

4a.2

MINUTES  
REGULAR SESSION  
MAYOR AND COUNCIL  
COUNCIL CHAMBERS  
WEDNESDAY, APRIL 7, 2010  
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 Burnside, Vice Mayor Kovacovich, Councilors Whitley, Garrison, Baker, Roulette and German were present.  
  
**Also Present:** Town Marshal Dave Smith, Public Works Director Ron Long, Acting Community Development Director Mike Jenkins, Special Projects Administrator Matt Morris, Sr. Acct. Lisa Elliott, 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) Special Session – March 24, 2010
    - 2) Executive Session – March 24, 1010 (recorded)
    - 3) Regular Session – March 22, 2010
    - 4) Regular Session – March 17, 2010
  - b) **Set Next Meeting, Date and Time:**
    - 1) April 14, 2010 at 4:30 p.m. – Special Session (Finance Department)
    - 2) April 21, 2010 at 6:30 p.m. – Regular Session
    - 3) April 28, 2010 at 6:30 p.m. – Council Hears Planning & Zoning Matters
    - 4) May 5, 2010 at 6:30 p.m. – Regular Session
    - 5) May 12, 2010 at 1:00 p.m. – Budget Work Session
    - 6) May 19, 2010 at 6:30 p.m. – Regular Session
    - 7) May 26, 2010 at 1:00 p.m. – Budget Work Session
    - 8) May 26, 2010 at 6:30 p.m. – Council Hears Planning & Zoning Matters
  - c) **Possible approval of and authorization for the Mayor to sign a letter supporting the efforts of Rainbow Acres relative to the application for funding of two new minivans through the ADOT Section 5310 Transportation Program to benefit the elderly and persons with disabilities.** Staff Resource: Debbie Barber
  - d) **Possible approval of Resolution 2010-809, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona authorizing and approving the transfer of outdated Town computers and ancillary computer equipment to Camp Verde Senior Citizens, Inc.** Staff Resource: Debbie Barber
  - e) **Possible approval of the special event liquor license for the Verde Valley Sheriff's Posse for the Annual Crawdad Festival that is scheduled for June 4 and 5, 2010.** Staff Resource: Debbie Barber
  - f) **Possible authorization for staff to solicit Request for Proposals for professional auditing services as required by Town Code Section 3-4-3.10(2).** Staff Resource: Lisa Elliott
  - g) **Possible authorization for the Mayor to endorse Community Assessment request from the Arizona Department of Housing in support of the Yavapai-Apache Nation Tribal Housing application for a reservation of federal tax credits via the Low-Income Housing Tax Credit Program.** Staff Resource: Matt Morris

On a motion by Baker, seconded by Garrison, the Consent Agenda was unanimously approved as presented, with the change in time to 5:15 p.m. for the April 14, 2010 Special Session, Mayor Burnside is pulling 4.f), and the Minutes of March 22, 2010 is to go back to the Clerk's office for correction.

Garrison commented that there were several issues in the Minutes of March 22, 2010, and she requested that the Minutes go back for correction and come back to Council at a later date in that there was some confusion about the vote, and two Bobs got mixed up.

Whitley requested a change to the time for the Special Session scheduled for April 14 for the Finance Department; after discussion it was agreed to change the time to 5:15 p.m.

**4.f) Possible authorization for staff to solicit Request for Proposals for professional auditing services as required by Town Code Section 3-4-3.10(2).**

On a motion by Burnside, seconded by Baker, the Council voted 6-1 to authorize staff to solicit Requests for Proposals for professional auditing services as required by Town Code Section 3-4-3.10(2); **with German opposed.**

Burnside said that Lisa Elliott had requested the opportunity to advise the Council regarding an option she has just found out about in connection with contracting for auditing services. Elliott explained that the Town Code provides for submitting Requests for Proposals for a new auditing firm for professional auditing services every three years. Information has been received from the Government Finance Officers Association recommending at least a five-year agreement with an auditing firm in order to minimize potential for disruption in connection with the independent audit as well as the audit cost. The members discussed whether to consider revising the Code to provide for the recommended five year intervals, or leave it as it is; the majority agreed to stay with the three-year provision.

5. **Special Announcements & Presentations** – There are no announcements or presentations. There were no special announcement or presentations.

6. **Council Informational Reports.**

**Whatley** said she had attended the funeral ceremony for Tom Nielson; she said the Town needs to give him some recognition for his many contributions and his dedication to the Town of Camp Verde, and extended condolences to his wife and family.

**Garrison** thanked everyone for their patience with her during the last few weeks in connection with her participation in the family's care and concern for her premature granddaughter as well as the mother. Garrison said that, for anyone who might be interested, she was filing with the Town Clerk the Annual Report from NACOG.

**German** reminded everyone that the Denim & Lace Dinner-Auction is taking place this Saturday for the Camp Verde Library Endowment; tickets are available.

**Burnside** said that April is Water Awareness Month; on Saturday he will be in Rimrock for the Buzzard's Day annual Chili Cook-Off. The Fort will hold a two-day celebration of the History of the Soldiers commencing with a flag-raising on Saturday morning. The prices for copper and steel will be rising dramatically, with the added cost affecting the prices on vehicles and appliances. Burnside also announced the schedule for mandatory training for employees in connection with the recent adoption of the fraud policy.

7. **Call to the Public for Items not on the Agenda**

(Comments from the following individuals are summarized.)

**Linda Harkness**, representing CCCVL, said that the group has been encouraged to apply for loan and that in the process of that, there is the possibility of receiving grant funding for a percentage of the loan. Ms. Harkness said she had received assurance from Burnside and Scannell that they would be happy to assure a loan to Camp Verde for something as worthy as the new Library. Ms. Harkness reviewed the financing possibilities, suggesting that if the Town passed the 1 percent sales tax increase, a quarter of that 1 percent be dedicated for the Library. (*Burnside clarified the statement by Ms. Harkness regarding her meeting with him and Scannell, that she was told that they would not commit the Town to co-sign on the loan, but that the issue would be brought to Council for consideration. The matter is set for the 21<sup>st</sup>.*)

**Jim Lawson** of the Lions Club said he wanted to comment on the proposed plan for the old jail house. *He was advised that the issue was on the agenda, at which time he could address the Council.*

**Justin Wertz** said he is soliciting support for his group that is working on the teen project that was brought to Council in the past.

There was no further public input.

8. **Presentation by Ray Floyd and Dick Rynearson relative to the economic potential of the Old Camp Verde Jail building located behind the Chamber of Commerce, which is presently used by the Lions Club. The presentation may followed by discussion, consideration, and possible direction to staff relative to the building.** Staff Resource: Debbie Barber

On a motion by Roulette, seconded by Garrison, the Council unanimously directed staff to coordinate with the Historical Society and bring back to Council a new lease for the Old Jail Building located on Hollamon Street behind the Chamber of Commerce building, as discussed.

Town Clerk Barber reported that research showed that the lease with the Lions Club had expired in 2001. The Town has received a request from the two subject individuals to be allowed to present to the Council some ideas for use of the Old Jail building, which was then explained by Mr. Floyd and Mr. Rynearson.

The proposal was to return the stone building in the parking lot of the Chamber of Commerce and Visitors Center to its former glory, thereby enhancing the experience for visitors to Camp Verde. Mr. Floyd outlined the history of the building and how it could be restored by volunteers working with the Historical Society, which would enter into a lease with the Town for the building. During the presentation, the issue of the old doors being stored at the old Marshal's office was raised, with stress on making sure the doors would be a crucial part of the restoration. There was comment that Jim Bullard built the old jail, and he will be contacted for possible help toward the goal of trying to restore the original facility.

#### **PUBLIC INPUT**

(Comments from the following individual are summarized.)

**Jim Lawson** said that he had originally intended to request that the Town extend the Lions Club lease on the old jailhouse, but after hearing the presentation by Floyd and Rynearson, he is 100% in support of the plans outlined by them. He volunteered the Lions Club to help in the effort.

There was no further public input.

Garrison asked if staff could be directed to go back and check to see if there are any other leases that have expired, and bring the Town up to date on those; Barber said she would follow up on that.

9. **Discussion, consideration, and possible approval of Ordinance 2010-A370, an Ordinance of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona reinserting Section 3-2-1.I (formerly Section H), appointment of Acting Town Manager and Duties and amending the following sections of the Town Code: 2-2-5 Absence of the Mayor; 2-3-1.1 Times and Places of Special Meetings; and 2-3-2 Special Meetings.** Staff Resource: Debbie Barber

On a motion by Kovacovich, seconded by Garrison, the Council voted 5-2 to approve Ordinance 2010-A370, an Ordinance of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona, as written, amending the following sections of the Town Code: 2-2-5, Absence of Mayor; 2-3-1.1, Time and Places of Special Meetings; 2-3-2, Special Meetings; and Section 3-2-1.I, Acting/Interim Town Manager to be filled first by the Town Marshal and secondly by the Town Clerk if the Marshal is not available;; and 3-2-1.I.C.1 revised to read, "Incur any unbudgeted indebtedness on behalf of the Town."; **with German opposed, and Baker abstaining.**

Barber explained that, with the departure of the recent Town Manager, she found that Section 3-2-1.I of the Code, pertaining to appointment of an acting interim Town Manager, had been accidentally deleted during a revision of the Code in 2006. Discussing the proposed revisions, the issue of the previous objection to the Town Clerk possibly being named as acting Town Manager in the absence of the Town Manager, while she had a relative sitting on the Council, was discussed. The question of the absence of the Mayor being shortened to 7 days from 15 days was raised; Barber explained that it was based on recommendation from the Town Attorney. Barber also reviewed the section dealing with special meetings and times and places of special meetings, pointing out that it had been revised for the purpose of clarification. After discussion the members generally agreed with that revision.

The Council again discussed the proposed Section 3-2-1.I, with the majority preferring to leave the Section as it was pre-2001, except to designate first the Town Marshal, then the Town Clerk, to serve as Acting Town Manager in the absence of the Town Manager. For the record, Councilor German voiced her objection to that, stating that the change in 2001 was made for a reason; there is definitely a conflict of interest when the situation of relatives exists; it does not present a good presentation to the public. German added that she did not want to see the Town get into a conflict of interest when there is a Councilperson who is a direct relative to the Town Clerk; that is not the way business is conducted. Baker said that German stated it well, that perception is the rule; however, she reminded all that it would take all seven Councilors to give direction to the Town Manager; Baker added that she would abstain from the vote.

After suggestion by the Barber, the members agreed to revise Section 3-2-1.I.C to state: "Incur any unbudgeted indebtedness on behalf of the Town."

10. **Discussion, consideration, and possible appointment of an Acting Town Manager.** Staff Resource: David R. Smith  
On a motion by Garrison, seconded by Baker, the Council voted 5-2 that Marshal Smith become the Town's Interim Manager until a Town Manager is found; **with German and Roulette opposed.**

Town Marshal Smith said that on March 22 the majority of the Council decided to select someone from in-house for an Interim Town Manager. Two individuals have responded to the announcement of the temporary position by Human Resources: Matt Morris and Dave Smith.

The applicants were invited to make a presentation to the Council on their qualifications. Morris stressed the experience he has

gained working directly with the leadership team and working on critical issues including the annual budget process; Morris said he has a vested interest in Camp Verde and is confident he could serve the Town well. Smith reminded the Council that he has done the job before; he has a Master's degree in organizational management, 35 years in government, he lives in the community, and is here to serve.

#### **PUBLIC INPUT**

(Comments from the following individuals are summarized.)

**Irene Peobles** commented on the possible length of time to find a Town Manager since there are many issues coming up that will require the Interim Town Manager to be very busy working with the Council, staff and the public; she is concerned about how much time Marshal Smith will be able to devote to attend to the Town business; Matt is already in-house and in Town and may be better able to serve.

**Greg Blue** expressed his support for Marshal Smith based on how well Smith handled his assignment during recruitment for the last Town Manager.

There was no further public input.

The Council discussed the two applicants, with some members commenting on having received public support for Marshal Smith. In response to a question regarding his health concerns and upcoming surgery, Smith said that recovery would take about 3 to 4 weeks, but he would be back on the job within just a few days. There was some objection to the appointment of Smith based on the duties he is already assigned to manage. Acknowledging that the decision was difficult, the majority of the Council indicated a preference for Marshal Smith based on his experience and approval of the job he has done in the past.

11. **Discussion, consideration, and possible direction to staff relative to waiving Building Permit fees (estimated at \$20,274.59) and Development Impact fees (estimated at \$10,595.00) for the proposed fire station located at 1710 Arena del Loma, Camp Verde, Arizona and any future Camp Verde Fire District (District) structures within the Town limits. The conditions and terms will be included in a revised Intergovernmental Agreement between the Town and the District.**(Staff Resource: Michael Jenkins)

On a motion by Roulette, seconded by Baker, the Council unanimously directed staff to come back to Council at the earliest possible convenience for a Work Session to discuss the IGA and possible waiving of Building Permit fees for the development of the new Fire Department; the Council has already waived the Impact Fees estimated at \$10,595.

Acting Community Development Director Jenkins presented his report to the Council outlining the request of the Fire District to waive the subject Building Permit and Development Impact fees. Jenkins outlined the difficulties of determining imposition of those fees, the research into the cost of past Fire District charges for fire and emergency responses, as well as the existing fire insurance policy held by the Town, which does not cover fire or emergency responses. Jack Blum, Secretary-Treasurer of the Fire District, has proposed that if Council were willing to waive all or part of the current and future Building Permit fees and the Development Impact fees the Fire District would reciprocate by exempting the Town from paying for fire response to emergency calls to the Town's existing and future structures. The exemption would not pertain to any vacant properties the Town may currently or in the future own. Jenkins said that staff is seeking direction on drafting a revised IGA to include waiving of the fees as requested, and suggested that the two fees might be considered separately so as not to impact the current IGA with the Fire District that strictly relates to their Fire Officer serving as the Town's Fire Inspector.

#### **PUBLIC INPUT**

(Comments from the following individual are summarized.)

**George Young** said that we all have to live and work together; we should show the Fire District the courtesy of trying to take care of the situation.

There was no further public input.

The Council discussed at length the Fire District's proposal, together with input from Mr. Blum on the history and operation of the Fire District and its relationship to the Town. The discussion included the need for a new fire station, the Development Impact fees and the burden on taxpayers. There was a general consensus that the Town should cooperate with our inter-governmental people and that the Development Impact fees should be waived. During the discussion, Mr. Blum reviewed the past costs the Town has incurred, and itemized how those costs would have been much higher had the Fire District billed the Town for all the calls and services as authorized by State Statutes, as the basis for the proposed IGA between the Town and the Fire District to include waiving the Building Permit fees. The Council discussed with Mr. Blum the changes in the assessed value of the Fire District over the years, and the Town being willing to contribute its fair share by allowing the Fire District to annex all the Town streets, which added to the District's tax

base. After further discussion regarding possible terms of a revised IGA to include and to justify waiving the Building Permit fees, it was suggested by the Fire District representatives and acknowledged by Council that a Work Session is necessary as soon as possible to resolve the questions raised and discuss an IGA; staff was directed accordingly.

A recess was called at 9:00 p.m.; the meeting was called back to order at 9:11 p.m.

12. **Staff update followed by discussion, consideration, and possible direction to staff to proceed with the removal of the old CVMO trailer and approval of budget reappropriations to complete repairs to the remaining block structure after the mobile portion is removed in an amount not to exceed \$10,000.00.** This amount will come from Contingency Fund. Staff Resource: Ron Long

On a motion by Roulette, seconded by Baker, the Council voted 6-1 to direct staff to proceed with facilitating the removal of the Old CVMO trailer office and repairing the wall, and also authorize the transfer of Contingency Funds Not to Exceed \$10,000 to cover the Town's expenditures related to the removal of the trailer and repair to the Library Building, with a report to Council on the final cost when the project is completed; **with Burnside opposed.**

Public Works Director Long advised the Council that a contractor in Chino Valley has agreed to haul off the old trailers at no cost. Funds are required to disassemble them, disconnect the utilities, and then once the trailers are removed, it appears that there will be repair needed on the wall facing Montezuma Castle Highway. The project is estimated to cost no more than \$10,000; Long is requesting that the funds be moved from the Contingency Fund and into the CIP Account.

Garrison requested Long's assurance that the Old Jail doors will be removed and protected prior to completing the project. Long said that everything should be finished within a month and a half at the most. Burnside suggested that only \$5,000 be approved at this time to begin the project, with staff to come back later to Council for more funds if necessary, in order to avoid possibly spending money on "frills" as Burnside felt had happened on a recent project. German countered that they should have what they need to get this particular project done and off the Town's plate.

13. **Discussion, consideration, and possible approval of the following:** Staff Resource: Lisa Elliott
1. **To extend an agreement until June 30, 2011, between Donald E. Zelechowski, a Certified Public Accountant and the Town of Camp Verde, to continue a tax payer education program designed to increase compliance with our tax program, as well as, for sales tax audit services that would verify 'privilege' tax (Privilege Sales Tax) reporting and payment to the degree that said audits are required and waiving any requirement for the consultant to provide proof, to the Town, of general liability or professional insurance coverage.**
  2. **Appropriate an additional \$25,000 funding for the following:**
    - a) **\$5,600 to augment the current contract until June 30, 2010; and**
    - b) **\$19,400 for fiscal year 2010/11 budget**

On a motion by Burnside, seconded by Baker, the Council unanimously voted to appropriate \$5,600 to augment the current contract until June 30, 2010; and have staff get with Mr. Zelechowski to revamp his proposal to include an E&O insurance policy, and to bring back to Council by May 5<sup>th</sup> two options, one with and one without insurance, for the fiscal year 10/11.

Executive Asst. to the Town Manager Brown said that Mr. Zelechowski ("Mr. Z.") could not be here for the meeting, and that former Town Manager Scannell two weeks had requested that she present this agenda item. Brown presented the report she had prepared for that purpose, reviewing the return on the investment in Mr. Z's services to date and the issue of requiring Professional Liability Insurance. The report noted that the Town Attorney felt there was minimal risk for liability associated with his work; however, the Town's insurance company, Southwest Risk Services cautioned that the Town would not be covered by the Southwest Risk policy in the event of any legal action involving Errors and Omissions. Based on review of one vendor's professional liability costs, the extra semi-annual cost to Mr. Z for Professional Liability Insurance was estimated at approximately \$2,342. During the ensuing Council discussion, Baker requested that staff research the Minutes to look up what she understands was initially an agreement that Mr. Z would also conduct a training program to educate a staff member to work on tax collections. Although there will be no Professional Liability Insurance in place during the remainder of this year, it was agreed to honor the request for the \$5,600 to augment the contract until June 30<sup>th</sup>, and request Mr. Z to bring back a proposed agreement that would include the cost of the insurance, in addition to the other proposed agreement without.

#### **PUBLIC INPUT**

(Comments from the following individual are summarized.)

**Greg Blue**, referring to the E and O issue, said that he had received a letter from Mr. Zelechowski regarding his property in Chino Valley, which would be an example of an Error or Omission in that Mr. Zelechowski is sending out letters on property not in Camp Verde, a big typo.

There was no further public input.

14. **Discussion, consideration, and possible direction to staff relative to establishing the parameters and qualification factors for a possible Retirement Incentive Program as part of the budget balancing strategy.** Staff Resource: Lisa Elliott  
There was no action taken.

There was unanimous agreement on the following parameters and guidelines for Lisa Elliott to follow in preparing a proposed Retirement Incentive Program: Eligible for full retirement; additional time at 100%, with Council to determine the final percentage; a possible 3-week time frame to submit letters of interest; retirement by June 30<sup>th</sup>; a possible cash-out Cap.

Sr. Acct. Lisa Elliott said that at the March 24<sup>th</sup> budget Work Session, Council directed staff to gather information regarding a Retirement Incentive Program as part of a budget balancing strategy in the next Fiscal Year. Ms. Elliott reported that she had researched the number of employees who could be eligible for full or early retirement, depending on various factors to consider, including age and years of service. Ms. Elliott said that she is seeking direction from the Council in order to draft the proposed retirement program, and outlined the complex financial considerations. Following Council's discussion with Ms. Elliott, with input from one employee, the Council agreed upon the various criteria discussed, or parameters and guidelines for Ms. Elliott to follow, as set forth in the preceding recap of the discussion. It was also agreed that when the information is brought back to Council for review, as soon as possible, the Council will decide whether or not to adopt a Retirement Incentive Program.

#### **PUBLIC INPUT**

(Comments from the following individual are summarized.)

**Monty Reimer** commented that if he retired, he could be replaced with 1-1/2 persons for what the Town is paying him, starting at the bottom range. There are three employees in the Marshal's Office who are eligible for retirement; one probably would not take it, the other one may. Reimer said he wants to retire and whatever the Town could offer would be much appreciated.

There was no other public input.

15. **Discussion, consideration, and possible direction to staff relative to an increase to the Transaction Privilege License Tax in the general rate of taxation from two percent (2%) to three percent (3%). Discussion may include, but not be limited to possible allocations, the election process, and timelines.** Staff Resource: Lisa Elliott  
A motion by Baker, seconded by German, to direct staff relative to an increase to the Transaction Privilege License Tax in the general rate of taxation from two percent (2%) to three percent (3%), and staff to bring back an Ordinance at the earliest possible meeting, **failed by a 3-4 vote, with 'no' votes by Whatley, Garrison, Roulette and Burnside.**

Lisa Elliott said that Council had directed staff on March 24<sup>th</sup> to bring back information for Council to discuss the possibility of increasing the general sales tax rate from 2% to 3% because of the severe decline in State and local sales tax revenues over the past two years that will continue into the next fiscal year. A conservative estimate indicates a possible increase in revenue for the Town in the amount of \$750,000. Ms. Elliott referred to other funding sources that now have been cut, adversely affecting Town projects and services; the increase of the 1% sales tax would help to finance those services and projects. Ms. Elliott said that if the tax increase was approved, she would recommend leaving a percentage of it unallocated and available based on demands of the system from year to year; allocation of percentages can be broken out during the budget process.

The Council discussed the crucial need for funds to continue providing services and maintenance projects for the community, and the problem of imposing an additional tax on the community in light of the economic hardships that many are already facing. A list of the types of business, in addition to retail sales, that would be subject to a sales tax increase was outlined. Based on an informal voice poll, there was almost an equal split between those members who indicated support of the tax increase based on input from some of the citizens, as well as concern for the cuts in services that would have to be made without the added revenue, and other members who objected to the increase at this time, or without a vote of the public.

#### **PUBLIC INPUT**

(Comments from the following individual are summarized.)

**Linda German** said she feels the Council should "bite the bullet;" a recent poll by the Bugle showed 63% in favor of the tax. She asked the Council to consider allocating one-quarter of the 1 percent to the Library. The tax raise might not be popular, but do something to help the people.

**George Young** commented that the people that he has heard who are voting for the tax raise are the employees; government employees are all receiving excellent wages. The people in the community should be given the opportunity to vote on the issue of a sales tax raise. He understands there are those who will pull packets for a referendum otherwise.

**Greg Blue** said the public wants to vote on the tax; the people are also looking at the Rio Verde Plaza project as a money pit, and this is not the time for that.

**Debbie Hughes** believes the sales tax increase is necessary; she took issue with Mr. Young's comment on the Town employees being paid more; that is not the case.

There was no further public input.

There was a brief further discussion of the problems facing the Town because of the projected shortfall in funding, and the frustration of having to cut services to the Town; a motion was made to increase the sales tax as discussed, and the motion failed. No further action was taken.

**NOTE: Because of the late hour, the remainder of the Agenda was not addressed prior to adjournment of the meeting.**

- 16. **Discussion, consideration, and possible approval of Resolution 2010-807, a Resolution of the Mayor and Common Council of the Town of Camp Verde, Yavapai County, Arizona Superseding Resolution 2009-781, Adopting Fees for Town Services.**  
Staff Resource: Debbie Barber

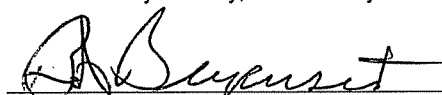
Councilor Roulette requested item #17:

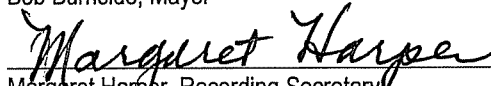
- 17. **Discussion, consideration, and possible direction to staff relative to possible uses of the 15 acres that the Town leased as part of the Intergovernmental Agreement with the Camp Verde Sanitary District, to include but not be limited to the possibility of subleasing the property.**

Mayor Burnside requested item #18:

- 18. **Discussion, consideration, and possible direction to staff relative to the Camp Verde Sanitary District IGA Section IV – Special Use Permit wherein the Town agrees to work with the District to renew the Special Use Permit with the Forest Service that expires in 2014.**
- 19. **Call to the Public for Items not on the Agenda.**
- 20. **Advanced Approvals of Town Expenditures.**
- 21. **Manager/Staff Report**
- 22. **Adjournment**

On a motion by Whatley, seconded by Burnside, the meeting was adjourned at 10:57 p.m.

  
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 Bob Burnside, Mayor

  
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 Margaret Harper, Recording Secretary

**CERTIFICATION**

Dated this 3 day of May, 2010.

  
 \_\_\_\_\_  
 Debbie Barber, Town Clerk

per Council Direction this legal opinion is to be attached to the minutes of April 7, 2010 - Regular Session

## MOYES SELLERS & SIMS

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**TO:** Mayor and Camp Verde Town Council  
**FROM:** Bill Sims  
**DATE:** April 14, 2010  
**RE:** Conflict of Interest and Town Officers

A question was raised about possible conflict of interest issues arising out of relatives of Council members serving as officers of the Town. There are two restrictions on such service: the statutory conflict of interest statutes found in Title 38 of the Arizona Revised Statutes and the Town Code provisions defining who may serve as Town Manager.

### **Title 38 Conflict of Interest Statutes**

A public officer (a term that includes a Council member) may not participate in any decision of a public agency (in this case the Town of Camp Verde) if a relative of the public officer has a pecuniary interest in the decision of the public agency. The term "relative" includes a spouse, children, parent, grandparent, brothers and sisters and any of their respective spouses.

Applied to the Town of Camp Verde: if a child of a Council member was a member of the Town staff (whether or not he or she was an officer of the Town), and if a Council member were to vote on an action for which the child had a pecuniary interest, the Council member would have to recuse himself or herself from both the discussions and the final decision on such action. Possible examples of an action where the Council member would have to recuse himself or herself because a relative could have a pecuniary interest would be a decision by the Council to establish the salary or benefits of the child of the Council member. In such a case the Council member would have to recuse himself or herself.

There is an exception that would allow a Council member to take part in a decision affecting a relative when the decision affects at least ten persons. For example, if a Council member were to vote on an across the board pay reduction of 5%, that action would affect all Town employees and could be acted upon by the Council member even if the decision affected a relative of the Council member. Under A.R.S. § 38-502.10.j, a decision that affects a class consisting of at least ten persons could be acted upon by a Council member even if a relative of the Council member is a member of the class of persons affected by the decision.



**Town Code Provision Regarding Persons Eligible to Serve as Town Manager**

Section 3-2-1 of the Town Code provides that no member of the Council, no spouse of a Council member, and no “relatives to the first degree” of a Council member may serve as Town Manager until one year after the Council member has served as a Council member. Relatives of the first degree of a Council member would be the Council member’s parent, child or sibling.

This provision of the Town Code would prohibit a child, parent, brother or sister of a sitting Council member from serving as the Town Manager. Section 3-2-1 of the Town Code only applies to persons serving as the Town Manager. Previous provisions of the Town Code have drawn a distinction between the office of the Town Manager and a person simply serving as the “Acting Town Manager.” It is my view that the Section 3-2-1 prohibition on a child of a Council member serving as the Town Manager would not apply to a person serving as “Acting Town Manager” because a person serving as an Acting Town Manager is just that, “acting” as Town Manager and is not the Town Manager. *Black’s Law Dictionary* defines an “acting officer” as a person who is not an incumbent officer but merely someone performing the duties of an office for which the “acting” officer does not claim title. As a result, the prohibition of the Town Code on a son or daughter, parent or sibling of a sitting Council member would not apply to a person who is not the Town Manager but is, instead, simply serving as the Acting Town Manager.

cc: Town Manager