

CONSENT AGENDA

Agenda Item IX-A

Date: 10/13/14

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
628 NORTH MAIN STREET
SEPTEMBER 22, 2014
6:00 P.M.**

Staff Present: Harvey Krauss-City Manager; Stephen R. Cooper-City Attorney; Mary Myers-City Clerk; Bill Pitman-Chief of Police; Paul Anchondo-Parks and Recreation Director; James Humble-Interim Public Works Director/City Engineer; Lance Dunagan-Public Works Superintendent; Zenia Cornejo-Management Assistant

I. CALL TO ORDER

Mayor Nagy called the meeting to order at approximately 6:00 p.m.

II. INVOCATION

Invocation was given by Mayor Nagy.

III. PLEDGE OF ALLEGIANCE

Mayor Nagy led the Council and the public in the Pledge of Allegiance.

IV. ROLL CALL

Council Members Present: Councilmember Augustine Saucedo; Councilmember Belinda Akes; Vice Mayor Joel Belloc; Mayor J.R. Nagy; Councilmember Etta Ruth Amerson; Councilmember Micah Powell; Councilmember J.W. Tidwell

Council Members Absent: None

V. COMMUNICATIONS

Mr. Krauss conveyed the annual Fiestas Patrias celebration was held September 12th and 13th and was very well attended. Mr. Krauss thanked the police, parks and recreation and public works departments for their assistance in making the event a success.

Councilmember Akes announced that the annual Pinal County Town Hall will be held October 2nd and 3rd at the Holiday Inn in Casa Grande. She said this years' discussion will revolve around health issues in Pinal County.

VI. APPEARANCES FROM THE FLOOR

Mr. Cesar Martinez, student at Santa Cruz Valley Union High School, asked Council to please consider the school's request which is on tonight's Consent Agenda to close Main Street and waive barricade fees for the school annual Homecoming Parade, October 10th.

VII. CONSENT AGENDA

<u>Agenda Item</u>	<u>Subject</u>
VIII-A.	Approval of Minutes: 9/8/14 (regular)
VIII-B.	Council authorize the Closure of Main Street from 3 rd Street to 10 th Street for the Santa Cruz Valley Union High School Homecoming Parade on October 10, 2014.
VIII-C.	Recommendation to approve the City of Eloy Annual Development Fee Report ending June 30, 2014.

Motion by Vice Mayor Belloc, seconded by Councilmember Powell, to approve Consent Agenda items as presented, passed unanimously by roll call vote.

VIII. BUSINESS

D. PRESENTATION BY RICK ENGINEERING ON DESIGN OPTIONS FOR SHEDD ROAD RECONSTRUCTION PROJECT FOR MAYOR AND CITY COUNCIL REVIEW AND INPUT.

Cover sheet discussion: *Mayor and City Council will receive a presentation by Rick Engineering Company on design options for the Shedd Road Reconstruction Project and provide staff with input on the final street design concept.*

On July 28, 2014, Council approved an agreement with Rick Engineering Company for the design of the Shedd Road reconstruction project. At that time, Council expressed the need to incorporate traffic calming measures in the street design in order to make Shedd Road more pedestrian friendly, and indicated a desire to review the street design before it is finalized. Dale Miller of Rick Engineering, Project Manager, will present design options for City Council review and input.

FISCAL IMPACT:

N/A

Mr. Dale Miller with Rick Engineering presented a PowerPoint presentation on several proposed design concepts for the reconstruction of Shedd Road. Mr. Miller recommended eliminating the two-lanes each way and reducing to a single travel lane in each direction with a marked 8 foot buffer zone and 10 foot bike/parking lane to the right in each direction. He stated doing this will tend to slow traffic down more than a four lane. Mr. Miller stated that if speed becomes a problem or if there is a concern with pedestrian/bicycle safety in the future, he said the city can retrofit the road with speed cushions at an additional cost of approximately \$70,000.

Vice Mayor Belloc wanted to know could the pavement thickness in the buffer and bike lanes be less than the travel lanes.

Mr. Miller conveyed that from a structural standpoint yes; but would not recommend it because the city may want to use the outside lane sometime in the future. He also pointed out that cars will be parking in the bike lane area.

Vice Mayor Belloc said he would like feedback from the residents who live along Shedd Road and in the neighborhood about the proposed street design.

Councilmember Saucedo said he does not want to see the thickness of the road reduced. There a number of school buses that use Shedd Road as well as the fire department who constant drive down the road. He agreed with Mr. Miller's recommendation of one lane with the buffer zone.

Councilmember Tidwell was concerned about reducing Shedd Road down to one lane because people have become accustomed to it being two lanes. He said if someone is in a hurry, the driver would probably use the buffer/bike zone to get around a vehicle traveling 25 mph, possibly hitting someone who may be walking or riding their bike in the bike lane. He didn't see the need for a 10 foot bike and parking lane on Shedd Road when a 6 foot bike lane with a 4 foot buffer zone would do just fine. Councilmember Tidwell said unless the city plans to install enough lighting along Shedd Road so drivers can see those white lines at night, he recommends keeping Shedd Road two lanes, both directions.

Councilmember Saucedo said reflective paint can be applied for night driving or reflectors nailed in the street. And as far as someone getting hit by a vehicle, he said he is surprised no one's been hit yet with the street having two lanes now. If the lanes are reduced to one lane each way, he believes the city is reducing the risk of someone getting hit.

Councilmember Akes pointed out that by going with a single lane, the medians will help slow drivers down because travel will be more restrictive.

Mr. Miller said this is correct; this is referred to as "side friction." There is side friction on the median by virtue of the curb, trees and rocks. The other side will have the wide buffered reflective paint which will stand out and create a warning to drivers to slow down.

Councilmember Powell conveyed that the design should be pedestrian/residential friendly and not so much vehicle friendly. He agreed that the road should be reduced to one lane each way.

Councilmember Saucedo recommended the city hold a community meeting to gather public input before Council takes final action.

It was the consensus of the Council to direct staff to schedule a community meeting with the residents in Toltec to obtain feedback on the city's proposal to reduce the travel lanes from two lanes each way to one lane each way.

Mr. Miller suggested having the meeting within a week to 10 days due to the final plans due dated of about three to four weeks.

E. PRESENTATION ON THE PROPOSED LAYOUT OF THE CITY'S NEW WEBSITE DESIGN FOR COUNCIL REVIEW AND INPUT.

Cover sheet discussion: *Mayor and Council will receive a presentation from staff on the proposed layout of the City's new website design for review and input.*

The Website Steering Committee has been meeting with CivicPlus over the past several weeks and has been diligent at providing CivicPlus with all requested documentation. This collaboration has lead to a proposed layout for the new website.

The purpose of this presentation is to introduce the Mayor and Council to the proposed website and solicit Mayor and Council feedback. Any suggestions will be incorporated into the next phase of the website development. CivicPlus will be providing the draft website to staff on October 14, 2014 for review and comment. Proposed changes will need to be made by October 30, 2014 in order to meet a projected completion date on November 20, 2014.

FISCAL IMPACT:

The initial cost of the redesign and update of the City's website is \$24,344.00. Thereafter, there will be an annual service fee for maintenance, support and website hosting of \$4,988.00. The annual service fee of \$4,988.00 is subject to an annual 5% increase after the third (3rd) year of the agreement.

At this time, Ms. Cornejo gave a PowerPoint presentation on the city's proposed new website. Ms. Cornejo said it's anticipated the website will go live November 20th.

Several members of the Council expressed concern about the pictures presented tonight showing only one part of Eloy (Robson Ranch). The Council conveyed to staff that they wanted pictures on the website that are representative of the community such as city hall, parks, schools, sports, agriculture, truckstops and historical Eloy.

Ms. Cornejo showed Council approximately 25 pictures the website committee took of the community which she said could be incorporated into the homepage. She pointed out that pictures of Robson Ranch and Skydive Arizona were taken by a professional photographer. She said once the website is operational, staff will have the capability to remove and upload photos and information.

IX. EXECUTIVE SESSION (7:07 pm-7:31pm)

A motion was made by Vice Mayor Belloc and seconded by Councilmember Powell to go into Executive Session at approximately 7:02pm for approximately 45 minutes with the City Manager, City Attorney and City Clerk (transcribing) for:

- A. Consultation with City Attorney and City Staff regarding legal advice, negotiations, Council's position and to instruct City Staff on Annexations/General Plans and possible or potential litigation involving Annexation/General Plan issues initiated by the City or initiated by other municipalities affecting the City of Eloy pursuant to A.R.S. §38-431.03 (A) (3) and (4).
- B. Discussion/consultation for legal advice with the City Attorney and/or City Staff concerning contracts, possible acquisition of real estate, lease of real estate pursuant to A.R.S. §38-431.03 (A) (3), (4) and (7).
- C. Consultation for legal advice with the City Attorney and City Staff concerning agenda item VIII-F, pursuant to A.R.S. §38-431.03 (A) (3), (4) and (7).

Motion passed unanimously by roll call vote.

Note: Executive Session items IX-A and B were not discussed at this time due to expiration of allotted time.

Mayor Nagy reconvened the public meeting at approximately 7:34 p.m.

VIII. BUSINESS

- F. ADOPTION OF RESOLUTION NO. 14-1330 APPROVING A ONE-TIME SUSPENSION TO THE ALTERNATIVE EXPENDITURE LIMITATION**

UNTIL JUNE 30, 2015, AND DECLARING AN EMERGENCY; AND AUTHORIZE THE MAYOR TO EXECUTE ALL DOCUMENTS WITH CORRECTIONS CORPORATION OF AMERICA (CCA) AND IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE).

Cover sheet discussion: *Council adopt Resolution No. 14-1330 approving a one-time suspension to the Alternative Expenditure Limitation until June 30, 2015, and declaring an emergency; and authorize the Mayor to execute the amendment to the existing contract with Immigration and Customs Enforcement, subject to City Attorney review.*

Council adopted the annual budget for FY2014-2015 in June 2014 with a maximum expenditure limit of \$78,020,175. Of this total expenditure amount, \$40 million dollars was included as pass-through funds from the U.S. Immigration and Customs Enforcement (ICE) to Corrections Corporation of America (CCA) for their management of the Eloy Detention facility. Since adoption of the FY2014-2015 budget, CCA has entered into a new contract with ICE to manage and operate a facility in Dilley, Texas which will temporarily house approximately 2,400 immigrant children who came to the United States with their mothers, mostly from Central America.

This is a substantial contract with ICE which will require extensive resources by CCA to care for all of the various needs of these immigrant children. Monies from ICE must be administered through a public entity to CCA. Since the City of Eloy has a long-standing relationship with CCA and they represent a major corporate citizen in Eloy, the City wishes to assist CCA with this new opportunity by serving as fiscal agent for this contract amendment with ICE. The contract has a one year term, with the option of three (3) additional one year renewals. The contract would be effective within 30 days after execution by ICE.

The City would financially benefit from this ICE contract by receiving .25 cents per day per bed (\$600 per day) by serving as fiscal agent for these additional pass-through funds. The total fiscal impact of this amendment to the existing ICE contract is approximately \$290 million per year. Even though the \$290 million represent pass-through funds, the City's current expenditure limit would need to be increased from approximately \$78 million to \$368 million in order to comply with the Alternative Expenditure Limitation requirements. The City is allowed a one-time suspension of the Alternative Expenditure Limitation during FY2014-15, and this suspension requires emergency adoption by Council. A three-fourths (3/4th) majority of the Council must vote in the affirmative for this one-time suspension.

FISCAL IMPACT:

The City would receive approximately \$216,000 per year in additional revenue with this amendment to the existing ICE contract.

Motion by Councilmember Powell, seconded by Councilmember Tidwell to read Resolution No. 14-1330 by title only passed unanimously by roll call vote.

Mr. Krauss conveyed that the resolution will be for a one time suspension of the city's alternative expenditure limitation. The reason for this is because CCA has an opportunity to operate and manage a 2400 bed facility in Dilley, Texas which will house immigrant children primarily from Central America. He said CCA is requesting the city to serve as fiscal agent for pass-through of funds for this facility. Mr. Krauss pointed out that CCA has a long standing relationship with the city as well as an existing contract. The First Amended to the Agreement with CCA would be an amendment to the existing contract. There is also an amendment to the city's existing contract with ICE to serve as fiscal agent for the Texas facility. Mr. Krauss said this would increase the city's annual expenditure approximately \$368,000,000. He said the contract between CCA and ICE is for one year with the option to renew for three additional years. As fiscal agent, Mr. Krauss said the city would receive \$0.25 per bed per day whether the beds are occupied or not (\$216,000 per year).

A motion was made by Councilmember Akes to approve adoption of Resolution No. 14-1330 as written, **failed** due to no second.

Mayor Nagy conveyed to CCA representatives who were in attendance that the amount of \$0.25 per bed per day for the city to serve as fiscal agent is rather low due extra obligations and risks the city may be undertaking. He said he would like to see the amount increased to \$1.00.

Mr. John Gluch from CCA introduced Mr. Ken Porter, CCA Senior Director from Nashville, Tennessee. Mr. Gluch stated that Mr. Porter handles partnership relations and handles the organization's contract with ICE.

Mr. Porter conveyed that CCA has been in negotiations with ICE on this project for a couple of months of which time is of the essence. He explained that the government's fiscal year ends September 30th and the issue is getting money committed to this project before that fiscal year ends. Mr. Porter asserted that there are representatives from ICE in Washington right now waiting for approval of this contract so money can be committed to the project.

Mr. Porter wanted to clarify that the \$0.25 per day, per detainee that the city is currently receiving for the Eloy Detention Center will continue; the \$0.25 per day that is being discussed tonight for the facility in Texas would be in addition to what the city is receiving now. If the city is requesting more money on the agreement between the city and CCA that is an issue CCA can address at Council's pleasure, but he hopes Council will approve the modification to the existing agreement with ICE tonight so the money can be committed to the project and CCA can break ground to make this happen.

Mr. Porter explained that when CCA quoted a price for the project to the government, it included the \$0.25 per day for the city; CCA cannot renegotiate the agreement for three years. He said if the city is asking for more money it will come out of CCA's coffers.

Councilmember Powell told Mr. Porter that he appreciates him understanding both sides of the issue and believes this is something the Council needs to act quickly on. If CCA is willing to come back to the table to negotiate a new rate, Councilmember Powell said he believes Council can work with CCA on this. He pointed out that CCA has been a great employer for the city and sees no problem with getting this agreement started and moving forward with it.

Councilmember Akes wanted to know what would happen with the agreement if the city and CCA cannot come to an agreement on the price.

Mr. Porter said he is sure CCA and the city can come to some agreement on the price. He reiterated that if there is an increase, it will come directly out of CCA's profits because they cannot go back to the government like they normally do with an agreement and recoup the money. Mr. Porter said CCA has agreements in other states similar to the one before Council tonight.

Councilmember Saucedo wanted to know what other communities are receiving from CCA for taking on projects such as this.

Mr. Porter said it depends on the community; they have city and county agreements which varies.

Vice Mayor Belloc wanted to know the price range CCA has agreed to pay to other cities.

Mr. Porter said the price range from \$0.25 up to \$1.00; but normally in larger facilities the agreement is lower because more money is involved. He said the facility in Texas will be the largest ICE facility in the country.

Mr. Gluch conveyed that CCA has been in the community a long time; they are good corporate citizens and has never asked the city for a development agreement when they did the expansions; no relief on the construction sales tax. When CCA had its last modification to the Red Rock facility they gave the city \$464,000 in construction sales tax and almost \$8,000 in impact fees. Mr. Gluch said CCA is looking at possibly adding 744 beds in the near future which will cost approximately \$30,000,000 to \$50,000,000 to construct with the city receiving construction sales tax at 4.5%. He asked Council to please consider this.

Mayor Nagy pointed out to Mr. Gluch that the city has never gone back to CCA to renegotiate a new rate since CCA came to Eloy.

Mr. Porter told Mayor Nagy that CCA would be glad to sit down with Council and/or staff to negotiate a price whenever Council wants. He asserted that it's critical for Council to approve the existing modification; sign it and get it over to ICE. As far as the agreement with CCA, Council is requesting a \$1.00 per bed which he cannot agree to at this time because he does not have the authority. He said the board of directors would have to authorize the new rate. Mr. Porter said what he can commit to tonight is to come back at the city's convenience to negotiate a new rate.

Mr. Cooper conveyed that CCA would like Council to pass the resolution tonight and is willing to discuss the other issues. He said it's critical that some action is taken by Council tonight, otherwise the money may not get appropriated next fiscal year.

Mr. Krauss explained that what CCA is asking for tonight is approval of the resolution and approval of the contract amendment with ICE. He said CCA will come back and negotiate the First Amendment to the Agreement with CCA. Mr. Krauss suggested this be done within 30 days.

Mr. Cooper explained that there are two motions Council can make tonight; the first would be to approve the resolution with an emergency clause which requires six affirmative votes. If the resolution passes, the next motion would be to authorize the mayor to execute the contract modification agreement with ICE.

Motion by Vice Mayor Belloc, seconded by Councilmember Powell to adopt Resolution No. 14-1330 with the emergency clause, passed by the following roll call votes:

Yea: Councilmember Saucedo, Councilmember Akes, Vice Mayor Belloc, Councilmember Amerson, Councilmember Powell, Councilmember Tidwell

Nay: Mayor Nagy

A motion was made by Vice Mayor Belloc to approve the Amendment of Solicitation/Modification of Contract, amending the city's existing agreement with Immigration and Customs Enforcement (ICE).

Councilmember Tidwell asked if there is an exit clause in the original contract with CCA that CCA is asking Council to amend, and if so, what is it.

Mr. Cooper said he does not have the agreement with him because it is rather large, but believes the agreement has a 90 day termination clause.

It was at this time that Councilmember Saucedo seconded Vice Mayor Belloc's motion.

Councilmember Akes wanted to know if the city and CCA cannot come to an agreement on the price, will the first amendment to the agreement with CCA still be in place at \$0.25 whether Council agree or not.

Mr. Porter said he has full confidence that the city and CCA can come to an agreement.

For clarification purposes, Mr. Krauss told Council that they would not be taking any action on the First Amendment to the Agreement with CCA until a price is negotiated. There is a motion and a second on the floor to approve the contract modification with ICE that will incorporate the Dilley, Texas facility into the existing ICE contract.

At this time, Mayor Nagy asked for a roll call.

The motion made by Vice Mayor Belloc and seconded by Councilmember Saucedo to approve the Amendment of Solicitation/Modification of Contract, amending the city's existing agreement with Immigration and Customs Enforcement (ICE) passed unanimously by roll call vote.

IX. EXECUTIVE SESSION (8:26pm – 7:31pm)

Motion by Vice Mayor Belloc, seconded by Councilmember Powell to hold an Executive Session at approximately 8:19pm for approximately 20 minutes with the City Manager, City Attorney and City Clerk (transcribing) for:

- A. Consultation with City Attorney and City Staff regarding legal advice, negotiations, Council's position and to instruct City Staff on Annexations/General Plans and possible or potential litigation involving Annexation/General Plan issues initiated by the City or initiated by other municipalities affecting the City of Eloy pursuant to A.R.S. §38-431.03 (A) (3) and (4).
- B. Discussion/consultation for legal advice with the City Attorney and/or City Staff concerning contracts, possible acquisition of real estate, lease of real estate pursuant to A.R.S. §38-431.03 (A) (3), (4) and (7).

Motion passed unanimously.

Mayor Nagy reconvened the public meeting at approximately 8:55 p.m.

Motion by Vice Mayor Belloc, seconded by Councilmember Powell to return to agenda item VIII-F, passed unanimously by roll call vote.

F. ADOPTION OF RESOLUTION NO. 14-1330 APPROVING A ONE-TIME SUSPENSION TO THE ALTERNATIVE EXPENDITURE LIMITATION UNTIL JUNE 30, 2015, AND DECLARING AN EMERGENCY; AND AUTHORIZE THE MAYOR TO EXECUTE ALL DOCUMENTS WITH CORRECTIONS CORPORATION OF AMERICA (CCA) AND IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE).

Mr. Porter conveyed that he and Mr. Gluch spoke to corporate office while Council was in Executive Session and they are anxious to finalize the entire deal tonight. Therefore, he was given authority to offer the city a twenty-five percent (25%) increase; from \$0.25 per day, per bed to \$0.50 per day, per bed.

For clarification purposes, Mr. Cooper explained that this offer would apply to the First Amendment to the Agreement between Eloy, Arizona and Corrections Corporation of America. The revised amount would apply in Section 6 of the amended agreement (\$0.25 \$0.50 x 2400 x # day in the month).

Motion by Councilmember Akes, seconded by Councilmember Powell to approve the First Amendment to the Agreement between Eloy, Arizona and Corrections Corporation of America with the modification from \$0.25 per bed, per day to \$0.50 per bed, per day, passed unanimously by roll call vote.

X. DIRECTION BY MAYOR AND CITY COUNCIL DIRECTING CITY MANAGER, CITY ATTORNEY AND CITY STAFF TO ACT AS DIRECTED IN EXECUTIVE SESSION.

Motion by Councilmember Powell, seconded by Vice Mayor Belloc to direct the City Manager and city staff to proceed as directed in Executive Session, passed unanimously by roll call vote.

XI. COMMITTEE REPORTS

No Committee Reports submitted.

XII. INFORMATIONAL ITEMS

No Informational Items submitted.

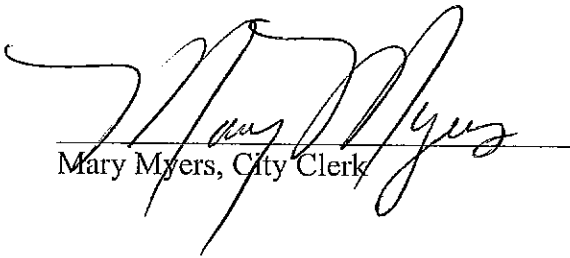
XIII. ADJOURNMENT

There being no further business, Mayor Nagy adjourned the meeting at approximately 9:01 p.m.



Joel G. Belloc, Vice Mayor

ATTEST:


Mary Myers, City Clerk