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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, MAY 8, 2018, AT 7:00 P.M.

<p>ITEM #1:</p>	<p>CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE</p> <p>Mayor/Chairperson to call meeting to order.</p> <p>Mayor Vander Horst called the meeting to order at 7:02 p.m.</p> <p>Town Clerk to call and record the roll.</p> <p>Town Manager/Clerk Candace Gallagher called roll. Present were Mayor Vander Horst, Vice Mayor Kinsella, Councilmember Bachrach, Councilmember Barber and Councilmember Currier.</p> <p>Other staff present were Kyle Dabney, Zoning Administrator; Melanie Atkin, Accounting Clerk; and Joni Savage, Deputy Clerk.</p> <p>Mayor or Mayor's designee to lead the Pledge of Allegiance.</p> <p>Mr. Dabney led the Pledge of Allegiance.</p> <p>Motion: Mayor Vander Horst made a motion to change the order of agenda items and move Items 7A, 9A and Item 9B ahead of Item #2, it was seconded by Councilmember Currier and unanimously approved.</p>
<p>ITEM #2: 8:05</p>	<p>STAFF AND COUNCIL REPORTS</p> <p>Written staff reports by the Town Manager/Clerk, Deputy Town Clerk, Utilities Clerk, Accounting Clerk, Public Works Department, Building Inspector, Library, Municipal Court, Police Chief, and Fire Chief, and verbal reports from Council members.</p> <p>At the Mayor's request, Ms. Gallagher reviewed the highlights of her report, which included:</p> <ul style="list-style-type: none"> • A meeting with the new Town engineers to look at certain projects; • A grant application submitted the application to USDA Rural Development for window replacement at the Hotel Jerome; • Continued work with NACOG on CDBG grants; • Progress with the problems experienced with ADP; • Current job openings in Public Works and a new hire (Jamie Shea) for the position of part time Community Arts Coordinator/Library Clerk; • Temporary suspension of mandatory water restrictions that would otherwise go into place automatically as of May 1; • Healthy sales tax revenues again in March. <p>Councilmember Currier noted that it appears that Mr. MacVittie is bringing in the springs projects at significantly less than what had been budgeted, and there are only one or two items left to complete. He suggested offering them a bonus of some type. Ms. Barber noted that the Mescal Canyon project may cost a lot, and Vice Mayor Kinsella agreed. "Hats off to them for all the work they've done," Ms. Barber added.</p> <p>Councilmember Bachrach asked for an update regarding the old Town Yard.</p> <p>Ms. Gallagher said that the tires are still there, as Mr. Boland has not yet determined how to transport them to the facility that will accept them. Vice Mayor Kinsella offered to assist with that. Ms. Gallagher added that she will be posting an auction soon on PublicSurplus.com for the opportunity to demolish the buildings there and take the wood.</p> <p>Mayor asked about the Public Works report, where a word is missing. It stated that a 20-foot ____ was removed from a sewer line. Ms. Gallagher said that the missing word is "root."</p> <p>Councilmember Barber spoke about our police, fire and EMT's recently working to save the life of one of our beloved residents. "We have an amazing group of volunteers here," she said.</p>

	<p>Vice Mayor Kinsella noted that Mayor Vander Horst brought in the helicopter for that incident.</p> <p>Mayor Vander Horst reported that he attended a meeting of the Yavapai County Mayors, Managers, Supervisors and Nation, where it was reported that 20 percent of all the homes in Sedona are vacation rentals. That equates to 1,000 homes, he said. He went on to say that he did a quick online survey, and as of the last census, Jerome had 126 residences. Based on his survey of the top five vacation rental websites, he said, 30 percent of the homes in Jerome are vacation rentals. Someone in the audience asked if that includes B&Bs also, and the Mayor replied that it includes "everyone on the vacation rental websites."</p> <p>Mayor Vander Horst further reported, from that meeting, that:</p> <ul style="list-style-type: none"> • Prescott Valley is issuing 80 building permits per month. • Sedona had requested a ruling from the Attorney General on whether or not they could require vacation rentals to obtain business licenses. "The Attorney General said 'no,'" he said, "'and if you don't stop it we will take away your state funding.'" <p>He went on to report on recent legislative activity:</p> <ul style="list-style-type: none"> • The governor has just signed a new Open Meeting Law with new requirements and penalties for violators. He suggested that this be an agenda item for a future meeting. • Two laws that did NOT pass were (1) a law that would remove the ability of towns to regulate home businesses; and (2) a law that would require candidates for office to declare their political party in in nonpartisan elections. • In another example where the State is trying to take away the local authority, he said, they are now allowing franchise organizations, like cable TV, to opt out of local franchise arrangements and utilize a State agreement instead. • And some good news: The State will fund the Department of Public Safety from a new source of revenue (a new highway safety fee), and not out of HURF funds. Our HURF funds will continue to grow again. <p>Mayor Vander Horst also reported that we are now under Stage 2 Fire Restrictions in the County, and it is illegal to use a chain saw outside.</p> <p>Lastly, the Mayor reported that he and Dr. Jack Dillenber met during the prior week with Shawn Nau, CEO at Steward Healthcare Network. He will work with us along with Spectrum Healthcare to develop a potential grant to create a healthcare clinic for Jeromans and have trained practitioners onsite.</p> <p style="text-align: center;">Motion: Vice Mayor Kinsella made a motion to accept the staff reports. It was seconded by Councilmember Currier and unanimously approved.</p>
<p>ITEM #3: 8:17</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>Mr. Dabney read from his report, which included:</p> <ul style="list-style-type: none"> • He attended the Regional Transportation meeting and met with Jason James to go over our HURF Exchange funding application, which is now complete. • He is starting to send out violation notices for various properties. <p>Councilmember Barber asked if the Design Review Board currently has enough members for a quorum. Mr. Dabney replied that they do, and noted that Mike Parry is continuing as the Planning Commission's liaison.</p> <p>Mr. Dabney had recently given his notice, as he has accepted employment elsewhere. Councilmember Bachrach said, "We will miss you, and we appreciate your help while you were here." He asked about the status of the GIS system.</p> <p>Mr. Dabney said that the map books will be completed by the Fire Department. Ron Chilston will be taking over that project. The groundwork is done, he added, which will be a big help.</p> <p>Councilmember Currier thanked Mr. Dabney for all his great work.</p> <p>Mayor Vander Horst asked about the transition plan for this position. Mr. Dabney said that he is getting the office in order so that anyone who comes in will know what's going on. He will be moving to Phoenix, but said that he is open to taking phone calls whenever needed.</p>

	<p>Councilmember Currier addressed Mike Parry to say that Mr. Parry sits on both Boards and, of all the people involved, he probably knows the most about what's going on. Mr. Currier said that he'd like to prevail upon him to help us and make himself available. Mayor Vander Horst noted that Mr. Parry is leaving at the end of the month and will be away for three months.</p>
<p>ITEM #4: 8:26</p>	<p>FINANCIAL REPORTS Budget to Actual reports, vendor ledger and balance sheet for April 2018 Vice Mayor Kinsella asked if we had money and if the bills were paid. "Yes," Ms. Gallagher responded. There were no questions on the financials. Motion: Vice Mayor Kinsella made a motion to accept the financial reports. It was seconded by Councilmember Bachrach and unanimously approved.</p>
<p>ITEM #5: 8:28</p>	<p>COUNCIL MEETING MINUTES April 10, 2018 regular meeting Motion: Councilmember Currier moved to approve the regular meeting minutes of April 10, 2018. The motion was seconded by Vice Mayor Kinsella and unanimously approved.</p>
<p>ITEM #6: 8:29</p>	<p>PETITIONS FROM THE PUBLIC There were no petitions from the public.</p>
<p>ITEM #7: 7:03</p>	<p>PRESENTATIONS ITEM #7A: RAINBOW ACRES Gary Wagner, president of Rainbow Acres in Camp Verde, will address Council regarding the facility's activities. Gary Wagner introduced Joel DeTar as the community spokesman. Mr. DeTar said that Rainbow Acres started in 1973 as a 501(C)3 with a few mobile homes and about a dozen ranchers. Now, they serve 100 ranchers that come from 31 states. Mr. Wagner has been the CEO since 1996. The ranchers no longer live in mobile homes, they live in homes. He read, "The founders of Rainbow Acres had a vision to create an environment and a facility to empower adults who have developmental disabilities with the opportunity to thrive and grow to their fullest potential with dignity and purpose." They make a personal commitment to every rancher, he said, and the ranchers have a home for life. They get funds from a variety of sources, he said, adding, "That's one of the reasons we're here this evening." Mr. DeTar said that it costs about \$40,000 a year for each rancher, and many of them outlive their immediate family members. Rainbow Acres survives on contributions. He spoke of the ways in which the facility gives back to the community. "First," he said, "it is a clean, pleasant, safe and nurturing environment. They learn computer skills, equine care, hobbies, and they make American flags, which are sold at the gift shop. They have an onsite horticulture program where they produce their own food. They employ 68 full- and part-time employees and they are paid more than minimum wage." Mr. DeTar spoke of the benefits that go along with working there, and noted that around 30 of the ranchers work at various locations within the Verde Valley. Mr. DeTar said, "I am here tonight asking for a contribution to make them sustainable." He offered a quote: "Overall, the need for acceptance and accomplishment makes each one of us share more similarities than differences with the ranchers of Rainbow Acres." Mr. Wagner handed out informational packets to the Council members and informed them they can use the Arizona tax credit system when contributing. He noted that the ranch is located next to the Yavapai-Apache Nation, a mile and a half from the casino.</p>
<p>ITEM #8: 8:29</p>	<p>UNFINISHED BUSINESS ITEM #8A: RESOLUTION NO. 570, A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, ARIZONA COMMITTING LOCAL FUNDS AS LEVERAGE FOR A FY17 COMMUNITY DEVELOPMENT BLOCK GRANT SSP APPLICATION Council may approve Resolution 570, committing a match of \$56,000 toward a CDBG State Special Projects Application for housing rehabilitation. Mayor Vander Horst asked if "FY17" was actually correct.</p>

	<p>Ms. Gallagher confirmed that it was.</p> <p>Motion: Vice Mayor Kinsella made a motion to approve Resolution 570 and it was seconded by Councilmember Currier. The motion passed unanimously.</p>
<p>8:30</p>	<p>ITEM #8B: STATUS UPDATE: RESIDENTIAL PARKING PERMITS</p> <p>Police Chief Allen Muma will present a report regarding the status of implementing the ordinance regarding residential parking.</p> <p>Mayor Vander Horst said that Chief Muma was unable to attend this meeting.</p> <p>Vice Mayor Kinsella said that he would like to hear from Chief Muma with any updates.</p> <p>Motion: Vice Mayor Kinsella moved to table this until the next regular council meeting. The motion was seconded by Councilmember Currier and unanimously approved.</p>
<p>ITEM #9</p> <p>7:11</p>	<p>NEW BUSINESS</p> <p>ITEM #9A: CONDITIONAL USE PERMITS – VERDE EXPLORATION, LTD.</p> <p>Council will review applications for two Conditional Use Permits submitted by John Westcott of Verde Exploration, Ltd., as follows:</p> <ul style="list-style-type: none"> - To convert a space at 879 Hampshire Avenue to a residential apartment - To convert at space at 889 Hampshire Avenue to a residential apartment <p>Both applications were approved by the Planning & Zoning Commission on April 4, 2018. Council may affirm, reverse or modify the actions of the Commission.</p> <p>Mr. Dabney explained that apartments are legal in the light industrial zone, and they would need a Conditional Use Permit. Mr. Westcott has been accommodating to Mr. Dabney's requests, and has provided parking numbers and the square footage of the apartments.</p> <p>Mr. Dabney said, "One correction I would like to make: On one of my reports, I stated that the Fire Chief had inspected both of these; however, he only inspected one. The Planning and Zoning Commission did approve these two applications."</p> <p>Mayor Vander Horst stated that it seems to him that the mixed use goes against the new and unapproved General Plan and its desires. He asked Mr. Dabney to address that.</p> <p>Mr. Dabney said, "I'd go more with the Zoning Ordinance because, in the Zoning Ordinance, it states that it is legal to create these apartments. I understand the relationship with the General Plan and how it could create a problem in the future. I would strongly advise that we look at the General Plan and maybe make some changes to the Ordinance. The Ordinance will generally supersede the General Plan."</p> <p>Councilmember Currier said that he feels that the Ordinance and the General Plan should work in tandem. He added that he is concerned about the fire problem there.</p> <p>Vice Mayor Kinsella asked, "If you have a mixed use, are you not required to put in fire suppression?"</p> <p>Mr. Dabney said "Chief Blair provided some information on what is required for that. There weren't specifics, just things like Rule H thru I, I don't know what that is. It does state suppression should be used under those circumstances. I would like to see more detail as to what those letters represent."</p> <p>Mayor Vander Horst said, "I spoke to Chief Blair before this meeting and he made a point of saying that sprinklers are required in these apartments."</p> <p>Mr. Dabney said that he believes that Chief Blair is willing to work with Mr. Westcott.</p> <p>Councilmember Currier asked what type of fire escapes these apartments have, and whether there is one for each residential unit.</p> <p>Mr. Dabney responded, "Correct, it could be a window exit. That's what we're looking at."</p> <p>Vice Mayor Kinsella asked, "Window exits with a rope or a chain ladder?"</p> <p>Mr. Dabney replied, "Depending on what they want to use, yes, and according to the Building Inspector, it doesn't matter as long as they can get out."</p> <p>Councilmember Currier said, "In other words, they have an option of getting out -- they don't have it yet."</p> <p>Mr. Dabney said that it was a concern on the second level.</p> <p>Mayor Vander Horst commented, "More than a concern."</p>

Councilmember Currier asked Mr. Dabney if there were craft workers, chemicals, kilns, etc. on the premises.

Mr. Dabney did not know.

Councilmember Bachrach asked Mr. Dabney if they had presented a long-term plan to him. "What's to prevent them from adding more units?" he asked.

Mr. Dabney said that they have not given him a long term plan, but they have already approached him regarding more units. "It would not be out of line to ask for a long-term plan," he said, and added, "Mr. Westcott had asked for a blanket CUP, but we decided not to do that because there were too many questions."

Councilmember Bachrach asked if Mr. Westcott had indicated that he would bring the buildings up to current fire code.

Mr. Dabney replied that Mr. Westcott had not said that to him, but did discuss things with Chief Blair.

Mayor Vander Horst said, "Chief Blair told me that he would give them a year to get the sprinklers in on these two units, but he did not feel that any future units should be turned into residential until the sprinklers were in first."

Vice Mayor Kinsella said that, historically, it has been mixed use there. "We found out that, in some of the studios, people have been living there, and recently a lot of people were evicted ... and now we're putting in apartments. I'm a little confused. The part that concerns me is this -- an art studio has a 9 a.m. to 5 p.m. opening, and somebody shouldn't be living there. In the case of an apartment, somebody lives there overnight next to something that could have an open flame ... ramifications that would cause hardship for a person sleeping, that might sleep through something. Fire alarms and suppression ensure that there is some measure of safety put in the building."

Councilmember Bachrach said that he is concerned about the entire place becoming residential, and it sounds as if that might be where it is headed. He asked how many units could potentially be built, and about the impact that may have upon our infrastructure. "A couple at a time," he said. "I'm concerned that, before we know it, there will be ten or twelve. Without a plan presented, it could become unregulated."

Mr. Bachrach went on to say, "I think it could be great living areas, however I believe it should be planned." He added that he is surprised that light industrial zoning allows for residential use. Overall, he said, he is not opposed to the apartments.

Councilmember Currier said that Jerome Instruments (located there in the past) had lots of mercury around. "The suggestion is that we turn one or two into residential," he said. "We have no idea what has been in there before and what is the liability we might have."

Councilmember Bachrach commented that it could be tested by the firm that will do the testing for lead at the Hotel Jerome.

Councilmember Currier asked, "What are we supposed to do tonight?"

Mayor Vander Horst explained that Council is supposed to approve, deny or modify the CUPs that Planning and Zoning granted.

Councilmember Currier asked if we should ask for more information.

"We certainly can," Mayor Vander Horst said.

Councilmember Bachrach said that he would like to know their clear intentions for future development.

Mayor Vander Horst said that he would like to understand their plans for fire suppression, fire escapes and environmental inspections. He said that he is very concerned about a fire escape for the second floor.

Councilmember Currier said that he would like information on the health aspects of this. Mayor Vander Horst opened the topic to the public for comment, and reminded speakers that they are limited to three minutes.

Mandy Worth, a Jerome resident, said that she has rented at 889 Hampshire for three (3) years and has rented from them for 14 years in total. She said that 889 Hampshire is a completely self-contained unit. There are two fire escape windows with chain ladders and four (4) fire extinguishers. Western Heritage does use chemicals, she said, "but we're a completely self-contained unit."

With respect to Vice Mayor Kinsella's comment about working hours being 9 to 5, Ms. Worth said, "Having been in the high school for almost 14 years, those are not artists' hours. We start at 6:00 at night and work until 3:00 or 4:00 in the morning."

Ms. Worth went on to say that she would like to know about fire suppression and Councilmember Currier's questions. "If I'm going to make it my home," she said, "I'd like to know." She added that they've been looking for over two years for a place to live in Jerome and they have not been able to find anything that fits their income. "I don't want the whole place to change," she said. "Maybe an apartment per building." She talked about the break-ins at the high school, and said that, if more people lived there, that occurrence might be less. She encouraged the Council to consider this.

Jane Moore, a Jerome resident, asked, "Why do you say that the General Plan does not like mixed use? Where is that in the General Plan?"

Mayor Vander Horst said the General Plan states that it wants separation between zones.

Ms. Moore said, "That's not what that means, I don't think so."

Councilmember Bachrach asked, "If it is in there, would you be willing to eliminate that from the General Plan?"

Ms. Moore said, "I don't think we said that people living in their businesses was a bad thing, but to not increase the commercial activity in the residential areas."

"This is encouraging the opposite," Councilmember Bachrach said.

Ms. Moore said that she doesn't think that the General Plan discourages people from living in the commercial zones.

Mansel Matthews, a Jerome resident asked, "Did we lose the Gulch radio because the Westcotts complained about the tower?"

He was told that Council could not talk about that.

Mr. Matthews asked if chemical smells from the furniture factory could affect residents. "Maybe," Mayor Vander Horst said. "That would be up to a professional."

Vice Mayor Kinsella said that he agrees that the service industry and other individuals are having a hard time finding a place to live. "The Council needs to see how we can help to negotiate or allow a facility to have an apartment or two," he said. "This is very open-ended and doesn't give us a plan. I will not vote for housing over public safety until I have an understanding of what the intent and long-range goals are. I welcome an opportunity for housing, but not without a plan."

Councilmember Bachrach said that he is in support of "utilizing cool buildings for residential when it's safe to do so." "We've gotten information from them," he said. "They have 149 parking spaces. Nowhere here has 149 parking spaces, but we need to have a plan and I am asking for that."

Mayor Vander Horst noted that one of the questions is when the sprinklers would be installed.

Councilmember Bachrach said that he doesn't know if chain ladders are up to Code. "I think it could be an awesome project," he said. "My concern is the quantity of apartments. Overall, I think it's a great idea."

Councilmember Currier said, "I recall JIC, it was a multi-million-dollar operation and we have talked about not putting all our eggs in one basket. That is the only industrial area we have, and as much as I sympathize about the lack of housing, I'm reluctant to give up the chance for that to happen again. I am torn between both positions. I like the idea of having a light industrial area. I like a small industrial zone. I'm not ready to say Jerome is only a bedroom community, but I still think we should get answers to our questions."

Councilmember Barber said that she agrees that the town needs apartments. She said that she would like to have a neighborhood meeting to find out how others around them feel. She wants to make sure that there are fire escapes and fire suppression. "We need more information," she said. "I'm torn, we need apartments." She said that she would like Chief Blair to be present during the next discussion.

Mr. Dabney asked for confirmation that he is hearing that Council wants to know about the environmental and health ramifications and fire suppression plans/requirements before the next meeting, and would like to see a grand plan before any more apartments are approved.

Councilmember Bachrach said, "I just don't want to keep approving these without knowing the whole plan."

Councilmember Currier said that we would also want to know what impact these will have on our infrastructure.

Vice Mayor Kinsella asked if the apartments were in two different buildings.
 "Yes," Mr. Dabney responded, "879 and 889 Hampshire."
 Vice Mayor Kinsella commented that fire suppression systems go with buildings.
Motion: Councilmember Bachrach made a **motion to table this until they got all of the information they requested** and it was seconded by Councilmember Barber.
 The **motion passed unanimously.**

8:31

ITEM #9B: PROCLAMATION – NATIONAL GUN VIOLENCE AWARENESS DAY

Council may approve a Proclamation declaring June 2 of each year to be National Gun Violence Awareness Day in the Town of Jerome, a day to honor and remember all victims and survivors of gun violence.

Councilmember Bachrach said that Margie Hardie had brought this proclamation up, and he had told her that he would support it. Before reading it, he asked if there was any discussion needed. There was none, and he read the proclamation aloud:

"This Proclamation declares June 2 to be National Gun Violence Awareness Day in the Town of Jerome, Arizona, a day to honor and remember all victims and survivors of gun violence.

WHEREAS, data from the U.S. Centers for Disease Control and Prevention show that every day, 96 Americans, on average, are killed by gun violence, and countless others are injured; and WHEREAS, Americans are 25 times more likely to be murdered by firearms than are people in other high-income countries; and

WHEREAS, suicide attempts involving guns are over 45 times more fatal than attempts involving overdosing, around 30 times more fatal than those involving cutting or stabbing, and almost three times more fatal than suicide attempts by jumping; and

WHEREAS, citizen and government efforts to keep guns out of the hands of those who are likely to misuse them is not inconsistent with the Second Amendment of the United States Constitution; and

WHEREAS, the Town of Jerome supports efforts of private citizens and governmental entities to reduce gun violence; and

WHEREAS, we hereby renew our commitment to reducing gun violence and pledge to do all we can to keep firearms out of the wrong hands and encourage responsible gun ownership to help keep our community safe;

NOW, THEREFORE, BE IT RESOLVED that the Town of Jerome, Arizona, declares June 2 of every year to be Gun Violence Awareness Day in Jerome, and that we encourage members of the community to recognize that day in honoring and remembering all victims and survivors of gun violence."

Councilmember Bachrach commented that he is an ex-NRA member, and a 30-year high-powered rifle competitor. He owns firearms and he's an NRA-certified range safety officer. "I have seen firsthand," he said, "a number of people who should not own firearms. We need to take steps toward reducing gun violence. Thank you."

Motion: Mayor Vander Horst made a **motion to approve the proclamation making June 2nd National Gun Violence Awareness Day in the Town of Jerome** and it was seconded by Vice Mayor Kinsella. The **motion passed, 5-0.**

8:33

ITEM #9C: DRONES

Councilmember Hunter Bachrach will lead a discussion about drones in Jerome, and what can and cannot be done about them.

Councilmember Bachrach said that he talked with the Police Chief about drones. "It is impossible for the Town to regulate drones," he said. "It's actually illegal because of the State of Arizona." Chief Muma told him that they have had a lot of complaints, and "if you can find the operator, you can approach them and talk to them. Usually, when approached, they pack up and go home." Mr. Bachrach added that, if the drone is below your roofline, he believes it is our right to call the police.

He then displayed a photo of a "No Drone Zone" sign and said that he would like to post signs similar to that here. Because we are within five miles of the Cottonwood Airport, that airport would have to be notified in order to operate a drone here.

Councilmember Currier said that he likes the idea and asked how many signs he wanted, how much will it cost, and who would do it.

Councilmember Bachrach said that he'd take care of the signs and estimated that it would cost "a couple hundred bucks."

Mayor Vander Horst said that the statute says that it's unlawful for a person to operate or use an unmanned aircraft or unmanned aircraft system to intentionally photograph or loiter over or near a critical facility, and it can become a criminal offense. We have a

water distribution system, a municipal court, and two public safety facilities, he said, adding, "This is probably more significant than just the airport."

Councilmember Currier again expressed support for the signs, and commented that we could have drone helicopters within the next two years.

Vice Mayor Kinsella said that he has noticed that there is a "nice landing spot for drones in the basketball court," and added that he "has a hard time with Phoenix telling Jerome what to do." He lives near the basketball court, he said, and when he was on his back deck, a drone dropped down below his roof line and was looking straight at him. "That is an invasion of my privacy," he said, "and I will take measures into my own hands." He added, regarding the need to obtain permission from the Cottonwood Airport, "Some of these people have no idea there is an airport in Cottonwood. As soon as you tell them, they pack things up."

Mayor Vander Horst invited comments from the public.

Rebekah Kennedy said that she was dive-bombed by a drone several times on Main Street. "What do you do then?" she asked. She was told to call the police.

Ms. Moore said a drone operator was taking photos for the fire department recently, and was in the kiln yard less than 10 feet from the door and at eye-level. She asked him to take it off of her property. He argued with her that she doesn't own air space and that he could be there.

Councilmember Bachrach said that there is language about "practical airspace."

Mansel Mathews said that there is a landing spot behind Town Hall. "It is two big white X's," he said.

Councilmember Bachrach said that he believes that those markings are part of a water survey mapping by the State. He asked Mr. Mathews if he saw them put it there.

Mr. Mathews responded, "No, I just assumed that's what it was."

After brief further discussion, Mayor Vander Horst directed Ms. Gallagher to look into purchasing signs, and Council discussed options for their placement.

7:41

ITEM #9D: APPEAL OF PLANNING & ZONING COMMISSION DECISION

Council will hear, and may act on, an appeal by Kelley Foy regarding denial on May 2, 2018, of her application to the Planning & Zoning Commission for approval of a second story garage addition.

Mayor Vander Horst said that he would allow the public to speak after Mr. Dabney and the Council have discussed this.

Mr. Dabney said that when Ms. Foy came to him originally, he requested that this structure be considered new construction and asked for setbacks, according to the Zoning Ordinance. She did provide the plans and he approved them, and then it went to Planning and Zoning. The setbacks were all fine, he said, and everything looked good. There was a discrepancy in the definition of a deck and how close the garage was. The Zoning Ordinance reads that, if there is a roof or enclosure that keeps out the elements, then the deck is considered part of the main structure. His argument was that, "If you sit on the deck in a rainstorm, you're going to get wet. A roof does not keep out the elements." He said that he did not, therefore, consider the desk as part of the main structure, and as such, she met all setback requirements.

At P&Z, the plan was denied with a vote of two "yea" to one "nay."

Mr. Dabney said that he had contacted the Town Attorney and was told that what she wanted would be okay. If she demolishes the building but keeps one wall up, it would legally constitute a remodel, and she will not lose the legal nonconforming status of the building. By building up, and not out, she is not increasing the discrepancy of that nonconforming status. He asked the attorney to provide a letter stating what they had discussed, and he asked Ms. Foy "to do a new plan so that it stays in its same spot and the footprint would not change."

Councilmember Currier asked, in regard to discrepancy, "Changing the height of a building does not affect the discrepancy? Where does that definition come from?"

Mr. Dabney said that there is no definition of "discrepancy" in the Zoning Ordinance.

Councilmember Currier then asked for an example or a precedent.

Mr. Dabney said that, in one instance, a gentlemen wanted to build out and enlarge the footprint of his building. He had a legal nonconforming structure. Mr. Dabney denied that because it was taking up more of the lot and increasing the discrepancy.

Mayor Vander Horst noted that the letter from the Attorney states that Ms. Foy's plan doesn't increase the discrepancy.

The Mayor then opened the floor to the public and noted that he had a petition from Rebekah Kennedy.

Ms. Kennedy, a Jerome resident said that her petition was regarding a "big hole at the bottom of 3rd Street" that is getting bigger and bigger.

Mayor Vander Horst noted that her petition was not related to this topic.

"No," Ms. Kennedy said, "not unless her project might have something to do with extra traffic on 3rd Street." She then asked if we might put a "No Turn Around" sign at that location.

Kelley Foy read aloud a letter to the Town:

Dear Council Members and the Town of Jerome,

I am seeking an appeal regarding a remodel application that was presented to the Planning and Zoning Commission. In case you don't already know me, my name is Kelley Foy. I am a long-term resident of Jerome for close to 14 years now. I am a self-employed artist and master craftsman as well as a chef and past family restaurant owner. I have owned businesses in Jerome, I am a property owner, and I have served on the Planning and Zoning Commission as well. I am a passionate creator and fell in love with Jerome's aesthetic, history. I am committed to preserving the uniqueness of this special town.

Nearly 14 years ago when I first bought my home on Third Street, I dreamed of creating my own studio space in the existing garage so that I could someday work on my craft from my home in Jerome. I immediately went to the Planning and Zoning office in the Town Hall to clarify with the P&Z administrator at that time that my garage/studio remodel was possible and legal. It was my understanding that my neighborhood had been zoned I-1 (light industrial) for many years. The town sawmill was at one time located across the street from my home. The town's administrator at the time, Ellen, informed me that the zoning had changed but looked over my plans and assured me that remodeling and adding a second floor to my current garage was well within the town code, as long as it did not increase the existing footprint.

With a lot of hard work and 14 years later, fast forward to 2018. I came to the Town Hall once again to review my application with the current P&Z administrator with the goal of remodeling my current garage/studio, and to add a second-floor studio for my ceramic art studio, above my newly remodeled garage to continue using as my woodworking studio.

The current P&Z administrator, Kyle, was respectful, thorough, and direct. He offered to help as much as possible to see if the Town Code would permit a remodel. He suggested that I should present my application as a "new construction" and see if the Commission will accept it.

I presented the required eight (8) copies of plans and additionally included my own certified survey of the property. Although a remodel of the existing property would not require additional setbacks, I agreed to provide all setbacks under this application, including the five-foot setback of the garage from my house structure. From my existing garage/studio to the structure of my home is measured ten feet, ten inches with a six-foot, three-inch porch.

The discussion began whether the porch is included in the five-foot setback and there was some debate whether a porch or deck is an enclosure, protects you from the elements, or is included in the setback requirement.

With a majority vote, all but one member of the Planning and Zoning Commission agreed that it was reasonable to allow and voted yes. However, because there is currently only a three-commissioner board, instead of a usual majority vote, a unanimous vote was required.

Commissioner Hardie stated that, for this reason, she voted NO. The five-foot setback of my garage from my own house, required only for a 'new construction' application, was not met with this application by five inches. When this was suggested to her, she emphatically stated that it was too late because the applicant had already been denied.

I returned home to once again redraw the plans with my original intended plan to remodel my existing garage/studio and add a clay studio above within the height requirements and without increasing my current, legal non-conforming structure's footprint. At this time, the Town Attorney presented a letter for presentation at the next meeting to support that the legal way to approach my garage/studio was in fact, as a remodel.

At this point, Ms. Foy began to read from the Attorney's letter.

"I'm going to read the final conclusion he came to," she said. "'Section 501.B.2 of the Zoning Code establishes the predicate that no structure that continues a non-conforming use may be altered or enlarged in a manner that would increase the discrepancy that existed at the time that the Zoning Ordinance was adopted, between the conditions existing at the time of Zoning Ordinance adoption and the requirements of the Zoning Ordinance. Section 501.C.6 elaborates on this point – A nonconforming building may not be altered to an extent to which it would increase the discrepancy between conditions existing at the time of the adoption of this Ordinance and the standards prescribed in this Ordinance. Given the proposed modifications to the garage will not increase the discrepancy between the conditions existing at the time of the adoption of the Ordinance and the standards prescribed in this Ordinance, neither Section 501.B.2 nor Section 501.C.6 would prohibit the proposed alteration. Section 501.C.7 prohibits the alteration of a nonconforming building if the building is "demolished." This may explain why the applicant is leaving one wall in place. The applicant can argue that the term 'demolish' means to destroy totally. As a result, the applicant can argue that Section 501.C does not apply."

Ms. Foy then continued reading her letter:

On May 3, I returned to present a new application, this time for a 'remodel' of my existing garage. In this application packet, the attorney's letter was included.

The new application for remodel, under the Town Code, no longer required any setbacks. After a short discussion between the Commission, they put the new packet to a vote.

Commissioner Hardie was reminded that this was a new packet, when she mentioned that she did not bring hers to the meeting. She did not ask me any questions about the new application.

A call was made for a vote. Commissioner and Chair Lance Schall once again voted yes, additionally Commissioner Mike Parry voted yes. Commissioner Hardie once again voted no and after, read a letter she wrote prior to the meeting as to why she voted no.

Despite a majority vote on both of my applications, meeting all requirements on my second application and getting a supporting letter from the Town of Jerome's own legal counsel, I have been denied my application twice to remodel my existing garage/studio. I request that you please take careful consideration of this appeal request and grant my application to improve my property and remodel my garage/studio.

Ms. Foy went on to say, "I wanted to mention something. As someone who has served on Planning and Zoning, I'm aware there is a 24-hour requirement that anything brought to the attention in a meeting or read or included in a packet be presented 24 hours in advance. I did not know that Margie, once again, had stepped outside of protocol and written another letter requiring more things to be considered in your vote today to further postpone your vote. She wrote this six hours in advance and rather than drag this out again, because I've worked very closely with the Town and followed all of the requirements, please disregard Ms. Hardie's letter. Please make the vote today and not drag it out any longer."

Councilmember Currier said, "I should know this, but are we the Board of Appeals?"

Mayor Vander Horst confirmed that they were. He asked if there were any other public comments.

Suzy Mound, a neighbor, commented that she is "late to the game," but is just hearing about it. She said that she thought that neighbors would be informed if there was a big change. She referred to a drawing and asked if it was along Center Street.

Ms. Foy responded, "That is where the existing garage is."

Ms. Mound asked, "Is there a door there now?"

Ms. Foy replied that there used to be. It was rotting, and she replaced it with a board.

Ms. Mound said, "I'm just trying to understand. You want it as a studio. Will it have a bathroom?"

"Yes," Ms. Foy said.

Ms. Mound said, "Because it is so close to the street, to me it seems kind of towering, because it's like right there. Thank you for answering my questions."

Ms. Foy said, "It is my understanding the public meeting is not required unless it is new construction, or I would have done that."

Mr. Dabney interjected, "That's correct."

Councilmember Bachrach said that he believes our discussion here is whether it is legal or not. He said, "I thought it wouldn't contain plumbing, is that correct?"

Ms. Foy replied that it does have some plumbing already, it just doesn't have a bathroom. She said that it was in her plans.

Councilmember Bachrach said that he didn't see that in her plans.

Ms. Foy said, "This is just a preliminary plan."

Councilmember Bachrach said, "That is an important detail."

Mayor Vander Horst said, "Not for Design Review. It's exterior isn't it?"

Vice Mayor Kinsella said, "This is for P&Z. Planning and Zoning is where the placement of the building is on the property and has nothing to do with the interior."

Councilmember Bachrach asked if utilities weren't a part P&Z.

Vice Mayor Kinsella replied, "No, placement on property."

Mr. Dabney said that he had told Ms. Foy that a stove is not to be installed. He had talked with the attorney about this and that would constitute a problem.

Councilmember Bachrach asked, "There is no functioning plumbing in the building now. Is that correct?"

Mr. Dabney said that there is water.

Ms. Foy said, "There is water and an old sewer line. There is not a functioning toilet in it now."

Councilmember Bachrach commented that he thought that garage should have been torn down 14 years ago, and added that he doesn't think the height will interfere with her house.

Councilmember Currier said that he has no problem with the structure.

Councilmember Barber said, "If we're leaving one wall, it's new construction. So, I hate to be a stickler, but I believe there should be a neighborhood meeting." She said that she would like to see a picture of how tall it will be, and asked how Diane Freer felt about this.

Mayor Vander Horst stated that, legally, this is not new construction.

Councilmember Bachrach asked for clarification on the wall being moved. "Is that the existing wall?" he asked.

Ms. Foy said that no wall will be moved.

Mr. Dabney said that that was the original argument. It was determined that the footprint would stay the same.

Councilmember Currier said, "This idea of talking to the neighbors is great, but if it's not on the books, then it's not on the books."

Ms. Foy said, "It's been on the agenda for three meetings now as well. It has been public. I wasn't required, and I didn't bring it to my neighbors. The neighbors that I talked to said they supported it."

Motion: Vice Mayor Kinsella made a **motion to vote in favor of the Kelly Foy appeal going against the denial on May 2, 2018** and it was seconded by Councilmember Currier. **The motion passed with 4 ayes and 1 nay (by Councilmember Barber).**

Jane Moore said that she had had her hand up for a question.

Mayor Vander Horst replied that they had closed the public comments.

Ms. Moore said that she had her hand up prior to that, and would like to ask a question about the vote.

"No," Mayor Vander Horst responded. "The vote is over."

ITEM #10
8:45

TO AND FROM THE COUNCIL

Council may direct staff as to items of pending importance that they would like placed on a future meeting agenda.

Councilmember Currier noted that the Flea Market for the Humane Society will take place at the end of the month, and there will be a "Woofstock" fundraiser for the Society at the Spirit Room on May 16.

Councilmember Barber said that she thought the Police Department had a drone, and perhaps the Town crew could use it. She was told that they do use the Police Department's drone when they need to.

	<p>Councilmember Bachrach said that the lead-based paint removal at the Hotel Jerome might be considerably more expensive than what he had been led to believe. "We will have to talk about that," he said, "but that's the next step."</p> <p>Vice Mayor Kinsella said that May will be a busy month. The 53rd Annual Home Tour is coming up. He encouraged residents to "be patient with the tourists, they pay the bills."</p>
ITEM #11	<p>ADJOURNMENT</p> <p>Upon motion by Vice Mayor Kinsella seconded by Councilmember Currier and unanimously approved, the meeting was adjourned at 8:47 p.m.</p>

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: _____