, and he has the MSDS sheets on all of them. They can be purchased at any hardware store, he said, and it would be used in a homeowner's concentration (not as strong as if applied by a pest control company).</i></p> <p><i>Mr. Volk noted that one of the problems we have is that people cut them and toss them over the edge. There are several places in town where this has happened, and there was a fire a few years ago on Nellie Bly Lane that started in a pile of old paradise trees. He added that we have also had power lines fall because of these trees. The life span of paradise trees is 50 to 60 years, he said. The Town has an adopted property maintenance code, and it is clear that those trees should be removed.</i></p> <p><i>Mayor Currier mentioned that the paradise trees here were originally planted to control erosion. If we succeed in wiping them all out, he asked, what's going to come next? Mr. Volk clarified that they just want to control them, not eradicate them.</i></p>

	<p>Ms. Moore said that she believes that the chemicals being used are unsafe for the environment. She too would like to remove the paradise trees, and is experimenting with white vinegar and salt. It seems to be working, she said, and she believes it is a lot safer than Roundup.</p> <p>Mr. Volk explained how the basil bark treatment method is better than chemicals being sprayed on the leaves. It is applied directly to the tree and not to the surrounding ground.</p> <p>Motion: Councilmember Stewart made a motion to proceed with the conference to control the Paradise trees. He asked where it would be held. Mr. Volks replied that it would be a one- to two-hour lecture at the fire station, followed by a tour of various locations in town, with the property owners' approval. The motion was seconded by Vice Mayor Freund, and was approved with 4 ayes, 0 nays and 0 abstentions.</p>
<p>7:26 pm</p>	<p>ITEM #11B: APPOINTMENTS TO PLANNING AND ZONING COMMISSION, DESIGN REVIEW BOARD AND BOARD OF ADJUSTMENT</p> <p>Terms of the following appointees will expire as of February 28, 2015: Planning and Zoning Commission – Margie Hardie and Frank Vander Horst; Design Review Board – Carole Lozano and Deni Phinney; Board of Adjustment – Suzy Mound and Ron Richie.</p> <p>Council may take action to reappoint any or all of these members, or appoint other individuals, to the succeeding three-year terms. A portion of this discussion may be held in executive session pursuant to A.R.S. § 38-431.03 (A)(1).</p> <p><i>Ms. Gallagher stated that all of the board members whose terms are up for renewal have indicated to Mr. Sengstock that they are willing to continue; however, Carole Lozano and Deni Phinney would prefer to end their tenure and would like to be replaced as soon as possible. They are willing to continue until such time as we find someone else.</i></p> <p><i>Mr. Sengstock commented that no one else has volunteered as of yet.</i></p> <p><i>Mayor Currier said that everyone should encourage people to join the Boards and Committees.</i></p> <p><i>Ms. Gallagher noted that appointments need to be made before February 28, when the existing terms expire. It was discussed and decided that the appointments would be postponed, and that Council will meet again on Tuesday, February 24th at 7:00 p.m. to address the question of seating members.</i></p>
<p>7:30 pm</p>	<p>ITEM #11C: UPDATE REGARDING COUNCIL VACANCY</p> <p>The Town Manager will update the Council regarding the status of the search for residents interested in being appointed to fill the vacant seat on Town Council.</p> <p><i>Ms. Gallagher reported that Frank Vander Horst has expressed interest in joining the Council. Mr. Vander Horst currently sits on the Planning and Zoning Commission and would need to vacate that seat if appointed to Council.</i></p> <p><i>Mayor Currier said that he feels that the Council takes precedence over the Planning and Zoning Board, and he is prepared to resolve this tonight.</i></p> <p>Motion: Councilmember Stewart made a motion to appoint Frank Vander Horst to the Jerome Town Council for the remainder of the term. It was seconded by Lew Currier. The motion passed with 4 ayes, 0 nays and 0 abstentions.</p> <p><i>Mr. Vander Horst will be sworn in at the February 24th meeting that was just set.</i></p>
<p>7:33 pm</p>	<p>Council took a brief recess. Upon reconvening at 7:45 p.m., Council moved back to Item #9.</p>
<p>ITEM #12: 8:23 pm</p>	<p>TO AND FROM THE COUNCIL</p> <p>Council may direct Staff as to items of pending importance that they would like placed on a future meeting agenda.</p> <p><i>Vice Mayor Freund mentioned that things are progressing regarding the leaning wall, and Councilmember Stewart said that he will be attending a meeting onsite during the following week with the Structural Engineer.</i></p>
<p>ITEM #13: 8:24</p>	<p>APPROVAL OF CLOSED SESSION MINUTES January 13, 2015 executive session.</p> <p>If necessary, Council may enter into executive session, pursuant to A.R.S. §38-</p>

	431.01 (A) (2), for the purpose of discussion or consideration of records exempt by law from public inspection. Motion: Abe Stewart made a motion to approve the executive session minutes of January 13, 2015. It was seconded by Alex Barber. The motion passed with 4 ayes, 0 nays and 0 abstentions.
ITEM #14: 8:24	ADJOURNMENT <i>Upon motion by Vice Mayor Freund, seconded by Councilmember Stewart and unanimously approved, the meeting was adjourned at 8:25 p.m.</i>

Edited by Town Manager/Clerk Candace Gallagher from minutes taken and transcribed by Deputy Town Clerk Joni Savage.

APPROVE:

ATTEST:

Lew Currier, Mayor

Candace B. Gallagher, CMC, Town Manager/Clerk

Date: _____