

**MINUTES OF THE
REGULAR MEETING OF THE COMMON
COUNCIL OF THE TOWN OF STAR VALLEY**

**Tuesday, August 4, 2020 at 4:00 pm
3675 East Highway 260, Star Valley, AZ
(Star Valley Town Hall)**

The Agenda for the meeting is as follows:

- PRAYER was offered by Vice Mayor McKinney.
- CALL TO ORDER
- ROLL CALL:
Vice Mayor McKinney X, Council Member Davis X, Council Member Armington X,
Council Member Binney X, Council Member Rappaport X, Council Member McDaniel
X, Mayor Coon X. **Council Members appeared telephonically.**

- **CONSENT AGENDA ITEMS:**

All items listed under the Consent Agenda will be voted on with one motion. If discussion is desired regarding any Consent Agenda item, that item will be removed from the Consent Agenda and voted on separately.

A. Approval of the minutes from the Regular Council Meeting and Executive Session held on July 21, 2020.

B. Approval of Claims Payable from July 16, 2020 through July 31, 2020 for the General Fund and for the Water Department.

A motion to approve consent agenda items A and B was made by Council Member Davis and was seconded by Council Member Binney.

A roll call vote was taken:

Vice Mayor McKinney X, Council Member Davis X, Council Member Armington X, Council Member Binney X, Council Member Rappaport X, Council Member McDaniel X, Mayor Coon X.

The motion was voted on and passed 7 - 0.

- **DISCUSSION ITEMS:**

1. **Public hearing, discussion, and possible action to adopt Resolution No. R 20-06, adopting the final budget for fiscal year July 1, 2020 through June 30, 2021 in the amount of \$7,631,457.00. Presentation by Finance Administrator Nutt.**

Finance Administrator Nutt explained this is the final step to preparing and executing the budget beginning July 1, 2020 through June 30, 2021. It is a public hearing and she requests that the Mayor open it to any comments from the public if anyone should so choose to participate. The numbers that were presented at the last council meeting have not been changed, reported Ms. Nutt. The fund balances, and the projected expenditures and revenues remain the same by fund balance. It is the budget council tentatively approved one month ago and stands the same. Ms. Nutt then asked if there are any questions. If the Resolution passes, added Ms. Nutt, the budget will be posted for the public to review in the local newspaper, as well as the local posting places and the Town website. Furthermore, it will be presented to the Arizona Department of Revenue and the Auditor General's Office for their review and it will be the official budget of record. Council Member Davis thanked the Town Manager and staff for their hard work on going back and re-figuring the budget after the revenue came in. Mayor Coon opened the meeting to the public for comments. There were no public comments and the Mayor closed the public comment portion.

A motion to adopt Resolution No. R 20-06 adopting the final budget for fiscal year 2020/2021 for the Town of Star Valley in the amount of \$7,631,457.00 was made by Council Member Davis and was seconded by Council Member McDaniel.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes , Council Member Armington Yes , Council Member Binney Yes , Council Member Rappaport Yes , Council Member McDaniel Yes , Mayor Coon Yes .

The motion was voted on and passed 7 – 0.

2. **Discussion and possible action to adopt Resolution No. R 20-07 declaring as a public record that certain document filed with the Town Clerk and entitled "The 2012-2014 Amendments to the Tax Code of the Town of Star Valley." Presentation by Finance Administrator Nutt.**

Finance Administrator Nutt explained the Town follows what is called the Model City Tax Code. It is a set of regulations that help interpret how city tax is collected and recorded from a model perspective. All cities and towns within Arizona follow the same model. This benefits businesses and collection agencies so that everyone is using the same documents, the same forms and the same language throughout the state of Arizona. Subsequently, as things come up, such as legislative actions or the introduction of new terminology into the forms, the model gets revised. It is then the Town's responsibility to become compliant. Those changes for the period of 2012 to 2014 were presented to council in a summary format included in their council book, reported Ms. Nutt. There are eighteen sections that have small revisions, and there were no monetary changes to the Model Tax Code. The changes were all terms and procedures that were adjusted, or codes that were added or taken away. This is really a housekeeping issue to become compliant with the Model City Tax Code by the implementation of these changes.

There is an additional amendment through 2018 that the Town will look at in a future council meeting, stated Ms. Nutt. The League of Cities and Towns suggests the Town take them in part as they

become available. As such, the Town is doing the 2012 through 2014 revisions at this time. Ms. Nutt explained there was a sixty day notification to the public before this meeting, and subsequently there will be two ordinance readings of the changes before they go into effect. At which time, they will be posted in the newspaper as well as our posting sites and the Town website. Council Member Binney referred to *Section 17* and asked if that is telling him that now the state is going to start charging tax to flush his toilet. Ms. Nutt responded the Town of Star Valley is not hooked up to a wastewater removal system and that whether it is his business or his home, he would not be affected by *Section 17*. Clarifying further, *Section 17* does not have application in the Town of Star Valley as the Town is not on a wastewater system, concluded Ms. Nutt. Council Member Binney commented he understands that it is just a formality and the Town needs to agree to it.

A motion to adopt Resolution No. R 20-07, declaring as a public record that certain document filed with the Town Clerk and entitled “The 2012-2014 Amendments to the Tax Code of the Town of Star Valley” was made by Council Member Davis and was seconded by Council Member Rappaport.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes , Council Member Armington Yes , Council Member Binney Yes , Council Member Rappaport Yes , Council Member McDaniel Yes , Mayor Coon Yes .

The motion was voted on and passed 7 – 0.

Mayor Coon explained he is going to switch agenda items three and four to give the Town Manager an opportunity to explain how deannexation might affect the law enforcement contract.

3. Discussion and possible action regarding the Town pursuing the deannexation of an area that was previously annexed by the Town of Star Valley.

Mayor Coon stated that deannexing the land Star Valley acquired could affect the language in the law enforcement contract. The Town Manager will explain the effects of deannexation, concluded Mayor Coon. Town Manager Grier stated the third and fourth agenda items are closely related and require discussion. The law enforcement contract is maybe one of the most important agenda items in front of council in a number of years, added Mr. Grier. The annexation issue came to light, explained Mr. Grier, when he met with the Town of Payson’s Interim Town Manager Sheila DeSchaaf regarding providing law enforcement and a proposal for a law enforcement contract. Ms. DeSchaaf’s explanation as to why the cost of their proposal was greater than the original cost (when the Town of Payson provided law enforcement to the Town) was, in part, due to the increased area of patrol of Highway 260 because of the annexation. The annexation is primarily the area from Lion Springs to Preacher Canyon, reported Mr. Grier. Mr. Grier stated he is unsure what the motive of council was for the annexation or if it really had merit. Queried Mr. Grier, for tens of thousands of dollars, is it worth having that land? In doing an analysis of the benefits of the annexation, disclosed Mr. Grier, the benefits are hard to find. It is forest service land and the Town can’t go on to that annexed property and develop. Development and the control of future development is not a good argument for annexation. The Town has abundant water, so he does not see water as being an issue.

Town Manager Grier reported that Council Member Binney has brought up potential liability and cost with the annexation. It is not a bad argument and he has a point that it could be a potential liability and cost, stated Mr. Grier. In researching annexation he was made aware that the City of Buckeye recently had an issue with land that they had annexed. They had master plan developers come in, and because the land was annexed, they were on the hook for the cost of infrastructure, a huge financial fiscal

liability to them. If there was development, stated Mr. Grier, it would likely be of a residential nature. The Town of Star Valley does not have a cut of personal property tax so a residential development would not provide any additional revenue. A commercial development might coax some sales tax dollars, stated Mr. Grier, but he doesn't see that type of development just because of the nature of the property. A residential development would cost any town or city money in providing infrastructure and, in that sense, he sees that annexation would be an expenditure and a liability. The question today is whether or not council would like him to look into the deannexation of the land that was annexed. It has come to light, reported Mr. Grier, in talking about the cost of a law enforcement contract and the additional cost because of the additional miles of the patrol of Highway 260. His position is that it is something the Town should look into. Reiterated Mr. Grier, he doesn't see a benefit of the annexation and only sees a liability. Whether or not it had merit at the time council voted on it, he doesn't think it does now. The patrol of Highway 260 is part of the cost of the law enforcement contract and the Town has increased the area of patrol by some 75% with the annexed land, concluded Mr. Grier.

Council Member Rappaport asked if the deannexation would be from Lion Springs to Preacher Canyon. That is the approximate area that we are talking about, responded Town Manager Grier. Mayor Coon asked if it would be the area behind the Knolls. We are still looking at the maps, answered Mr. Grier. Maps of what was annexed along with a more complete legal analysis will be provided to council. Council Member Rappaport stated she recalls there was a Master Plan back in 2005 and 2006 and that she would like to re-visit that. That can be provided to all council members, responded Mr. Grier, and a decision can be made whether or not the Master Plan has any value. Council Member Davis suggested the Town Manager make a legal analysis which would cover everyone's concerns. It will take significant time for staff to research, responded Mr. Grier. Mayor Coon asked if there will be a cost to deannex. Mr. Grier answered he doesn't think there will be a significant cost of deannexation.

Council Member Binney suggested the Town give almost the entire 260 strip back to the county or the state. Just to give perspective as to how much area we are talking about, stated Mayor Coon, the distance from the edge of Star Valley business district out to Preacher Canyon is four miles. Council Member Binney stated the Town can deannex the entire 260 strip, except for a hundred foot wide strip to connect the two sides of the highway. Give it all back to the highway patrol, concluded Council Member Binney. Mr. Grier responded he doesn't know if that is feasible, but it's interesting. Council Member Binney requested it be included in the legal analysis.

A motion to instruct the Town Attorney to make a legal analysis of issues regarding deannexation of previously annexed property was made by Council Member McDaniel and was seconded by Council Member Binney.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes , Council Member Armington Yes , Council Member Binney Yes , Council Member Rappaport Yes , Council Member McDaniel Yes , Mayor Coon Yes .

The motion was voted on and passed 7 – 0.

4. Discussion and possible action concerning a law enforcement contract.

Mayor Coon reminded those present that council authorized the Town Manager/Attorney to proceed with negotiations for a law enforcement contract. Town Manager Grier will give an update, stated Mayor Coon. Town Manager Grier announced that Chief Tischer with the Town of Payson is in attendance and is available to answer any questions. Mr. Grier stated he would first like to talk about the legal aspects of who has the responsibility of the patrol of Highway 260, because that has a significant impact on the cost of the law enforcement contract. A letter was sent to the Department of Public Safety

("DPS"), the governor and others involved, reported Mr. Grier, with the position of the Town that we don't have primary responsibility on the patrol of Highway 260. A response was received from Lisa Wahlin, General Counsel for DPS, stating that the Town is wrong and that her position was supported by seven or eight Attorney General ("AG") opinions. After reading those AG opinions, stated Mr. Grier, nowhere did he find that her position was supported, but rather the AG opinions stated that all law enforcement agencies have the legal jurisdiction to enforce the laws of the state. One of the AG opinions went as far as to say there is no substantive law on point, it's more an issue of who can financially supply the law enforcement.

Town Manager Grier reported the difference in the Town of Payson proposal is about \$80,000.00 more a year if they assume responsibility in the patrol of Highway 260 – very significant money. Mr. Grier then read aloud the response he received from Ms. Wahlin. It strengthens his argument, stated Mr. Grier, that there is no statute on point that says the Town of Star Valley has primary responsibility. The only statutes, Attorney General opinions and Case Law is that there is concurrent jurisdiction giving the authority to all law enforcement agencies to enforce the laws of the state. There is a statute on point, pointed out Mr. Grier, that says the Department of Public Safety shall enforce the law of the state. The Town has a very viable argument that it is the responsibility of DPS to patrol Highway 260. Mr. Grier advocated he thinks it is an issue that the Town should argue, and the Town should demand DPS patrol their highway.

Town Manager Grier stated it is an interesting argument in whether or not the Town just says we are not doing any law enforcement at all and the county has to do it. He did research that as well, and the AG opinions were a bit ambiguous. There was nothing on point, reported Mr. Grier, that says an incorporated Town can walk away from law enforcement and not have a law enforcement agency. By statute, an incorporated town is required to have a magistrate court. It stands to reason that with that responsibility there would be a law enforcement duty as well. Although the law on point was a bit ambiguous, stated Mr. Grier, he would say the Town needs to have law enforcement in place. Council Member Binney asked how much it would cost to get on point for both of those issues. "More than we have," responded Mr. Grier. The Town doesn't have the time and we can't have law enforcement lapse. Added Mr. Grier, the Town would have tort liability exposure and that is reason enough that we wouldn't want to fight that fight. Council Member Binney stated he understands that and asked if the Town could fight it while having the police on sight. Mr. Grier responded that would be futile and expensive. There is money better spent pursuing legal arguments that are more likely to be won and the Town shouldn't give up on the fight with DPS. Added Mr. Grier, it's important to have a say in what law enforcement looks like in the Town and we can have that with the new Payson Police Chief. Council Member Binney stated he agrees with everything just said and that he's not saying no to police.

Town Manager Grier reported he has had discussions with Chief Tischer and communicated what he thinks is important for the Town. Discussion followed between Mr. Grier and Council Member Binney regarding law enforcement contract specifics. Mr. Grier explained why he thinks a change to the Town of Payson would be a good change for the Town of Star Valley. The Town, stated Mr. Grier, has not had a relationship with Gila County, which is one of the most important building blocks in a law enforcement relationship. Mr. Grier stated he believes the Town will get that with the Town of Payson and that the Town of Payson law enforcement department will listen to Star Valley council, which the Town has not had with Gila County. The Town of Star Valley might also want a different level of law enforcement than the Town of Payson. While the Town of Payson is fully staffed with their officers, reported Mr. Grier, Gila County may be as much as thirteen deputies down. The Town of Payson can better service the Town of Star Valley and provide faster response times. It is important, concluded Mr.

Grier, to have a department that is fully staffed. Mr. Grier stated he would now have Finance Administrator Nutt go over the price comparison.

Finance Administrator Nutt explained the spreadsheet provided to council is the most current number for police services for the Town of Payson. The current Town of Payson contract price, reported Ms. Nutt, is \$397,957.00 locked in for two years and then subsequently a 4.75% increase every year after that. The cost for law enforcement services through Gila County is \$471,325.00. If it is decided to go with the Town of Payson, the Town would have a \$73,000.00 savings every year, for a net savings of nearly \$242,000.00 in a six year contract period. That would take into account, stated Ms. Nutt, Gila County never raising its price, which she does not feel is a good estimate. Ms. Nutt explained she projected a 30% increase in service cost from Gila County, after the four year contract ran out. What she feels is a true assessment of the Gila County cost, by the end of a six year contract, would actually be a net savings of \$515,000.00 if it is decided to go with the Town of Payson in a six year contract.

Town Manager Grier pointed out the contract with Gila County expired on June 30th. The county is still providing law enforcement, but the Town doesn't have a contract in place. It's important that council make a move, even though some things are not resolved, such as the patrol of Highway 260, which will take some time to resolve. Council needs to move forward in making a choice tonight, reiterated Mr. Grier. Council Member Rappaport stated her main concern is that the Town is not under contract. The Town needs code enforcement and it saves the Town money if we go with Payson. We need to get this done, concluded Council Member Rappaport. Mr. Grier then introduced Chief Tischer.

Chief Tischer stated his philosophy is "We're here to serve the public and we're here to serve for you." The Town gets to dictate how it wants its police services in the Town of Star Valley. Chief Tischer reported the Payson Police Department is going through a philosophy change right now where customer service is number one. If the Town of Star Valley chooses to go with the Town of Payson, the Town of Star Valley is our customer. Chief Tischer stated he's a phone call away and any concerns of the Town would be addressed virtually immediately. The Payson Police Department, reported Chief Tischer, is pretty fortunate that it is at full staff and that staffing level will be maintained for some time. They are also fully staffed at the dispatch center, which hasn't been that way in a while. We are here to provide the best service that we possibly can to Star Valley and that service is whatever you want it to be, concluded Chief Tischer.

Mayor Coon stated this is a very important contract and he will go through council one at a time just to make sure everyone has a chance to voice their concerns. Vice Mayor McKinney stated the Chief's very clear statement that he regards the Town as a customer and that the Town would have the kind of law enforcement it chooses is a refreshing change of direction. Council Member Davis stated he likes what he's hearing, and he likes the savings on the contract. Council Member Armington stated he likes everything he is hearing. Council Member McDaniel stated all her questions have been answered and she is also in agreement with the other council members. The best course of action for Star Valley would be to go this route, concluded Council Member McDaniel. Council Member Rappaport stated she has nothing to say and that she has said it all. Council Member Binney stated the price is important and all he wants to see is the final contract. Mayor Coon stated he is personally impressed with what he has heard. It sounds like a pretty good deal for the Town, concluded Mayor Coon.

A motion to instruct the Town Manager to enter into a Law Enforcement Services contract with the Town of Payson was made by Council Member Binney and was seconded by Council Member Davis.

A roll call vote was taken:

Vice Mayor McKinney Yes, Council Member Davis Yes , Council Member Armington Yes , Council Member Binney Yes , Council Member Rappaport Yes , Council Member McDaniel Yes , Mayor Coon Yes .

The motion was voted on and passed 7 – 0.

• **COMMENTS FROM THE PUBLIC**

During this portion of the meeting, members of the public may address the Town Council on items that are not on the printed agenda. Any remarks shall be addressed to the Council as a whole and not to any individual member. Speakers are limited to three (3) minutes per person unless additional time is granted by the Mayor. The Council may not discuss or act upon matters raised during public comments.

The Mayor opened up this portion of the meeting for public comment. There were no public comments and the Mayor closed this portion of the meeting.

• **ADJOURNMENT**

A motion to adjourn the meeting was made by Council Member Binney and was seconded by Council Member Davis.

The motion was voted on and passed 7 – 0.

APPROVED:

Gary Coon, Mayor

Date: _____

ATTEST:

Edie Chapin, 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 Star Valley held on the 4th day of August 2020. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this 5th day of August 2020.

Edie Chapin, Town Clerk