

TOWN OF JEROME, ARIZONA

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MINUTES

SPECIAL MEETING OF THE JEROME TOWN COUNCIL JEROME CIVIC CENTER - 600 CLARK STREET - COUNCIL CHAMBERS TUESDAY, JANUARY 31, 2017 AT 7:00 P.M.

CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE ITEM #1:

Mayor/Chairperson to call meeting to order.

Town Clerk to call and record the roll.

Mayor Vander Horst called the meeting to order at 7:00.

Town Manager/Clerk Candace Gallagher called roll. Present were Mayor Vander Horst, Vice Mayor Kinsella (present telephonically), Councilmember Bachrach, Councilmember Barber and Councilmember Currier.

Also present were Fire Chief Rusty Blair, Town Attorney Bill Sims, Finance Director Rebecca Cretti, and Joni Savage, Deputy Clerk. Police Chief Allen Muma arrived after roll call.

Mayor/Chairperson or designee to lead the Pledge of Allegiance.

Mr. Sims led the Pledge of Allegiance.

ITEM #2: **APPROVAL OF FINANCIAL REPORTS**

7:01

Issued checks and financial reports for the months of November and December 2016. Figures included therein are presumed accurate as of the report's preparation date, but are subject to adjustment as further information is gained.

Regarding the balance sheets, Councilmember Currier noted that two funds are out of balance, and, until they are corrected, he does not see how the financial reports can be approved. He asked the Manager to explain.

Ms. Gallagher said that it was her understanding from Ms. Cretti that this was due to an auditor's adjustment. She has contacted the auditor and sent him the balance sheets in question, and is waiting to hear back from him.

Councilmember Currier noted that the auditor had indicated in his initial return email that, as far as he knew, the funds were in balance before he left after completing the audit.

Ms. Cretti said that the imbalance occurred after entering the auditor's adjustments. It was in balance prior to that. "It's something I need to take up with him," she said.

Councilmember Currier asked when these adjustments were made.

Ms. Cretti replied that they were made at the last audit (for fiscal year 2015).

Councilmember Currier asked when that occurred, and Ms. Gallagher recalled that the auditors completed that audit in the summer of 2016.

"So they have been out of balance since then?" Councilmember Currier asked. "The first balance sheet I found was from November. I didn't see any prior to that. Have we been getting them?"

"Yes, you have," Ms. Cretti said, "and it has the same thing on it, you simply didn't notice it."

Mayor Vander Horst said that he had noticed it and has been waiting for someone to explain it.

Councilmember Currier said that he does not know how the system could allow a balance sheet to be printed out of balance.

Ms. Cretti said, "It is there for a reason and I'm not going to go in and wipe it out. I have to talk with the auditors and I have not had a chance to yet." She added that she thought Council would ask about it if they had any questions. She said again that the out of balance problem occurred when she entered the auditor's entries for FY2015.





Councilmember Currier said that he had asked the Manager if Ms. Cretti had brought this to her attention, and Ms. Gallagher had told him that she had not.

"I assumed you were looking at the reports and if you had a question you would ask," Ms. Cretti said

Ms. Cretti explained that the problem is between the General Fund and the Capital Grants fund. Each is out of balance by the same amount. She said that she knows it is due to the auditor's entries, and that, overall, we are not actually out of balance.

"You may know that, but I don't," Councilmember Currier said. "I don't know if it is one transaction or the sum of many transactions."

Mayor Vander Horst said, "I am still not clear. It's been going on for a couple of years, at least." Ms. Cretti said that it began in 2014. Our CPA corrected it, and then the auditors "uncorrected

"We fixed their un-correction once, but we haven't had time to ask them in the last two years?" Mayor Vander Horst said. "It was there in 2014."

"The 2014 is fine," Ms. Cretti said.

our correction."

"It is now," the Mayor said, "but it was out of balance."

"No," Ms. Cretti said. "It just had to be taken care of, which we did in 2015. The trial balance was in balance at the end of the fiscal year until we put the auditor's entries in."

Vice Mayor Kinsella said that a balance sheet, in theory, should always balance. He has seen auditors do a journal entry or a footnote if a balance sheet is not in balance, and then they make it balance. "What's happening to us is opposite of that." he said.

Ms. Cretti explained again that, after entering the auditor's entries, we are now out of balance. "It is probably out-of-balance compared to what they have," she said, "which is why I need to talk to the auditors. I need to find out what is going on between their set of books and our set of books."

After brief further discussion, Mayor Vander Horst asked if this could be resolved by the February meeting. Ms. Gallagher said that it depends on when the auditors get back to us. Vice Mayor Kinsella asked how long we have been working with these auditors. Ms. Gallagher said that she believes we are now one year into our second three-year contract with them.

Motion: Councilmember Currier made a **motion to table the November and December financials until the next meeting. Vice Mayor Kinsella seconded it.**

The motion passed, 5-0.

Mayor Vander Horst said that he had been asked to move Item #4 up while our Police and Fire Chiefs are both here.

Motion: Councilmember Currier made a motion **to move up Item #4** and it was seconded by Councilmember Barber.

The motion passed, 5-0.

Item #4 was addressed at this time, but is included in these minutes in the order originally agendized.

ITEM #3: | FINANCIAL REPORTING

8:18

Council will discuss the content and timeliness of financial reports, and options for improving same.

Vice Mayor Kinsella stated that he has been asked by members of the public how Council can go for two months without approving financial reports. "We need to come up with a remedy," he said, "where we can actually be on top of things." He said that he would like to see what needs to be done in order to approve the financials in a timely manner. Also, he said, it is difficult, especially if one doesn't deal with financials all the time, to absorb all of the information if it is only provided a day or two ahead of time, or the night of the meeting. "I have no idea where we are sitting financially," he said, and asked how the taxes are coming in from the State. Ms. Gallagher said that we receive regular payments from them. Mr. Kinsella recalled that many years ago, the town did not receive tax monies from the State in a timely manner. It was 60 to 90 days in arrears, he said, and if he is not informed about the finances, he feels that he is not doing his job.

"With the uneasiness in government as a whole," the Vice Mayor said, "I'm trying to be politically correct. It goes from national all the way down to the local level. If we are time after

time unable to approve something, we need to figure it out and fix it before it gets any worse." He added that this is the first time he had heard about the auditor putting the balance sheet out of balance. "We have to figure something out," he said, and asked if he was "the only one thinking this way."

Councilmember Currier said, "I've been on this same page with you for years now. When we were together on the Council before, we had the same damn problems. We don't get timely reports out of the accounting department. We get them so late and there is no time to study and digest it, and there are mistakes throughout. We just discovered that it is out of balance." Mr. Currier noted that he had brought up several months ago that the closing report from the prior month does not usually agree with the opening report from the current month. "That happens again and again," he said, "because the bookkeeping department goes in and makes changes and there is no way to know what they have done because it doesn't show up on the reports."

Councilmember Currier went on to say, regarding the out of balance issue, "I don't believe that the auditors made that mistake. Somebody didn't make a posting. It's clear. I don't have an answer. The manager can't control the accounting department and the accounting department doesn't seem to be able to get their act together, and that's where it stands. I just gave up on this months ago because we're not getting good information and we're not getting it in a timely fashion. The accounting department doesn't give a damn."

"Bulls**t," Ms. Cretti said.

"Alright, that's not called for," the Mayor said.

Vice Mayor Kinsella said, "I'm not giving up on anything. This is part of our jobs here, folks. Ultimately, we're responsible. ... if we're not willing to step up to the plate and it's just easier to throw in the towel and go 'well we'll just deal with it,' I don't want any part of it, simple as that."

Councilmember Bachrach asked if his understanding is correct that, according to the Town Code, Council is to receive the financial reports seven days prior to the meeting. Mayor Vander Horst noted that it is actually the entire packet that, according to the Code, is to be provided seven days ahead of time, but he has never seen that happen.

Ms. Gallagher acknowledged that it does say in the Code that packets are to be provided on the Tuesday prior to the meeting, but that hasn't been the practice since before she came on board in 2009. She explained that the packets are compiled and provided on the Thursday prior in order to get as much into the packet as possible.

Mayor Vander Horst asked if Council had any ideas for improving the situation.

"We have to do something," Vice Mayor Kinsella said. 'We can't make good decisions when we don't have information."

Mr. Sims suggested that the Council could go into E-session to get legal advice concerning what options they can exercise.

Motion: Councilmember Currier moved **to go into executive session for legal advice**. The motion was seconded by Councilmember Bachrach, and **passed 5-0.** The Council went into executive session at 8:30 p.m.

The Council reconvened at 9:00 p.m.

Mr. Sims said, "I have heard your concerns regarding the appropriateness and timeliness of financial reporting and I have heard your concerns about discharging your duties to your constituents. I have witnessed this in other jurisdictions and they have addressed your concerns by having the Finance Director report to the Town Council. Your Code assigns to the manager the duties of Finance Director. ... One option for you as a Council would be for you to direct me to modify your Town Code, to take those duties that are currently assigned to your manager and to follow the example of five other jurisdictions in the State (Mirana, Scottsdale, Sedona, Tucson and Tusayan) and cause the Finance Director to be an officer reporting to you the Council. If you wish to do that, you could direct me to use the provisions of the Town Code to be the foundation for that officer's position."

Mr. Sims went on to say, "I understand you're hearing this for the first time. It wouldn't violate the Open Meeting Law if you were to individually send me recommendations and not share them with others, and give me a deadline to come back with a proposed ordinance. That is my recommendation as to how you can address the Town of Jerome's needs to address its financial reporting."

Mayor Vander Horst said that he doesn't think the job descriptions in the Town Code fully and

aptly describe the position. "With the assistance of the Town Manager," he said, "we will need to address additional responsibilities as well."

Motion: Councilmember Currier made a motion to direct the attorney to draft an ordinance to change the Town code to have the Finance Director report directly to Council, and it was seconded by Vice Mayor Kinsella.

Vice Mayor Kinsella asked about the time frame for this.

Mr. Sims said that he could have something put together by the end of the week, and Council could schedule a special meeting to hold the first reading. It will require two readings.

It was agreed that Council would submit their thoughts to Ms. Gallagher, and that she would provide them to Mr. Sims, who would have an ordinance ready by the end of the week. A special meeting was scheduled for the afternoon of February 7 to conduct the first reading.

After brief further discussion, the vote was called, and the **motion passed**, 5-0.

ITEM #4: AMENDMENT TO PERSONNEL POLICY REGARDING PAID TIME OFF

7:12

Council will review the Personnel Policy provisions regarding Paid Time Off (PTO) and consider whether to amend the policy to allow for higher caps on accumulated PTO, annual buy back and/or end-of-employment buyback. Discussion will also include implications of Arizona's new sick leave law that will take effect in July 2017.

Ms. Gallagher reviewed a report she had provided which read as follows:

As discussed at the January 10 Council meeting, two long-time employees have reached the limit previously established of 480 hours of Paid Time Off (PTO), and are no longer accruing it. The policy was established in 2014 and included a maximum "buyback" by the Town of 40 hours per year. At the end of employment, an employee may receive payment for 60% of accrued PTO up to a maximum of 180 hours.

At the January 10 meeting, Council discussed the possibility of increasing the caps that were previously established. I was asked to provide additional information regarding potential costs and what other towns are doing in this regard.

I reached out to other Arizona clerks, and a spreadsheet detailing the responses I received is attached. As you can see, practices vary considerably from town to town. Some of the practices I found interesting were:

- Cave Creek uses a PTO system, and caps the number of hours that can be carried over from year to year at 320. At the end of each year, any hours in excess of that amount are paid out to the employee.
- Some towns base buyback levels on years of service.

I have also attached information regarding time accrued by employees to date.

Typo in current policy needs correcting

During my review, I noted a typographical error in the current policy that should be corrected, and I would like Council's approval to do so. Under Section A.5., "Accrual of PTO hours – Municipal Court employees," the fifth paragraph (regarding court employees after 15 full years of service) should be corrected to indicate that the PTO will accrue at the rate of 2.88 hours for each full work week in a calendar year. This is consistent with the beginning of that paragraph, which states that leave accrues at 150 working hours per year. This was a "cut and paste" error.

About the new sick leave law

Prop 206, which was approved by the voters in November, approved an increase in Arizona's minimum wage, and also included a provision requiring that sick leave be provided to ALL employees at a minimum of 1 hour for each 30 hours worked.

I have asked the League's personnel attorneys to review our leave policy (at no cost to us) to determine if there will need to be any changes made. I believe that our current PTO policy may, technically, be adequate to cover our full-time employees, as PTO is earned, at a minimum, at the rate of 1.69 hours per 40-hour work week, equating to 1.27 hours per 30 hours worked. However, we will need to provide sick leave or PTO for our part-time employees at the minimum rate of 1 hour of leave for every 30 hours worked. This requirement becomes effective on July 1, and I will be working toward an amendment to our policy to meet the new requirement.

Mayor Vander Horst said that he wanted to confirm that on-call people would not be included as part-time employees. Ms. Gallagher said that she did not believe that they would, but the

Risk Pool will be getting back to her

She listed her suggestions for changes to our PTO policy:

- The inclusion of part-time employees beginning July 1, 2017.
- Instead of saying that an employee can't accrue more than 480 hours, a change in that section to read, "No employee may carry over more than 480 hours of PTO leave into the succeeding year. Any hours exceeding 480 will be paid out at the end of the calendar year at 60% of the employee's current rate of pay."
- Eliminating the current provision that limits annual buyback to 40 hours and instead allowing employees to buy back up to half of their PTO.

Ms. Cretti asked if this would be based on the calendar year or the fiscal year. Ms. Gallagher replied that it would be based on the calendar year.

Councilmember Currier asked about the budgetary implication of this.

Ms. Gallagher estimated that, at the end of employment for a person earning \$25.00 an hour, depending on time accrued, the payout could be up to \$9,000.

Mayor Vander Horst asked how often that has happened. She replied that it had not happened since she has been here. She referenced a report she had provided listing the time accrued so far by our employees.

Councilmember Currier asked if we have money put aside to cover this liability, and Ms. Gallagher said that she budgets every year for buyback. "Do we have it fully vested?" Mr. Currier asked. Ms. Gallagher replied that, if she is aware that someone plans to retire, she would add it to the budget.

Mayor Vander Horst asked if these two employees were told when they maxed out on their PTO. "It was on their pay stub," Ms. Gallagher said, "but they were not told. That would have been helpful."

Councilmember Currier asked if the buyout would depend on when an employee was hired. Ms. Gallagher said that it would not. She explained that the buyback would be calculated based on the employee's rate of pay at the time of the buyback. She noted that some towns do pay out PTO based on length of employment.

Councilmember Currier noted a provision in the existing policy stating that "vacation leave and sick leave accrued prior to the effective date of this policy will carry over in excess of PTO in accordance with the Town's policies at the employees hire date." He asked if that would affect this. "No," Ms. Gallagher said, explaining why it would not apply in this situation.

Vice Mayor Kinsella asked if the policy would continue to allow an employee to donate PTO to another employee. Ms. Gallagher confirmed that it would and that this would not change.

Mayor Vander Horst noted that most other cities listed do not have PTO. "If you add up vacation and sick leave," he said, "it looks like we're under almost everyone in terms of total hours for those two combined. For example, Clarkdale has over 1300 hours for those two combined." He talked about other towns and their PTO accruals.

Ms. Gallagher noted that Clarkdale pays out sick time at the rate of \$1.00 an hour.

Councilmember Bachrach said that, coming from the private sector, in every place he has worked, "you either use it or lose it." He said that he was amazed at what an employee can accrue.

Councilmember Barber said that her experience has been that you had to use it by the end of the year. There was no accumulation.

Mayor Vander Horst opened the floor to the public.

Chief Blair said that, before employees can use their PTO time, they have to first use up their vacation and sick leave accruals. He said that this would take him 10 years.

Ms. Gallagher clarified that the Chief had accrued vacation and sick leave prior to the change to PTO, which became effective January 1, 2014.

Chief Blair said that he has given away over 200 hours of vacation time already.

Police Chief Allen Muma said that he found out that he had reached his cap when Chief Blair told him. He had not received any notification, and for a long time, it was not on the pay stubs. It showed up on the stubs when we changed payroll systems last year, he said.

Chief Muma went on to say that he took more time off last year than ever before. "The 480 hour

cap is fine," he said, "if we do a payout at the end of the year."

Councilmember Currier asked why the change to PTO was made.

Ms. Gallagher said, "It was better for employees and easier for management." She explained that It takes away the need to "police" sick time use, as PTO covers both sick and vacation leave.

Vice Mayor Kinsella asked if PTO is shown on employees' time sheets, and Ms. Gallagher confirmed that it is. Mr. Kinsella asked how many total PTO hours an employee receives annually. Ms. Gallagher replied that it varies, depending on how long an employee has worked. After 10 full years of service, an employee is granted 220 hours per year. After 15 years, it increases to 250 hours.

Councilmember Currier questioned why sick time would increase with length of service. Ms. Gallagher explained that PTO increases with length of service just as vacation time would. PTO replaced both sick and vacation leave.

Mayor Vander Horst asked if disability would kick in if an employee uses all of their PTO. Ms. Cretti noted that employees have the option of purchasing AFLAC.

Mayor Vander Horst said, "Six weeks after 15 years may be a little generous in the private sector, but probably normal in the public sector." Ms. Gallagher noted that some of the other towns offer more than that.

Councilmember Bachrach said again that in his experience you "use it or lose it." He said that he heard "audible gasps" in the audience when 480 hours was mentioned. There was discussion regarding payouts in some of the other towns listed.

Ms. Gallagher noted that 480 hours is currently the maximum that one can accrue, not an annual accrual amount. "It's important to recognize that," she said.

Chief Muma said that he has been here for almost eighteen years, and the vacation earning really has not changed from 18 year ago. "The Council didn't give us a big raise," he said. "To be honest, we have the crappiest wages in the state."

Chief Blair said his situation is unique because of his staffing problems. It's hard for him to take time off, even for a weekend. "I have a volunteer agency that shows up when they want," he said. "I have to staff 24 hours a day, seven days a week."

"Do you have an Assistant Chief?" Councilmember Bachrach asked.

"Yes," Chief Blair responded, "but he is working on the 40- hour work week schedule. We call him a Duty Officer. ... I have to have a group of people to cover for me if I take two or three days off.... It's a different game for me."

Councilmember Currier said that he feels Council should not decide on this until they get to the budget. He is worried about making commitments at this stage, he said.

Councilmember Bachrach said, "This is clearly a part of the benefits package for employees."

Mayor Vander Horst said that he is concerned about tabling this until budget approval in July. He noted that, in the meantime, the employees that have reached their max are no longer accruing any PTO. "I would propose," he said, "that we leave the max at 480 and use the Cave Creek example, and force the payout of anything over 480 at the end of the year. And I propose that we retro it back to when they stopped accruing."

Councilmember Currier expressed support for Mayor Vander Horst's proposal.

Councilmember Barber agreed as well.

Vice Mayor Kinsella said that he likes the idea and asked what the payout would amount to.

Ms. Gallagher said that, with the current policy you can only cash out 180 hours. With the proposed change, any PTO hours accrued over 480 would be cashed out at the end of each year at 60%, and the 480 would roll over. At this time, only two employees (Chief Blair and Chief Muma) would be affected.

Councilmember Currier asked how much this would come to. Ms. Gallagher said one employee would have about 250 hours of PTO in excess of 480, and the other about 100 hours, which would be reimbursed at 60%.

Chief Blair noted again that they first have to use sick and vacation time. He has 280 hours and Chief Muma has about 37 hours left, he said, from prior to 2014.

Councilmember Bachrach said that he would like to pay them for their accrued sick and

vacation time.

Ms. Gallagher recommended against paying for accrued sick time, since that had not been the policy in the past. For vacation time, she said, we would be looking at paying for 252 hours for one employee and 37 hours for the other.

Councilmember Currier noted that we are talking about thousands of dollars, and suggested that we negotiate this and pay it off over the next two to three years.

"No," Vice Mayor Kinsella said. "Then you're carrying that over into the next fiscal year and into other budgets. Just cut the check and get it over with."

Mr. Kinsella confirmed that everyone's understanding was that, with respect to PTO, any hours accrued over 480 would be cashed out at the end of each year. Ms. Gallagher noted that it would be paid out at 60%.

Councilmember Currier said that he thinks this will come to \$10,000 or \$15,000, and he'd like to wait until budget discussions. He noted that this could be "half a crew man."

Mayor Vander Horst acknowledged that it may be, and added that we also have the "lowest paid Police Chief and Fire Chief in Arizona."

Councilmember Currier said, "I agree they deserve every nickel. In fact I don't like the idea of 60% - I'd like to give them 100%."

Vice Mayor Kinsella said that he doesn't like the idea of recognizing that we have a problem and not doing anything about the problem until June.

Chief Muma said that this has happened because they had so much time accrued before, and it's hard to take time off. "I've tried to take time off," he said. "I'll burn up half of it this year, so it's not such a financial burden." He noted that he has maintained his budget for 18 years in a row.

Councilmember Currier asked where the money is going to be taken from. Ms. Gallagher replied that it would come from their respective police and fire budgets. Chief Blair said that he has been under budget by anywhere from \$10,000 to \$20,000 every year. In this year's budget, he said, he has been hit heavy with vehicle maintenance, but hasn't spent much on training, small tools and equipment and medical supplies. Mr. Currier noted that the Budget to Actual reports show the Fire Department as \$10,000 over budget right now.

Ms. Gallagher explained that, currently, the expenditures shown on the Budget to Actual reports for Fire include Firewise grant salaries, which will be refunded by the grant. The fire expenses also include the annual per call pay which was just issued. It should even out by the end of the year, she said.

Mayor Vander Horst said, "I don't consider that we're giving them anything. We're paying them what they earned."

Councilmember Bachrach said, "We need to fix this policy so that we don't have this problem over and over again, and we need to compensate these guys fairly for what they've earned. It seems like the first part shouldn't be so tough." He asked if the policy was distributed to all employees. Ms. Gallagher confirmed that it was.

Chief Muma commented that, unless a policy is put into practice, it is not policy. The practice becomes the policy, he said. "There is case law on that."

Vice Mayor Kinsella asked if everyone was in agreement.

Councilmember Bachrach asked about the provision for donating PTO. "Doesn't that get a little muddy?" he asked.

"It hasn't," Ms. Gallagher replied. "It helps other employees out."

Vice Mayor Kinsella said that he would like to address this in two different ways.

Motion: Vice Mayor Kinsella made a motion to put into effect the draft suggestions made by the Town Manager in regards to paid-time-off in section 11 under leave.

There followed considerable discussion to clarify exactly which suggestions were to be implemented at this time.

Ms. Gallagher recommended that no change be made yet regarding part-time employees. We have time to make that change as the new law is not effective until July 1, and she would like to clarify some things with the attorney. If we offer them PTO, she said, they would be able to cash some of it out. However, if we offer sick time, which is all that will be required by law,

there is no requirement to allow a buyback. She would like to look further into this before any change is made.

After discussion, it was agreed that the <u>only change</u> to be made at this time would be to provide that 480 hours of PTO could be rolled over each year, and anything above that would be paid out at the end of each year at 60%.

Motion: Vice Mayor Kinsella revised his motion accordingly, and Mayor Vander Horst seconded it.

The motion passed, 5-0.

Vice Mayor Kinsella said that now, Council needs to make it whole with the employees who had reached the prior max and stopped accruing PTO leave, and asked for suggestions as to how to do that.

Ms. Gallagher recommended that Council direct her to calculate how many hours of PTO they would have accrued, and that they make the policy change retroactive to the time that it was initiated (January 1, 2014), and that she be directed to pay out to employees any hours accrued above 480 at 60%.

Chief Muma asked about accrued vacation time.

Vice Mayor Kinsella said, "We're heading in that direction. I have to get the other one figured out first."

Motion: Mayor Vander Horst made a motion to pay all employees their accrued vacation time and to retroactively implement the motion that just carried to the beginning date of the PTO policy. The motion was seconded by Councilmember Bachrach and passed, 5-0.

Vice Mayor Kinsella asked if this would be done prior to the budget discussions. Ms. Gallagher said that she would be working on this right away. Councilmember Bachrach asked that the final figures be provided to Council for their information.

ITEM #5:

ADJOURNMENT

Upon **motion** by Vice Mayor Kinsella , seconded by Councilmember Barber and unanimously approved, the **meeting was adjourned at 9:09 p.m.**

 ${\it Edited by Town Manager/Clerk Candace Gallagher from minutes taken and transcribed by Deputy Town Clerk Joni Savage.}$

APPROVE:	ATTEST:
Frank Vander Horst, Mayor	Candace B. Gallagher, CMC, Town Manager/Clerk
	Date: