1. Town Council - Agenda

   Documents: 2016_05_10_CC_RG_AG.PDF

2. Town Council - Agenda Packet

   Documents: 2016_05_10_CC_RG_PK.PDF

3. Town Council - Amended Agenda

   Documents: 2016_05_10_CC_RG_AG_AM.PDF

4. Town Council - Amended Agenda Packet

   Documents: 2016_05_10_CC_RG_PK_AM.PDF

5. Town Council - Action Taken

   Documents: 2016_05_10_CC_RG_AT.PDF

# Town of Chino Valley

## MEETING NOTICE
## TOWN COUNCIL

**REGULAR MEETING**
**Tuesday, May 10, 2016**
**6:00 P.M.**

**Council Chambers**
**202 N. State Route 89**
**Chino Valley, Arizona**

*A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.*

## AGENDA

**1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL**

**2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**

**3. CALL TO THE PUBLIC**

*Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.*

**4. RESPONSE TO THE PUBLIC**

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

**a.** Comments regarding the following information not being on the Town's web site: crime statistics, community disaster preparedness plan, and the Town's preparations related to recreational marijuana.

**5. CURRENT EVENT SUMMARIES AND REPORTS**

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.*

**a.** Status reports by Mayor and Council regarding current events.

**b.** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

## 6. CONSENT AGENDA

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

**a.** Consideration and possible action to approve revised form of Agreement for Towing Services. (Chuck Wynn, Police Chief)

**b.** Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)

**c.** Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk)

**d.** Consideration and possible action to accept the April 14, 2016 study session minutes. (Jami Lewis, Town Clerk)

## 7. ACTION ITEMS

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.*

**a.** Consideration and possible action for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00. If approved, the $10,000 will be added to the Recreation Department's Recreation Programs 2016/2017 budget. (Chris Bartels, Recreation Supervisor)

Recommended Action: Approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**b.** Consideration and possible action to approve Ordinance Number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C). (James Gardner, Associate Planner)

Recommended Action: Approve Ordinance Number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

## 8. EXECUTIVE SESSION

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

**a.** An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town.

**b.** An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director)

**c.** An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft)

## 9. ACTION ITEMS RESUMED

*After the Executive Session, Council will reconvene the Regular Meeting.*

**a.** Consideration and possible action to approve an amendment to the Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve amendment to the Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**b.** Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement. (Ruth Mayday, Development Services Director)

Recommended Action: Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

## 10. ADJOURNMENT

Dated this 5th day of May, 2016.

By: ***Jami C. Lewis, Town Clerk***

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at http://www.chinoaz.net/agendacenter and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date:_____ Time:_____ By:_____

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 6. a.**

**Meeting Date:** 05/10/2016

**Contact Person:** Chuck Wynn, Police Chief
Phone: 928-636-2646 x-1258

**Department:** Police

**Item Type:** Consent

**Estimated length of staff presentation:** None

**Physical location of item:** N/A

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**AGENDA ITEM TITLE:**

Consideration and possible action to approve revised form of Agreement for Towing Services.

**RECOMMENDED ACTION:**

Approve revised form of Agreement for Towing Services.

**SITUATION AND ANALYSIS:**

**Issue Statement**

The current Agreement for Towing Services expires June 30, 2016. The Police Dept has made a few revisions to assist in ease of service to the community and staff, and requested input from current tow companies on rotation. The recommended changes were not disputed or questioned by any of the current tow companies. We would like approval of the template for issuance to tow companies that desire to be on the rotation list.

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

The amendments will provide a more efficient service for the community and ensure violations of the agreement have a resolution.
Amendments are in red.

**Findings of Fact**

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**Fiscal Impact**

**Fiscal Impact?:** N/A

**If Yes, Budget Code:**

**Available:**

**Funding Source:**

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**Attachments**

Form of Tow Agreement

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**AGREEMENT FOR TOWING SERVICES**
**Contract No. _____**

THIS Agreement is entered into as of this _____ day of _____, 20___, by and between the Town of Chino Valley, Arizona, a municipal corporation, hereinafter referred to as "Town" and _____, hereinafter referred to as the "Contractor."

FOR THE PURPOSE of providing towing services for the Town of Chino Valley on a rotational basis, Town and Contractor do hereby mutually agree to the following:

1. SERVICES AND RESPONSIBILITIES

1.1 Retention of Contractor. In consideration of the mutual promises contained in this Agreement, Town engages Contractor to render services set forth herein, in accordance with all the terms and conditions contained in this Agreement.

1.2 Scope of Services. Contractor shall do, perform and carry out in a satisfactory and proper manner, as determined by Town, the services set forth in this Agreement, including all exhibits ("Services"). The specific scope of work and additional requirements of this Agreement are set forth in Exhibit A.

1.3 Responsibility of Contractor.

1.3.1 Contractor shall comply with applicable ordinances, laws and regulations, including those governing towing.

1.3.2 Contractor shall procure and maintain during the course of this Agreement insurance coverage required by Paragraph 4 of this Agreement.

1.3.3 Contractor shall designate _____ as his Contractor Representative and all communications shall be directed to him.

1.3.4 Contractor shall obtain its own legal, insurance and financial advice regarding Contractor's legal, insurance and financial obligations under this Agreement.

1.3.5 Contractor shall coordinate its activities with Town's Representative and submit its reports to Town's Representative.

1.3.6 Contractor shall provide, pay for and insure under the requisite laws and regulations of Chino Valley, Arizona and the United States, all labor, materials, equipment, transportation, and other facilities and services necessary for the proper execution and completion of the Services.

1.3.7 Contractor shall obtain and pay for all business registrations, licenses, permits, governmental inspections and governmental fees necessary and customarily required for the proper execution and completion of Services. Contractor shall pay all applicable taxes.

1.3.8 Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Services.

1.3.9 Contractor shall maintain, separate from any other entity on the Town's rotational towing list, its business address, storage yard address and tow trucks.

1.4 Responsibility of Town.

1.4.1 Town shall cooperate with Contractor by placing at its disposal all available information concerning the Services.

1.4.2 Town designates Lt. Vincent Schaan as its Town Representative. All communications to Town shall be through its Town Representative.

1.4.3 Nothing is this Agreement shall be construed to provide an exclusive contract for services with Contractor for the Services. Town shall be free to enter into similar agreements with other qualified contractors and to use the contractors on a rotational basis, at the Town's discretion.

1.5 Contract Term; Renewal.

1.5.1 The Contract commences upon execution of the Contract by both parties and continues through June 30, 2018. The Contract may be renewed for up to two (2) additional one-year terms upon mutual agreement of the parties.

2. COMPENSATION AND METHOD OF PAYMENT

2.1 Compensation. Town shall not be responsible for payment of any fees or charges of Contractor for the Services or for any costs incurred by Contractor. Contractor's sole compensation for the performance of the Services shall be from fees and charges collected from owners of vehicles towed pursuant to this Agreement. The fees charged shall be consistent with the rates established by Town pursuant to A.R.S. § 9-499.05(A) or reasonable fees if none are set by Town. A copy of the Town's current fees at the time of execution of this Agreement is attached hereto as Exhibit B. Town reserves the right to revise its approved fees at any time, with or without notice to Contractor.

3. INSURANCE REPRESENTATIONS AND REQUIREMENTS

3.1 General. Contractor agrees to comply with all Town ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to Town. Failure to maintain insurance as specified may result in termination of this Agreement at Town's option.

3.2 No Representation of Coverage Adequacy. By requiring insurance herein, Town does not represent that coverage and limits will be adequate to protect Contractor. Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

3.3 Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Town, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

3.4 Coverage Term. All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by Town, unless specified otherwise in this Agreement.

3.5 Primary Insurance. Contractor's insurance shall be primary insurance as respects performance of subject contract and in the protection of Town as an Additional Insured.

3.6 Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

3.7 Waiver. All policies, including Workers' Compensation Insurance, shall contain a waiver of rights of recovery (subrogation) against Town, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

3.8 Policy Deductibles and or Self Insured Retentions. The policies set forth in these requirements may provide coverage, which contain deductibles or self insured retention amounts. Such deductibles or self insured retention shall not be applicable with respect to the policy limits provided to Town. Contractor shall be solely responsible for any such deductible or self insured retention amount. Town, at its option, may require Contractor to secure payment of such deductible or self insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

3.9 Evidence of Insurance. Prior to commencing any Services under this Agreement, Contractor shall furnish Town with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Contractor's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions, and limits of coverage specified in this Agreement, and that such coverage and provisions are in full force and effect. Acceptance and reliance by Town on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to the Town Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Contractor's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

3.9.1 Town, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

a. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent.

b. Auto Liability-Under ISO Form CA 20 48 or equivalent.

c. Excess Liability-Follow Form to underlying insurance.

3.9.2 Contractor's insurance shall be primary insurance as respects performance of this Agreement.

3.9.3 All policies, including Workers' Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by Contractor under this Agreement.

3.9.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

3.10 Required Coverage:

3.10.1 Commercial General Liability: Contractor shall maintain "occurrence" from Commercial Liability Insurance with an unimpaired limit of not less than $1,000,000 for each occurrence and a $2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including, but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Town, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or

equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you". If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3.10.2 Vehicle Liability: Contractor shall maintain Business Automobile Liability Insurance with a combined single limit of $1,000,000 and not less than $100,000 for property damage each occurrence on Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's Services under this Agreement. In addition, Contractor shall maintain On Hook/Cargo coverage with a minimum $50,000 limit. Coverage will be at least as broad as Insurance Services Office, Inc., coverage code "1" any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, Town, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

3.10.3 Workers' Compensation Insurance: Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance Services under this Agreement, and shall also maintain Employer Liability Insurance of not less than $500,000 for each accident, $500,000 disease for each employee and $1,000,000 disease policy limit.

3.10.4 Garage Keepers Coverage: Contractor shall maintain Garage Keepers coverage in an amount deemed by Contractor to be adequate and shall provide Town with proof of said coverage.

3.10.5 On Hook/Cargo Coverage: Contractor shall maintain On Hook/Cargo coverage in an amount not less than $50,000.

## 4. INDEMNIFICATION

4.1 To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless Town, its agents, officers, officials and employees from and against all demands, claims, proceedings, suits, damages, losses and expenses (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), and all claim adjustment and handling expenses, relating to, arising out of, or alleged to have resulted from acts, errors, mistakes, omissions, Services caused by the Contractor, its agents, employees or any tier of Contractor's subcontractors related to the Services in the performance of this Agreement. Contractor's duty to defend, hold harmless and indemnify Town, its agents, officers, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom,

caused by Contractor's acts, errors, mistakes, omissions, Services in the performance of this Agreement, including any employee of the Contractor, any tier of Contractor's subcontractor or any other person for whose acts, errors, mistakes, omissions, Services the Contractor may be legally liable, including Town. Such indemnity does not extend to Town's negligence.

4.2 Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

5. TERMINATION OF THIS AGREEMENT

5.1 Termination. Town may, by written notice to Contractor, terminate this Agreement in whole or in part with seven (7) days' notice, either for Town's convenience or because of Contractor's failure to fulfill its contract obligations. Upon receipt of such notice, Contractor shall immediately discontinue all services affected (unless the notice directs otherwise). This Agreement may be terminated in whole or in part by Contractor in the event of substantial failure by Town to fulfill its obligations.

6. ASSURANCES

6.1 Litigation. Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.

6.2 Independent Contractor. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that Contractor will be an independent contractor and not Town's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law. Contractor agrees that it is a separate and independent enterprise from Town, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and Town, and Town will not be liable for any obligation incurred by Contractor, including, but not limited to, unpaid minimum wages and/or overtime premiums. [FOR SOLE PROPRIETORS ONLY: The Contractor shall execute the Sole Proprietor's Waiver of Workers' Compensation Benefits attached hereto and incorporated by reference.]

6.3 Immigration Law Compliance Warranty. As required by A.R.S. § 41-4401, Contractor hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an

employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. If Contractor uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Contractor is subject to a penalty of $100 per day for the first violation, $500 per day for the second violation, and $1,000 per day for the third violation. Town, at its option, may terminate the Contract after the third violation. Contractor shall not be deemed in material breach of this Contract if the Contractor and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Town retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.

6.4 Equal Treatment of Workers. Contractor shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the Services. Contractor shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to, laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration ("OSHA") and the Fair Labor Standards Act ("FLSA"). Contractor shall protect and indemnify Town and its representatives against any claim or liability arising form or based on the violation of such, whether by Contractor or its employees.

6.5 Sole Agreement. There are no understandings or agreements except as herein expressly stated.

6.6 Notices. Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

TOWN: CONTRACTOR:

Town Manager
Town of Chino Valley
202 North State Route 89
Chino Valley, Arizona 86323

The address may be changed from time to time by either party by serving notices as provided above.

6.7 Controlling Law. This Agreement is to be governed by the laws of the State of Arizona.

7. INTERESTS AND BENEFITS

7.1 Interest of Contractor. Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

7.2 Interest of Town Members and Others. No officer, member or employee of Town and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.

7.3 Notice Regarding A.R.S. § 38-511. This Contract is subject to cancellation under Section 38-511, Arizona Revised Statutes.

8. ASSIGNABILITY

The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of Town thereto.

IN WITNESS WHEREOF, Chino Valley and Contractor have executed this Agreement as of the date first written.

TOWN OF CHINO VALLEY

By: _____
Chris Marley, Mayor

ATTEST:
By: _____
Jami, Town Clerk

APPROVED AS TO FORM:

By: _____
Phyllis L.N. Smiley, Town Attorney

CONTRACTOR

By: _____
Its: _____

# EXHIBIT A
# SCOPE OF WORK

Contractor shall provide towing services ("Services") as requested by the Town including removal of disabled vehicles from accident scenes, vehicles that constitute traffic hazards, vehicles that may be evidence of a crime, and/or any other vehicle towed in accordance with any state statute or Town of Chino Valley ordinance. Contractor shall provide the Services in accordance with the following:

1. Vehicle Identification

Each vehicle used for towing shall have the towing company (Contractor's) name painted on driver and passenger sides of the vehicle in lettering at least three-inches (3") in height and shall display the current Arizona Department of Public Safety inspection seal.

Rates for Services shall be posted in all tow trucks.

2. Information to be Provided by Contractor to Person Responsible for Towed Vehicle

a. Each vehicle shall contain business cards for the Contractor that the Contractor's employee shall distribute to every person responsible for a vehicle being towed. The business cards shall include the following information:

- Name, address, and telephone number of the company;
- Hours of operation; and
- Telephone number for after-hour releases of vehicles.

b. Each vehicle shall contain brochures listing rates and terms of this Agreement and clear instructions with contact information for retrieval of the vehicle that shall be provided to the owner, operator or person responsible for the vehicle being towed.

3. Equipment

All vehicles used for towing shall:

- Be equipped with proper equipment to comply with A.R.S. § 28-1108 and prevent damage to towed vehicles. This equipment includes, but is not limited to: dollies, chains, slings, and bumpers.

- Have the necessary equipment to clean accident scenes including, but not limited to: brooms, shovels, and sand or appropriate absorbent material. An appropriate absorbent material shall be used when conditions exist that sand does not adequately absorb spilled liquids/material.

- Have a functioning two-way radio system with 24-hour dispatching.

Contractor shall have, at a minimum, the following vehicles, at least one of which is classified as a Medium or Heavy-Duty Wrecker, available at all times:

- One power-operated wrecker
- One rollback wrecker in good and serviceable condition

Prior to Contractor being placed on the rotational list pursuant to this Agreement, the Chino Valley Police Department ("CVPD") shall inspect and approve the equipment and facilities to be used by Contractor in providing the Services. Contractor shall notify the CVPD in writing prior to any change or substitution of the equipment or facilities. If prior notice is not possible due to emergency situations, written notice within ten (10) days of any change is required.

4. Storage Facilities

Storage facilities shall be located within the corporate limits of the Town of Chino Valley. Storage facilities shall meet all municipal and/or county zoning requirements for the area in which they are located and said locations shall be on record with the CVPD. Storage facilities shall be owned or leased for use by the Contractor. Proof of ownership or lessee status must be provided with the application.

Vehicles shall be taken directly to the Contractor's storage facility unless the tow driver is advised differently by the CVPD or the owner or driver of the vehicle.

The storage facility shall not be located within a wrecking yard that is in the business of dismantling vehicles.

Contractor shall provide a fenced storage area with a secure fence at least six feet (6') in height plus outwardly slanted 3-strand (or greater) barbed or razor wire and must comply with the requirements of the Chino Valley Town Code and Unified Development Ordinance.

The storage area shall be lit with at least 7.4 lumen light output level of electrical light for each square foot of storage area.

Storage facilities shall have a controlled access point and be locked when unattended. Contractor shall be responsible for the safekeeping of vehicles stored and for the items and personal property in the stored vehicles. Vehicles shall not be stored at any location other than those on record with the CVPD.

Vehicles shall not be removed from the initial storage yard for a period of ten (10) calendar days unless requested by the owner or authorized agent. If, after a period of ten (10) calendar days, instructions have not been received from an owner or authorized agency, Contractor may remove the vehicle to an alternate storage lot outside the Town boundaries that meets the security requirements listed above. Removal to an alternate lot shall not result in any additional charge to the vehicle owner.

Persons whose vehicles are stored or have been impounded for reasons other than evidentiary purposes shall have the right to remove any personal property, perishables, or valuables prior to the release or payment of impound fees of a vehicle stored in Contractor's lot (excluding items attached to the vehicle; e.g., stereo equipment, etc.). All storage fees shall be assessed against the vehicle/owner and not against personal property.

5. Personnel

Contractor shall have sufficient qualified personnel available for the operation of its vehicles at all times.

All drivers shall have a current State of Arizona driver's license, with proper class, endorsements and medical qualifications.

Drivers shall refrain from using profane and vulgar language in a public area while performing work for the CVPD.

Contractor's drivers, owners, and operators shall not solicit or suggest a repair facility to the owner or driver of a damaged vehicle.

All drivers shall operate the vehicle used for towing in a safe and prudent manner and shall obey all traffic laws, ordinances and other applicable laws at all times.

Drivers shall wear a safety vest any time they are in a roadway, including while hooking up vehicles to be towed and when cleaning debris from the scene.

Contractor shall be fully responsible for drivers' actions.

Contractor's personnel shall treat customers whose vehicles have been towed on behalf of CVPD in a manner consistent with the Town's expectations of proper customer service.

6. Availability

Contractor shall have a staff member on-site its storage facility to assist customers, at a minimum, during Normal Business Hours. "Normal Business Hours" as that term is used in this Agreement, shall mean from 8:00 a.m. to 5:00 p.m. every day except:

- Saturday
- Sunday
- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving

- Christmas Day

At all other times, Contractor shall have a telephone number prominently posted at its storage location for after-hours release of vehicles. The after-hours telephone number shall be answered and responded to at all times, so that vehicles may actually be released after regular business hours, if necessary. Contractor shall maintain with CVPD an emergency phone number to facilitate release of a vehicle.

7. Response to Requests for Service

Contractor shall provide the Services set forth in this Agreement and respond to requests for service twenty-four (24) hours a day, every calendar day of the year.

Contractor shall not designate or send another company to substitute for it when called by the CVPD.

Upon receiving a request for Service, Contractor shall be responsible for dispatching its own truck.

Contractor shall tow the requested vehicle regardless of its condition or value.

Response time to the designated site shall not be more than twenty five (25) minutes, on average, from the time of the request from CVPD. Appropriate staffing shall be in place to accommodate this response 24 hours a day. Average response times will be determined by adding all recent consecutive response times of Contractor (up to a limit of the fifteen most recent responses) and dividing by the number of responses.

Failure to respond to a request for service within 25 minutes may result in: (1) suspension of Contractor from the rotational list; (2) Contractor being placed at the bottom of the rotational list; or (3) cancellation of this Agreement, at the discretion of Town. Extenuating circumstances for delays, including but not limited to weather, severe traffic backup due to crash, additional accidents, may be taken into consideration by Town in its decision to take any action occasioned by Contractor's failure to respond within 25 minutes.

Each call to Contractor shall constitute one turn on the rotational list. After each call, Contractor shall be placed at the bottom of the rotation. Contractor shall forfeit its turn and be moved to the bottom of the list if: (1) Contractor fails to answer its telephone; or (2) Contractor is unable to respond or provide service; or (3) the call is cancelled due to excessive response time. If Contractor arrives more than thirty (30) minutes from time of call, per YCSO record keeping, at the officer's discretion, the Contractor may be required to forfeit its turn and be replaced by the next tow company on rotation.

8. Release/Retention of Vehicles

When a Chino Valley Police officer instructs Contractor to tow a vehicle pursuant to A.R.S. § 28-3511, Contractor shall deliver said vehicle to the Town's storage yard located at 1950 Voss Drive, Chino Valley, Arizona. (See Paragraph 15 for additional requirements related to vehicles towed pursuant to A.R.S. § 28-3511).

A vehicle towed pursuant to A.R.S. § 28-3511 may be stored at the Contractor's impound lot in accordance to Paragraph 16, Exceptions to impound at CVPD.

It shall be Contractor's sole responsibility to determine that the vehicle is being released to the actual owner or authorized agent and shall not release a vehicle unless and until the owner or authorized agent has provided Contractor with a copy of the owner or authorized agent's valid driver's license, proof of insurance and current registration for the vehicle.

9. Business Licensing

Contractor shall maintain required state and Town licenses for the operation of its business within the Town of Chino Valley.

10. Compliance with State and Local Laws

Contractor shall at all times remain in compliance with all federal, state, and local laws relating to the operation of tow companies, including but not limited to, laws regarding reporting requirements on towed vehicles to federal, state, and local agencies.

Contractor shall submit all necessary reports to the Arizona Department of Transportation as required by A.R.S. §§ 28-4801 through 28-4884 *et al*. and any subsequent amendments thereto.

11. Records

Contractor shall maintain a record for one year on each vehicle towed by CVPD request. The record shall contain, at minimum, the following information:

- Location where the vehicle was picked up
- Location where the vehicle was taken (and other storage locations as applicable)
- Date and time of the pick up
- Date and time of release
- Name and address of the individual to whom the vehicle was released
- Make, model, and year of the vehicle
- License plate number and state of issue
- Vehicle identification number

If the vehicle is sold at auction, Contractor shall document, in writing, the date of auction, and the name and address of the person purchasing the vehicle at auction.

Contractor shall maintain records of itemized tow and storage billing statements.

Upon reasonable notice, Contractor shall permit during normal business hours:

- inspection of the vehicles and records required to be kept by this Agreement; and

- inspection of the storage facilities by any member of the CVPD; and
- audit of the records required to be kept by this Agreement at its place of business.

Within ten (10) days after release of a vehicle, Contractor shall notify YCSO Dispatch via facsimile at 928-771-3260.

12. Fees

Contractor shall not bill CVPD for any fees received from an individual owner of a towed vehicle. If Contractor receives any fees from an owner of a towed vehicle that has been billed to and/or paid by the CVPD, Contractor shall immediately remit such amounts to the CVPD.

13. Site Cleanup

Contractor shall be responsible for debris cleanup at the scene of accidents, including all vehicle parts, broken glass, dirt, sand and any other matter left in the roadway as a result of an accident. Contractor is responsible for retention of and/or appropriate disposal of accident debris. Failure to adequately cleanup a roadway may result in the driver or company being issued a citation or being charged pursuant to A.R.S. § 28-898 or § 28-7056 and possible removal of Contractor from the rotational tow list.

14. Cancellation of Tow Service Request

After Contractor has received a request for Service, CVPD may cancel the request at any time. If the request for cancellation is made prior to any portion of Contractor's equipment being physically attached to the vehicle to be towed, Contractor shall not charge for the Service. If this request is made subsequent to any portion of the tow vehicle's equipment being physically attached to the vehicle to be towed, Contractor may charge for the Service even if the vehicle is **not actually towed.**

15. Vehicles Towed Pursuant to A.R.S. § 28-3511.

***The requirements set forth in this section apply only to vehicles towed pursuant to a request from a peace office to remove and either immobilize or impound a vehicle pursuant to the provisions of A.R.S. § 28-3511.***

Upon request from CVPD to tow a vehicle pursuant to A.R.S. §28-3511, Contractor shall tow, not drive, the vehicle to the Town's Storage Yard, located at 1950 Voss Drive, Chino Valley, AZ (the "Yard"). CVPD shall be liable for the vehicle and its contents while the vehicle is impounded at the Yard.

Contractor shall submit a written invoice to CVPD at the time of delivery for each vehicle it tows to the Yard. CVPD shall retain the invoice and, if a hearing is held and the vehicle released, collect the towing fee from the vehicle owner. Town shall notify Contractor of the release of the vehicle and shall remit Contractor's towing fee to Contractor within one month of collection.

If a vehicle is not released within 30 days of impoundment, Town shall contact Contractor and Contractor shall tow the vehicle to Contractor's storage facilities within one business day of such notice without charge to Town. If the owner subsequently contacts Contractor requesting release of the vehicle, Contractor shall advise the vehicle owner of the requirement for a hearing. If a hearing is held, Town will collect its hearing fee and impound fees and notify Contractor that the vehicle is available for release. It is the responsibility of Contractor to collect its towing fees and any other impound fees incurred after removal from the Yard. Town is not responsible and will not pay towing fees for any vehicle that is not claimed by the owner and subsequently picked up by Contractor.

Failure to notify vehicle owner of the required hearing, prior to release of vehicle, will result in removal of the Contractor from rotation for 30 calendar days. A second and subsequent violation of this will result in removal from the rotation for at least 1 calendar year.

For any vehicle towed pursuant to A.R.S. § 28-3511 which Contractor obtains possession of (either through receipt of abandoned vehicle title or by virtue of the owner transferring title to Contractor), prior to disposing of the vehicle, Contractor shall provide CVPD with the following information:

- A complete description of the vehicle
- VIN number
- Department Report Number
- a clear copy of the title (front and back).

Upon receipt of this information, CVPD shall prepare a letter authorizing Contractor to take possession of the vehicle and dispose of it in compliance with A.R.S. § 28-3515.

16. Exceptions to Impounding Vehicles at CVPD, pursuant to A.R.S § 28-3511.

If, after initial tow or due to collision, a vehicle qualifies for impoundment under A.R.S § 28-3511, CVPD may, at its discretion, notify Contractor and order the vehicle be held under all conditions pursuant to A.R.S § 28-3511, at Contractor's approved storage yard.

Any vehicle impounded at Contractor's yard pursuant to A.R.S § 28-3511, shall remain at the facility for 30 days, unless written authorization for release is obtained from CVPD.

The vehicle shall not be released until Contractor has received a release from CVPD except as outlined in paragraph 15.

Contractor shall store the vehicle in accordance to A.R.S § 28-3511 and shall only charge the fees as established and outlined in this agreement.

# EXHIBIT B

## SERVICE RATE FEE SCHEDULE

## AS OF _____, 2016

(Subject to Change)

| *Type of Service* | *Tasks Included* | *Fee* |
|---|---|---|
| Level 1 Service | Unlock<br>Fuel Delivery (customer pay for fuel)<br>Tire Change (up to ¾ ton)<br>Jump Starts | $ 55.00 |
| Level 2 Tow* | Basic tow:<br>Vehicle has keys;<br>Wheels and tires operable.<br>Vehicle under 9,000 lb GVW. | $ 95.00 |
| Level 3 Tow* | Accident tow:<br>No keys;<br>Wheels and tires inoperable;<br>Winching under 50 feet from tow truck access.<br>Vehicle under 9,000 lb GVW. | $185.00 |
| Level 4 Tow | Vehicles towed pursuant to A.R.S. § 28-3511;<br>Vehicles towed as requested by CVPD | $ 200.00 |
| Large Vehicle Tows | 9,001 – 16,000 lb GVW<br>16,001 – 26,000 lb GVW<br>26,001 – 80,000 lb GVW | $ 95.00/hr port to port<br>$ 135.00/hr port to port<br>$ 175.00/hr port to port |
| Off-Road Recovery Rate/ Standby Rate*** | After first ½ hour on scene or vehicle greater than 50 feet from tow truck access, Vehicle under 9,000 GVW | $ 95.00 |
| Recovery, Large Vehicles | 9.001 – 16,000 lb GVW<br>16,001 – 80,000 lb GVW | $ 150.00/hr<br>$ 250.00/hr |
| Daily Storage | Regular tow after first full 24-hour period | $ 30.00 |
| Daily Storage | Vehicles impounded pursuant to A.R.S. § 28-3511 | $ 15.00 |
| After Hours Gate Fee** | | $ 65.00 |
| Cost per loaded mile | | $ 4.50 |
| Filing Fee | | Not to exceed $150.00 |
| Fuel Surcharge | Rate will be recalculated based on EIA rates if diesel prices rise to $4.50 per gal. or higher | 15% of total service bill |

* Level 2 and 3 tows include towing the vehicle inside the boundaries of the Town of Chino Valley. When the vehicle owner or agent requests vehicle be towed to a location outside the Town limits, “Cost per loaded mile” may be charged from the Town limits to the requested destination.

** After Hours Gate Fee will be charged only when the owner or agent of a vehicle requests entrance to the impound facility after normal business hours. It will not be charged when a tow is performed outside normal business hours.

*** Off-road Recovery fee will be charged only when a vehicle has to be recovered more than 50 feet from tow truck access and will be charged at the rate commensurate with the vehicle’s registered GVW.

No other miscellaneous charges are allowed. These services shall be considered to be part of the towing fee and include, but are not limited to, such things as Snatch Block, Skates, no key, driveshaft removal, etc.

# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 6. b.**

**Meeting Date:** 05/10/2016

**Contact Person:** Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208

**Department:** Town Clerk

**Item Type:** Consent

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**AGENDA ITEM TITLE:**

Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)

**RECOMMENDED ACTION:**

Accept the April 12, 2016 regular meeting minutes.

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**Attachments**

April 12, 2016 regular minutes

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# D R A F T

# MINUTES OF THE REGULAR MEETING
# OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

## TUESDAY, APRIL 12, 2016
## 6:00 P.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, April 12, 2016.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Susie Cuka; Councilmember Corey Mendoza; Councilmember Lon Turner

Absent: Councilmember Jack Miller

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittman; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Human Resources Director Laura Kyriakakis; Police Officer Gary Bruso; Acting Public Works Director/Town Engineer Michael Lopez; Associate Planner James Gardner; Library Director Scott Bruner; GIS/CAD/Web Technician Jan Mazy; Deputy Town Clerk Liz Hart; Town Clerk Jami Lewis (recorder)

### 1) CALL TO ORDER, INVOCATION*; PLEDGE OF ALLEGIANCE; ROLL CALL

**An invocation will be given at the beginning of the meeting by a member of Council. Persons who do not wish to participate may remain in the lobby during the invocation and will be notified by Town staff when the invocation is finished. The Council will pause briefly to allow those in the lobby to enter before proceeding with the Pledge of Allegiance and the rest of the meeting.*

*The invocation is solely the expression of the religious belief of the speaker and is not an endorsement of those beliefs by other Council members or by the Town of Chino Valley. Religion is a personal matter, independent of the function of government. The purpose of the invocation is to solemnize the legislative proceedings of the Council. It is not intended to advance, proselytize, disparage, or denigrate any other religion, belief, or non-belief or to coerce others to participate. No stigma or different treatment of persons who choose to participate or who choose not to participate will be tolerated.*

Mayor Marley called the meeting to order at 6:02 p.m.

Councilmember Best gave the invocation; Mayor Marley led the Pledge of Allegiance.

### 2) INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS

**a)** Presentation by Phil Goode regarding the Prescott Courthouse Veteran's Memorial update and memorial service. (Robert Smith, Town Manager)

Mr. Goode spoke about the Veterans Memorial Plaque Project and the plaque rededication June 14, 2016.

**b)** Proclamation for the Honor and Remember organization, supporting efforts to establish a recognizable symbol to honor our Military fallen and their families. (Cecilia Grittman, Assistant Town Manager)

Paulette and Augie Martone, Gold Star parents, spoke about the Honor and Remember flag and an upcoming Memorial Day celebration.

Vice-Mayor Croft read the proclamation and presented it to the Martones.

**c)** Proclamation declaring April 21, 2016 as "PowerTalk 21® Day," sponsored by Mothers Against Drunk Driving Arizona. (Mayor Chris Marley)

Mayor Marley read the proclamation.

**d)** Proclamation declaring April 2015 "Fair Housing Month." (Cecilia Grittman, Assistant Town Manager)

Mayor Marley read the proclamation.

## 3) CALL TO THE PUBLIC

*Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.*

Cloyce Kelley and Bob Ingram with the Chino Valley VFW Post 40 spoke about the VFW's service to veterans and the organization's 40th anniversary.

## 4) RESPONSE TO THE PUBLIC

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

**a)** Comments regarding Public Record Request inquiry.

Mayor Marley reported on the process and completion of the subject request.

## 5) CURRENT EVENT SUMMARIES AND REPORTS

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.*

**a)** Status reports by Mayor and Council regarding current events.

Mayor and Council had nothing to report.

**b)** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

Mr. Smith reported on:

- First quarter development permits and valuation.
- Comparisons to first quarter 2015.
- Code enforcement cases.

**6) CONSENT AGENDA**

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve consent agenda items (6a) and (b).

**Vote:** 6 - 0 PASSED - Unanimously

**a)** Consideration and possible action to accept the March 8, ~~2015~~2016 regular meeting minutes. (Jami Lewis, Town Clerk)

**b)** Consideration and possible action to accept the March 15, ~~2015~~2016 study session minutes. (Jami Lewis, Town Clerk)

**7) ACTION ITEMS**

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.*

**a)** Consideration and possible action to modify the invocation portion of the Council meeting. (Mayor Chris Marley)

Recommended Action: Modify the invocation as directed.

(This item was heard after item 8a but is retained here for clarity.)

Mayor Marley reported that:

- Per a recent Supreme Court case, the Town could allow invocations given by members of the public. The Town's discussion centered around citizens giving up free exercise under the First Amendment while serving as elected officials.
- Councilmembers received lots of communication from the community on the matter, both positive and negative.
- Council had reviewed a number of options, and while financial repercussions were considered, they were not the only deciding factor. The most compelling argument was

in defense of the letter and spirit of the Establishment Clause, in which an individual of a different culture and religious background coming before Council with a request could be given the impression that the local government was endorsing a specific religion.

Councilmembers spoke about the difficult decision surrounding this matter, the threat of lawsuits, the various options available, and their desire to serve the Town regardless of religion.

MOVED by Mayor Chris Marley, seconded by Councilmember Corey Mendoza that in order to preserve the sanctity of the invocation, move the location of our invocation to our executive chambers for Council only prayer immediately preceding the Council meetings, followed by the Call to Order and Pledge of Allegiance after we come back out, and to modify our existing agenda to reflect such change: (i) Private invocation held in executive chambers (Council only); (ii) the Council enters the Council chambers; (iii) Call to Order, Pledge of Allegiance; Roll Call; and then the rest of the agenda.

**Vote:** 6 - 0 PASSED - Unanimously

Town Attorney Smiley advised that such notice was preferable to have on the agenda prior to the Call to Order.

**b)** PUBLIC HEARING regarding Resolution No.16-1078, proposing an extension of the alternative expenditure limitation—home rule option. (Joe Duffy, Finance Director)

Recommended Action: Hold public hearing.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to hold the public hearing.
**Vote:** 6 - 0 PASSED - unanimously

Mr. Duffy reviewed the ballot measure, including:

- History and purpose of the 1980 expenditure limitation initiative.
- Expenditure Limitation options and those used by other Arizona municipalities.
- State-imposed limit versus Home Rule.

Key points were:

- Chino Valley citizens had approved the Alternative Expenditure Limitation—Home Rule Option every four years from 1985 through the present.
- For the next four fiscal years, under the state limit, the Town could spend only approximately $9 million to provide services to the community, while under Home Rule, the Town could spend approximately $20 million.
- A "yes" vote will continue the Home Rule option for the next four years; a "no" vote will place the Town under the state-imposed limit for the next two years.

No one from the public spoke.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to close the public hearing.
**Vote:** 6 - 0 PASSED - unanimously

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to recess to the special meeting at 7:39 p.m.

**Vote:** 6 - 0 PASSED - Unanimously

Mayor Marley reconvened the regular meeting at 7:42 p.m.

**c)** Consideration and possible action to adopt Ordinance 16-814, to rezone approximately 2.31 acres of real property, located at 868 Adams Dr., Chino Valley, Arizona, consisting of a portion of the North half and the Northeast quarter of Section 15, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-20-103) from Single Family Residential, 2.5-acre minimum (SR-2.5) to Single Family Residential, 1-acre minimum (SR-1) zoning district. (Applicant: Jeb Merlyn) (James Gardner, Associate Planner)

Recommended Action: Approve Ordinance No. 16-814, changing the zoning on approximately 2.31 acres of real property generally located at 868 Adams Drive from Single Family Residential 2.5-acre minimum (SR-2.5) to Single Family Residential, 1-acre minimum (SR-1) zoning district.

Mr. Gardner presented the proposal:

- *Purpose of zone change:* To add an additional manufactured home on the property.
- *Current conditions:* An existing home and mother-in-law quarters were on-site.
- *General Plan conformance:* The proposal did not strictly conform, but was closer to conformance than currently, and would have no effect to community core planning.
- *Planning and Zoning Commission recommendation:* Unanimously recommended approval.

Council asked about building setbacks. Mr. Gardner stated they were 10 feet on either side.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to approve Ordinance No. 16-814, changing the zoning on approximately 2.31 acres of real property generally located at 868 Adams Drive from Single Family Residential 2.5-acre minimum (SR-2.5) to Single Family Residential, 1-acre minimum (SR-1) zoning district.

**Vote:** 6 - 0 PASSED - Unanimously

**d)** Consideration and possible action to:
1. Review and conceptually approve a proposal by the Friends of the Library to construct an addition to the Library of approximately 400 square feet, for which the Friends of the Library will bear all costs of design and construction, unless otherwise authorized by the Town Council; and

2. Authorize the Town of Chino Valley Public Works Department to facilitate the relocation of existing utilities (gas and water) prior to the construction of the Library Expansion in an amount not to exceed $7,500.00. (Michael Lopez, Acting Public Works Director/Town Engineer)

Recommended Action:
1. Approve in concept the Friends of the Library's proposal to construct an addition to the Library of approximately 400 square feet with the Friends to pay all design and construction costs except as otherwise authorized by the Town Council; and

2. Authorize the Town of Chino Valley Public Works Department to facilitate the relocation of existing utilities for the construction of the Library Expansion in an amount not to exceed $7,500.00.

Library Director Bruner spoke about the Friends contributing to the Library over $175,000 in the last two years and 6,420 service hours last year. The Friends intended to pay for this project, which they had been working on since last year, and only needed some help with moving gas and water. The contractor was ready to begin work as soon as the utilities were moved.

Cindy Larson with the Friends spoke about having to use staff and public space for their book sales and other activities, and their desire to place their operations as much as possible in one location.

Mr. Lopez reported that:

- Staff had worked with the Friends to find the best location for the building. Staff proposed to provide overall oversight on the project, as well as relocate the gas line and water meter; and preferred that the contractor move the drainage pipe to resolve a drainage issue that was identified late in the process.
- The Friends had secured a contractor and staff was revising the contract language to ensure the Town's protection.
- Staff supported the proposed addition and was asking Council to approve the concept of moving forward and making the funds available.

Council generally supported the project and asked staff to hold off on moving utilities until the paperwork was done, but preliminary work on the utilities would be okay.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Corey Mendoza to approve in concept the Friends of the Library's proposal to construct an addition to the Library of approximately 400 square feet with the Friends to pay all design and construction costs except as otherwise authorized by the Town Council.

**Vote:** 6 - 0 PASSED - Unanimously

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Corey Mendoza to authorize the Town of Chino Valley Public Works Department to facilitate the relocation of existing utilities for the construction of the Library Expansion in an amount not to exceed $7,500.00.

**Vote:** 6 - 0 PASSED - Unanimously

## 8) EXECUTIVE SESSION

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

**a)** An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

(This item was heard prior to item 7a but is retained here for clarity.)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Lon Turner to move executive session item 8a before action items to accommodate the schedule of the attorney representing the Town in the matter of Hatch v. Town at 6:34 p.m.

**Vote:** 6 - 0 PASSED - Unanimously

Mayor Marley reconvened the regular meeting at 7:10 p.m. and returned to item 7a.

**b)** An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft)

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to postpone executive session item (b) until the April 26 Council meeting.

**Vote:** 6 - 0 PASSED - Unanimously

**9) ACTION ITEMS RESUMED**

*After the Executive Session, Council will reconvene the Regular Meeting.*

**10) ADJOURNMENT**

MOVED by Councilmember Corey Mendoza, seconded by Councilmember Lon Turner to adjourn the meeting at 8:13 p.m.

**Vote:** 6 - 0 PASSED - Unanimously

_____
Chris Marley, Mayor

ATTEST:

_____
Jami C. Lewis, 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 Chino Valley, Arizona held on the 12th day of April, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 10th day of May, 2016.

_____

Jami C. Lewis, Town Clerk

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 6. c.**

**Meeting Date:** 05/10/2016

**Contact Person:** Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208

**Department:** Town Clerk

**Item Type:** Consent

---

**AGENDA ITEM TITLE:**

Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk)

**RECOMMENDED ACTION:**

Accept the April 12, 2016 special meeting minutes.

---

**Attachments**

April 12, 2016 special minutes

---

# D R A F T

# MINUTES OF THE SPECIAL MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

## TUESDAY, APRIL 12, 2016
## 6:00 P.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Special Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, April 12, 2016.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Susie Cuka; Councilmember Corey Mendoza; Councilmember Lon Turner

Absent: Councilmember Jack Miller

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittman; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Human Resources Director Laura Kyriakakis; Police Officer Gary Bruso; Acting Town Engineer/Public Works Director Michael Lopez; Associate Planner James Gardner; Library Director Scott Bruner; GIS/CAD/Web Technician Jan Mazy; Deputy Town Clerk Liz Hart; Town Clerk Jami Lewis (recorder)

**1) CALL TO ORDER; ROLL CALL**

Mayor Marley called the meeting to order at 7:40 p.m.

**2)** Consideration and possible action to adopt Resolution No. 16-1078, proposing an alternative expenditure limitation and referring the matter to the voters of Chino Valley at the August 30, 2016 primary election. (Joe Duffy, Finance Director)

Recommended Action: Approve Resolution No. 16-1078, proposing an alternative expenditure limitation and referring it to the voters of Chino Valley at the August 30, 2016 primary election.

Council held the public hearing for this item during their regular meeting on the same date.

MOVED by Vice-Mayor Darryl Croft, seconded by Councilmember Mike Best to approve Resolution No. 16-1078, proposing an alternative expenditure limitation and referring it to the voters of Chino Valley at the August 30, 2016 primary election.

**Vote:** 6 - 0 PASSED - Unanimously

**3) ADJOURNMENT**

MOVED by Councilmember Mike Best, seconded by Councilmember Susie Cuka to adjourn the meeting at 7:42 p.m.

**Vote:** 6 - 0 PASSED - Unanimously

_____
Chris Marley, Mayor

ATTEST:

_____
Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 12th day of April, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 10th day of May, 2016.

_____
Jami C. Lewis, Town Clerk

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 6. d.**

**Meeting Date:** 05/10/2016

**Contact Person:** Jami Lewis, Town Clerk
Phone: 928-636-2646 x-1208

**Department:** Town Clerk

**Item Type:** Consent

---

**AGENDA ITEM TITLE:**

Consideration and possible action to accept the April 14, 2016 study session minutes. (Jami Lewis, Town Clerk)

**RECOMMENDED ACTION:**

Accept the April 14, 2016 study session minutes.

---

**Attachments**

April 14, 2016 minutes

---

# D R A F T

# MINUTES OF THE STUDY SESSION
# OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

## THURSDAY, APRIL 14, 2016
## 8:00 A.M.

The Town Council of the Town of Chino Valley, Arizona, met for a Study Session in the Public Library Community Room, located at 1020 W. Palomino Road, Chino Valley, Arizona, on Thursday, April 14, 2016.

| | |
|---|---|
| Present: | Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Susie Cuka; Councilmember Corey Mendoza; Councilmember Lon Turner |
| Absent: | Councilmember Jack Miller |
| Staff Present: | Town Manager Robert Smith; Assistant Town Manager Cecilia Grittman; Human Resources Director Laura Kyriakakis; Finance Director Joe Duffy; Police Chief Chuck Wynn; Acting Public Works Director/Town Engineer Michael Lopez; Development Services Director Ruth Mayday; Town Clerk Jami Lewis (recorder) |

**1)** CALL TO ORDER; ROLL CALL

Mayor Marley called the meeting to order at 8:25 a.m.

**2)** Discussion regarding the reorganization of the engineering department. (Robert Smith, Town Manager)

Mr. Smith reviewed the organizational structure of the department since 2012 and reported on the following matters:

<u>Public Works/Engineering Department organization</u>

- Staff had intended to hire an engineer to address the vacancy in that position; however, no candidates possessed the needed qualities.
- As staff was already working on a Request For Qualifications for engineering services, staff was now recommending using the qualified respondents until a replacement engineer could be hired.
- Outsourcing routine maintenance will free up current staff for more proactive maintenance on the Town's assets.

<u>Outsourcing considerations</u>

- Staff believed there were enough funds to outsource engineering services, but due to the RFQ process restrictions, the proposals received would not include rates.
- Outsourcing might provide the Town with new tools and processes to increase efficiency and inter-department collaboration.
- Staff was talking with the school district about piggybacking on their contract with

Sodexo for ballfield maintenance.

Council and staff discussed:

- Liability and risks with outsourcing versus hiring.
- Generating data to determine when it was more cost-effective to contract out.
- Maintenance programs to outsource versus training personnel inhouse.
- Filling the staffing gap quickly but without pressure.
- Getting references from Prescott Valley.
- Getting current projects done before taking on more.
- Other considerations related to asset inventory and asset management schedule; HURF funding and current road conditions; chip seal design standards update; and disposition of certain road equipment.

Councilmember Turner arrived at 8:55 p.m.

Mr. Smith briefed Councilmember Turner on the prior discussion.

Councilmember Turner left the meeting at 9:12 a.m. and returned at 9:18 a.m.

**3)** Discussion regarding Council's strategic plan.

Mayor Marley stated that today's goal was to give leadership a view of what Council deemed most important. He reviewed the current Key Result Areas (KRAs) from the 2014 Strategic Plan.

KRA #1 Strong Fiscal Health

- Goal #1 Develop income
- Goal #2 Resolve budgetary issues
- Goal #3 Resolve legal issues

KRA #2 Sustainable Economic Development and Community Development

- Goal #1 Complete industrial and commercial plan
- Goal #2 Complete water and wastewater plan
- Goal #3 Complete roads infrastructure plan

KRA #3 Community Engagement and Communication

- Goal #1 Cooperation between community players and Town
- Goal #2 Engage citizens in open dialogue
- Goal #3 Improve communication between Town and citizens

Council believed these were still the Town's highest priorities, in the order given, yet understanding they would have to run concurrently.

Council and staff then reported and/or discussed the status of the action items under each KRA and goal.

KRA #1 Strong Fiscal Health

- Budgetary reserves.
- Water fund solvency; Prescott water; CVID; and water system purchases.
- Wastewater treatment plant maintenance and septage proposal.
- Bright Star agreement and water resources.
- Asset inventory updates.
- Roads maintenance matters.
- Sales tax.

Council asked staff to:

- Provide a report on the Bright Star agreement and possible revisions.
- Add progress reports to meeting agendas on items that were in the works, but had not yet come to Council, such as the ag overlay and sign code projects.

KRA #2 Sustainable Economic Development and Community Development

- Old Home Manor ("OHM") industrial park ("IP"); OHM infrastructure; and discussions with Yavapai Community College, JTED, and CTEC regarding workforce development for IP.
- Business support services.
- Flood management plan and development management plan and policy.
- ADOT yard on SR 89 or other properties that might enable infrastructure expansion.
- Challenges with aquifer recharge.
- Peavine Loop and Road 1 East projects; annual roads maintenance schedule; asphalting schedule; and current chip seal program.
- Outsourcing certain maintenance services; using community service workers; and selling equipment.

Council asked staff to:

- Add more detail to the OHM IP in the timeline.
- Place discussion on Peavine Loop and Road 1 East projects on a future agenda.
- Schedule a Road and Streets Committee meeting to update the roads maintenance plan.
- Retain Center Street on this year's chip seal program.

KRA #3 Community Engagement and Communication

- Community relationships and partnerships; and building one-on-one relationships with community leaders.
- Developing business and organization leaders and Chamber's role.
- Citizen surveys and benchmarking.
- Town procedures for citizen complaints and inquiries, and providing clear communication with citizens.
- Public notice of roads maintenance scheduling.

Council asked staff to:

- Schedule updates to the Strategic Plan annually, with a tune-up every six months.
- Report on acclamations from the public at Council meetings.

- Provide progress reports to Council and the public on strategic plan items and projects.

Mr. Smith stated that staff planned to take the 2014 Strategic Plan, the 2015 Council retreat report, and today's discussion to update the Strategic Plan. Council and staff briefly discussed the narratives in the 2014 plan and what could be updated.

**4)** ADJOURNMENT

The meeting adjourned at 12:00 p.m.

_____
Chris Marley, Mayor

ATTEST:

_____
Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the Town Council of the Town of Chino Valley, Arizona held on the 14th day of April, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 10th day of May, 2016.

_____
Jami C. Lewis, Town Clerk

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 7. a.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Chris Bartels, Utility Supervisor<br>Phone: 928-636-2646 x-1233 |
| **Department:** | Public Works |
| **Item Type:** | Action Item - Presentation |
| **Estimated length of staff presentation:** | 10 minutes |
| **Physical location of item:** | 1527 North Road 1 East |

**AGENDA ITEM TITLE:**

Consideration and possible action for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**RECOMMENDED ACTION:**

Move to approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**SITUATION AND ANALYSIS:**

From 2008 through 2012 the Town of Chino Valley was facing financial hardships that required the implementation of several significant budget reduction measures. One such budget reduction measure was to decrease parks and recreation services, which included the elimination of the Town of Chino Valley 4th of July activities.

In 2013, a member of the Chino Valley Recreational Foundation was approached by a citizen with the idea to revive the 4th of July activities in Chino Valley. The Chino Valley Recreational Foundation, a local non-profit organization working to support youth and family recreation in Chino Valley was asked to lead in the development of event. The Chino Valley Recreational Foundation began working together with the Word of Life Church, the Chino Valley Rotary Club, other small non-profit groups and the support of local businesses such as Chino Rentals, to bring back the Hometown 4th of July event in Chino Valley in 2013.

In 2013, a very generous anonymous supporter of the community donated $10,000.00 to cover the costs of the fireworks. All of the revenue raised at the 2013 4th of July event was committed to continuing the event for the following year. However the cost recovery was low the first year and would not be near enough to fund the event in 2014. Attendance was not as high as anticipated because of the activities in Prescott in remembrance of the 19 fallen firefighters who had lost their lives a few days prior.

In 2014, the benefactor again came forward with another generous contribution of $10,000 to cover the fireworks expenses. The proceeds from the 2013 event covered the costs of the supporting activities for the day. Again, the attendance was not as high as hoped due to the City of Prescott 4th of July event that was sponsored by a significant contribution from the Discovery Channel after they won a contest to fund their event. Even with this challenge, the 2014 event was more successful and was expanded to include midway games.

The 2015 4th of July event was once again funded in part by the generous benefactor with a contribution of $6,000. The event had much higher attendance. There were more midway games added and more organized activities. The feedback from our local community was very positive, mostly relating to the relaxed hometown feel of the event.

These nonprofit groups have banded together and have been volunteering to put on the event for three years. It takes months of planning, many volunteer hours, and costs to each organization. As you can imagine, this is quite an endeavor.

Our goal had been to raise enough money each year to fund the event the following year while the Town of Chino Valley was unable to contribute. The first three years we have been unable to bring in enough to make the event self-supporting. Since economical times have changed, we are approaching the Town Council for support and asking for funding for the cost of the fireworks display.

---

**Fiscal Impact**

**Fiscal Impact?:** Yes
**If Yes, Budget Code:** 01-63-5291
**Available:** 10,000
**Funding Source:**
If approved the $10,000 will be added to the Recreation Departments Recreation Programs line item.

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**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 7. b.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | James Gardner, Associate Planner<br>Phone: 928-636-2646 x-1295 |
| **Department:** | Development Services |
| **Item Type:** | Action Item |
| **Estimated length of staff presentation:** | 5 minutes |
| **Physical location of item:** | 1650 Granite Creek Dr. |

**AGENDA ITEM TITLE:**

Consideration and possible action to approve ordinance number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C).

**RECOMMENDED ACTION:**

Motion to approve ordinance number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

**SITUATION AND ANALYSIS:**

**Issue Statement**

The purpose of this request is to rezone approximately 2.0 acres of real property located approximately at 1650 Granite Creek Lane, to the east of Arizona Trail (Yavapai County Assessor's Parcel No. 306-17-110C), form Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. Surrounding zoning includes Single Family Residential, 1-acre minimum (SR-1) to the west, Industrial (I) to the north, south, and east, and SR-1 to the south, beyond the adjacent parcel.

The applicant would like to rezone to Single Family Residential, 1-acre minimum (SR-1) for the purpose of selling the property with the existing residence on it to the current occupant.

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

History

In 1975, the property (APN 306-17-001) was rezoned from Agricultural Residential (AR) to Industrial (I), as part of a "blanket" rezone of an agricultural area to an industrial area, with the intent of heavy

commercial and industrial development. Without the benefit of sewer, water, and natural gas utilities, the area has largely developed with residential or light commercial uses that can operate on a private well and septic, and without need for natural gas. The rezone was applied for by Mr. Wells, who still owns a large portion of the area zoned Industrial. In 1982, a permit for a mobile home was pulled and a permit for a garage was pulled, both were issued and in 1984, the first mobile home was replaced with a manufactured home. In 1994, the parcel was issued a residential addition permit as well as a mechanical permit for said addition. The home has not since been expanded. The proposed rezone to residential, which is for the sole purposes of bring the home into compliance with the UDO, was proposed because the prospective buyer cannot secure a residential loan for the property because the use (residential) is not in conformance with the zoning (industrial).

On February 22, 2016, the applicant (current property owner) held a neighborhood meeting onsite (with the occupant/prospective buyer's permission), and the representative of one neighbor was in attendance. Said representative (John Kuzicki), was in attendance to represent the interests of the neighbors to the south and to the east, (both parcels are owned by a partnership). Mr. Kuzicki voiced opposition to the rezone of the property due to the neighbor's concern that the rezone would lower their property value and restrict their rights as property owners. The property owners also submitted a letter of opposition, which is attached.

At the April 13, 2016 Planning and Zoning Meeting, the neighboring property owner as well as Mr. Kuzicki voiced their opposition. Planning and Zoning Commission recommended unanimously to forward the application to Town Council with a recommendation of approval.

General Plan Conformance

The proposed rezoning is in conformance with the 2014 Chino Valley General Plan's Future Land Use Map, which places the property in a medium density residential potential land use, as zoning currently reflects. This parcel is on the edge of an industrial/residential border, which is similarly reflected in the Future Land Use Map. (In attached staff brief). The subject property is not located within a "Community Core" area indicated by the General Plan Land Use Element (In attached staff brief). The proposed rezoning is not expected to impact circulation and traffic given that the use will not change, and will not affect the other focus areas of the General Plan.

**Findings of Fact**

The purpose of the applicant's request is to change the zoning of the parcel from Industrial (I) to Single Family Residential, 1-acre minimum (SR-1) zoning district. The request to rezone will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare. The request to rezone is in general conformance with the zoning classifications in the immediate area. Surrounding uses include housing to the west, vacant, industrially zoned land to the south, north, and east, and beyond that, to the south, more housing. The nearest SR-1 zoning to this parcel is directly adjacent to the parcel on the west, and the proposed rezone is on a hard border of I/SR-1 zoning. The nearest SR-1 zoning to the south is approximately 240 feet to the south, the depth of one parcel.

This request is appropriate for the existing structure and surrounding properties, given the proximity to other residential zoning and the fact that the home is an existing structure. The proposed rezoning will match the actual use of the property.

Opposition

One neighbor has submitted a letter of opposition to this request, which is attached in the hearing packet. This neighbor owns the parcel directly to the south as well as the parcel directly to the east – the

owner is a partnership with the name of MJD Holdings, LLC. The letter is from one of the three partners in that organization. This opposition was also voiced by the Realtor representing those parcels at the February 22, 2016 neighborhood meeting.

At the April 13, 2016 Planning and Zoning Meeting, the neighboring property owner as well as Mr. Kuzicki voiced their opposition. Planning and Zoning Commission recommended unanimously to forward the application to Town Council with a recommendation of approval.

---

**Fiscal Impact**

**Fiscal Impact?:** None
**If Yes, Budget Code:**
**Available:**
**Funding Source:**

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**Attachments**

Ordinance 16-817
Legal Description Exhibit A
Zoning Map Exhibit B
Staff Brief
Letter of Opposition
Site Plan

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# ORDINANCE NO. 16-817

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, APPROVING A CHANGE OF ZONING AND AMENDMENT TO THE OFFICIAL ZONING MAP FOR APPROXIMATELY 2.0 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 1650 GRANITE CREEK LANE, SECTION 11, TOWNSHIP 16N, RANGE 2W, FROM INDUSTRIAL (I) ZONING DISTRICT TO SINGLE-FAMILY RESIDENTIAL – 1 ACRE MINIMUM (SR-1) ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR NON-SEVERABILITY; AND PROVIDING PENALTIES.**

**WHEREAS**, the Town Council has determined that this amendment to the Official Zoning Map conforms with the Town of Chino Valley General Plan and any applicable Specific Area Plan, neighborhood, or other plan, and any overlay zoning district; and

**WHEREAS**, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws; and

**WHEREAS**, the Planning and Zoning Commission, by a vote of 6-0 recommended approval of the rezoning;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. In General.

1. The Change of Zoning and amendment to the Official Zoning Map is hereby approved for property consisting of approximately 2.0 acres, described in Exhibit A and as shown on the Zoning Exhibit (map) in Exhibit B, both attached hereto and incorporated herein by this reference, from Industrial (I) zoning district to Single-Family Residential - 1 Acre Minimum (SR-1) zoning district.

2. The Property described in Paragraph 1 of this Section shall be used and developed in accordance with the Town of Chino Valley Unified Development Ordinance

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Providing for Non-Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then this entire ordinance is invalid and this ordinance shall have no force or effect.

Section 4. Providing for Penalties.

Any person found responsible for violating this Ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 1.10 and 1.11 of the Town of Chino Valley Unified Development Ordinance. Each day a violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Unified Development Ordinance or by the Town of Chino Valley Town Code continues, shall constitute a separate civil offense.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Chino Valley, Arizona this 10th day of May, 2016 by the following vote:

AYES: _____ ABSENT: _____

NAYS: _____ ABSTAINED: _____

APPROVED this 10th day of May, 2016.

_____
Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Jami C. Lewis, Town Clerk

_____
Phyllis L.N. Smiley, Town Attorney

The following exhibits are attached hereto and incorporated herein:
1. Legal Description
2. Zoning Exhibit (map)

I, JAMI C. LEWIS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 16-817 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF CHINO VALLEY ON THE 10th DAY OF MAY, 2016, WAS POSTED IN THREE PLACES ON THE _____ DAY OF _____, 2016.

_____
Jami C. Lewis, Town Clerk

PLS:pls 2641813.1 4/28/2016

B: 4787 P: 498 01/07/2011 04:31:17 PM SWD
$16.00 Page: 2 of 3 2011-0001351

Exhibit A

PARCEL NO. 1:

All that portion of Section 11, Township 16 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

Commencing at the Northwest corner of said Section 11;

Thence, North 89°58' East, 2974.72 feet along the North line of said Section 11 to a point, said point being the Northeast corner of SUNRISE, a subdivision recorded in Book 19 of Maps and Plats, Page 21, on file in the office of the Yavapai County Recorder;

Thence, South 00°16'10" East, along the East line of said SUNRISE, 1840.00 feet to the Southeast corner thereof;

Thence, South 89°56'40" East, 397.50 feet to a point on the North line of that certain parcel described in Book 767 of Official Records, Page 145, on file in the office of the Yavapai County Recorder;

Thence North 00° 15' 33" West, 250.73 feet to the POINT OF BEGINNING;

Thence continuing North 00 15' 33" West, 291.06 feet;

Thence South 88° 10' 49" East, 192.24 feet;

Thence South 44° 21' 36" East, 221.12 feet;

Thence South 00' 37' 07" East, 127.70 feet;

Thence North 89° 56' 45" West, 346.80 feet to the POINT OF BEGINNING.

PARCEL NO. 2

An easement for ingress, egress, drainage and utilities, 50.0 feet in width, lying 25.0 feet on each side of a centerline located over all that portion of Section 11, Township 16 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, said centerline more particularly described as follows:

Commencing at the Northwest corner of said Section 11;

Thence, North 89°58' East, 2974.72 feet along the North line of said Section 11 to a point, said point being the Northeast corner of SUNRISE, a subdivision recorded in Book 19 of Maps and Plats, Page 21, on file in the office of the Yavapai County Recorder;

Thence, South 00°16'10" East, along the East line of said SUNRISE, 1840.00 feet to the Southeast corner thereof;

Thence, South 89°56'40" East, 397.50 feet to a point on the North line of that certain parcel described in Book 767 of Official Records, Page 145, on file in the office of the Yavapai County Recorder;

Thence, continuing South 89°56'40" East, 348.37 feet to the POINT OF BEGINNING of this centerline;



Deputy Recorder

B: 4787 P: 498 01/07/2011 04:31:17 PM SWD
$16.00 Page: 3 of 3 2011-0001351

Thence, North 00°37'00" West, 300.75 feet to the END of this centerline;

The sidelines to commence on a line running South 89°56'40" East and North 89°56'40" West from the Point of Beginning and terminating on a line running perpendicular to the End point.

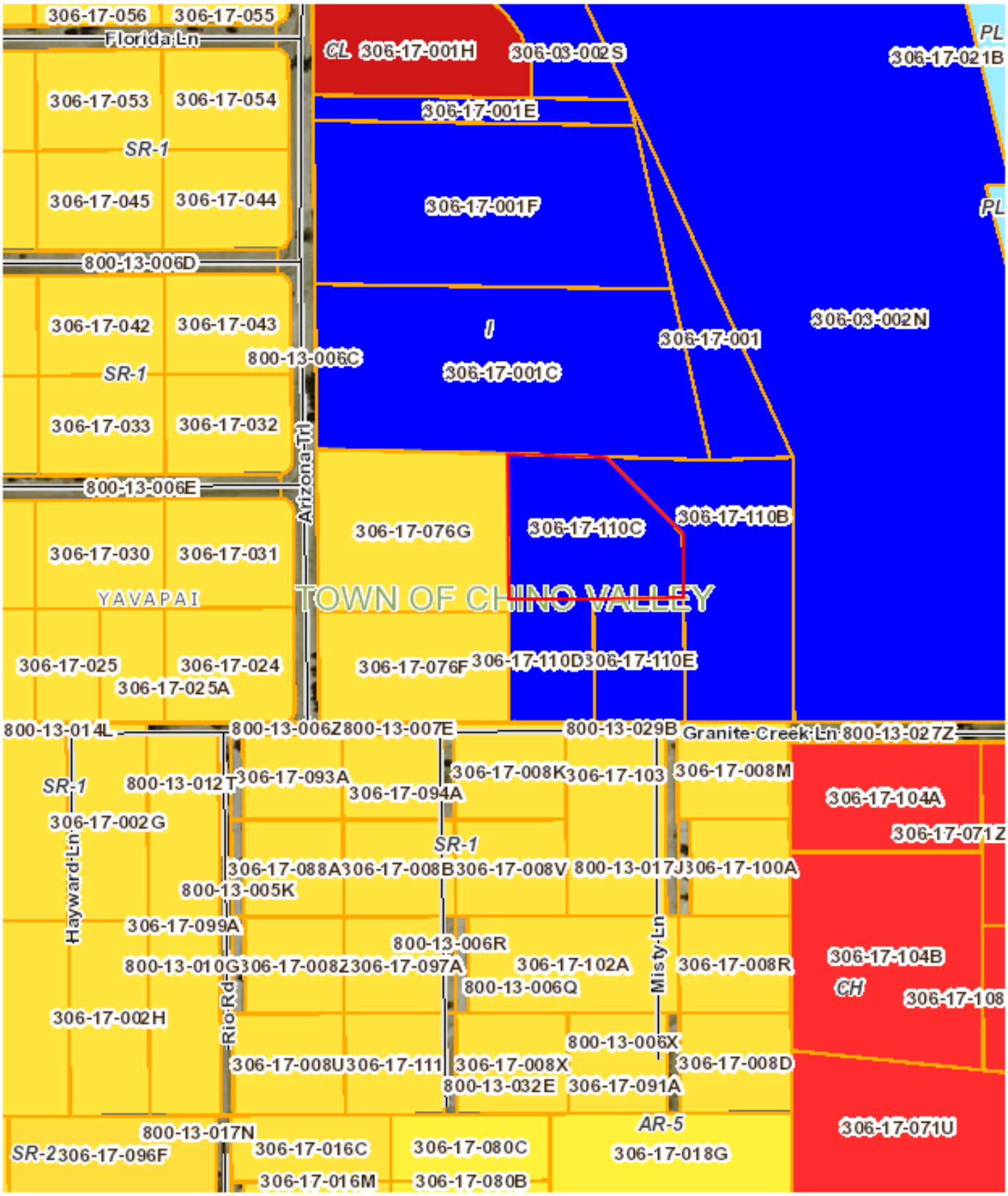
STATE OF ARIZONA
County of Yavapai

LESLIE M. HOFFMAN, County Recorder, in and for the County of Yavapai, State of Arizona, and custodian of the records of such office, do hereby certify that the foregoing is a full, true and correct copy of the record as the same appears in my office

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the City of Prescott, County of Yavapai, State of Arizona, on this the 16th day of March, A.D. 2016

Deputy Recorder

# Zoning Map




*Disclaimer: Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.*

Map printed on: 3.23.2016

Development Services Department
1982 N. Voss Drive #203
Chino Valley, AZ 86323

928-636-4427
928-636-6937
www.chinoaz.net

# Town Council Staff Brief

Date: May 10, 2016

Agenda Item: ZC 16-002

Location: 1650 Granite Creek Lane; Parcel #: 306-17-110C

## Summary

The purpose of this request is to rezone subject parcel 306-17-110C, consisting of approximately 2.0 acres. The subject parcel is located in Section 11, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona. The property is located at approximately 1650 Granite Creek Lane, to the east of Arizona Trail. Surrounding zoning includes Single Family Residential, 1-acre minimum (SR-1) to the west, Industrial (I) to the north, south, and east, and SR-1 to the south, beyond the adjacent parcel.

The property is zoned Industrial (I) and the applicant would like to rezone to Single Family Residential, 1-acre minimum (SR-1). The applicant is interested in rezoning the property to SR-1 for the purpose of selling the property with the existing residence on it to the current occupant.

This parcel was not required to dedicate any right-of-way as part of this rezoning, because it accesses Granite Creek Road via an easement through the parcel to the south.

## History

In 1975, the property (APN 306-17-001) was rezoned from Agricultural Residential (AR) to Industrial (I), as part of a “blanket” rezone of an agricultural area to an industrial area, with the intent of heavy commercial and industrial development. Without the benefit of sewer, water, and natural gas utilities, the area has largely developed with residential or light commercial uses that can operate on a private well and septic, and without need for natural gas. The rezone was applied for by Mr. Wells, who still owns a large portion of the area zoned Industrial. In 1982, a permit for a mobile home was pulled and a permit for a garage was pulled, both were issued and in 1984, the first mobile home was replaced with a manufactured home. In 1994, the parcel was issued a residential addition permit as well as a mechanical permit for said addition. The home has not since been expanded. The proposed rezone to residential, which is for the sole purposes

of bring the home into compliance with the UDO, was proposed because the buyer cannot secure a residential loan for the property based upon its non-conforming status.

On February 22, 2016, the applicant (current property owner) held a neighborhood meeting onsite (with the buyer's permission), and the representative of one neighbor was in attendance. Said representative (John Kuzicki), was in attendance to represent the interests of the neighbors to the south and to the east (both parcels are owned by a partnership). Mr. Kuzicki voiced opposition to the rezone of the property due to the neighbor's concern that the rezone would lower their property value and restrict their rights as property owners. The property owners also submitted a letter of opposition, which is attached herein.

## General Plan Conformance

The proposed rezoning is in conformance with the 2014 Chino Valley General Plan's Future Land Use Map, which places the property in a medium density residential potential land use, as zoning currently reflects, this parcel is on the edge of an industrial/residential border, which is similarly reflected in the Future Land Use Map. (See Figure 1, below). The subject property is not located within a "Community Core" area indicated by the General Plan Land Use Element (See Figure 2, below). The proposed rezoning is not expected to impact circulation and traffic given that the use will not change, and will not affect the other focus areas of the General Plan.

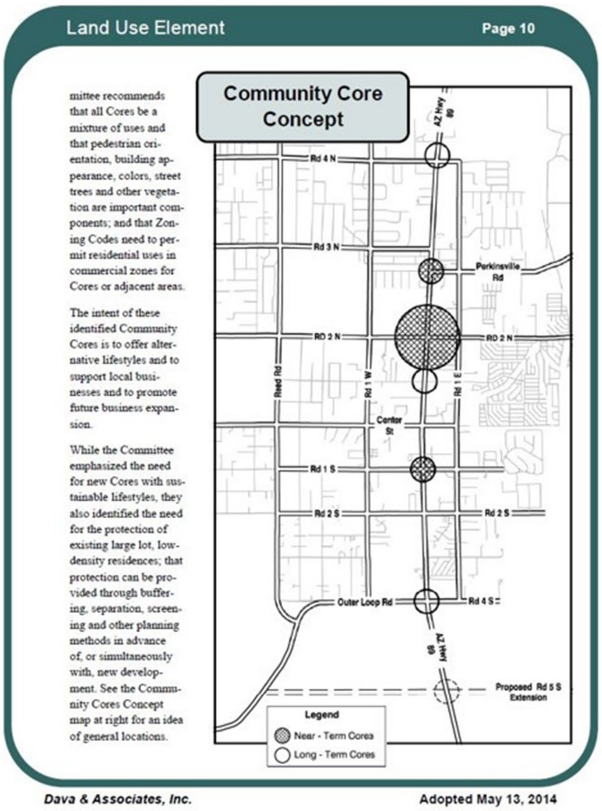



**Figure 1: Future Land Use Map**

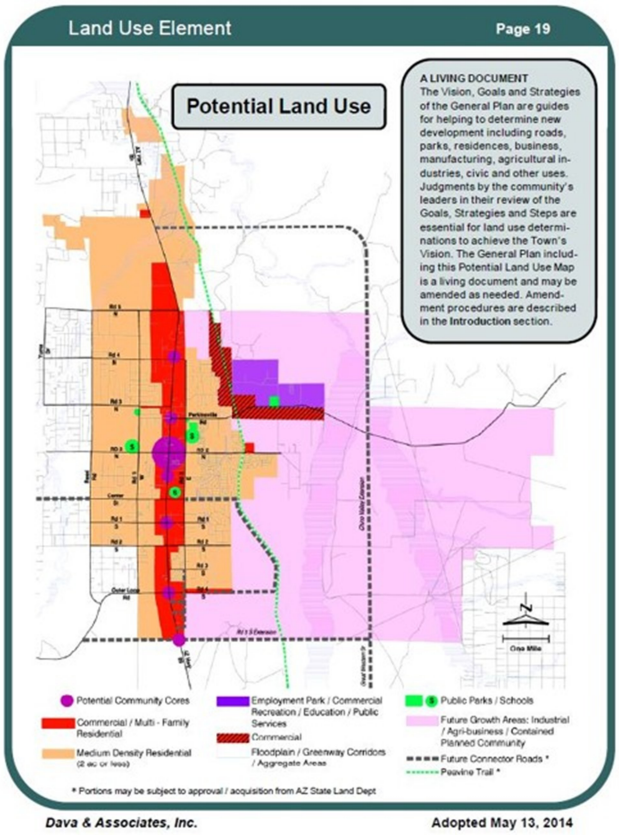



**Figure 2: Community Cores**

Development Services Department
1982 N. Voss Drive #203
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928-636-4427
928-636-6937
www.chinoaz.net

# Technical Review

A Technical Review meeting was not required for this site, since no new structures are proposed, and the rezoning is residential in nature.

# Findings of Fact

The purpose of the applicants request is to change the zoning of the parcel from Industrial (I) to Single Family Residential, 1-acre minimum (SR-1). The request to rezone will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare. The request to rezone is in general conformance with the zoning classifications in the immediate area. Surrounding uses include housing to the west, vacant, industrially zoned land to the south, north, and east, and beyond that, to the south, more housing. The nearest SR-1 zoning to this parcel is directly adjacent to the parcel on the west, and the proposed rezone is on a hard border of I/SR-1 zoning. The nearest SR-1 zoning to the south is approximately 240 feet to the south, the depth of one parcel.

## Opposition

One neighbor has submitted a letter of opposition to this request, which is attached in the hearing packet. This neighbor owns the parcel directly to the south as well as the parcel directly to the east – the owner is a partnership with the name of MJD Holdings, LLC. The letter is from one of the three partners in that organization. This opposition was also voiced by the Realtor representing those parcels at the February 22, 2016 neighborhood meeting.

At the April 13, 2016 Planning and Zoning Meeting, the neighboring property owner as well as Mr. Kuzicki voiced their opposition. Planning and Zoning Commission recommended unanimously to forward the application to Town Council with a recommendation of approval.

# Recommendation

This request will not have a detrimental effect on persons residing or working in the vicinity and is appropriate for the existing structure and surrounding properties, given the proximity to other residential zoning and the fact that the home is an existing structure. The proposed rezoning will match the actual use of the property.

Staff recommends forwarding the application on to Town Council with the recommendation of approval.

# DAVID C. ALEXANDER III

## LAWYER

February 20, 2016

**BY EMAIL**

John Kuzicki
1401 Prescott Lakes Parkway
Prescott, AZ 86301
prescottproperty@aol.com

Re: Zoning Request
APN 306-17-110C
Commercial to Residential

Mr. Kuzicki:

As you know, Jay Willmore and I are two of the four individuals having acquired several parcels of commercial property abutting the above-described parcel, also zoned commercial at the time of our acquisition. We acquired the parcels through an Arizona limited liability company, MJD,LLC.

Our intent has always been to develop these parcels as commercial property. The Great Recession, the term being used for the period commencing 2008 and, at least to some extent, continuing to today, forced us to shelve our plans for immediate development. Now, having carried the property for most of a decade, economic conditions are improving sufficiently for us to reexamine our development plans. Further, our understanding is that the federal government intends to furnish a grant to Chino Valley to improve the road access to the property to enable such commercial development.

Rezoning adjacent parcels as residential will restrict the nature, scope and use of abutting commercial uses and will limit the potential for commercial development of our property. Such a limitation is not only damaging to our reasonable expectations, but also a limiting factor to our ability to provide new jobs to the Chino Valley community. Choosing to limit the ability of long-term investors to develop property which will produce those new jobs can only be described as self-destructive.

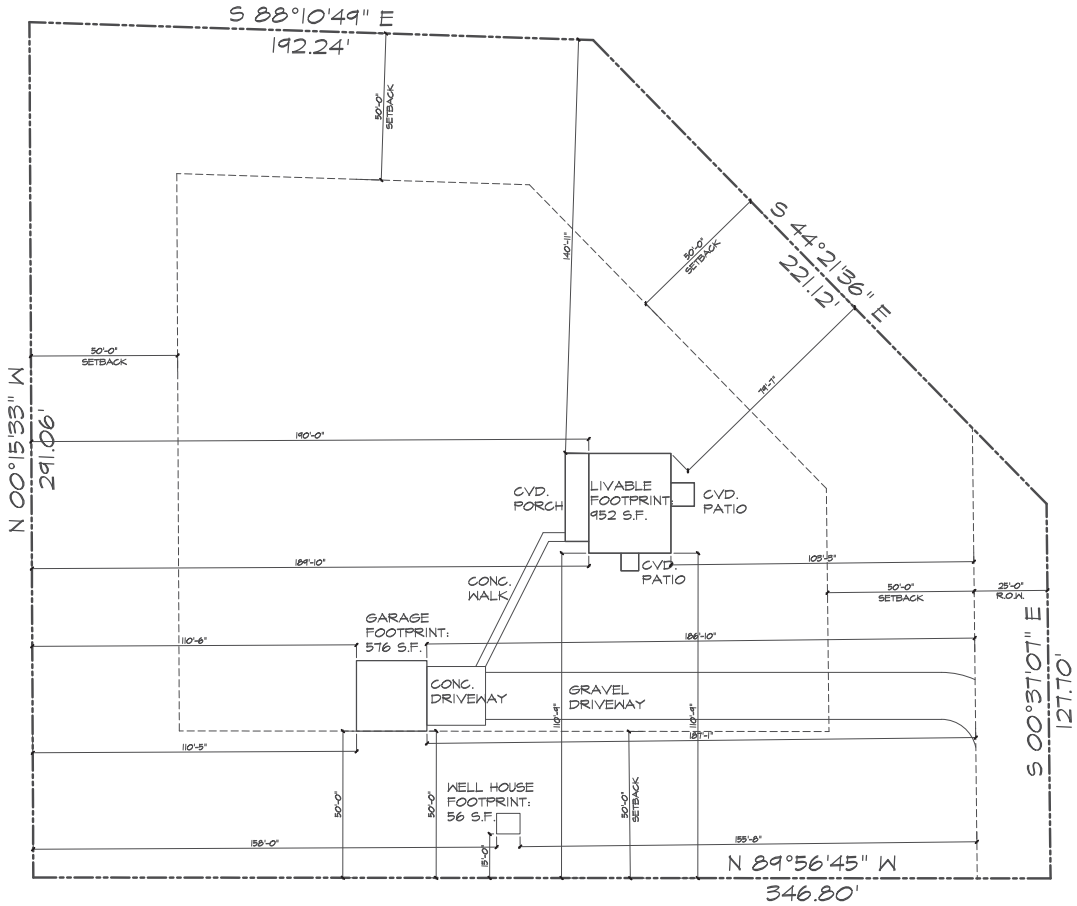
It might be a different case if the adjoining property was of substantial size, and the proposal to rezone involved the construction of scores or perhaps a hundred new homes. Then, the proposal would have the potential of providing new jobs, an enhanced tax base and consumption with attendant sales taxes, both on the construction materials and consumer goods such as groceries and gasoline. However, none of those things are present in the current proposal. Rather, the only result may be to thwart development that could bring those advantages.

It's not as though there is no developed residential property available in Chino Valley. This is not a case where demonstrated need can be shown. Rather, the only effects will be negative. When we are on the precipice of economic gains for the community is not the time to deliberately curtail the ability of the community to realize them.

Thank you for appearing on our behalf at the meeting at the property. We are planning to appear at the two formal hearings.

Sincerely,

David C. Alexander III
Bar No. 004166
P.O. Box 18339
Fountain Hills, Arizona 85269
Cell: 602 315-1877
Fax: 480 292 9162
dcaiii@msn.com



| | |
|---|---|
| LIVABLE: | 1904 S.F. |
| COVERED ENTRY: | 30 S.F. |
| FRONT COVERED DECK: | 64 S.F. |
| REAR COVERED DECK: | 240 S.F. |
| DETACHED GARAGE: | 576 S.F. |
| TOTAL UNDER ROOF: | 2814 S.F. |

| | |
|---|---|
| LOT AREA: | 87,298 S.F. |
| TOTAL UNDER ROOF: | |
| HOUSE FOOTPRINT: | 1,292 S.F. |
| DET. GARAGE: | 576 S.F. |
| WELL HOUSE: | 56 S.F. |
| TOTAL: | 1,934 S.F. |
| LOT COVERAGE: | 2.2% |

SITE PLAN

1"=20'-0"

| SHEET INDEX | |
|---|---|
| 1. | SITE PLAN |

DESERT DEVELOPMENT & DESIGN, CORP.
2626 STEARMAN ROAD
PRESCOTT, ARIZONA 86305
OFFICE: 928-777-0022 FAX: 928-777-0028
www.desertdevelopmentaz.com

SITE PLAN FOR:
TDH INVESTMENTS, LLC

ADDRESS:
TDH INVESTMENTS, LLC
1650 GRANITE CREEK
CHINO VALLEY,
ARIZONA
PARCEL# 306-17-110C

DESERT DEVELOPMENT & DESIGN, CORP.
2626 STEARMAN ROAD
PRESCOTT, AZ 86305
928-777-0022
www.desertdevelopmentaz.com

SITE PLAN FOR:
TDH INVESTMENTS

ADDRESS:
1650 GRANITE CREEK
CHINO VALLEY,
ARIZONA

SITE PLAN

2/2/2016

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 8. a.**

**Meeting Date:** 05/10/2016
**Contact Person:** Phyllis Smiley, Town Attorney
**Department:** Town Attorney
**Estimated length of Staff Presentation:**
**Physical location of item:** NA

---

**AGENDA ITEM TITLE:**

An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town.

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**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 8. b.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Ruth Mayday, Development Services Director<br>Phone: 928-636-4427 x-1217 |
| **Department:** | Development Services |
| **Estimated length of Staff Presentation:** | None |
| **Physical location of item:** | Old Home Manor |

**AGENDA ITEM TITLE:**

An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director)

**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 8. c.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Jami Lewis, Town Clerk<br>Phone: 928-636-2646 x-1208 |
| **Department:** | Council |
| **Item Type:** | Executive Session |
| **Estimated length of staff presentation:** | None |
| **Physical location of item:** | N/A |

**AGENDA ITEM TITLE:**

An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith.

**RECOMMENDED ACTION:**

**Fiscal Impact**

**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 9. a.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Phyllis Smiley, Town Attorney |
| **Department:** | Town Attorney |
| **Item Type:** | Action |
| **Estimated length of staff presentation:** | None |
| **Physical location of item:** | Peavine Loop roadway (Road 4 South) |

**AGENDA ITEM TITLE:**

Consideration and possible action to approve an amendment to the Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**RECOMMENDED ACTION:**

Motion to approve amendment to the Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**SITUATION AND ANALYSIS:**

**Issue Statement**

The Town Council approved and the Town entered into a Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley effective March 6, 2014, whereby the Town agreed to transfer ownership of a parcel of land to be designated by the Town and agreed to by the Plaintiff. It has now become clear that the transfer of ownership is not possible. The Town and Cortez are now proposing a cash settlement. Since the Provisional Settlement does not provide for a cash settlement, an amendment is required. Approval of the amendment will approve the cash settlement, bringing a final resolution to the lawsuit. Upon payment of the cash settlement amount and dedication of right-of-way also required by the Provisional Settlement Agreement, the lawsuit will be resolved and, upon joint motion or stipulation by the parties, will be dismissed.

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

**Findings of Fact**

**Fiscal Impact**

**Fiscal Impact?:** Yes
**If Yes, Budget Code:** 01-95-5600
**Available:** Yes
**Funding Source:**
Funds will come from the General Funds Contingency Line Item.

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**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 9. b.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Ruth Mayday, Development Services Director<br>Phone: 928-636-4427 x-1217 |
| **Department:** | Development Services |
| **Item Type:** | Action |
| **Estimated length of staff presentation:** | 15 minutes |
| **Physical location of item:** | N/A |

---

**AGENDA ITEM TITLE:**

Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

**RECOMMENDED ACTION:**

Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

**SITUATION AND ANALYSIS:**

**Issue Statement**

Staff has been in preliminary discussions with Exelon, a major energy corporation, regarding the siting of a gas-to-electricity generation plant in Chino Valley. Because of the incentives afforded to businesses locating in OHMIP, the corporation is interested in locating this $100 M +/- investment in Chino Valley.

**Applicable "Policy"**

Strategic Plan 2014 Key Result Area 2: Sustainable Economic and Community Development; Goal 1: Complete the CV Industrial and Commercial Development Plan; Objective B: Initiate business attraction and retention efforts for OHM; Strategy 2: Attract variety of industrial/commercial businesses to OHM.

**Satisfaction of "Policy"**

Location of this project at the proposed location will represent a significant investment in the community and provide six to ten highly skilled, well-paying jobs. In addition, there is an opportunity to extend sewer and water services across OHM along Rodeo Drive, and provide much-needed natural gas to the area at minimal cost to the town, which could be covered with reimbursement of Construction Sales Tax.

**Summary of Issues and Staff Rationale**

Old Home Manor (OHM) was acquired by the Town of Chino in the late 1970's largely for the water

rights attached to the land. Recently, staff has focused on the extension of infrastructure to the 800+ acre property to encourage economic development. OHM is also in close proximity to two (2) major natural gas (NG) transmission line and a major APS substation, making it attractive to energy producers that seek to locate NG-to-electricity plants.

Arizona Public Service (APS) recently issued a call for proposals for the construction of a generating plant. Excelon is preparing a response to that proposal, and has contacted staff about locating within OHM. This is the first of many steps involved in a project of this scale; The selection process is lengthy; review and selection of a partner by APS will likely take 12 months; similarly, the design and construction periods would take another two (2) 12-month periods.

Should APS identify this location and project as their partner, negotiations with the Town regarding a land lease will begin in earnest. The action before Council is to lease the site for three (3) consecutive 12-month periods; should this project not be chosen by APS, the lease would likely terminate at the end of the first 12-month period.

The proposed location is not within the boundary of the Old Home Manor Industrial Park (OHMIP) because the expense of running the stainless steel pipe from the Transwestern NG transmission pipeline to OHMIP would be cost-prohibitive. Excelon understands that it will be required to extend sewer and water service from its proposed termination point at Jerome Junction Road and Rodeo Drive to the facility it constructs. It would benefit the Town to contribute to the upsizing of the utility and NG pipes, as it would provide capacity for future growth within OHM at minimal cost to the Town.

Because the underlying real property is owned by the Town, there are benefits to the company that are not available in conjunction with construction of the project on privately held property. There is a Government Property Lease Excise Tax (GPLET) available for projects on municipally-owned property; a property tax abatement of up to eight years, and a reduced lease rate tax structure for twenty-five years. The Town can also offer a low-cost lease rate for a term it determines (e.g., construction period only; concurrent with property tax abatement) and back-load the lease to recoup the full cost of the lease.

**Findings of Fact**

1) Entering into this agreement signals to Exelon that the Town is willing to move forward with negotiations, and commits the Town for three (3) 12-month periods.
2) Given its proximity to the shooting ranges, future development of this site will be more challenging than other sites within OHM and OHMIP that are not up-range from a gun sports facility.
3) Development of this project, should it be awarded to Excelon, and should the Town be successful in negotiating a lease with Excelon, will provide the following benefits to the Town:

A) Much-needed jobs that pay well above the median for this area
B) Extension of Sewer and Water infrastructure at greatly reduced cost
C) Extension of Natural Gas to the east side of OHM at a reduced cost to the Town
D) Estimated Construction Sales Tax of $2.6 million
E) Estimated permitting fees of approximately $654,000

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**Fiscal Impact**

**Fiscal Impact?:** TBD
**If Yes, Budget Code:**
**Available:**
**Funding Source:**

**Attachments**

*No file(s) attached.*

# Town of Chino Valley

## MEETING NOTICE
## TOWN COUNCIL

**REGULAR MEETING**
**Tuesday, May 10, 2016**
**6:00 P.M.**

**Council Chambers**
**202 N. State Route 89**
**Chino Valley, Arizona**

*A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.*

## AGENDA
## AMENDMENT #1 - May 9, 2016
**(Items preceded by asterisk are either new or amended)**

**1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL**

**2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**

**3. CALL TO THE PUBLIC**

*Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.*

**4. RESPONSE TO THE PUBLIC**

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

**a.** Comments regarding the following information not being on the Town's web site: crime statistics, community disaster preparedness plan, and the Town's preparations related to recreational marijuana.

## 5. CURRENT EVENT SUMMARIES AND REPORTS

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.*

**a.** Status reports by Mayor and Council regarding current events.

**b.** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

## 6. CONSENT AGENDA

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

**a.** Consideration and possible action to approve revised form of Agreement for Towing Services. (Chuck Wynn, Police Chief)

**b.** Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)

**c.** Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk)

**d.** Consideration and possible action to accept the April 14, 2016 study session minutes. (Jami Lewis, Town Clerk)

## 7. ACTION ITEMS

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.*

**a.** Consideration and possible action for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00. If approved, the $10,000 will be added to the Recreation Department's Recreation Programs 2016/2017 budget. (Chris Bartels, Recreation Supervisor)

Recommended Action: Approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**b.** Consideration and possible action to approve Ordinance Number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C). (James Gardner, Associate Planner)

Recommended Action: Approve Ordinance Number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

## 8. EXECUTIVE SESSION

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

**a.** An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town.

**b.** An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director)

**c.** *An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

**d.** An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft)

## 9. ACTION ITEMS RESUMED

*After the Executive Session, Council will reconvene the Regular Meeting.*

**a.** *Consideration and possible action to approve ~~an amendment to the Provisional~~ A Settlement Agreement in the matter of Cortez v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve ~~amendment to the Provisional~~ Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**b.** Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement. (Ruth Mayday, Development Services Director)

Recommended Action: Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

**c.** *Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

**d.** *Consideration and possible action to approve Resolution No. 16-1081 rescinding Resolution No. 15-1055.

Recommended Action: Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055

**10. ADJOURNMENT**

Dated this 5th day of May, 2016.
Amendment dated 9th day of May, 2016

By: ***Jami C. Lewis, Town Clerk***

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at http://www.chinoaz.net/agendacenter and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date:_____ Time:_____ By:_____
Jami C. Lewis, Town Clerk

# Town of Chino Valley

## MEETING NOTICE
## TOWN COUNCIL

**REGULAR MEETING**
**Tuesday, May 10, 2016**
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**4. RESPONSE TO THE PUBLIC**

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

**a.** Comments regarding the following information not being on the Town's web site: crime statistics, community disaster preparedness plan, and the Town's preparations related to recreational marijuana.

## 5. CURRENT EVENT SUMMARIES AND REPORTS

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.*

**a.** Status reports by Mayor and Council regarding current events.

**b.** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects.

## 6. CONSENT AGENDA

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

**a.** Consideration and possible action to approve revised form of Agreement for Towing Services. (Chuck Wynn, Police Chief)

**b.** Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk)

**c.** Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk)

**d.** Consideration and possible action to accept the April 14, 2016 study session minutes. (Jami Lewis, Town Clerk)

## 7. ACTION ITEMS

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.*

**a.** Consideration and possible action for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00. If approved, the $10,000 will be added to the Recreation Department's Recreation Programs 2016/2017 budget. (Chris Bartels, Recreation Supervisor)

Recommended Action: Approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**b.** Consideration and possible action to approve Ordinance Number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C). (James Gardner, Associate Planner)

Recommended Action: Approve Ordinance Number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

## 8. EXECUTIVE SESSION

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

**a.** An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town.

**b.** An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director)

**c.** *An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

**d.** An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft)

## 9. ACTION ITEMS RESUMED

*After the Executive Session, Council will reconvene the Regular Meeting.*

**a.** *Consideration and possible action to approve ~~an amendment to the Provisional~~ A Settlement Agreement in the matter of Cortez v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve ~~amendment to the Provisional~~ Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**b.** Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement. (Ruth Mayday, Development Services Director)

Recommended Action: Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

**c.** *Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al. (Phyllis Smiley, Town Attorney)

Recommended Action: Approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

**d.** *Consideration and possible action to approve Resolution No. 16-1081 rescinding Resolution No. 15-1055.

Recommended Action: Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055

**10. ADJOURNMENT**

Dated this 5th day of May, 2016.
Amendment dated 9th day of May, 2016

By: ***Jami C. Lewis, Town Clerk***

The Town of Chino Valley endeavors to make all public meetings accessible to persons with disabilities. Please call 636-2646 (voice) or 711 (Telecommunications Arizona Relay Service) 48 hours prior to the meeting to request a reasonable accommodation to participate in this meeting.

Supporting documentation and staff reports furnished to the Council with this agenda are available for review on the Town website at http://www.chinoaz.net/agendacenter and in the Public Library and Town Clerk's Office.

CERTIFICATION OF POSTING

The undersigned hereby certifies that a copy of this notice was duly posted at Chino Valley South Campus, Chino Valley Post Office, and Chino Valley North Campus in accordance with the statement filed by the Town Council with the Town Clerk.

Date:_____ Time:_____ By:_____
Jami C. Lewis, Town Clerk

# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 8. c.**

| | |
|---|---|
| **Meeting Date:** | 05/10/2016 |
| **Contact Person:** | Phyllis Smiley, Town Attorney |
| **Department:** | Town Attorney |
| **Estimated length of Staff Presentation:** | None |
| **Physical location of item:** | N/A |

**AGENDA ITEM TITLE:**

*An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney)

**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 9. a.**

**Meeting Date:** 05/10/2016
**Contact Person:** Phyllis Smiley, Town Attorney
**Department:** Town Attorney
**Item Type:** Action
**Estimated length of staff presentation:** None
**Physical location of item:** Peavine Loop roadway (Road 4 South)

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**AGENDA ITEM TITLE:**

Consideration and possible action to approve ~~an amendment to the Provisional~~ A Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**RECOMMENDED ACTION:**

Motion to approve ~~amendment to the Provisional~~ Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**SITUATION AND ANALYSIS:**

**Issue Statement**

The Town Council approved and the Town entered into a Provisional Settlement Agreement in the matter of Cortez v. Town of Chino Valley effective March 6, 2014, whereby the Town agreed to transfer ownership of a parcel of land to be designated by the Town and agreed to by the Plaintiff. It has now become clear that the transfer of ownership is not possible. The Town and Cortez are now proposing a cash settlement. Since the Provisional Settlement does not provide for a cash settlement, ~~an amendment is required~~A NEW SETTLEMENT AGREEMENT IS BEING PROPOSED. Approval of the~~amendment~~ NEW AGREEMENT will approve the cash settlement, bringing a final resolution to the lawsuit. Upon payment of the cash settlement amount and dedication of right-of-way also required by the Provisional Settlement Agreement and the Settlement Agreement, the lawsuit will be resolved and, upon joint motion or stipulation by the parties, will be dismissed.

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

**Findings of Fact**

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## Fiscal Impact

**Fiscal Impact?:** Yes
**If Yes, Budget Code:** 01-95-5600
**Available:** Yes
**Funding Source:**
Funds will come from the General Funds Contingency Line Item.

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## Attachments

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 9. c.**

**Meeting Date:** 05/10/2016
**Contact Person:** Phyllis Smiley, Town Attorney
**Department:** Town Attorney
**Item Type:** Action Item
**Estimated length of staff presentation:** None
**Physical location of item:** N/A

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**AGENDA ITEM TITLE:**

*Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

**RECOMMENDED ACTION:**

Move to approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

**SITUATION AND ANALYSIS:**

**Issue Statement**

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

**Findings of Fact**

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**Fiscal Impact**

**Fiscal Impact?:** none
**If Yes, Budget Code:**
**Available:**
**Funding Source:**

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**Attachments**

*No file(s) attached.*

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# TOWN OF CHINO VALLEY
# COUNCIL AGENDA ITEM STAFF REPORT

**Town Council Regular Meeting** **Item No. 9. d.**

**Meeting Date:** 05/10/2016
**Contact Person:** Phyllis Smiley, Town Attorney
**Department:** Town Attorney
**Item Type:** Action Item
**Estimated length of staff presentation:** None
**Physical location of item:** N/A

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**AGENDA ITEM TITLE:**

Consideration and possible action to approve Resolution No. 16-1081, rescinding Resolution No. 15-1055.

**RECOMMENDED ACTION:**

Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055.

**SITUATION AND ANALYSIS:**

**Issue Statement**

Approval of this resolution rescinding Resolution 15-1055 censuring former Councilmember Linda Hatch is required pursuant to the agreed-upon settlement of Yavapai County Superior Court case No. P1300 CV2016-000013, Hatch v. Chino Valley et al. Staff recommends approving Resolution No. 16-1081.

**Applicable "Policy"**

**Satisfaction of "Policy"**

**Summary of Issues and Staff Rationale**

**Findings of Fact**

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**Fiscal Impact**

**Fiscal Impact?:** None
**If Yes, Budget Code:**
**Available:**
**Funding Source:**

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## Attachments

Resolution 16-1081
Resolution 15-1055

**RESOLUTION NO. 16-1081**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, REPEALING RESOLUTION NO. 15-1055 RELATED TO REMOVING THE CENSURE OF COUNCILMEMBER HATCH; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR SEVERABILITY**

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Chino Valley, County of Yavapai, Arizona, that Resolution 15-1055 censuring Councilmember Linda Hatch for refusing to comply with certain public records requests by denying that such records existed when they did, in fact exist, is hereby repealed and of no effect.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 10th day of May, 2016.

_____
Chris Marley, Mayor

ATTEST:

_____
Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:

_____
Phyllis L.N. Smiley, Town Attorney

I hereby certify the above foregoing Resolution No. 16-1081 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on May 10, 2016, and that quorum was present thereat and that the vote thereon was ____ ayes and ____ nays and ____ abstentions. ____ Council members were absent or excused.

_____
Jami C. Lewis, Town Clerk

PLS:pls 2650815.2 5/9/2016

# RESOLUTION NO. 15-1055

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, YAVAPAI COUNTY, ARIZONA, CENSURING COUNCILMEMBER LINDA HATCH FOR REFUSING TO COMPLY WITH CERTAIN PUBLIC RECORDS REQUESTS BY DENYING THAT SUCH RECORDS EXISTED WHEN THEY DID, IN FACT, EXIST.**

WHEREAS, Chapter 35, Code of Ethics of the Chino Valley Town Code establishes ethical standards of conduct for public officials of the town; and

WHEREAS, the Council deems it to be of the utmost importance that all members of the Council be held to the standards of conduct set forth in this Code of Ethics; and

WHEREAS, Section 35.04 of the Town Code (Conduct in Public Office) requires Councilmembers to lead by example and to seek and speak the truth; and

WHEREAS, on February 23, 2015 Councilwoman Hatch did respond to the two public records requests by denying that she had any records in her possession that fit the description and stating that she did not use personal email for Town business except under certain stated conditions; and

WHEREAS, the entire membership of the Chino Valley Town Council has been provided copies of four emails which fit the description listed in the public records requests that were obtained from another party to the email; and

WHEREAS, it is the Council's intent that the Code of Ethics be enforced,

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Common Council of the Town of Chino Valley, Arizona, that:

1. The Council finds such falsification and denial of the existence of public records in her possession to be unacceptable behavior for a public official and in violation of the Town's Code of Ethics.

2. Councilmember Linda Hatch is formally censured by the Chino Valley Town Council for such falsification and denial.

3. The Council demands that Councilmember Hatch comply immediately with Public Records Requests 15-02-02 and 15-02-05 by furnishing all documents responsive to the requests that are in her possession, electronically or otherwise, to the Chino Valley Town Attorney within ten business days of the approval of this Resolution.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Chino Valley, Arizona this 12th day of May, 2015.

Chris Marley, Mayor

ATTEST:

Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan, Udall & Schwab, PLC
Town Attorneys
By: Phyllis Smiley

I hereby certify the above foregoing Resolution No. 15-1055 was duly passed by the Council of the Town of Chino Valley, Arizona, at a regular meeting held on May 12, 2015, and that quorum was present thereat and that the vote thereon was 3 ayes and 1 nays and 0 abstentions. 2 Council members were absent or excused.

Jami C. Lewis, Town Clerk

# Town of Chino Valley

## MEETING NOTICE
## TOWN COUNCIL

**REGULAR MEETING**
**Tuesday, May 10, 2016**
**6:00 P.M.**

**Council Chambers**
**202 N. State Route 89**
**Chino Valley, Arizona**

*A majority of the Councilmembers may attend a private invocation in the Council Conference Room immediately prior to the Council meeting. No Town business will be discussed.*

## AGENDA
## AMENDMENT #1 - May 9, 2016
**(Items preceded by asterisk are either new or amended)**

**ACTION TAKEN**

**1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL**

**2. INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS** — **NO ACTION**

**3. CALL TO THE PUBLIC** — **HEARD**

*Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.*

**4. RESPONSE TO THE PUBLIC**

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

**a.** Comments regarding the following information not being on the Town's web site: crime statistics, community disaster preparedness plan, and the Town's preparations related to recreational marijuana. — **REPORTED**

## 5. CURRENT EVENT SUMMARIES AND REPORTS

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events, or ask a staff member to provide the same. Presentation on information requested by the Mayor and Council will be made and questions answered. No action will be taken.*

**a.** Status reports by Mayor and Council regarding current events. **REPORTED**

**b.** Status report by Town Manager Robert Smith regarding Town accomplishments, and current or upcoming projects. **NO ACTION**

## 6. CONSENT AGENDA

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

**a.** Consideration and possible action to approve revised form of Agreement for Towing Services. (Chuck Wynn, Police Chief) **APPROVED**

**b.** Consideration and possible action to accept the April 12, 2016 regular meeting minutes. (Jami Lewis, Town Clerk) **APPROVED**

**c.** Consideration and possible action to accept the April 12, 2016 special meeting minutes. (Jami Lewis, Town Clerk) **APPROVED**

**d.** Consideration and possible action to accept the April 14, 2016 study session minutes. (Jami Lewis, Town Clerk) **APPROVED**

## 7. ACTION ITEMS

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session .*

**a.** Consideration and possible action for the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00. If approved, the $10,000 will be added to the Recreation Department's Recreation Programs 2016/2017 budget. (Chris Bartels, Recreation Supervisor) **APPROVED**

Recommended Action: Approve the Town of Chino Valley to financially participate in the Town's 4th of July activities in the amount of $10,000.00.

**b.** Consideration and possible action to approve Ordinance Number 16-817, to rezone approximately 2.0 acres of real property, located at 1650 Granite Creek Lane, Chino Valley, Arizona from Industrial (I) to Single-Family Residential, 1-acre minimum (SR-1) zoning district. The property being rezoned consists of a portion of the Northeast quarter of Section 11, Township 16N, Range 02W, Gila and Salt River Base and Meridian (Yavapai County Assessor's Parcel number 306-17-110C). (James Gardner, Associate Planner) **APPROVED**

Recommended Action: Approve Ordinance Number 16-817, rezoning approximately 2.0 acres of real property located at 1650 Granite Creek Lane.

## 8. EXECUTIVE SESSION

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

**a.** An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (A)(4) for discussion or consultation for legal advice with the Town Attorney and for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or in settlement discussions conducted in order to avoid or resolve litigation in the matter of Cortez v. Town. **HELD**

**b.** An executive session pursuant to A.R.S. § 38-431.03(A)(7) for discussion or consultation with designated representatives of the Town in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Old Home Manor. (Ruth Mayday, Development Services Director) **HELD**

**c.** *An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town Attorney in order to consider its position and instruct the Town Attorney regarding the Town's position in pending litigation or settlement discussions conducted in order to resolve litigation in the matter of Hatch v. Town of Chino Valley. (Phyllis Smiley, Town Attorney) **HELD**

**d.** An executive session pursuant to A.R.S. § 38-481.03(A)(1) for discussion or consideration of employment, assignment, salaries, or disciplining of Town Manager Robert Smith. (Mayor Marley; Vice-Mayor Croft) **HELD**

## 9. ACTION ITEMS RESUMED

*After the Executive Session, Council will reconvene the Regular Meeting.*

**a.** *Consideration and possible action to approve ~~an amendment to the Provisional~~ A Settlement Agreement in the matter of Cortez v. Town of Chino Valley. (Phyllis Smiley, Town Attorney) **APPROVED**

Recommended Action: Approve ~~amendment to the Provisional~~ Settlement Agreement in the matter of Cortez v. Town of Chino Valley.

**b.** Consideration and possible action to enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement. (Ruth Mayday, Development Services Director) **POSTPONED**

Recommended Action: Enter into an Option Agreement with Exelon for approximately 40 acres of real property located in Old Home Manor for three one-year terms, as set for in the agreement.

**c.** *Consideration and possible action to approve a Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al. (Phyllis Smiley, Town Attorney) **APPROVED**

Recommended Action: Approve the Settlement Agreement in the matter of Yavapai County Superior Court case number P1300-CV2016-00013, Hatch v. Town of Chino Valley, et al.

**d.** *Consideration and possible action to approve Resolution No. 16-1081 rescinding Resolution No. 15-1055. **APPROVED**

Recommended Action: Approve Resolution No. 16-1081 rescinding Resolution No. 15-1055

**10. ADJOURNMENT**

Dated this 5th day of May, 2016.
Amendment dated 9th day of May, 2016.
*(Action Taken dated 11th day of May, 2016.)*

By: ***Jami C. Lewis, Town Clerk***

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Date:_____ Time:_____ By:_____

Jami C. Lewis, Town Clerk