

**TOWN OF PAYSON
TOWN COUNCIL MEETING
MINUTES OF THE REGULAR MEETING
October 21, 2010**

CALL TO ORDER

Mayor Evans called the regular meeting to order at 5:30 p.m. in the Town Hall Council Chambers, 303 North Beeline Highway, Payson, Arizona.

INVOCATION

An invocation was offered by Pastor Harold Fleege, U-Turn for Christ.

PLEDGE OF ALLEGIANCE

PRESENT: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

STAFF PRESENT: Debra Galbraith - Town Manager, Tim Wright - Town Attorney, LaRon Garrett - Public Works Director, Cameron Davis - Parks, Recreation and Tourism Director, and Don Engler - Police Chief.

OTHERS PRESENT: Gaye Stidham - Deputy Town Clerk, Tracie Bailey - Deputy Town Clerk, Deb Rose - Recreation Coordinator, Sheila De Schaaf - Planning Specialist, Hope Cribb - Finance Manager, Toni Balestrere - Paralegal II.

A. PUBLIC COMMENTS (SPEAKER'S REQUEST FORM SUBMITTED)

Shirley Collin thanked the Council, police chief and fire chief for help getting the property cleaned up that she brought to their attention at the last Council meeting. She voiced questions concerning the proposed ASU campus asking if this would be an exchange of property with the Forest Service or someone else, what the property is being exchanged for, whether it was private or State trust land, whether the land was a gift, how many acres were involved, who would exchange the most acreage and how much would this cost the Payson resident.

Ed (Hollywood) Holyoak said that although the changes to the noise ordinance being made tonight were not about motor vehicles, he wanted to reiterate his and other riders' passion for motorcycle riding. He restated the need for motorcycles to make themselves obvious with noise to keep them safe.

Comments through website:

Carol Stanton of Payson was concerned about the volume of Thunder Mountain events last weekend. She said that in the almost four years she has lived here, this was the loudest event. She suggested everyone do whatever the summer concerts

do with respect to noise.

Paul Greene of Payson said, having hens in the past, he was aware of the work involved in daily clean-up. The keeping of hens can be rewarding for families with children to teach them some of life's lessons.

(Full website comments are attached to these minutes)

B. CONSENT AGENDA

Items listed on the agenda with an asterisk which are considered to be routine in nature and which will be enacted by one motion.

Motion: to approve the CONSENT AGENDA.

Moved by Council Member John Wilson, seconded by Council Member Su Connell.

Vote: Motion carried 8 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, Council Member John Wilson, and Don Engler - Police Chief.

C. CURRENT EVENTS PRESENTATION BY THE TOWN MANAGER, MAYOR, AND/OR COUNCIL MEMBER

1. Brief presentation of current events by the Town Manager, Mayor, and/or Council Members.

Cameron Davis, Parks, Recreation and Tourism Director, announced the Trunk or Treat Festival on October 30th on Main Street in front of the Ox Bow from 6:00 p.m. - 9:00 p.m. There will be a Haunted House at the Ox Box hosted by the Payson High School Drama Club from 6:00 p.m. to 10:00 p.m. The theme is "Ye Ol' England". The scariness of the Haunted House will be adjusted according to the age of the children going through.

2. Documents, materials and information for Council review. (The Council will not discuss or take action on the attached; they are provided for information only) There were no materials for Council review.

D. CEREMONIAL; ANNOUNCEMENTS; PRESENTATIONS; INTRODUCTIONS

1. Comments, Commendations, and Presentations by Mayor, Council Members, and/or Town Staff. There were no comments.
2. Proclamation declaring November 2010 as Veterans Recognition and American Patriotism Awareness Month. Sherman Alston, Payson Patriotic Events Committee and Commander American Legion Post 69 was present to accept the proclamation.

Vice-Mayor Hughes read the proclamation in full. Commander Sherman Alston accepted the proclamation for the veterans of the community. He invited those present to join them on November 11th at the High School auditorium for a veterans presentation. He noted that the auditorium is newly renovated. Mayor Evans suggested the public attend the memorial in Green Valley Park and be sure to fly our flag on Veteran's Day.

3. Recognition, the Arizona Newspaper Association on Saturday declared the Payson Roundup the best non-daily newspaper in Arizona for the 12th year in a row.

Mayor Evans recognized the Payson Roundup newspaper for their achievements.

E. MINUTES

1. * Council Meeting Minutes:
09-30-10 Special Meeting Minutes Pages 1 - 5
10-07-10 Regular Meeting Minutes Pages 1 - 10
CONSENT APPROVED

F. HEARINGS AND APPEALS

1. There were no items in this section.

G. RESOLUTIONS AND ORDINANCES

1. * As Council, staff, and the audience have the titles to all resolutions and ordinances, authorization to forego verbal title readings.
CONSENT APPROVED
2. The following two items will be heard together: Resolution No. 2575 and Ordinance No. 790.

A. Discussion/possible action concerning Resolution No. 2575 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 130.20 (NOISE) OF THE CODE OF THE TOWN OF PAYSON, MAKING CONFORMING CHANGES TO SECTIONS 73.05, 90.04, 111.09, AND 130.18 OF THE CODE OF THE TOWN OF PAYSON AND SECTIONS 15-02-013 AND 15-11002 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD. (NOISE AMENDMENTS)

B. Second Reading and Public Hearing concerning Ordinance No. 790 captioned as follows: AN ORDINANCE OF THE MAYOR AND

COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA,
AMENDING SECTION 130.20 (NOISE) OF THE CODE OF THE
TOWN OF PAYSON AND MAKING CONFORMING CHANGES
TO SECTIONS 73.05, 90.04, 111.09, 130.18, AND 130.99 OF THE
CODE OF THE TOWN OF PAYSON AND SECTIONS 15-02-013
AND 15-11-002 OF THE UNIFIED DEVELOPMENT CODE.
(NOISE AMENDMENTS) Second Reading and Public Hearing.

Mayor Evans opened the Second Reading and Public Hearing concerning Ordinance No. 790. There were no comments from the public.

Council Member Croy stated his desire that the exemption of garbage trucks from the noise ordinance be deleted. He thought time tables like those on construction noise be assigned. Council Member Carpenter asked that there be an exemption for ice cream trucks playing traditional music. Council Member Connell said she responded to comments made through the new Peak Democracy comments portal on the Town website that were concerned about noise made by the Thunder Mountain event by forwarding their concerns to the event sponsor, Mogollon Health Alliance. Concerns voiced at the last meeting about noise from the high school and middle school were forwarded to the Payson Unified School District offices. Mayor Evans closed the public hearing.

Motion: to Approve Resolution No. 2575 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 130.20 (NOISE) OF THE CODE OF THE TOWN OF PAYSON, MAKING CONFORMING CHANGES TO SECTIONS 73.05, 90.04, 111.09, AND 130.18 OF THE CODE OF THE TOWN OF PAYSON AND SECTIONS 15-02-013 AND 15-11002 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD AND Ordinance No. 790 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 130.20 (NOISE) OF THE CODE OF THE TOWN OF PAYSON AND MAKING CONFORMING CHANGES TO SECTIONS 73.05, 90.04, 111.09, 130.18, AND 130.99 OF THE CODE OF THE TOWN OF PAYSON AND SECTIONS 15-02-013 AND 15-11-002 OF THE UNIFIED DEVELOPMENT CODE.
Moved by Council Member John Wilson, seconded by Council Member Fred Carpenter.

Motion: amend the main motion deleting the garbage truck exemption, Section 130.20(C)(8)(c).
Moved by Council Member Richard Croy, seconded by Council Member Fred Carpenter.

There was discussion concerning the time restraints in this section. Attorney Wright explained garbage trucks would still be subject to the general noise

prohibitions and the 6 a.m. winter and 5:00 a.m. summer start times for construction noise. Mayor Evans asked if that would keep garbage trucks from running at all before those times or just emptying containers. Attorney Wright explained that vehicles could fall into a noise violation even if they were not actually dumping garbage, but as a practical matter, only the emptying of bins would be considered the "work equipment" under this section. Council Member Croy said his intent was not allow pick up of cans on street prior to same hours as construction people, maybe not the construction is not the way to go, but to limit garbage collection to those hours. Council Member Wilson read section 130.20(C)(8) pointing out the difference between outside, construction and repair noise and residential refuse removal. Attorney Wright said that this is where you might have some trouble shoeing residential pick up, but if they were at a construction site it would fall under that definition. Vice-Mayor Hughes noted that a garbage truck is not only a piece of equipment but also a vehicle and restrictions would need to distinguish between its operation and picking up garbage.

Mayor Evans asked if it was Council Member Croy's intent that the garbage trucks be limited to certain hours of operation. Council Member Croy said that was his intent, that they run the same hours as the construction restrictions. Maybe the way it is worded in the construction portion is not the way to go. Mayor Evans asked Attorney Wright if there was a place to make that clear, garbage collection is limited to pick up not before 5:00 a.m. in the summer months and 6:00 a.m. in the winter months. Attorney Wright said we could add a new Section #3, or just begin Section #8 with "garbage collection, operation of equipment, etc. Attorney Wright said if Council so desired, this could be included under subsection #8 in the main paragraph and the two subsidiary paragraphs.

Attorney Wright said the Ordinance could add refuse collection to Subsection 8, construction prohibitions.

Motion: substitute the previous motion amending the main motion to include refuse collection under Subsection #8 both in the main paragraph and in the two subsidiary paragraphs referencing both residential and commercial refuse collection.

Moved by Council Member Ed Blair, seconded by Council Member Fred Carpenter.

Council Member Blair asked for clarification. Attorney Wright said that the title of Subsection #8 would now read similar to "refuse collection, outdoor construction and repair" under the text of Subsection (8) start out with "refuse collection, both residential and commercial, operation of equipment" and the under Subsection (a) start/stop times from June 1st to September 1st inclusive, all refuse collection, construction, repair, etc." Subsection (b, right before construction, repair, etc. it would be "refuse collection" and Subsection (c) would be removed.

Council Member Blair said that in the substitute amendment 5:00 a.m. was too early for garbage trucks to be making noise in neighborhoods. He favored adding a Section 13 specifically for residential refuse collection stipulating no collection before 6:00 a.m.

Motion: amend the pending substitute motion deleting the garbage truck exemption in Section 130.20(C)(8)(c) and adding Section 130.20(C)(13) prohibiting collection of residential refuse prior to 6:00 a.m. and after 10:00 p.m.

Moved by Council Member Ed Blair, seconded by Council Member Richard Croy.

Vice-Mayor Hughes cautioned that if there was a single time standard for garbage collection then it needed to be separate from the construction prohibitions. Attorney Wright said Section 13 would be added, "no collection of refuse in residential areas prior to 6:00 a.m. and after 10:00 p.m."

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

Motion: to Approve the substitute motion as amended regarding title and content of Subsection 130.20 (C)(8).

Moved by Council Member Ed Blair, seconded by Council Member Fred Carpenter.

Vote: Motion carried 6 - 1

Yes: Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

No: Mayor Kenny J. Evans.

Motion: amend the main motion by changing Section (C)(3) allowing ice cream vendors playing traditional music between 8:00 a.m. and 8:00 p.m.

Moved by Council Member Fred Carpenter, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

Council Member Blair asked for clarification to the civil sanction process. Attorney Wright explained saying that with the consolidation of noise ordinances to one section the criminal violations stay at the same maximum and the civil violations stay at the same maximum. Council Member Blair wanted the maximum penalty to stay the same for jake-brake violations but asked for minimum violation penalty be raised for the animal noise sections.

Motion: amend the main motion to change Section 130.20(G)(3) to raise the fine for a second offense to \$200 and a third and all subsequent offenses to \$400.

Moved by Council Member Ed Blair, seconded by Council Member Fred Carpenter.

Council Member Connell agreed except she believed the penalty amounts should be \$50, \$150 and \$300. **Council Member Blair withdrew his motion and Council Member Carpenter withdrew his second.** Chief Engler explained to Council Member Blair that, on average, the Police Department cites less than five animal owners a month. In answer to the question by Council Member Croy, Chief Engler said that raising the dollar amount for citations would not reduce the department's workload. Attorney Wright noted that Section 3 would need to be changed to conform with the maximums.

Motion: amend the main motion to amend Section 130.20(G)(3) to read (a) \$50 for the first offense, (b)\$150 for the second offense and (c)\$300 for the third and all subsequent offense and to conform with Section 3.

Moved by Council Member Su Connell, seconded by Council Member Fred Carpenter.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

The vote on the main motion with amendments was to approve, 7 - 0.

3. First Reading and Public Hearing concerning Ordinance No. 791 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADDING SECTION 15-14 (HOME OCCUPATIONS), AMENDING SECTION 15-11 (DEFINITIONS), AND AMENDING SECTION 15-02-004(B)(2) (HOME-BASED BUSINESSES) OF THE UNIFIED DEVELOPMENT CODE OF THE TOWN OF PAYSON. (HOME OCCUPATIONS)

No public comments. Closed public hearing.

4. Discussion/possible action concerning Resolution No. 2584 captioned as

follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING FEE TITLE IN AND TO CERTAIN REAL PROPERTY, ALL DESCRIBED ON EXHIBIT "1" ATTACHED HERETO COMPRISING RIGHT-OF-WAY ACQUISITION FOR THE ST. PHILIPS ST. CONSTRUCTION PROJECT.

LaRon Garrett, Public Works Director, explained St. Philips Catholic Church had recently had the road surveyed and found that this portion belonged to them. They were not comfortable with the liability and asked the Town to purchase the easement as a public road.

Motion: to Approve Resolution No. 2584 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING FEE TITLE IN AND TO CERTAIN REAL PROPERTY, ALL DESCRIBED ON EXHIBIT "1" ATTACHED HERETO COMPRISING RIGHT-OF-WAY ACQUISITION FOR THE ST. PHILIPS ST. CONSTRUCTION PROJECT.

Moved by Council Member John Wilson, seconded by Council Member Fred Carpenter.

Vote: Motion carried 8 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, Council Member John Wilson, and Don Engler - Police Chief.

H. UNFINISHED BUSINESS

There were no items in this section.

I. NEW BUSINESS

1. This was a Public Hearing. Council Decision Request filed by Ray Erlandsen, Community Development Director, regarding the citizen application to amend the Unified Development Code concerning the keeping of poultry hens.

Mayor Evans opened the Public Hearing.

Robert Rush of Payson said the yard of the citizen who made the request backs up to his yard. The hens are so noisy that his daughter is not able to take a nap. He opposed changing the UDC.

Jean Rodele said she lived three doors from the citizen with chickens. She said the noise and smell were bound to attract wildlife coming into their neighborhood. She opposed changing to the UDC.

All Capius, president of the home owners association where the citizen making this request resides. He stated that the by-laws of the association allow only cats, dogs and small pigs. He believed it would be difficult for the Town to monitor the keeping of chickens and opposed changing the UDC.

Mayor Evans closed Public Hearing.

Ray Erlandsen, Community Development Director, explained that staff was asking for direction and noted this request was heard by the Planning and Zoning Commission.

Council Member Blair asked if making no changes would that include both hens and roosters. Mr. Erlandsen affirmed that was correct.

Motion: to Approve option #1 (make no change to the Unified Development Code) of the Council Decision Request filed by Ray Erlandsen, Community Development Director, regarding the citizen application to amend the Unified Development Code concerning the keeping of poultry hens. Moved by Council Member Ed Blair, seconded by Council Member Fred Carpenter.

Council Member Connell believed people had the choice to live in the country or in town. Chickens belong in the country. She supported making no changes to the UDC.

Vote: Motion carried 8 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, Council Member John Wilson, and Don Engler - Police Chief.

2. Council Decision Request filed by Cameron Davis, Parks, Recreation and Tourism Director, to (1) approve the contract for operation of Taylor Pool between the Town of Payson and EVO Swim School and (2) authorize the Town Manager to sign such contract. (3) If agreed by both parties within 30 days of the end of the summer swim season, authorize the Town Manager to agree to a contract extension for the following calendar year on behalf of the Town.

Cameron Davis, Parks, Recreation and Tourism Director, explained what the contract would allow noting that without this contract Taylor Pool would be closed this coming summer because Town operation of the pool was not budgeted. Council Member Carpenter asked if this contract had originally gone through the bidding process. Attorney Wright explained that the cost of this contract was not at the requirement level for that process.

Dave Tate, EVO Swim School, thanked the Council and Parks staff or their

cooperation and help through their initial season. He explained that a change to this year's contract allowed five days of open, public swim rather than six. Public swim will be open on Monday, Tuesday, Wednesday, Thursday and Saturday. He said that Mondays could also be cut if there was not much participation on that day. Sunday's, historically, have not been a public swim day. Mr. Davis explained the contract saved the Town approximately \$103,000 last year.

Mayor had many compliments on the program.

Motion: to Approve a Council Decision Request filed by Cameron Davis, Parks, Recreation and Tourism Director, to (1) approve the contract for operation of Taylor Pool between the Town of Payson and EVO Swim School and (2) authorize the Town Manager to sign such contract. (3) If agreed by both parties within 30 days of the end of the summer swim season, authorize the Town Manager to agree to a contract extension for the following calendar year on behalf of the Town.

Moved by Council Member John Wilson, seconded by Council Member Su Connell.

Vote: Motion carried 8 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, Council Member John Wilson, and Don Engler - Police Chief.

3. * Council Decision Request filed by LaRon Garrett, Public Works Director, to add the names of Denis Parish and General James Hunt to the list of persons approved to be alternate board members or regular board members of the Payson Regional Airport Authority (PRAA) Board.
CONSENT APPROVED

J. CLAIMS

1. * List of checks paid from 09-30-10 through 10-08-10, Check Nos. 011659 through 011757, and authorization to file the checks for audit.
CONSENT APPROVED

K. MISCELLANEOUS

L. PUBLIC COMMENTS

1. Public Comments:

Council Member Carpenter said he asked Sheila DeSchaaf, Planning Specialist, to comment on Ordinance 791. Attorney Wright cautioned that because her comments were in the public comment portion of the agenda,

Council could not ask questions or make comments.

Ms. DeSchaaff explained that current provisions were very limiting and these changes would allow flexibility for three levels of home based businesses. It would add level two as an intermediate home occupation license and level three as a major home occupation for homes located in a commercial area. This new section would also provide for relief through the CUP process. This amendment would not change sign provisions.

Greg Barsness said he was the oldest tree service in the area. He did not feel the business license fees for out of town businesses were fair and said it should be reduced to \$35. Mr. Barsness also believed that a Town license should require the applicant be insured.

ADJOURNMENT: Mayor Evans adjourned the regular meeting at approximately 6:48 p.m.

APPROVED:

_____ Date: _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Payson held on this day the 21 of October, 2010. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this ____ day of _____, 2010.

Gaye Stidham, Deputy Town Clerk

Res. 2575/Ord. 790 - Noise Ordinance - Item G.2

Comment on the consolidation of the noise ordinances.

All Statements

Carol Stanton in Payson

October 14, 2010, 6:15 PM

I live in Stone Creek and therefore I regularly hear the morning announcements from Julia Randall Elementary School and whatever is going on at the bandstand in Green Valley Park. The school announcements are just once in the morning and no problem. The activities at the bandstand are usually loud enough that I can hear them but don't shake the house. They often start out loud and then after a couple of minutes turn it down. If I sit outside, I can easily listen. Inside I don't hear it. In fact, I enjoy listening to the summer concerts and watching the fireworks on the 4th from home.

The last weekend's Thunder Mountain Ride started out loud and stayed loud. Given the volume at my house, I don't see how anybody at the park could stand it. There seems to be a defacto maximum volume which was not passed on to the Ride people. In the almost four years I have lived here, they are the winner as the loudest event.

If everyone would do whatever the summer concerts do with respect to noise, I will be happy.

Council Decision Request - Public Hearing - Poultry Hens

Comment on changing UDC to allow poultry hens on less than 1 acre.

All Statements

Paul Greene in Payson

October 20, 2010, 4:25 AM

I have had many Hens in the past. Just to let everyone know, Its a lot of work! Daily clean-up. If a person is allowed to have hens there has to be dedication to care for the animal . The waste can get out of hand quickly.

But it can be quite rewarding for familys with children to teach them some of lifes lessons