

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
AUGUST 23, 2021
6:00 P.M.**

Staff Present: Harvey Krauss-City Manager; Stephen R. Cooper-City Attorney; Mary Myers-City Clerk; Brian Wright-Finance Director; Paul Anchondo-Community Services Director; Sylvia Payne-HR Director; Christopher Vasquez-Police Chief; David Malewitz-Assistant to the City Manager

I. CALL TO ORDER

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

II. ROLL CALL

Council Members Present: Councilmember Sara Curtis; Vice Mayor Andrew Rodriguez; Mayor Micah Powell; Councilmember Dan Snyder; Councilmember Jose Garcia; Councilmember Sylvia Guanajuato Rodriguez

Council Members Absent: Councilmember George Reuter

III. INVOCATION

Mary Beth Fisher gave tonight's invocation.

IV. PLEDGE OF ALLEGIANCE

Councilmember Snyder led the Council and the public in the Pledge of Allegiance.

V. PUBLIC APPEARANCES

A. Scheduled

B. Unscheduled

VI. REPORTS AND ANNOUNCEMENTS

A. Council Members' Announcements

1. Vice Mayor Rodriguez announced that a "March on for Voting Rights" event will be held at city hall on August 28th. The nationwide event is sponsored by the MLK Foundation and the Cesar Chavez Foundation and will be streamed live from various states. Vice Mayor Rodriguez said there would be no marching at the event; however, they will be serving free breakfasts and lunches. The event will also have local speakers and entertainment. Vice Mayor Rodriguez said social distancing and masks will be required to be worn inside city hall.

Councilmember Garcia who is also part of the event, conveyed that Martin Luther King, Jr. III, started the event in celebration of the 58th anniversary of "I Have A Dream" speech which will be August 28th.

2. Councilmember Guanajuato Rodriguez announced that a Pinal County Sexual and Domestic conference is scheduled September 30th from 8:00 a.m. to 4:30 p.m. The conference is sponsored by the Pinal County Sexual and Domestic Violence Coalition. Councilmember Guanajuato Rodriguez said tickets are \$75 and can be purchased on the Eventbrite website. Participants will have the option to attend the conference virtually.
3. Councilmember Curtis made the following announcements:
 - The skydiving world championship was recently held in Siberia, Russia. Several U.S. competitors who trained in Eloy medaled at the event.
 - A downtown visioning community meeting was held last week at city hall. The purpose of the meeting was to gather ideas from residents on the future development of downtown. Councilmember Curtis told the public that ideas are always welcomed and to please email the Council with their ideas.
 - A community meeting was held last week in Toltec about the median landscaping on Shedd Road. She said the staff received some good ideas for beautifying the median. Councilmember Curtis again, encouraged the public to please contact the Council or city staff to give their ideas on the project.

B. Mayor's Announcements

Mayor Powell had no announcements.

C. City Manager's Announcements

1. Mr. Krauss announced that a COVID and flu shot clinic would be held at city hall on Thursday, September 16th, from 8:00 a.m. to 10:30 a.m. The clinic is sponsored by Albertsons/Safeway who will be administering the vaccines.

VII. CONSENT AGENDA

- A. Approval of Minutes: 8/9/2021 (regular) & 8/16/2021 (special)
- B. Authorization to purchase a Hoffman Alignment Machine with a Lift Combo from Genuine Parts Company for the Public Works Shop for an amount not exceeding \$50,000.00.
- C. Authorization for the Eloy Police Department to Renew the Federal Equitable Sharing Agreement and Annual Certification Report for Fiscal Year 2020-2021
- D. Adoption of Resolution No. 21-1508 approving the Sunland Visitor Center as the Destination Marketing Organization (DMO) for the City of Eloy, and designating Cynthia Yates, Director of the Sunland Visitor Center, as the signatory authority to access and expend any funds provided by the Arizona Office of Tourism for promoting and marketing tourism for the City of Eloy during July 2021 through June 2022.
- E. Adoption of Ordinance No. 21-913, approving a rezoning application (Case No.: RZ2021-022) submitted by Narda E. and Bob Jay Ferguson to rezone two (2) parcels totaling approximately 20.00 acres of land from RR-20 (Rural Residential, 20 acres per dwelling unit) to RR-5 (Rural Residential, 5 acres per dwelling unit), located at 4751 W. Hotts Road, Eloy, Arizona, Pinal County Assessor's Parcel Numbers: 408-25-19B and 408-25-019C in a portion of Section 9, Township 9 South, Range 7 East of the Gila & Salt River Base & Meridian, Pinal County, Arizona (Project Name: Ferguson Rezoning 40825019B/19C).

There being no requests to remove any item from the Consent Agenda, Mayor Powell called for a motion.

Motion by Councilmember Garcia, seconded by Councilmember Guanajuato Rodriguez, to approve the Consent Agenda items as presented, passed unanimously by roll call vote (6-0).

VIII. BUSINESS

- A. ADOPTION OF RESOLUTION NO. 21-1507 AUTHORIZING THE CITY TO ENTER INTO A CENTRAL ARIZONA GROUNDWATER REPLENISHMENT DISTRICT (CAGRD) COST SHARING AND WATER ALLOCATION AGREEMENT WITH LINMARK, LLC AND MUSULIN IRREVOCABLE EDUCATIONAL TRUST TO PAY THEIR PROPORTIONATE SHARE OF THE ANNUAL CAGRD DUES TO MEET**

THE PROJECTED WATER DEMANDS TO DEVELOP APPROXIMATELY 2,200 ACRES OF LAND WITHIN THE CITY.

Staff Cover Sheet Report: *Council adopt Resolution No. 1507 authorizing the City of Eloy to enter into a Central Arizona Groundwater Replenishment District (CAGRD) Cost Sharing and Water Allocation Agreement with Linmark, LLC and Musulin Irrevocable Educational Trust to pay their proportionate share of the annual CAGRD dues to meet the projected water demands to develop approximately 2,200 acres of land within the City.*

On June 28, 2021, the City entered into a Memorandum of Understanding (MOU) with Linmark, LLC and Muslin Irrevocable Educational Trust (aka Landowner) on a cost sharing and water allocation agreement. The purpose of the MOU was to have the landowners pay their proportionate share of the membership dues required by the Central Arizona Groundwater Replenishment District (CAGRD) in order to commit water rights needed to maintain the development potential of approximately 2,200 acres of land within the City of Eloy.

The provisions of the MOU have now been incorporated into a formal agreement with a few minor changes. In lieu of using an escrow account for funds collected from the landowners, the Finance Department will set up a separate account to keep track of credits and debits. In addition, the City anticipates entering into similar agreements with other landowners within the City in the near future, and the agreement provides Linmark with priority rights on the reservation of water rights.

The City of Eloy maintains a designation of assured water supply (DAWS) for the City's municipal water service and planning area. The City is required to pay annual membership dues to the Central Arizona Groundwater Replenishment District (CAGRD) for the amount of assured water supply designated for Eloy, which is currently 48,545 acre feet of water. This represents the volume of groundwater replenishment to support the City's assured water supply required for future development, as projected approximately 15 years ago. The development scenario envisioned in the mid-2000s has not materialized, but the City has been paying CAGRD dues based upon this growth, which has become financially burdensome in recent years.

Approximately five years ago, the City submitted an application to the Arizona Department of Water Resources (ADWR) to significantly reduce its assured water supply designation. This application is still pending with ADWR, but it appears that they will be taking action on the DAWS application for Eloy in September 2021.

To preserve water for future development and reduce the City's financial burden with CAGRD, staff has been in discussions with landowners regarding cost sharing agreements to fund their proportionate share of CAGRD annual dues. Linmark, LLC and Musulin Irrevocable Education Trust own approximately 2200 acres of land

within the City, and wish to retain and preserve 4,100 acre feet of groundwater replenishment service under the City's existing Member Service Area Agreement. If the landowner does not need all of the reserved water, or is unable to use the water, the landowner may assign the water to other properties within the City for future development, with the consent of the City.

The Agreement provides that the water rights will be reserved for 10 years or until they are put to beneficial use, whichever occurs first. There is also a provision for two 5-year term extensions, and the landowner would pay a surcharge of 10% of their share of the CAGR Dues for each calendar year beyond the initial 10-year term. If the landowner defaults on the payment of any required CAGR Dues, the City may elect to cancel the reservation of projected water and assume control of the reserved water.

FISCAL IMPACT: *Based upon the City's current AWS of 48,545 acre feet and Groundwater Replenishment District dues of \$221,168.20, the 4,100 acre feet of water for Linmark's landholdings would amount to \$18,666.60 in 2021. The dues are subject to increases over the years.*

Mr. Krauss reviewed the proposed resolution approving Linmark, LLC and Musulin Irrevocable Educational Trust to pay a proportionate share of the city's water allocation with CAGR Dues for development of approximately 2,200 acres of land within the city.

Mr. Krauss conveyed that Mr. Michael Pearce, attorney for the landowners is present to answer questions from the Council about the proposed agreement.

Mr. Pearce conveyed that Mr. Krauss and Mr. Cooper have both reviewed the draft agreement that is before the Council tonight. He said the agreement is rather detailed, is consistent with what has been discussed. Mr. Pearce said his clients are excited for the opportunity to preserve this portion of water for their land development and to set a precedence to preserve even more water.

Councilmember Snyder wanted to know is this type of agreement unique to Arizona, or is this common with municipalities.

Mr. Pearce said he does not know of anyone doing cost sharing on CAGR Dues.

Mayor Powell asked about future development.

Mr. Pearce conveyed that his clients would like to see development. They are spending money on infrastructure planning with Westland Resources. He said it is their goal to get the property ready to be developed. Mr. Pearce stated that he would like to have support with sewer infrastructure from other landowners.

There being no further questions, Mayor Powell called for a motion to read the resolution by title only.

Motion by Councilmember Snyder, seconded by Councilmember Garcia to read Resolution No. 21-1507 by title only, passed unanimously (6-0).

The city clerk read the resolution title into the record.

Mayor Powell called for a motion.

Motion by Councilmember Garcia, seconded by Councilmember Curtis to adopt Resolution No. 21-1507, passed unanimously by roll call vote. (6-0).

B. AUTHORIZE STAFF TO DEVELOP AND IMPLEMENT A FINANCIAL INCENTIVE PROGRAM TO ENCOURAGE CITY EMPLOYEES TO RECEIVE COVID-19 VACCINATIONS BY OCTOBER 1, 2021, AND APPROPRIATE UP TO \$65,000 FROM THE AMERICAN RESCUE PLAN ACT FUNDING IN THE FY2021-2022 BUDGET FOR THIS PROGRAM.

Staff Cover Sheet Report: *Council authorize staff to develop and implement a financial incentive program to encourage City employees to receive COVID-19 vaccinations by October 1, 2021, and appropriate up to \$65,000 from the American Rescue Plan Act funding in the FY2021-2022 budget for this program.*

There has been a recent surge in the number of positive COVID-19 cases within Pinal County. Within the past seven days, the average number of positive cases within the Council has reached 248. As of August 17, 2021, only 39.6% of the County population has been fully vaccinated. COVID-19 vaccinations, along with wearing face coverings, appear to be the only proven means to reduce the spread of the virus and/or mitigate the severity of the symptoms of COVID-19.

In an effort to reduce the spread of COVID-19 within the workplace, staff is proposing a one-time \$500 cash incentive, funded by the American Rescue Plan Act, to all full-time and part-time employees, as well as to those individuals who work for the City and the City contributes to ASRS on their behalf. To be eligible, an employee must have received a COVID-19 vaccine, or will receive at least one dose of an FDA-authorized COVID-19 vaccine by October 1, 2021.

To receive the incentive compensation, employees must provide Human Resources with proof of vaccination, for at least one vaccination dose that was/is received anytime between January 1, 2020 and October 1, 2021. All medical information will be kept confidential. The employee's CDC COVID-19 Vaccination Record Card must be submitted to the Human Resources Department no later than 5:00 p.m. on Friday, December 10, 2021, in order to qualify for payment.

FISCAL IMPACT: *The current number of full-time and part-time employees is 123. Based upon this employee count, the total fiscal impact would be \$61,500. The American Rescue Plan Act allows funding for an incentive vaccination program.*

Mr. Krauss gave an overview of staff's request for Council approval of a COVID-19 vaccination financial incentive program for city employees.

Mr. Krauss conveyed that he received some feedback from the Council recommending some minor changes to the proposed program.

- Employees must be fully vaccinated to receive \$500
- Implement the program as soon as possible and extend deadline for employees to be fully vaccinated to December 1, 2021.

Mr. Krauss said the incentive program would be funded through the American Rescue Plan Act at a cost of approximately \$60,000. He pointed out that other cities and counties are implementing similar incentive programs to encourage employees to get vaccinated.

Mr. Krauss fielded questions from the Council about the proposed program

Councilmember Snyder asked Mr. Cooper for his legal opinion regarding two councilmembers who have spouses working for the city. He wanted to know would this be a conflict of interest if the two members voted on this item.

Mr. Cooper gave a detailed legal opinion to the Council on possible conflict of interest pursuant to Arizona Revised Statute 38-503, defining relatives.

Mayor Powell conveyed there are three councilmembers who have family members working for the city (Councilmember Guanajuato Rodriguez, Mayor Powell, Vice Mayor Rodriguez). Mayor Powell noted for the record that his wife works for the city.

Vice Mayor Rodriguez suggested tabling the item to the next meeting when Councilmember Reuter is present. He pointed out that there are six councilmembers here tonight, of which three have family members who work for the city. He said tabling this until Councilmember Reuter's return will assure Council that they are not violating any laws.

At this time, Mayor Powell called for a motion to table.

Motion by Vice Mayor Rodriguez, seconded by Councilmember Garcia to table the item to the September 13, 2021 regular city council meeting, passed unanimously by roll call vote (6-0).

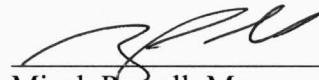
Mr. Cooper advised the three members of the Council who have a conflict of interest to disclose their conflict and submit it in writing to the city clerk for the record. He said there is no need to disclosed the employee's name. Mr. Cooper conveyed that he would provide a written opinion on the issue to Council.

IX. EXECUTIVE SESSION

No executive session requested by the Council or staff.

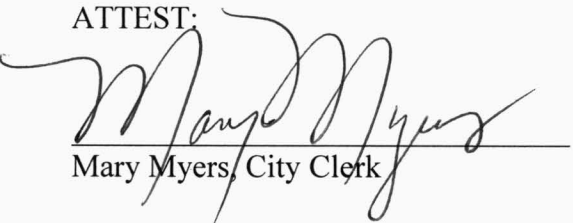
X. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 6:42 p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk