

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 1

APRIL 28, 2011  
COUNCIL ACTION

**I. PROCEDURES:**

- A. Call to Order Mayor Moore called the meeting to order at 7:00 p.m.
- B. Pledge and Invocation Kent Jones led the pledge of allegiance, and Ruth Sanzari led the invocation..
- C. Roll Call Mayor John Moore and Councilmen Don Dent (Vice Mayor), Bernie Hiemenz, Frank McNelly, Bill Miller, Lee Payne and James Wurgler (late) were present and constituted a quorum. Present from City Staff were Interim City Manager/Finance Director Joe Duffy, Police Chief Herman Nixon, Public Works Director Glenn Cornwell, Building Inspector Tim Pettit, Recreation Supervisor Rose Newbold, and City Clerk/HR Director Susan Kerley. City Attorney, Kellie Peterson, was present.
- D. Approval of Minutes Councilman Miller made a motion to approve the minutes of April 14, 2011, and April 21, 2011. Councilman Hiemenz seconded, and the motion carried 5-0.
- E. Adoption of Agenda Councilman Hiemenz made a motion to move Item B from the Consent Agenda to become the first item in the Non-Consent Agenda Items. The motion was seconded by Councilman McNelly, and it carried 5-0. Councilman Miller made a motion to move Item K up to the top of the Non-Consent Items Agenda so those who attended because of this item would be free to leave the meeting earlier. Councilman McNelly seconded this motion, and it carried 5-0. Councilman Hiemenz made a motion to adopt the Agenda with these two changes. Councilman Payne seconded, and the motion carried 5-0.

**II. PRESENTATIONS - NONE**

**III. PUBLIC PARTICIPATION:**

**IV. CONSENT AGENDA ITEMS:**

- A.. Approval of Purchase Orders: J. Duffy
- B. Council may award a bid for Bid #11-202 for 35 Golf Carts: J. Duffy. *This Item was moved to the Non-Consent Agenda.*
- Councilman Dent made a motion to approve the first Consent Agenda item, A., Councilman Payne seconded, and the motion carried 6-0. *Item B. was moved to the Non-Consent Agenda.*

**V. NON-CONSENT AGENDA ITEMS:**

- B. Council may award a bid for Bid #11-202 for 35 Golf Carts: J. Duffy
- Mr. Duffy explained that two bids had been received. Staff recommends approving the 2012 Yamaha bid. Thirty of the old carts were purchased in 1999. They are at the point where they need replacing or rehabilitating. The Golf Committee has recommended going from 85 to 60 carts. Carts generate revenue. Good quality carts

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 2

APRIL 28, 2011  
COUNCIL ACTION

will pay for themselves. Councilman Wurgler made a motion to award the bid to Suncor Industries, dba Desert Golf Carts, for 35 2012 Yamaha Golf Carts for \$103,667.90. Councilman Hiemenz seconded the motion, and it carried 6-0.

K. Council may make a decision on the construction of a practice field at Elephant Rocks Golf Course after discussion: J. Moore

A letter from Brian James, Chairperson of the Golf Committee, who was unable to attend this Council meeting, was read. Mr. James made several points:

- Fear that golfers will not return if subjected to noise from a baseball field.
- Golf Course crew is already short-staffed and cannot keep up the desired quality of maintenance of the golf course.
- Golfers hit balls into the proposed baseball field area which would be a safety concern.
- Failure to understand why City would risk the loss of income from the golf course if play there is compromised.
- Believes other good locations in town are available that would allow the kids to walk or to bike to games.

Then members of the public, Ed Czech, Danielle Worthington, Patty Williams, Linda Czech, Steven Strom and Oscar Fredrickson spoke.

Their points included:

- Belief that Bill Gary donated the proposed property specifically for construction of a club house for the golf course.
- When those living in the quiet neighborhood purchased their property, they were not aware this would become a sports arena. Why take away revenue produced for the City by the golf course and replace it with a non-revenue producing facility?
- It was stated that the City is currently working with the County on a park. We could include a baseball field if the project could wait for a bit.
- One resident of the area said that they bought property there because the neighborhood land would have a club house. She asked for time to contact everyone in Highland Meadows subdivision to make them aware of the opportunity to speak to Council on the issue.
- The neighbor living in the only house by the proposed area for the ball field believes that such an addition would not elevate the neighborhood and sees a mismatch between golf and baseball.

Mayor Moore said that the President of the local Little League organization at the last Council meeting gave a presentation for a temporary ball field. Some Council members looked at the proposed

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 3

APRIL 28, 2011  
COUNCIL ACTION

site, and it looked pretty bad. The rumor circulated that the building of the ball field had already started.

Councilman Miller said that the City of Williams needs a sports complex. Even though he is not a golfer, he finds golf and baseball to be incompatible. He would like to see the City take more effort and find a different location. Councilman Miller made a motion to table this item until May 26, 2011, for more research. Councilman McNelly seconded the motion, and it carried 6-0.

**V. CONVENE TO PUBLIC HEARING**

*This will be the second of two publicly noticed Hearings for the consideration of Ordinance No. 916, An Ordinance of the Mayor and Council of the City of Williams, Arizona, Amending the City Code Title 12 by Adding Regulations for Regulating Medical Marijuana Dispensary and Medical Marijuana Dispensary Offsite Cultivation Locations*

Councilman Dent made a motion to convene to public hearing, and it was seconded by Councilman Miller. The motion carried 6-0.

Mayor Moore said that the State mandated to Cities that locations must be made available. Tonight is the second Public Hearing to review the changes recommended by Planning and Zoning.

Buck Williams, Chairman of the Planning and Zoning Commission said that the State prohibits cities from passing ordinances to prevent facilities. If you put down a map, there is no place in town for such a facility with the separation requirements shown in the earlier draft of Ordinance No. 916. For this reason, Planning and Zoning decreased or eliminated some of the separation requirements. Attorney Peterson added that she thought the changes would be just fine.

Building Inspector Tim Pettit pointed out that requirements for a Conditional Use Permit must be met before a facility could open.

Councilman McNelly noted a correction on page 2, *Medical Marijuana Facility*, first sentence: change "matter" to "manner."

**RECONVENE TO REGULAR SESSION**

Councilman Miller made a motion to reconvene to regular session, and Councilman Hiemenz seconded this motion. It carried 6-0.

- C. Council may adopt Ordinance 916, the Medical Marijuana Dispensary Ordinance, after its second Public Hearing and Third Reading: J. Moore  
Attorney Peterson pointed out that most changes are minor. However, a couple of changes from the last draft allow cultivation site and facility together, delivery could be offered, and distance restrictions were changed.  
Ordinance No. 916 was read by name and title only by Joe Duffy.  
Councilman Miller made a motion to adopt Ordinance No. 916 with the latest changes. Councilman Hiemenz seconded the motion, and it carried 6-0.
- D. Council may adopt Ordinance No. 917, establishing a Court Processing  
Joe Duffy read Ordinance No. 917 by name and title only. Councilman Dent made a motion to approve this Ordinance, and it was seconded by Councilman Hiemenz. The motion carried 6-0.

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 4

APRIL 28, 2011  
COUNCIL ACTION

- Fee after its third and final reading:  
J. Moore
- E. Council may adopt Ordinance No. 918, regulating parking for the purposes of snow removal and street cleaning: J. Moore  
Joe Duffy read Ordinance No. 918 by name and title only. Councilman Wurgler made a motion to adopt Ordinance No. 918, and it was seconded by Councilman Payne. The motion carried 6-0.
- F. Council may adopt Resolution No. 1267, declaring as a public record “Revised Title Six Chapter Ten of the Williams City Code” : J. Moore  
Mayor Moore said that this is the “Animal Ordinance.” Attorney Peterson explained that there are two ways to put an Ordinance into effect: One is legislative style; the other is by Resolution. Joe Duffy read the Resolution by name and title only.  
Councilman Dent made a motion to approve Resolution No. 1267, and it was seconded by Councilman Miller. The motion carried 6-0.
- G. Introduction and first reading of Ordinance 919, amending Title 6, Chapter 6.10 – Animals: K Peterson  
Joe Duffy read the Ordinance by name and title only. The second reading is scheduled for May 12, 2011.
- H. Council may recommend an application for temporary extension of premises/patio permit by Cruisers’ Route 66 Café LLC, 233 W. Route 66, Williams, AZ 86046, for the State Hog Rally after discussion: S. Kerley  
John Peasley, owner of Cruisers’, explained that he is moving the stage to the south side of the street aimed toward the Railway to decrease the volume of music floating uphill into residential areas. He expects this to be a much better event than last year’s and has huge plans to get the Hog Rally back year after year. For this event, he plans a single entrance/exit and security personnel.  
Councilman McNelly made a motion to recommend the application for temporary extension of premises/patio permit. It was seconded by Councilman Hiemenz, and it carried 6-0.
- I. Council may recommend an application for  
John Peasley explained that he is moving his gift shop over, adding in another 20-30 seats for dining. His updated floor plan now includes the additional building that is connected to his current premises.

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 5

APRIL 28, 2011  
COUNCIL ACTION

- permanent extension of premises by Cruisers' Route 66 Café LLC, 233 W. Route 66, Williams, AZ 86046, for addition of a gift shop after discussion: S. Kerley
- J. Council may make a decision regarding fireworks for July 4<sup>th</sup> after discussion: J. Moore
- K. Council may make a decision on the construction of a practice field at Elephant Rocks Golf Course after discussion: J. Moore
- L. Discussion, review and possible decision regarding the Nuisance Abatement Program T. Pettit/LaNita Ellico
- M. Discussion and
- Councilman Dent made a motion to recommend this application for permanent extension of premises, and Councilman Wurgler seconded the motion. It carried 6-0.
- Fire Chief Jeff Dent pointed out that smaller shells will require a smaller area, and the Fire Department is fine with shooting smaller shells. An Incident Action Plan is in place, and they would cancel the fireworks if windy conditions exist. The location they proposed is approximately 15 acres of vacant property owned by the City just north of I-40 on Airport Road.
- Joe Duffy added that the City has a credit from the fireworks company that can be used to purchase the shells. Now, they are making only 4" and 6" shells. One key thing is that if fireworks on the 4<sup>th</sup> of July had to be cancelled, they could be rescheduled for Labor Day.
- Councilman Wurgler made a motion to approve fireworks for the 4<sup>th</sup> of July, and it was seconded by Councilman Miller. The motion carried 6-0.
- Item moved up on Agenda – see Page 2.
- Building Inspector Tim Pettit said that they are having lots of activity and introduced LaNita Ellico who will be working in the abatement program for a few months. She is going to all businesses and houses, street by street. She is giving people 15 days or more to correct problems. If she feels a good faith effort is being made, she will give an extension. If they are not complying, she issues a citation. She is working with Clean & Beautiful to help those who need assistance.
- Police Chief Nixon explained that LaNita will be a police officer after she attends academy in August. She has a degree and has been a Spanish teacher.
- Public Works Director Glenn Cornwell showed four examples of

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 6

APRIL 28, 2011  
COUNCIL ACTION

- decision regarding downtown parking signs – design and verbiage: G. Cornwell
- parking signs. Councilman Dent asked if the applicable ordinance number must be on the sign to enforce. Chief Nixon said that handicapped signs must contain the applicable ordinance number. Attorney Peterson cautioned that she is working on an ordinance and the numbers might change. Attorney Peterson will work with Chief Nixon on the distance required between the signs.
- Councilman Wurgler made a motion to approve the big sign with “no parking” in little letters. Councilman Miller seconded the motion, and it carried 6-0.
- N. Council may make a decision after discussion of a request by Mark Worden to use Buckskinner Park for the Annual Renaissance Faire beginning in 2012: Glenn Cornwell (*Tabled from 4.14.11 Council meeting*)
- Public Works Director Glenn Cornwell recommended that Council table this item until May 12, 2011.
- Councilman Dent made a motion to table this item until Council meeting of May 12, 2011. Councilman Miller seconded the motion, and it carried 6-0.
- O. Council may make a decision regarding rehabilitation issues at the Aquatic Center after discussion: G. Cornwell
- Recreation Supervisor Rose Newbold said that after doing research for a solution of the moisture issues, they obtained opinions of professionals. Staff recommends proposals by Service Master, Energy Seal Corp., Walker Glass, Timber Ridge Roofing and 1 Source Heating and A/C. She then introduced Manny Arroyo, owner of 1 Source Refrigeration and Heating, who told Council members that he has donated 31 hours of manpower since March on investigation of the Aquatic Center. He cited breached walls as the cause of problems with the H Pack System and design flaws as the cause of other issues. He emphasized that air movement in the building is crucial so he would like to revamp the HVAC and air movement system. The estimate, combining the services of the above-named companies, totals \$43,967.79 with potential costs of another \$14,000 for hibernation over next winter.
- Councilman McNelly made a motion to accept this proposal, and it was seconded by Councilman Wurgler. The motion carried 6-0.
- Mayor Moore instructed Attorney Peterson and Joe Duffy to work on pursuing recovery for some of the repair/replacement expenses from the architects and engineers who originally designed the aquatic center.
- P. Council may make a decision to allow water sales for
- Joe Duffy noted that there is not a lot of demand for water from commercial users outside the City. The proposed wind farm is estimated to be a \$200 million project. They would need 150,000 – 200,000 gallons of water each day. Our reservoir is full and we have a

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 7

APRIL 28, 2011  
COUNCIL ACTION

contractors  
outside the City  
Limits: J. Duffy

new waste water treatment plant. We would have the contractors install stand pipes at their expense and use Airport Road and Pronghorn Ranch Road to avoid the City's streets. If the Golf Course runs out of water, they have the option to blend with Cataract Lake water. These water sales could offer us an economic shot in the arm by generating \$300,000 - \$500,000 in cash.

Councilman Dent pointed out that this would provide an opportunity to get money to put back onto street repairs and maintenance.

Councilman McNelly made a motion to move forward with water sales at a rate to be determined with proceeds used to repair streets.

Councilman Wurgler seconded the motion, and it carried 6-0

Q. Council may  
make a decision  
on water rates for  
effluent water  
sales: J. Duffy

Skipped – See Item P.

R. Council may  
approve payment  
to Dan Barnes for  
damages to Old  
Smokey's  
Restaurant and  
resulting claim  
from 2010 rain  
storms that the  
City's liability  
insurance did not  
cover: S. Kerley

Susan Kerley reported that Old Smokey's 2010 claim totals \$4,698.

The City filed the claim with Travelers Insurance who denied payment of the claim.

Mayor Moore asked if anyone had questions for Dan Barnes. Dan Barnes wanted to provide his history: He said that 3-4 years ago, the City paid \$3,000 to \$4,000 for other flooding claims. He said that there was a ditch between Safeway and the Senior Center that has been removed. In so doing, the City allowed the flow of water to be diverted. He continued: When the Safeway parking lot was designed, it flows northeast to dump water in the front door of Smokey's. Each property should retain its own water. The primary source of the flooding is Safeway's parking lot, sucking water off Grant Street. Mr. Barnes said he could no longer do business because the Health Department was about ready to shut him down. He believes the City allowed some stuff to happen instead of addressing the problem. He believes the City is aware because it paid his claim one time before.

Glenn Cornwell said that a ditch has been put by 5<sup>th</sup> Street to drain water to Cataract Creek. Public Works is trying to move the driveway at Safeway to the east. They have given plans to Safeway to review. He estimates it will be 2-3 months before going out to bid. The City has the plans but is still working out the dollars.

Councilman Wurgler asked if the City is allowed to question the judgment of our insurance company.

Councilman Dent replied that questioning the insurance company will not get us anywhere. All the insurance company has to prove is past flood issues. The owner had the option of purchasing flood insurance.

Mr. Barnes said he was told to submit his claim to the City. If it was

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 8

APRIL 28, 2011  
COUNCIL ACTION

under \$5,000, it would be paid by the City. He did not know it would go to the insurance company. He asked Joe Duffy if that was what he told him.

Mayor Moore asked if there's no problem with Safeway, why are we fixing it. Glenn Cornwell explained that the City is trying to prepare for higher year events above the average or normal 25-year storms.

Councilman Dent asked Attorney Peterson if the City were to pay this claim, would we be opening ourselves up to other claims. Her response was "yes." She asked that, if this were ever done, to get a release agreement. She pointed out that it is a bad precedent to disagree with your insurance company.

Mr. Barnes pointed out that a precedent has already been set. Councilman Dent replied that the insurance company paid the earlier claim; the City did not.

Oscar Fredrickson stepped forward to say that he is next in line if Dan Barnes is awarded his claim. When the City did an overlay, they did not mill the gutter, and water from the alley behind the Grand Canyon Hotel goes into its basement. Councilman Miller asked if the basement were flooded when he bought the building. Councilman Dent stated that all buildings downtown flood every spring from groundwater.

Councilman Dent made a motion to ask Travelers to review the claim, making certain they understand the claim and to review the outcome in an Executive Session. Councilman Wurgler seconded the motion, and it carried 6-0.

- S. Council may approve the formation of an ad hoc committee, the Mayor's Youth Advisory Group, after discussion:  
J. Moore

Mayor Moore said that he has wanted to form this group for several years. He and City Clerk Susan Kerley met with a group of seven young people, and their next organizational meeting is scheduled for Monday, May 2<sup>nd</sup> at 7:00 p.m.

Councilman McNelly made a motion, authorizing and offering support for this ad hoc committee. Councilman Hiemenz seconded the motion, and it carried 6-0.

**VII. REPORTS AND INFORMATION ITEMS:**

- A. Mayor and Council None

- B. Staff Reports Attorney Peterson announced that she or a member of her firm will spend approximately one day a month at City Hall, beginning next Tuesday from 8:00 a.m. to 12:00 p.m.,.

**VIII. CONVENE TO EXECUTIVE SESSION – 9:15 p.m.**

Councilman Hiemenz made a motion to convene to Executive Session, and it was seconded by Councilman Miller. The motion carried 6-0.

CITY OF WILLIAMS CITY COUNCIL

ANNOTATED MINUTES  
AGENDA ITEM

PAGE 9

APRIL 28, 2011  
COUNCIL ACTION

*The City Council may vote to enter Executive Session pursuant to Arizona Revised Statute 38-431.03.(A)(7), which will not be open to the public, to discuss with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.*

**RECONVENE TO REGULAR SESSION**

Councilman Wurgler made a motion to reconvene to Regular Session, and it was seconded by Councilman McNelly. The motion carried 6-0.

Council reconvened to Regular Session at 9:29 p.m.

- IX.** Council may make a decision on the real estate item discussed in Executive Session: J. Moore
- No discussion or decision followed Executive Session.

**ADJOURN:** The meeting adjourned at 9:30 p.m.

\_\_\_\_\_  
Mayor John Moore

\_\_\_\_\_  
City Clerk

ATTEST

