

MINUTES OF THE REGULAR MEETING OF THE SHOW LOW CITY COUNCIL HELD ON TUESDAY, MARCH 4, 2003, AT 7:00 P.M. IN THE CITY HALL COUNCIL CHAMBERS, 200 WEST COOLEY, SHOW LOW, NAVAJO COUNTY, ARIZONA

1. Call to Order.

Mayor Kelley called the meeting to order at 7:06 p.m.

2. Roll Call.

COUNCIL MEMBERS PRESENT: Mayor Gene Kelley; Vice Mayor Bob Delzer; Council members Rick Fernau, Virginia Evans, William Thomas, Kenneth E. King, and Anne Staffnik.

COUNCIL MEMBERS ABSENT: None.

STAFF PRESENT: Ed Muder, Interim City Manager; Michael J. Brown, City Attorney; Joel Weeks, Community Services Director; Dennis Higginbotham, Interim Public Works Director; Paul Hanlan, Senior Planner; and Ann Kurasaki, City Clerk.

GUESTS: Hugh Williams, Michael Aroner, Kevin Birnbaum, Show Low High School Wrestling Team members, LeAnn Arganbright, Tom Kakavas, Chris and Terri Holladay, Norm Fenlason, Joan Price Fenlason, Liz Hammond, Geoff White, Diana Brewer, Brandy Hill, and others.

3. Invocation.

Mayor Kelley gave the invocation.

4. Pledge of Allegiance.

Vice Mayor Delzer led the Council and audience in the Pledge of Allegiance.

5. **SPECIAL EVENTS:**

- A. Proclamation by the Mayor Proclaiming March 2002 as Cougar Wrestling Repeat State Championship Month and Recognizing the Show Low High School Wrestling Team. (Mayor Kelley)

Mayor Kelley read the proclamation aloud. He presented the proclamation to coach Shane Koury. He recognized three members of the team and then presented T-shirts to the individual members.

Mayor Kelley asked to split Call to the Public tonight. He said there would be another opportunity at the regular posted time on the agenda.

Michael Aroner said he was on the board of Big Brothers Big Sisters, who was hosting the seventh annual Bowl for Kid's Sake fundraiser. He invited interested teams to participate in this event. He said Jim Paxon would be attending the event from 9:30 a.m. to 3:00 p.m. He said there were two teams signed up from the City of Show Low, one of which was comprised of Council members. He challenged other Councils on the Mountain to come and bowl against Show Low's City Council.

6. **OLD BUSINESS:**

- A. Consideration of Ordinance No. 2003-02 to Rezone Property, More Particularly Described as A.P. No. 209-30-001, from R1-7 (Single Family Residential) to P.U.D. (Planned Unit Development) – **SECOND READING.** (Ed Muder)

Mr. Muder said on May 22, 2002, the Council adopted Ordinance No. 509 changing the zoning on property located between Bagnal Wash and Joe Tank Road, on portions of A.P. Nos. 209-30-001 and 209-32-002, from MH (Mobile Home) to a P.U.D. (Planned Unit Development). He said Bison Ridge was on the west side of the highway. He said the subject parcel (on the east side of SR260) was inadvertently omitted from that zone change request due to a staff oversight.

He said on February 11, 2003, the Planning and Zoning Commission held a public hearing and recommended by a vote of 7 to 0 that the Council approve the rezoning request on A.P. No. 209-30-001 from R1-7 (Single Family Residential) to P.U.D. (Planned Unit Development). He said a copy of the Commission's recommendation, application and Ordinance No. 2003-02, which contained three exhibits (Exhibit "A," the subject property map, Exhibit "B," the legal description, and Exhibit "C," the conditions of the zone change recommended by the Planning and Zoning Commission), had been given to each Council member.

He read the conditions aloud.

1. All development shall comply with all applicable federal, state, and local requirements.
2. The development of the subject property shall comply with the Preliminary Development Plan approved as part of the original Bison Ridge zone change.

3. Water sewer and drainage master plans shall be submitted to and approved by city engineering staff prior to the commencement of construction of improvements on the subject property.
4. The developer shall be responsible for securing all necessary ADOT (Arizona Department of Transportation) approvals prior to the commencement of construction on the subject property.

He said on February 18, 2003 the Council held a public hearing and first reading of Ordinance No. 2003-02. He said second reading and adoption could occur at the March 4, 2003 Council meeting and the ordinance would become effective 30 days thereafter.

COUNCILMAN KING MOVED TO READ ORDINANCE NO. 2003-02 FOR THE SECOND TIME BY TITLE ONLY SINCE ALL COUNCIL MEMBERS HAD A COPY; SECONDED BY COUNCILMAN FERNAU.

Councilwoman Staffnik asked if this would affect the drainage, sewer, water or engineering reports. Mr. Muder said the rezoning didn't give the developer any relief from his normal responsibilities.

MOTION PASSED UNANIMOUSLY.

Ms. Kurasaki read Ordinance No. 2003-02 by title only.

“AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SHOW LOW, ARIZONA, AMENDING THE ZONING ORDINANCE OF THE CITY, ARTICLE 15-1, AMENDING THE ZONING MAP, CHANGING THE ZONING ON PROPERTY LOCATED IN SECTION 14, TOWNSHIP 10 NORTH, RANGE 21 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, NAVAJO COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS A.P. NO. 209-30-001 FROM R1-7 (SINGLE-FAMILY RESIDENTIAL, MINIMUM SEVEN THOUSAND SQUARE FEET) TO P.U.D. (PLANNED UNIT DEVELOPMENT)”

VICE MAYOR DELZER MOVED TO ADOPT ORDINANCE NO. 2003-02; SECONDED BY COUNCILMAN KING; PASSED UNANIMOUSLY.

- B. Consideration of Ordinance No. 2003-03 to Rezone Three Properties (or portions thereof) Located on South Cub Lake Road, More Particularly Described as A.P. Nos. 212-03-021, 212-03-017B, and 212-03-011A, from a Mix of C-2 (General Commercial), AR-43 (Agricultural Residential, Minimum Forty-three Thousand Square Feet) and R2-7 (Multiple Family,

Minimum Seven Thousand Square Feet) to C-2 (General Commercial) – **SECOND READING.** (Ed Muder)

Mr. Muder said on February 11, 2003, the Planning and Zoning Commission held a public hearing and recommended by a vote of 7 to 0 that the Council approve the rezoning request on A.P. Nos. 212-03-021, 212-03-017B, and 212-03-011A from a mix of C-2 (General Commercial), AR-43 (Agricultural Residential, minimum forty-three thousand square feet) and R2-7 (Multiple Family, minimum seven thousand square feet) to C-2 (General Commercial). He said copies of the Commission's recommendation, application and Ordinance No. 2003-03, which contained three exhibits (Exhibit "A," the subject property map, Exhibit "B," the legal description, and Exhibit "C," the conditions of the zone change recommended by the Planning and Zoning Commission), were given to each Council member.

He read the conditions aloud.

1. Development shall comply with all applicable Federal, State and local requirements.
2. Water, sewer, and drainage master plans shall be submitted to and approved by City Engineering Staff prior to the commencement of construction of improvements on the subject property.
3. The developer shall be responsible for roadway improvements on South Cub Lake Road adjacent to the subject property.
4. The developer shall work out an access easement with the adjacent property owner, and the developer further agrees to construct a solid fence on the west side of the subject property and that a chain link fence shall not be used for screening purposes.

He said on February 18, 2003 the Council held a public hearing and first reading of Ordinance No. 2003-03. He said second reading and adoption could occur at the March 4, 2003 Council meeting and the ordinance would become effective 30 days thereafter.

Councilman King asked if there were any changes or additional public input. Mr. Muder said no. Councilman King asked if a chain-link fence could be used during construction. Mr. Muder said it was discussed at one time when the developer was present but he said he was planning to move a fence and didn't intend to put up a chain-link fence for screening purposes.

Councilwoman Staffnik asked about the residential homes currently on the property now. Mr. Muder said the removal of these homes was part of the CUP (conditional use permit) that the Planning and Zoning Commission heard on February 11, 2003. He said that during phase 1, the medical complex would be built on the southern portion. He said when phase 2 came along, the homes would be removed.

VICE MAYOR DELZER MOVED TO READ ORDINANCE NO. 2003-03 FOR THE SECOND TIME BY TITLE ONLY SINCE ALL COUNCIL MEMBERS HAD A COPY; SECONDED BY COUNCILMAN KING; PASSED UNANIMOUSLY.

Ms. Kurasaki read Ordinance No. 2003-03 by title only.

“AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SHOW LOW, ARIZONA, AMENDING THE ZONING ORDINANCE OF THE CITY, ARTICLE 15-1, AMENDING THE ZONING MAP, CHANGING THE ZONING ON PROPERTY LOCATED IN SECTION 4, TOWNSHIP 9 NORTH, RANGE 21 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, NAVAJO COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS A PORTION OF A.P. NOS. 212-03-011A AND 212-03-071B AND A.P. NO. 212-03-021 FROM A MIX OF C-2 (GENERAL COMMERCIAL), AR-43 (AGRICULTURAL RESIDENTIAL, MINIMUM FORTY-THREE THOUSAND SQUARE FEET), AND R2-7 (MULTIPLE FAMILY, MINIMUM SEVEN THOUSAND SQUARE FEET) TO C-2 (GENERAL COMMERCIAL)”

COUNCILMAN KING MOVED TO ADOPT ORDINANCE NO. 2003-03; SECONDED BY VICE MAYOR DELZER; PASSED UNANIMOUSLY.

7. **NEW BUSINESS:**

- A. **PUBLIC HEARING** – Consideration of Ordinance No. 2003-01 Repealing Section 15-1-44 of the Show Low City Code and Adopting a New Document Entitled “*Section 15-1-44 of the Show Low City Code*” by Reference. (Ed Muder)

Mr. Muder said staff needed to notify the Council that the advertisement for a public hearing in a newspaper of general circulation did not happen. He said there was a computer problem at the White Mountain independent so the request was not processed. He said staff was recommending that the public hearing be advertised and held at a future meeting. He said it could be held on April 1 but there would be a significant public input that

evening so staff recommended holding the public hearing at the April 15 meeting.

COUNCILMAN KING MOVED TO MOVE THIS ITEM TO THE APRIL 15, 2003 REGULAR MEETING; SECONDED BY COUNCILMAN FERNAU; PASSED UNANIMOUSLY.

(1) Consideration of Ordinance No. 2003-01 – **FIRST READING.**

No discussion.

- B. Consideration of Resolution No. R2003-10 Authorizing and Supporting a City of Show Low Application for a Department of Commerce Economic Strength Program Grant for Infrastructure/Business Development. (Ed Muder)

Mr. Muder said the Economic Strength Program (ESP) of the Arizona Department of Commerce (ADOC) was offered jointly with the Arizona Department of Transportation (ADOT) and provided money for roadway development that could be directly tied to job creation or job retention within a community. He said Home Depot would be constructing a new store on SR260 (South White Mountain Road) this spring. He said in conjunction with this construction activity, an intersection with signal lights would be built on SR260, as well as approximately 600 feet of the Menhennet alignment at this intersection (named Scott Ranch Road).

He said staff was putting together a grant application (due Friday) for this project. He said Resolution No. R2003-10 committed the City to contributing \$124,024 to the project. He said this amount represented \$7,500 in in-kind engineering services plus \$116,124, the amount of the City's participation through the development agreement with Home Depot. He said the City was asking for \$195,000 in the grant application. He said the resolution authorized submitting the grant application.

Mayor Kelley said if the Council approved this proposal, the City had the chance to gain this money in the form of a grant.

Councilman King didn't think there was that much money in the Revolving Fund. Mr. Muder said there wasn't but the Council had committed that amount in the development agreement. He said this amount would be in next year's budget and wouldn't be due until the store was completed.

VICE MAYOR DELZER MOVED TO ADOPT RESOLUTION NO. R2003-10; SECONDED BY COUNCILMAN FERNAU; PASSED UNANIMOUSLY.

C. Consideration of Participation by the City of Show Low with the Show Low Fire District to Purchase a Chipper. (Dennis Higginbotham/Ed Muder)

Mr. Higginbotham said the Show Low Fire Department applied for a grant to purchase a chipper. He said this chipper would be made available to all residents in the district with two trained operators from the fire department. He said the City of Show Low would also have access to the chipper, using City personnel.

He said the total cost of the chipper was \$28,000. He said the grant was a 50/50 match with the Arizona State Land Department, which made the Fire District's share \$14,000. He said the Fire District was asking other agencies to partner with them to share in the cost of the chipper because of its forest health benefits to the entire Show Low Fire District. He said depending on the number of participants the Fire District was able to secure, the City of Show Low's share would be half of \$14,000 but would not exceed \$7,000.

Mayor Kelley said the City would have the benefit of joint usage and the chipper would come with two trained fire personnel free of charge to the City. Mr. Higginbotham said yes, adding that City maintenance crews would also have access to the chipper.

Councilwoman Evans asked how a citizen could get on a list. Mr. Higginbotham said to call the Fire District and request it, at no cost to the citizen.

Councilman Thomas clarified that a citizen might be put on a list but the Fire District would use the chipper by neighborhood, not by individual property owners.

Councilwoman Staffnik asked where it would be kept and who would maintain it. Mr. Muder said the Fire District would be developing a program. He said maintenance and storage would be the responsibility of the Fire District.

Councilwoman Evans asked for particulars. Mr. Muder said staff didn't know the details of the program. He said when the City used community service workers they used chippers supplied by Navajo County free of charge.

Councilwoman Staffnik asked where the funds would come from. Mr. Muder said staff recommended they come out of the Council's Travel and Training budget or City Manager Recruitment.

COUNCILMAN FERNAU MOVED TO APPROVE THE PURCHASE OF A CHIPPER IN CONJUNCTION WITH THE SHOW LOW FIRE DEPARTMENT AT A COST OF ONE-HALF OF THE SHOW LOW FIRE DEPARTMENT'S SHARE, NOT TO EXCEED \$7,000; SECONDED BY COUNCILMAN KING; PASSED UNANIMOUSLY.

- D. Consideration of Resolution No. R2003-11 for the Dedication of Right-of-Way for School Property. (Dennis Higginbotham)

Mr. Higginbotham said during the City's review and purchase of the Show Low Middle School property, staff requested that a boundary survey be performed on the property. He said the results indicated that a portion of the west boundary extended into an area that staff wanted to see designated as a public right-of-way for South Sixth Street. He said the recording of the survey and dedication of the South Sixth Street right-of-way would accomplish this.

He said the portion ranged from 5.66 feet at the south end to zero feet at the north end for a total of 50 feet. He said it didn't affect any utilities or private property. He said the City actually owned both properties. He said it was just a technicality and this action would designate it for a certain use.

COUNCILMAN FERNAU MOVED TO ADOPT RESOLUTION R2003-11; SECONDED BY COUNCILMAN THOMAS; PASSED UNANIMOUSLY.

- E. Consideration of Participation by the City of Show Low with APS to Lower Power Lines on South White Mountain Road. (Ed Muder)

Mr. Muder said APS (Arizona Public Service) had approached the City asking if the City wanted to participate in lowering a portion of the power lines on White Mountain Road. He said with the intersection improvements planned for the Deuce of Clubs and White Mountain Road, it became necessary for APS to relocate a portion of the power lines on the east side of White Mountain Road. He said the relocation cost was approximately \$32,000. He said if APS were to move the lines underground, the cost would be around \$72,000. He said should the City wish to participate in this effort, APS was asking for a \$40,000 contribution. He said this estimate was for the portion of the line required with the intersection improvements.

He said staff looked at the project with APS and was confident it could be extended to the developed portion of White Mountain Road where Speedy Automotive was located. He said staff discussed with APS whether they

still had aesthetic funds available but they were no longer available. He said in price, APS would contribute about \$5,000 in streetlights, which would be comparable to those on the Deuce of Clubs. He said three poles would be removed. He said it was beneficial to the City to participate at this time. He said should the City want to move them underground at a later date, the City would have to pay for it in its entirety, which could exceed \$100,000 for this portion of the line. He said funding could come from the Council budget and the City Manager budget (\$20,000 each).

Councilman King asked if it were aesthetically better to move them underground. Mr. Muder said yes.

Councilman Thomas asked if APS had to apply for a permit. Mr. Muder said APS could work in the right-of-way under the terms of the franchise agreement. He said they generally went through the right-of-way and blue-staking process to determine the location of other utilities.

COUNCILMAN KING MOVED TO AUTHORIZE STAFF TO NEGOTIATE WITH APS (ARIZONA PUBLIC SERVICE) AND APPROVE AN AMOUNT NOT TO EXCEED \$40,000 TO PARTICIPATE IN MOVING A PORTION OF THE POWER LINE UNDERGROUND (TAKING HALF THE FUNDS FROM THE CITY MANAGER BUDGET AND HALF FROM THE COUNCIL BUDGET); SECONDED BY COUNCILMAN FERNAU.

Mr. Muder said staff would be working with the property owners in the area to extend it to Speedy Automotive.

Councilwoman Evans asked if ADOT would be rebuilding the intersection. Mr. Muder said yes, noting that ADOT planned to create more turn lanes.

Mayor Kelley knew if the City didn't participate now, it could cost double or quadruple the current amount.

MOTION PASSED UNANIMOUSLY.

- F. Consideration of Agreement with Unity Church of the White Mountains. (Ed Muder)

Mr. Hanlan said at the regular meeting of September 11, 2002, the Planning and Zoning Commission approved a conditional use permit (#602-04-46) for the construction of a church building at 951 South Central Avenue, known as Tract "A" of the Baronet Estates subdivision.

He said three use permit conditions concerned the drainage easement onto, or through, the subject property (conditions 8(A), 11 and 13). He

said this easement was required to accommodate, at a minimum, placement of the existing drainage scour pad on the property's western property boundary. He said a great deal of discussion was dedicated to the history and need for this preexisting drainage through the property.

He said the Board of the Unity Church of the White Mountains had since been negotiating with City staff regarding the granting of either an easement for the drainage scour pad, condition 8(A), or an easement throughout the site (covering the drainage's historic pattern/route). He said these preliminary negotiations culminated with an understanding between the Board and City staff (as outlined in a letter dated January 21, 2003) in which the Board indicated a willingness to grant an easement through the property in exchange for the following considerations:

1. The Public Works department shall assist in the preparation of a preliminary drainage way through the property (weather permitting) once a public easement is granted the City of Show Low.
2. The City shall not seek from the Unity Church any financial participation in future roadway improvements to South Central deemed necessary as a result of additional traffic volumes generated by the new church building (or future residential development in the area).

He said this second consideration, sought by the Board, related to condition no. 7 of the conditional use permit (CUP).

He said staff understood the church's desire to conclude the purchase agreement for this property and commence its construction planning phase and also realized that the proposed agreement granted the church the protection it deemed necessary to proceed with this CUP.

He said the Board of Unity Church of the White Mountains requested that the Council consider entering into an agreement based on these items.

Joan Price Fenlason, minister of Unity Church, said Unity Church was confused. She said they thought this had been resolved but the process had been ongoing for several months. She said they wanted to close the transaction.

She said Planning and Zoning staff had been trying to resolve this issue and the church was open to assist. She said it seemed unfair that the decision was made to concentrate the flow of water from the property across the street onto this property without a legal easement and replacing a 14-inch pipe with three 36-inch culverts. She said there was a

massive concentration of water coming off the property across the street. She said they wanted to accommodate the City but they were also responsible to their congregation. She said they offered to exchange this 30-foot easement for creating a deceleration lane they would be obligated to pay. She said the City wasn't giving them anything because the easement on the property was valued at \$15,000 although no staff member agreed to value it publicly. She said they were told a deceleration lane would cost approx \$65,000 and they would be responsible for 17% of that amount if there were one service and 29% if there were two services. She said they heard there could be approximately 80 houses in an adjacent subdivision and each house could have eight trips per day. She complained that the church was being asked to pay a third of the cost of the turn lane, even though they had only 20 or 30 cars in the parking lot on Sunday mornings within a 30-minute time frame. She said they thought this condition was unfair.

Ms. Price Fenlason said another issue was the drainage study, although they weren't opposed to having one done. She said they were told that it had to be done after the building was designed and placed and that it couldn't be done until after the building permit was issued. She said they were told that the only consideration for this drainage study was the water coming off the roof and parking spaces. She said they didn't want to disturb any tree unnecessarily. She said they wanted to create parking among the trees, using gravel instead of pavement. She said they were talking about 52 to 55 parking spaces. She said they were given an estimate of \$5,500 for this study. She said they were also told they had to move the building to create the proper ingress/egress away from the intersection. She said instead of the entrance being at the corner of Whipple and Central Avenue it would be further down where there was a possibility of a subdivision development. She said they wanted to catch the water in cisterns for irrigation purposes.

Councilman Fernau asked if they didn't think the culverts aided the direction of the water flow. Ms. Price Fenlason said the water was coming from across the street. She said the contour of this property drained naturally. She said the topography restricted the use of the property. She said staff was insisting they place the building to the south and wanted an additional ten feet they couldn't build on.

Mr. Muder said regarding the turn lane and drainage study, they were conditions of the CUP. He said the turn lane requirement was exactly the same as what was written for the Word of Life Church. He said as far as drainage, when the City constructed Central Avenue, Mr. Aroner owned all the property. He said there were negotiations for the crossing of Central Avenue. He said according to the FEMA (Federal Emergency

Management Agency) map, the drainage stream always went through the middle of this property to Whipple Wash. He said the sheet flow was more directional with the culverts.

Ms. Price Fenlason said there was a 2,000% increase in capacity with three 36-inch culverts vs. a 14-inch pipe. She complained this was done through the City without a permit, permission or easement.

Mr. Muder said after the City negotiated with Mr. Aroner, the scour pad was built. He said the Planning and Zoning Commission required the dedication where the scour pad was located but the dedication of the easement came at a later date.

Mayor Kelley asked if the roadway was there when the 14-inch pipe was still there. Mr. Muder said yes, it was a dirt road further back into this property. He said it didn't convey all the water and had washed out on both sides of the culvert.

Councilman King asked who would benefit from the easement. Mr. Muder said it was for the benefit of the property owner and would be maintained by the City if it were dedicated. He said if it were not dedicated, the property owner was responsible for maintenance.

Councilman King noted that the turn lane would be required only if a traffic study warranted that enough traffic entered the property. Mr. Muder agreed, saying it would provide a safe deceleration lane off of Central Avenue.

Michael Aroner, 901 South Central, said he lived adjacent to this property. He said the FEMA drainage map was inaccurate and wasn't representational of the topography of the area. He gave a brief history of the drainage issues. He said the three culverts flowed backward and that the drainage easement took up much of the buildable land. He said it killed three acres of developable land. He complained that the City didn't want to assume some of the responsibility and didn't want to work with the property owners.

Mr. Muder agreed the water had been concentrated through the culverts. He said the 1982 map showed the channel of drainage going through the middle of this property. He reminded the Council that tonight's issue was to consider the request of Unity Church and see if they wanted to negotiate a development agreement with the church.

Ms. Price Fenlason said they wouldn't have enough traffic generated for a deceleration lane on Sunday mornings, which was a light traffic time. She

said this was an opportunity for the City to exchange an easement for widening the street. She didn't see how they would create as much traffic as the proposed 80 houses. She said they told staff if the City excavated the drainage ditch they would maintain it.

A gentleman approached the podium and said he was the board president for Unity Church. He said they might have been misinformed about the need for an easement. He said the potential high concentration of water had been channeled in one spot. He said they were in favor of exchanging the property to properly manage the water. He said they didn't want to be responsible for any changes to the road on their side.

Councilman Fernau asked Ms. Price Fenlason if she said the church would maintain the drainage easement if the City built it. Ms. Price Fenlason said yes.

Councilwoman Staffnik asked what would happen to the drainage if Sierra Pines developed further. Mr. Muder said a portion of the drainage from Sierra Pines went into these drainage ways and some went into Whipple Wash. He said Sierra Pines was a development of one-acre lots, which did not increase water flows.

Councilwoman Evans asked if the City had also asked Sierra Pines for a turn lane. Mr. Muder said the first entrance into Sierra Pines was platted before Central and Woolford was developed. He said for Sierra Pines Units 7 to 10, the City exchanged the turn lane for a five-acre City park.

Mr. Muder asked about the potential for development of a subdivision south of the subject property and west of South Central. Mr. Hanlan said given the R1-15 zoning in this area, it would at most lead to 15 to 18 units.

Councilwoman Staffnik said when Central Avenue was extended, the City put in three culverts without the easement. Mr. Muder said the three culverts were in the 80-foot right-of-way but the scour pad was outside the right-of-way and into the private property.

Mayor Kelley thought the purpose was to prevent erosion of these pipes onto this property. He said the Council had the choice to go ahead and consider action or to consult with the City Attorney regarding legal advice and contract negotiations.

COUNCILMAN FERNAU MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY MAYOR KELLEY; MOTION PASSED UNANIMOUSLY.

The Show Low City Council recessed into Executive Session at 8:35 p.m.

(1) **EXECUTIVE SESSION.**

- (a) Discussion or consultation for legal advice with the attorney or attorneys of the public body. Pursuant to A.R.S. Section 38-431.03(A)(3).
- (b) Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. Pursuant to A.R.S. Section 38-431.03(A)(4).

(2) **POST EXECUTIVE SESSION.**

Consideration of any item on the Executive Session portion of this agenda, which the Council may wish to take action upon in Open Session.

The Show Low City Council reconvened into Open Session at 9:20 p.m.

MAYOR KELLEY MOVED TO INSTRUCT CITY STAFF AND CHURCH REPRESENTATIVES TO REACH AN AGREEMENT WITH THE FOLLOWING TERMS: (1) THE EASEMENT FOR THE SCOUR BASIN WOULD BE PURCHASED AT FAIR MARKET VALUE TO BE AGREED UPON BY BOTH PARTIES; (2) ESTABLISH THE COST OF SCRATCHING OUT A DRAINAGE DITCH BY A CONTRACTOR TO CREATE A FLOW WAY AND THE OWNER OF THE PROPERTY WOULD BE GIVEN THE CHOICE TO GRANT A PUBLIC EASEMENT OR MAINTAIN THE EASEMENT; (3) THE MONEY THAT WOULD CHANGE HANDS WOULD BE AT THE SOLE DISCRETION OF THE PROPERTY OWNER (THE CHURCH MAY USE IT TO SPEND ON A CONTRACTOR, HOLD IT FOR OTHER PURPOSES AND LET THE NATURAL CHANNEL DEVELOP, OR PUT THAT MONEY TOWARD NECESSARY ROADWAY IMPROVEMENTS IF DEEMED NECESSARY BY A TRAFFIC STUDY; AND THIS AGREEMENT WOULD BE CONSIDERED AT THE NEXT REGULAR MEETING ON MARCH 18, 2003; SECONDED BY COUNCILMAN FERNAU; PASSED UNANIMOUSLY.

8. **MINUTES:**

- A. Consideration of the Minutes of the Study Session of the Show Low City Council Held on February 18, 2003.
- B. Consideration of the Minutes of the Special Policy Meeting of the Show Low City Council Held on February 18, 2003.
- C. Consideration of the Minutes of the Regular Meeting of the Show Low City Council Held on February 18, 2003.

COUNCILMAN FERNAU MOVED TO APPROVE THE MINUTES AS PRESENTED; SECONDED BY VICE MAYOR DELZER; PASSED UNANIMOUSLY.

9. **CALL TO THE PUBLIC:**

Any citizen desiring to speak on a matter that **IS NOT** scheduled on this agenda may do so at this time. Comments may be limited to three minutes per person and shall be addressed to the City Council as a whole, and not to any individual member. Issues raised shall be limited to those within the jurisdiction of the City Council. At the conclusion of the call to the public, individual council members may (1) respond to criticism made by those who have spoken, (2) ask staff to review a matter, and (3) ask that a matter be put on a future agenda.

LeAnn Arganbright said she was the owner of the Pioneer newspaper out of Snowflake. She said because of the frustration of constant litigation and excessive lawsuits preventing work to be done on the forest, a number of people were banding together to protest the action of environmentalists at the Wesley Bolin Plaza on March 24, 2003, beginning at 9:00 a.m. She said they hoped to create an environmental group's nightmare media event, telling the nation what effect these lawsuits had on the forests and economics. She presented details about the planned event and encouraged citizens to participate in this action. She said approximately \$1 billion worth of wood could be harvested from the forests to keep them safe.

Diana Brewer, 661 North 9th Drive, said a month ago her husband came forward at Call to the Public and Mayor Kelley asked him to meet with him and the Interim City Managers. She said they met but he hadn't heard a word from the co-City Managers. She said he asked her to speak for him tonight. She said he made several references to middle management in the City. She said there was a meeting between the Council and the City's Employee Relations Committee. She said the Council felt conditions were going to improve but she came away with an entirely different perspective. She said retribution existed in this City but it was done by middle management, not the Council. She urged the Council

members to be aware of actions by supervisors and the Human Resources department. She talked about sexual harassment and wondered if the Council members knew about these allegations. She complained about the Human Resources department and the grievance process. She said two-thirds of a certain department's personnel were gone on the same day (February 21) and she questioned what department would allow two-thirds of its staff members to be gone on the same day at the same time. She admonished the Council for not taking action.

Brandy Hill, 1680 West McNeil, said her father was Kim Brewer and her husband was a Public Works employee. She said she also attended the February 4 meeting between the Council and the Employee Relations Committee. She criticized some comments made by several Council members. She said the Council members shouldn't ignore comments made by the public and they were public servants. She said the fear of retribution existed in all City departments. She complained about City supervisors and department heads and the plight of women employees and charges of sexual harassment. She asked the Council members to take action.

Hugh Williams, 390 East Savage, said he was considering writing a formal complaint about the practices of City staff. He said the Council members should look after the City's financial interests. He defended his First Amendment right to free speech. He complained about how employees were treated.

Councilman Fernau said it was obvious another meeting with the employees was warranted.

Councilwoman Evans said she had the employees' and citizens' interests at heart. She was aware of some things and in all rumors existed the thread of truth.

Vice Mayor Delzer said the local newspaper had taken his statement out of context when had the Council had a meeting with the employees.

Mayor Kelley said he met with Kim Brewer and staff soon after his comments at Call to the Public. He said they established a considerable list of items to look into. He said there was a miscommunication in the timeliness of the response. He thought Mr. Brewer was not pressed for speed as much as thoroughness. He said he met with staff this week and was hoping to meet with Mr. Brewer within a week to ten days. He asked him to accept his word that there was no stalling. He apologized if it was interpreted that way. He said another comment touched on the misappropriation of funds or embezzlement in the City today. He said it was his intention if theft of City property occurred he would do everything he could to handle it through a legal investigation and prosecution. He believed a majority of this Council would favor this type of action. He said if an employee

stole from the City, he (or she) would lose his job. He said they couldn't act on rumors or accusations without backing them up. He said the Council members didn't always vote 7 to 0; they had different ideas on how to handle things. He said they all cared very much about Show Low and what was best for the City and those who worked for the City.

Vice Mayor Delzer knew Kim Brewer and felt he got a raw deal on his retirement. He thought an employee with any grievance should be able to talk about it to the Council.

Councilwoman Staffnik said regarding her comment about jobs, if it were interpreted as "you're lucky to have a job," it was taken out of context. She said the reason she went in that direction was because of "counting paper clips." She thought being fiscally accountable would protect the employees' jobs. She said she would rather look at spending before telling an employee he or she had to be laid off.

10. **REPORT OF COMMISSIONS/COMMISSION MINUTES:**

- A. Minutes of the Study Session of the Show Low Planning and Zoning Commission Held on January 14, 2003.
- B. Minutes of the Regular Meeting of the Show Low Planning and Zoning Commission Held on January 14, 2003.

No discussion.

11. **REPORT OF OFFICERS:**

- A. Councilmen

Councilman Fernau said there were some extreme environmentalists planning a rally in Flagstaff to protest the healthy forest issue and logging. He said a Lakeside resident suggested supporting Congressman Rick Renzi on Friday, March 7, in Flagstaff.

Councilwoman Staffnik said the Council members received a request from Terrence Corrigan of the White Mountain Independent for e-mails received or sent by the Council. She said she received a communication from the City Clerk asking that they forward all e-mails to her. She said in response to that, she requested her e-mail address be removed from the Web site. She said the public wanted to inform her or the Council of issues but it left e-mail correspondence susceptible to review by the Independent staff's review and interpretation. She said many of the communications she received might be open to misinterpretation. She

said if anyone wanted to contact her, to call the City because her e-mail was no longer available.

Councilman Thomas said he attended the Show Low Fire District board meeting. He said comments had been made about seeing the fire trucks always driving around the City but they were testing every fire hydrant in the City. He said the firefighters were working very hard.

Councilwoman Evans announced that Congressman Rick Renzi would be at Show Low Primary School on Saturday, March 8, for a drug prescription forum. She said that she, too, would be disconnecting from the City's e-mail network because citizens wouldn't want to see their e-mails on the front page of the Independent. She said anyone could call City Hall for her number.

Vice Mayor Delzer said he attended a Red Cross disaster action meeting last night at Blue Ridge Junior High School. He said amateur radio personnel worked during the Rodeo-Chediski Fire.

B. Mayor

Mayor Kelley said regarding e-mail, anyone who thought e-mail communications were private were not private by law. He said they were subject to public scrutiny and the newspaper was requesting 100% of e-mail communications. He agreed that an e-mail often followed a face-to-face or telephone conversation and the contents could be misconstrued or misinterpreted.

He said he would be in Flagstaff on Friday at the Congressional field hearing on the crisis in the National Forest. He said he had been asked to testify. He thanked staff for helping him prepare for the hearing. He said there would be at least seven Congressman and Federal officials.

He asked that President Bush sign an Executive Order to release funds for the Forest Service to do forest thinning treatments.

He said on Monday, the Governor was holding conference on similar topics in Prescott. He said Tribal Chairman Dallas Massey was the keynote speaker. He said the White Mountain Apache Tribe had continued thinning along the Rim and it left the pocket south of Show Low as a wildfire threat.

He said the City was dealing with the bark beetle problem, especially in large tracts of land. He said it was the Council's intention to provide the

necessary money to treat City-owned property by this year's peak fire season.

C. City Manager

Mr. Muder said the Aquatic Center and Recreation departments were gearing up for summer programs. He said City 4 TV personnel were working on a special program for the 50th anniversary celebration. He said they were also doing outreach with Linden Elementary School students.

He said the Recreation department was preparing for the April 17 Arbor Day celebration for fourth graders. He said they were also preparing for an Easter craft class and looking for teachers for their summer programs.

He said the Arizona Airport Association conference in June would be hosted by the Show Low Airport and would be held at Hon-Dah, with 120 to 150 participants.

He said next Tuesday, March 11, ADOT's Aeronautics Division was holding a public meeting to update its Rural Air Service Study at 7:00 p.m. at the airport terminal.

He said staff continued to work on the City Facilities Master Plan. He said public meetings were set for March 20 and 21.

He said the Council and staff had two teams entered in the Bowl for Kid's Sake fundraiser on Saturday at 9:30 a.m. at Sho Lo Bowl.

He said the playground next to the Little League field was shut down due to construction.

D. City Attorney

Mr. Brown said he was working with a law firm in Oregon interested in forest products and they were considering assisting communities and counties with possible intervention in the salvage timber lawsuit. He said he would continue to work with the law firm and Arizona's Congressional representatives to see what could be done at the Federal level.

He knew the City of Show Low took any allegation of harassment very seriously, sexual or otherwise, and treated each allegation expeditiously and investigated it thoroughly. He said if there were situations out there with specific facts and complaints, not innuendo, he invited those with complaints to address them to him or the Interim City Manager. He

reiterated the City always dealt with allegations of harassment very seriously.

12. **SCHEDULING OF MEETINGS:**

Scheduling of meetings, which may be brought up at this time.

Mayor Kelley said a budget meeting was scheduled for March 18, 2003 with four organizations. Everyone decided to start at 5:00 p.m.

Councilman Fernau asked for another meeting with the Employee Relations Committee. Mr. Muder said the committee had wanted four or six weeks to pass before meeting again. Everyone agreed to meeting with the committee on Tuesday, March 18, at 3:00 p.m.

Councilman Thomas suggested having an all-day retreat. It was decided to hold it on Friday, April 18, from 1:00 to 5:00 p.m., then dinner with their spouses or significant others would follow.

**COUNCILMAN KING MOVED TO RECESS INTO EXECUTIVE SESSION;
SECONDED BY COUNCILMAN FERNAU; MOTION PASSED UNANIMOUSLY.**

The Show Low City Council recessed into Executive Session at 10:38 p.m.

13. **EXECUTIVE SESSION:**

A. Confidentiality Statement.

B. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law. Pursuant to A.R.S. Section 38-431.03(A)(2).

(1) Executive Session Minutes of February 18, 2003.

C. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. Pursuant to A.R.S. Section 38-431.03(A)(4).

(1) Contemplated Litigation.
(a) Wage Claim
(b) Penrod Road

- (c) Sales Tax Issue
- (2) Contract Negotiations.
 - (a) Possible Lease Agreement
- D. Discussions or consultations 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. Pursuant to A.R.S. Section 38-431.03(A)(7).
 - (1) Sale of Real Property.
- E. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body. Pursuant to A.R.S. Section 38-431.03(A)(1).
 - (1) Discussion and Consideration of City Manager Applicants.

14. **POST EXECUTIVE SESSION.**

Consideration of any item on the Executive Session portion of this agenda, which the Council may wish to take action upon in Open Session.

The Show Low City Council reconvened into Open Session at 12:32 a.m. on March 5, 2003.

VICE MAYOR DELZER MOVED TO INVITE HUNTER RIESEBERG, MICHAEL MAAG, CARLOS PALMA, ED MUDER, GEORGE EDES AND REBECCA EICKLEY TO BE INTERVIEWED FOR THE POSITION OF CITY MANAGER; SECONDED BY COUNCILMAN FERNAU; PASSED UNANIMOUSLY.

15. **ADJOURNMENT.**

There being no further business to be brought before the Council, **MAYOR KELLEY ADJOURNED THE REGULAR MEETING OF THE SHOW LOW CITY COUNCIL OF MARCH 4, 2003 AT 12:35 A.M. ON MARCH 5, 2003.**

ATTEST:

APPROVED:

Ann Kurasaki
City Clerk

Gene Kelley
Mayor

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the **REGULAR MEETING** of the City Council of Show Low held on March 4, 2003. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2003.

(SEAL)

Ann Kurasaki, City Clerk