

**MINUTES
REGULAR SESSION
MAYOR AND COUNCIL
TOWN OF CAMP VERDE
COUNCIL CHAMBERS
WEDNESDAY, MARCH 19, 2008
6:30 P.M.**

Minutes are a summary of the actions taken. They are not verbatim.
Public input is placed after Council motions to facilitate future research.
Public input, where appropriate, is heard prior to the motion.

1. **Call to Order**
The meeting was called to order at 6:30 p.m.
2. **Roll Call**
Mayor Gioia, Vice Mayor Hauser, Councilors Smith, Garrison, Kovacovich, German and Elmer were present.

Also Present: Town Manager Mike Scannell, Town Attorney Bill Sims *by telephone conference*, Community Development Director Nancy Buckel, Parks & Recreation Director Lynda Moore, Town Clerk Debbie Barber, and Recording Secretary Margaret Harper.
3. **Pledge of Allegiance**
The Pledge was led by German.
4. **Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as consent agenda items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of Council requests.
 - a) **Approval of the Minutes:**
 - 1) March 12, 2008 – Joint Work Session with the Library Advisory Commission
 - 2) March 12, 2008 – Special Session
 - 3) March 12, 2008 – Executive Session (taped)
 - 4) March 5, 2008 – Regular Session
 - 5) March 5, 2008 – Executive Session
 - 6) February 27, 2008 – Council Hears Planning & Zoning
 - b) **Set Next Meeting, Date and Time:**
 - 1) Council Hears Planning & Zoning – March 26, 2008 at 6:30 p.m.
 - 2) Regular Session – April 2, 2008 at 6:30 p.m.
 - 3) Quarterly Work Session with the Commissions to include a Joint Work Session with the Housing Commission – April 9, 2008 at 6:30 p.m.
 - 4) Regular Session – April 16, 2008 at 6:30 p.m.
 - 5) Council Hears P&Z – April 23 at 6:30 p.m.
 - c) **Possible award of contract for CDBG Project #108-07, Senior Center Improvements to RC Homes and Development for \$57,805.00 to include the alternates, excluding Change Orders, and authorization for the Mayor to sign the Contract documents.**
 - d) **Possible approval of Resolution 2008-744, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, declaring the Mayor, Vice Mayor, Finance Director, and Town Clerk as the authorized bank account signers for all bank accounts held by the Town of Camp Verde.**
 - e) **Possible approval of Resolution 2008-743, a Resolution of the Mayor and Council of the Town of Camp Verde, Arizona, declaring as a Public Record that certain document filed with the Town Clerk and entitled "The 2008 Amendments to the Tax Code of the Town of Camp Verde".**
 - f) **Possible approval of Ordinance 2008-A353, an Ordinance of the Mayor and Council of the Town of Camp Verde, Arizona, relating to the Privilege License Tax; adopting "The 2008 Amendments to the Tax Code of the Town of Camp**

Verde" by reference; establishing an effective date; providing for severability and providing penalties for violations.

- g) Possible approval of the FY 2008-09 proposed budget calendar.**
- h) Possible authorization for the Trails & Pathways Commission representatives to continue to represent the Town at the Verde Valley Regional Trails Plan meetings and to report on these meetings during the regularly scheduled Trails & Pathways Commission meetings.**
- i) Possible approval of Proclamation declaring April as "Substance Abuse Awareness Month" In Camp Verde.**

On a motion by Hauser, seconded by German, the Consent Agenda was unanimously approved as presented, with the exception of Items e) and i).

Councilor German requested that the record reflect that he was not present for the meetings of March 5th, either the Regular or Executive, and/or the February 27th meeting; he will abstain from voting on approval of the Minutes of those three meetings.

Councilor Garrison referred to Item 4.b)3) to point out that the Town Code provides for Quarterly Reports to be presented to Council on the first regular meeting of each calendar quarter; and is concerned that the second week cannot be used for quarterly reports. *Gioia said that the Clerk will address that question; there was also comment that procedure was being followed properly.*

Garrison requested that Item 4.e) be pulled; Hauser said she would like to read the Proclamation and Item 4.i) was pulled.

- e) Possible approval of Resolution 2008-743, a Resolution of the Mayor and Council of the Town of Camp Verde, Arizona, declaring as a Public Record that certain document filed with the Town Clerk and entitled "The 2008 Amendments to the Tax Code of the Town of Camp Verde".**

On a motion by Hauser, seconded by Garrison, the Council unanimously approved Item e) as set forth.

Garrison said she wanted the public to be aware of what was being approved by this item, confirming that it dealt with solar energy and that there would be no tax impact on the public.

- i) Possible approval of Proclamation declaring April as "Substance Abuse Awareness Month" in Camp Verde.**

On a motion by Elmer, seconded by German, the Council unanimously approved Item i) as set forth.

Vice Mayor Hauser read the complete wording of the Proclamation to stress for the public the importance of the issue of substance abuse.

5. Call to the Public for Items not on the Agenda.

(Comments from the following individuals are summarized.)

Howard Parrish reported that the Camp Verde Cavalry won First Equestrian Color Guard in Sedona over the weekend; Ch. 3 has contacted him regarding the April 2nd segment; Parrish gave a report on the upcoming annual Lakeside-Pinetop Sheriff's Posse mail ride and how to send mail with them.

Greg Freeman said that he is the newest member of the Sanitary District Board, and explained that the Board members are beginning to prioritize the several issues facing them, including the IGA entered into between the Town and the Board in 2007; they are working to rectify the breach that the District may have created in connection with the draw requests, and trusts that the Town will likewise take steps to close the breaches that may have been created by the Town.

There was no further public input.

6. Council Informational Reports

German thanked the community for their comforting support of the German family during the recent loss of his brother.

Elmer reported that the baseball teams have been picked and practices are starting; everyone is looking forward to a great baseball season.

Hauser said the Verde Watershed Association meeting this morning was very interesting; it is now time to join as a member. HB 1575, the water adequacy bill, has been approved by Cochise County and the City of Patagonia. Hauser reminded everyone of the Canoe Challenge on March 29th and the March on Meth that same day; the Easter Egg Hunt is Saturday morning beginning at 8:00 a.m.

Smith wished everyone a Happy Easter and Good Friday.

Garrison congratulated Ben and his wife on their new baby boy; she is the Liaison to the Sanitary District and was glad that Greg Freeman addressed the current issues; Garrison said that the decision was made to extend on an emergency basis the Arizona Engineering Contract to fill in Rick Spears' position until a replacement is found.

Gioia reported on his dealing with the State Legislature on HB 2772, as well as the current water legislation which he will oppose on behalf of the Town; he also attended a water bill signing by the Governor that provided an opportunity to discuss water issues further with the Governor. Gioia also reported on attending the Mayor/Manager meeting and the support on water issues offered by the Chairman of the Yavapai-Apache Nation in connection with his upcoming trip to Washington D.C.. Gioia rode in the Sedona St. Patrick's Day Parade in an Out of Africa Hummer with boa constrictors for company.

- 7. Discussion, consideration, and possible approval of an appeal to the Mayor and Town Council concerning the Town's Building Department charging impact fees in the amount of \$4,756.00 for Building Permit #2007389 for the installation of new electrical pedestals for spaces 72 and 73 within Buffalo Run Mobile Home Park as submitted by Michael Thieme Attorney, agent for Gary and Beverlee Jones, owners.** There was no action taken; therefore, approval of the appeal is denied.

Bill O'Leary, attorney for the owners of the subject Mobile Home Park, outlined his argument in support of the appeal that the owners had received a permit from the Town several years ago to expand and add space to the Park. The expansion included building roads, installing electricity, water, additional septic; everything was completed except for installing all the pedestals which routinely is done after a home has been pulled into place. The two subject spaces were added after the Development Code was adopted; when the owners requested permits for installing the pedestals, the Development Fee was then charged, which Mr. O'Leary asserts was in error since the spaces had been approved and it was not a new development but only the completion of what had been approved by the Town. The Park is a low-cost facility, and the fees being imposed would make any use cost-prohibitive and a hardship on the residents.

Community Development Director Buckel said that there is no loophole in the Code that would allow any waiver under special circumstances. The Code requires that the impact fee is imposed at the time the permit is pulled. The owners did pay for a rezoning and a grading permit; when infrastructure is put inside an owner's property no permits are required. Nowhere in the paperwork is the issue of the additional spaces addressed. Over time the owner is expanding his rental base which will result in more individuals coming into the community and requiring services; that is what impact fees are for. They were imposed when the permits were pulled for

the pedestals which attach to the owner's property, who therefore bears the burden of the impact fee.

Town Attorney Sims confirmed that Director Buckel had correctly followed the Code regarding the basis for charging impact fees.

There was no public input.

8. Discussion with the Camp Verde Youth Commission and possible authorization to staff to designate the metal building located next to the new Marshal's Office as the future site for the Camp Verde Teen Center.

On a motion by Hauser, seconded by Garrison, the Council unanimously authorized staff to designate the metal building located next to the new Marshal's Office as the site for the Camp Verde Teen Center.

Two members of the Youth Commission, together with input from Joe Perez, outlined their request to designate the subject building to make the Teen Center a reality with the support and help of Town Staff and the Youth Development Team.

Parks & Recreation Director Moore explained that they had to forget the idea of using the old Marshal's Office building because it can never be brought up to Code. The members discussed with the Youth Commission representatives and Joe Perez the issues of operating costs, staffing which will be assisted by volunteers, potential funding by Youth Count, affiliating with the Boys & Girls Club organization, and donations of materials and funding, all of which are dependent upon commitment of a building for the Teen Center. A representative from the Boys & Girls Club was also present to confirm their potential support. Gioia reminded all those who had offered support for a Teen Center in the past that now is the time to come forward.

PUBLIC INPUT

(Comments from the following individuals are summarized.)

Rick Parks outlined two concerns including the cost of liability insurance, and the issue of sufficient parking space.

Tom Nielson commented on the location of the building.

There was no further public input.

9. ~~Presentation of the February 2008 Financial Report by Lisa Elliott.~~ (Staff Resource: Lisa Elliott) **THIS ITEM WILL BE HEARD ON APRIL 2, 2008.**

10. Discussion, consideration, and possible direction to staff as it relates to the construction of an AB gravel road off of Moser, parallel to Montezuma Castle Highway as the entrance to Black Bridge Park and the use of portable toilets with privacy walls as the restroom facility if permitted by Yavapai County.

On a motion by Gioia, seconded by Smith, the Council voted unanimously to direct staff to move forward with both the AB for the roadway in that particular area as outlined on the depiction, and to move forward with the restrooms as set forth by the proposal of staff and in the depiction.

Director Moore reviewed the contacts she had with the Town Engineer and the County Environmental Services that led to the conclusion that it would be better for the Town to use portable toilets with privacy walls as the restroom facilities. Moore also confirmed that the grant money can be used for any purpose within the scope of work; however, the SLIF grant does not pay for paved roads.

There was no public input.

11. Discussion, consideration, and possible appointment of Rodger E. Overholser to the Magistrate position, direction to staff to negotiate a 2-year contract.

On a motion by Smith, seconded by Garrison, the Council unanimously appointed Rodger E. Overholser to the Magistrate position, and directed staff to negotiate a 2-year contract.

Town Manager Scannell reviewed the steps taken to recruit for the position of Magistrate and the interviews of three of eight applicants, and the decision to offer the position to Mr. Overholser. That was followed up by a thorough background check leading to an offer of employment which Mr. Overholser has accepted and signed a two-year contract pending approval by the Council.

12. Discussion, consideration, and possible direction to staff relative to permitting alcohol sales and/or consumption on Town-owned property and at Town-sponsored events.

Staff was directed to set a time line for the Parks & Recreation Commission to have a public hearing on the subject, and to come back to Council with a recommendation from the Commission allowing appropriate time for notification of public to give them the chance to address Council on the issue.

Garrison explained that she had requested the agenda item in order to determine whether the Council would be willing to place the issue on the agenda for an up or down vote in the near future. Garrison outlined her objection to allowing alcohol at Town events including concern for liability issues, and the fact that, contrary to the argument for changing the Code in 2002 in order to make a profit on events, the sale of alcohol has not resulted in profits. Even though the sale of alcohol has been turned over to outside groups, Garrison said that because of liability the Town is just one accident away from being in serious trouble; she also reviewed the different attempts to handle problems from sales of liquor, all of which have proven to be unsuccessful.

The members discussed Council Garrison's request to further consider the issue of alcohol at Town events and to make a decision one way or the other, and generally agreed that the matter should be brought back as requested, and also to ask for a recommendation from Parks & Recreation as well.

Moore pointed out that the Verde Valley Rangers have paid for all their insurance for this year, and that will include the Pecan & Wine Festival and Fort Verde Days; Gioia said that also will be considered in the discussion.

PUBLIC INPUT

(Comments from the following individual are summarized.)

Tom Nielson said that back in 1986 the Council had passed the ordinance banning liquor from the events.

There was no further public input.

A recess was called at 7:53 p.m.; the meeting was called back to order at 8:03 p.m.

13. Discussion and possible reconsideration of the February 27, 2008 Council direction to staff to "research past Minutes to determine what previous Councils have done and said on the issue; implement a rapid process to identify the scope of legal and illegal non-conforming uses; allow for a response from Zellner's attorney, and then come back to Council with a recommendation". This direction was related to Canyon Wood Supply (formerly Zellner's Woodyard).

A motion by Smith to direct staff to resolve the problem by finding out all the facts for a fair and objective assessment of both sides of the issue, **failed** for lack of a second.

On a motion by Garrison, seconded by German, the Council voted 4-3 to reconsider the direction to staff on February 27th 2008 on the Canyon Wood Supply; with 'no' votes by Smith, Kovacovich and Elmer.

Staff was directed to determine the appropriateness of the business license for the property owners, the parcel, and if in the quest of determining the appropriateness of the business license, staff determines there has been a change in ownership to come back to Council with a recommendation as to how to proceed in light of the change in ownership; it could be that under the agreement between the Zellners and the Town that with the change of ownership there may have to be a reversion back to the prior use; it is premature to make that decision tonight until staff comes back with the facts.

Smith said he wanted to make a point of order: This is a reconsideration of a vote already taken; according to Robert's Rules the vote is up or down, there is no discussion. Smith then made his motion that failed for lack of a second.

Garrison explained that she did not have a good working knowledge of the facts of what was being looked at when staff was given the subject direction; a lot of the issues that staff had been directed to look into have been handled by the Board of Adjustments in 2000 and again in 2003 and both times were upheld. Garrison said there are attorneys already looking into it; the Fire Department is taking care of their end of it, Canyon Wood is working on the problems. Smith said he believes that Canyon Wood does not have a valid business license and displayed a copy of the license in effect which only applies to the original parcel, not the surrounding parcels that are also in use right now. There was discussion regarding the need to go back to the beginning to establish what the use was at the time the zoning overlay was placed on the property by the County which was assumed by the Town at the time of incorporation, and whether the ruling by the Board of Adjustments was valid if based on faulty information. The issue of Prop. 207 and effect on surrounding property owners was raised.

There was a question as to whether non-conforming uses or structures are transferable to other parcels not covered by the original non-conforming use or structure. Town Attorney Sims confirmed that a non-conforming use cannot be expanded. Government cannot pass a zoning ordinance and limit the existing property owner's right. It will be necessary to go back to when the County adopted zoning to find out what was the scope of the non-conforming use. The property owner has no right to expand or transfer that non-conforming use because the law protects the user at the time of the zoning change, not to let him or her change it forever. The agreements by the Town to in effect allow expansion of the non-conforming use may not have been properly approved. However, the Zellners could claim that they were permitted to expand their use because Town officials had said it was okay. But it was approved under an agreement that said if you no longer operate the business it reverts back; that is an enforceable obligation. The right course of action is to pursue whether or not they ever had a valid business license.

Sims recommended that the Town direct staff to look at the property owners and see if they have a current license; in doing that staff will have to address whether or not it is an appropriate non-conforming use, which may require going back to look to see what was occurring when the County zoned. But only for this property, not all the other properties. If they do not, request that they apply for a license. At that time it will be necessary to determine whether there has been a change of ownership; if the answer is 'no', then under the 2001 decision they get to continue the use. If the answer is 'yes' the property reverts back to the non-expanded use, which will restrict the use of the property.

PUBLIC INPUT

(Comments from the following individuals are summarized.)

Clinton Gray said he was the one who filed the complaint with the Board of Adjustments; Vice Mayor Hauser was on the Board at that time. He understood that he was right, but if the Board

voted his way the owners would be back to where they were originally. He does not believe it was researched from the beginning.

Theresa Proper said that the Town had the right to go back and research the issue; the Zellner family has been doing business on all those pieces of property for years. In defense of the Zellners Ms. Proper reviewed in detail the history of the Zellner family activities, contacts with and permission from the Town departments, and contributions to the community.

Bryan Bonham, a resident for 3-1/2 years, said the lumber yard was not a big problem when he first moved to Town, but the noise level has increased to where it sounds like Daytona and keeps getting worse. He started to directly criticize Councilor Garrison for making misleading statements. *Mayor Gioia interrupted him and cautioned him about personally attacking a member; Councilor Garrison briefly defended herself against the criticism.*

Stacy Barker invited the Council members to his deck; he will have coffee and doughnuts; everyone can experience what is going on from early morning to evening.

There was no further public input.

Scannell summarized his understanding of the direction to staff as follows: The former action was rescinded; the follow-up action being proposed is to draft a letter to the business owner on Parcel 69, Canyon Wood Supply; inquire as to whether or not they have a valid business license operating in the Town of Camp Verde, a yes or no; if not, ask them to bring themselves into compliance with the business license ordinance; that will result in a referral to the Community Development Department for a review of the zoning; that will ultimately serve as a determining factor in whether the activity on that particular site is acceptable. We would take the data that was gathered, return to the Council at the next business meeting following completion of our research, and share with the Council the data collected. The Council will then make the decision about how best to proceed.

14. Call to the Public for Items not on the Agenda.

There was no public input.

15. Advanced Approvals of Town Expenditures

a. There are no advanced approvals.

There were no advanced approvals.

16. Manager/Staff Report

Scannell reported on revisions that have been made to the Town's Policy Manual regarding notification to people, businesses or individuals, with respect to issues to be discussed on agendas that may affect those persons or businesses.

Barber announced that placement of the bathroom is under way; there will be a party on March 28th.

17. Adjournment

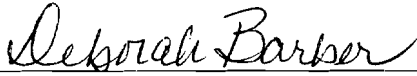
On a motion by Hauser, seconded by Kovacovich, the meeting was adjourned at 8:51 p.m.


Margaret Harper, Recording Secretary

CERTIFICATION

I hereby certify that the foregoing Minutes are a true and accurate accounting of the actions of the Mayor and Common Council of the Town of Camp Verde during the Regular Session of the Town Council of Camp Verde, Arizona, held on the 19th day of March 2008. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 4 day of April, 2008.



Debbie Barber, Town Clerk