

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
SEPTEMBER 13, 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; Brian Jerome-Police Lieutenant; David Malewitz-Assistant to the City Manager; Roger Valdez-City Magistrate; Jon Vlaming-Community Development Director; Keith Brown-Public Works Director/City Engineer; Jeff Fairman-Economic Development Specialist

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 George Reuter; Councilmember Sara Curtis; Vice Mayor Andrew Rodriguez; Mayor Micah Powell; Councilmember Dan Snyder; Councilmember Jose Garcia; Councilmember Sylvia Guanajuato Rodriguez

Council Members Absent: None

III. INVOCATION

Pastor Debbie Miller gave tonight's invocation.

IV. PLEDGE OF ALLEGIANCE

Councilmember Garcia 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. Councilmember Snyder commended the Community Services department on the "Band in the Park" event he attended last Friday night. He said it was a nice evening to listen to a good band that played a variety of music. Councilmember Snyder said having events such as this is a good way to get people out and socializing again.
2. Councilmember Reuter announced the following communications:
 - He asked Mr. Krauss and Mr. Cooper to find out who paid for the flyers that were mailed to residents about the landfill a few weeks ago. He said the misinformation in the flyers created a lot of stress in the city and residents were unhappy. Councilmember Reuter said he wants to know who did it so he can ask why. Was it for financial reasons or was it just to create discord in the community?
 - Once again, he came upon people illegally dumping over the weekend. He talked to the violators who came up with a few points. He asked Mayor Powell to talk to Mr. Krauss about making the hours for dumping at the landfill for residents a little more flexible, or find a solution to reducing illegal dumping.
3. Councilmember Curtis conveyed that she wanted to say good bye to a dear friend of hers that recently passed away. The young man named GT, was 33 years old and worked at the wind tunnel. She said he contracted COVID very quickly and died within a short period of time. Councilmember Curtis said GT would want to send a message to people to please get vaccinated. She said the statistics supports that it is much safer to get vaccinated than it is to remain unvaccinated.
4. Vice Mayor Rodriguez reminded the Council and public of the fiestas this weekend. The event will run from 12:00 p.m. to 10:00 p.m. on Friday and starts at 9:00 a.m. on Saturday. Vice Mayor Rodriguez said there will be a parade, car shows, dancers and entertainment. He anticipates approximately 3,000 to 4,000 people will be in the park on Saturday to hear a well-known band. Vice Mayor Rodriguez thanked the city and council for its contribution.

B. Mayor's Announcements

Mayor Powell announced the following communications:

- Owens Corning would be reopening its facility in the city sometime in March 2022. He said the company will have approximately 50 positions available in the beginning. Mayor Powell said this company along with Vex (marijuana

cultivation business) coming into Eloy, will bring approximately 100 new jobs to the community.

- The city is experiencing an increase in housing permits. Lots are being improved and foundations poured on some lots.
- Conveyed birthday wishes to Vice Mayor Rodriguez
- Conveyed condolences to Mrs. Myers on the recent passing of her mother
- Showed a marketing video sponsored by APS to the public showcasing the city. Mayor Powell said the video show on all city social media sources.

C. City Manager's Announcements

Mr. Krauss announced the following communications:

- A Council work session is scheduled for Monday, September 20th at 6:00 p.m. Willdan Associates will present the findings of a utility rate study conducted several months ago.
- He thanked staff and Council for their participation at the city's booth at the League of Arizona Cities and Towns conference held last week in Phoenix.

VII. CONSENT AGENDA

Councilmember Snyder requested item G removed from the Consent Agenda and discussed in Executive Session.

- A. Approval of Minutes: 8/23/2021 (regular)
- B. Authorize the purchase of a BMW motorcycle from Go AZ Motorcycles in Scottsdale, AZ, for the amount of \$37,734.74 under Arizona State Contract # AZDSPO18-205712, using funds provided by a Proposition 207 grant from the Arizona Governor's Office of Highway Safety.
- C. Authorization for the City to enter into an Intergovernmental Agreement (IGA) with Pinal County for detention of municipal-charged individuals.
- D. Adoption of Ordinance No. 21-915 approving an amendment to the Eloy City Code, Chapter 21, Zoning; Article V. Administration, by repealing Sections 21-5-2, 21-5-3, 21-5-4 and 21-5-7 related to the powers and duties of elected and appointed bodies that preside over planning and zoning matters and replacing with direct references to the Eloy City Code, Chapter 2, Administration; Article I, Sections 2-11 and 2-11.1, and Article IV, Sections 2-80 to 2-88 and Sections 2-105 to 2-105.5 related to the powers and duties of elected and appointed bodies in the City of Eloy that preside over planning and zoning matters.
- E. Authorization to enter into a Letter of Engagement with Michael J. Pearce of the law firm of Gammage & Burnham, PLC to assist in the preparation of an application to modify the City's Designation of Assured Water Supply, and cost-sharing agreements with landowners seeking assurance of a future water supply from the City.

- F. Adoption of Resolution No. 21-1510, acknowledging and accepting a grant from Gila River Indian Community for \$125,000 for one year for an Owner-Occupied Housing Rehabilitation Program.
- G. ~~Authorize the rehiring of Mary Myers as City Clerk as a regular full time City employee, effective September 25, 2021, at an annual salary of \$101,694, plus benefits, including a phone stipend of \$50.00 per month. (Removed for discussion in Executive Session)~~

There being no further requests, Mayor Powell called for a motion.

Motion by Councilmember Garcia, seconded by Councilmember Snyder to remove agenda item G from the Consent Agenda and to approve the remaining Consent Agenda items as presented, passed unanimously by roll call vote (7-0).

Councilmember Snyder conveyed that he would like to discuss item G in Executive Session because it relates to personnel.

Mayor Powell stated that item G would be placed under Executive Session for discussion.

VIII. BUSINESS

A. AUTHORIZE STAFF TO DEVELOP AND IMPLEMENT A FINANCIAL INCENTIVE PROGRAM TO ENCOURAGE CITY EMPLOYEES TO RECEIVE COVID-19 VACCINATIONS, 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, and appropriate up to \$65,000 from the American Rescue Plan Act funding in the FY2021-2022 budget for this program.*

This item was considered by the Mayor and Council at its regular meeting on August 23, 2021, and tabled due to possible conflict of interest issues.

There has been a recent surge in the number of positive COVID-19 cases within Pinal County. Since August 24, 2021, the average number of new positive cases within the County has been 184. 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 been fully vaccinated, or will be fully vaccinated by an FDA-authorized COVID-19 vaccine by December 17, 2021.

To receive the incentive compensation, employees must provide Human Resources with proof of vaccination. 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 Thursday, December 23, 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 conveyed that this item was on the August 23rd council meeting agenda, however it was tabled to tonight's meeting due to the absence of one council member and three council members having a conflict of interest. Since then, Mr. Cooper has given legal advice to council in regards to the conflict of interest matter. He said the entire council is allowed to vote; however, the three council members would need to disclose the conflict before casting their vote. Mr. Krauss said because the benefit would be going equally to all eligible employees, all members of the Council would be allowed to vote.

Mr. Krauss went on to explain the purpose for the request which is to create an incentive for city employees to take the vaccine to prevent the spread of the virus, reduce exposure, and reduce time away from work. He pointed out that incentive programs such as the one staff is requesting Council approval for tonight is common among city and county governments and private businesses. Mr. Krauss talked about the success some cities have had with offering incentive programs to their employees. He said money from the American Rescue Plan Act would be used to implement the proposed program.

Vice Mayor Rodriguez asked Mr. Krauss about the impact implementing the program would have on President Biden's recent executive order mandating employers with over 100 employees to be vaccinated or tested weekly.

Mr. Krauss conveyed that said he has not seen all the regulations and guidelines put out by the federal government, but the city has two ways to do this:

- Provide an incentive for employees to get vaccinated; or
- Mandate city employees to be vaccinated

Mr. Krauss said the mandate approach was not well received based on feedback from several members of the Council. He said the city would also get a lot of pushback from the employees. Mr. Krauss believes employees would be more willing to get the vaccine if there is an incentive; and money is probably the best incentive.

Councilmember Curtis asked is it more feasible for the city to expend the \$60,000 on the program compared to loss in productivity due to employee absences stemming from the virus.

Mr. Krauss said yes. If an employee is out for two weeks at a time, the city has to pay the employee and hire temporary help to take the employee's place while out on sick leave. Mr. Krauss stated the city has had up to 10 employees out over the last few weeks for one reason or another.

Councilmember Reuter conveyed that he is not in support of the incentive program. He said he is extremely pro vaccine because statistics shows that it saves lives, but at the same time do not support a mandate. Councilmember Reuter said statistics show that if you are vaccinated, you can still transmit the virus and have to take time off work. He pointed out that Mr. Krauss have always said that money is not a motivator. Councilmember Reuter believes that individuals who are not already vaccinated will not get vaccinated. He said employees should be educated on the benefits of getting the vaccine, and those who choose not to be vaccinated get tested weekly. Councilmember Reuter stated the money would be better spent on a health program to educate employees on becoming healthier. He also suggested using the money to go into the community to educate the elderly and minorities who are not getting vaccinated because they do not trust the vaccine. Councilmember Reuter said offering an incentive is the wrong way because return on the investment would be minimum.

Councilmember Snyder said he personally wrestled with this from an emotional side and a factual side. He said an incentive is used to change behavior or some measurable outcome. Councilmember Snyder asked Mr. Krauss if the Council approves the incentive program, could he provide some measurable result on the success of the program. Questions he posed were:

- Would employees who contracted the virus and have the antibodies be required to get vaccinated to receive the money?
- Would employees be required to get the booster shot if recommended by the federal government?
- How many employees have missed work due to contracting the virus?
- Would employees who are fully vaccinated get paid if they leave the city in October or November?
- Would October new hires qualify to receive the incentive pay?

Councilmember Snyder said there are a number of unknowns which is why he is leaning toward not supporting the program.

Councilmember Curtis wanted to know if it is possible to survey the employees and ask them (voluntarily), (1) If they have been vaccinated and; (2) would they get vaccinated if an incentive program is implemented.

Councilmember Curtis pointed out that the timeline for providing proof of vaccination is too long. She asked could the deadline date be moved from December to mid-November to stress the importance of getting the vaccine to reduce the spread of the virus.

Mr. Krauss said he could survey the employees, but it takes time. He wanted to know what is the Council's baseline or percentage for him to use to measure the results of the survey and get approval from Council to implement the program. He also wanted to know what does he do with the results and how does he implement them once he gets them?

Councilmember Reuter reiterated that money is not a motivator, but there should be education on the benefits of getting the vaccine. He said incentivizing this appears that the city is giving employees a bonus to camouflage something else.

Councilmember Snyder asked Mr. Krauss if he had a number that he would consider acceptable for vaccinations.

Mr. Krauss said anything over 75% would be great. He said there may be medical reasons why some employees cannot get the vaccine or they may have a legitimate religious reason, which are acceptable reasons to not get vaccinated.

Mayor Powell conveyed that he too have gone back and forth on the issue. He is concerned about how the community would respond to the Council approving the incentive program for employees when the city begged and pleaded with residents to get the vaccine as well. He expressed concerns about justifying the program to residents when half of the employees do not live in Eloy. Mayor Powell said rather than using the money as an incentive for employees, he prefers the money be used for more vaccine clinics, and doing more outreach in the community. He believes that approving the program would reflect negatively towards the Council than it would positively for the employees.

There being no further questions, Mayor Powell gave the Council the option to table the item indefinitely or vote for approval or disapproval.

Councilmember Reuter said the Council should vote on the item.

Councilmember Curtis said she would like to move the deadline up or leave it at the discretion of the staff.

Mr. Cooper conveyed that Council can approve the item as is, or approve with an amendment. If the motion dies due to lack of a second, then the motion is defeated.

Mayor Powell asked Councilmember Curtis if she would like to make a motion with an amendment.

Motion by Councilmember Curtis, seconded by Councilmember Garcia to authorize staff to develop and implement a financial incentive program to encourage city employees to receive COVID-19 vaccinations, and appropriate up to \$65,000 from the American Rescue Plan Act funding in the FY2021-2022 budget for this program, and amending the timeline for submitting proof of full vaccination to November 15, 2021, passed 4-3 by the following roll call vote:

Yea: Councilmember Curtis; Councilmember Garcia; Vice Mayor Rodriguez (*disclosed a conflict of interest - brother works for the city*); Councilmember Guanajuato Rodriguez (*disclosed a conflict of interest - spouse works for the city*)

Nay: Councilmember Reuter; Councilmember Snyder; Mayor Powell (*disclosed a conflict of interest - spouse works for the city*)

B. ADOPTION OF RESOLUTION NO. 2021-1509 SUPPORTING THE INTERSTATE 10 WIDENING IMPROVEMENT PROJECT FROM CASA GRANDE TO CHANDLER.

Staff Cover Sheet Report: *Council adopt Resolution No. 2021-1509 supporting the Interstate 10 Widening Improvement Project from Casa Grande to Chandler.*

In 2017, the Mayor and Council adopted a resolution in support of the widening of Interstate 10 from Casa Grande to Chandler. Since that time, there has been progress in moving this project forward with concept studies and partial funding from the State. With the momentum now building for this important project, it has been suggested that an updated resolution be adopted by the City of Eloy and other governmental entities expressing its support again for the widening of Interstate 10.

FISCAL IMPACT: *There is no fiscal impact in adopting this resolution in support of widening Interstate 10 from Casa Grande to Chandler.*

Mr. Krauss gave a brief overview of the proposed resolution supporting the I-10 widening improvement project from Casa Grande to Chandler.

Mayor Powell conveyed that in 2017, the Council adopted the resolution. It was brought to his attention that as the project moves forward, it would be a good idea to adopt an updated resolution to show the city's continued support.

There being no questions or comments from the Council, Mayor Powell called for a motion to read the resolution by title only.

Motion by Councilmember Garcia, seconded by Councilmember Snyder to read Resolution No. 2021-1509 by title only, passed unanimously.

The city clerk read the resolution title into the record.

Mayor Powell called for a motion to adopt the resolution.

Motion by Councilmember Garcia, seconded by Councilmember Reuter to adopt Resolution No. 2021-1509 as presented, passed unanimously by roll call vote (7-0).

IX. EXECUTIVE SESSION

Mayor Powell announced for the record that he would not be present or participate in executive session for item A. He declared a conflict of interest; his mother is the realtor who is representing the buyer who is also a relative.

Motion by Councilmember Garcia, seconded by Vice Mayor Rodriguez to hold an executive session at approximately 6:58 p.m. for approximately two (2) hours with the city attorney, city manager, city clerk (transcription), Mr. Malewitz (items A & B) and Mr. Fairman (item B), passed unanimously (7-0).

- A. Discussion or consultation with the City Manager, City Staff and the attorneys of the public body in order to consider its position and instruct its staff and attorneys regarding the public body's position regarding PEK Properties property tax foreclosure litigation, specifications and contracts that are the subject of negotiations, in pending or contemplated litigation or in discussions conducted in order to avoid or resolve litigation and legal advice, pursuant to A.R.S. 38-431.03 (A) (3) and (4).
- B. Discussion or consultation with the City Manager, City Staff and the attorneys of the public body in order to consider its position and instruct its staff and attorneys regarding the public body's position regarding contracts that are the subject of negotiations regarding a Development agreement with Project Rock, pursuant to A.R.S. §38-431.03 (A) (3) and (4).
- C. Pursuant to A.R.S. §38-431.03 (A)(1) , (3) and (4) performance evaluation including discussion and/or negotiation of salary and/or an employment contract of a public

officer - City Manager, including legal advice (if requested by City Council) with City Attorney and possible contract negotiations.

D. Discussion of legal matters/consultation with the City Attorney, City Staff and/or the public body in order to consider its position and instruct its attorneys regarding any matter on the agenda, pursuant to A.R.S. §38-431.03 (A) (3) and (4).

- VII-G. Authorize the rehiring of Mary Myers as City Clerk as a regular full-time City employee, effective September 25, 2021, at an annual salary of \$101,694, plus benefits, including a phone stipend of \$50.00 per month.

Councilmember Snyder wanted to know would Council take action on items discussed in executive session.

Mr. Cooper conveyed there would be no action taken on any of the items discussed in executive session except for item VII-G. He said Council would take action on this item after executive session.

Mayor Powell reconvened the public meeting at approximately 8:59 p.m.

VII. CONSENT AGENDA (continued)

G. AUTHORIZE THE REHIRING OF MARY MYERS AS CITY CLERK AS A REGULAR FULL-TIME CITY EMPLOYEE, EFFECTIVE SEPTEMBER 25, 2021, AT AN ANNUAL SALARY OF \$101,694, PLUS BENEFITS, INCLUDING A PHONE STIPEND OF \$50.00 PER MONTH.

Staff Cover Sheet Report: *Council authorize the rehiring of Mary Myers as City Clerk as a regular full-time City employee, effective September 25, 2021, at an annual salary of \$101,694, plus benefits, including a phone stipend of \$50.00 per month.*

City Clerk Mary Myers retired from the Arizona State Retirement System (ASRS) in September 2020. After ASRS retirement, Ms. Myers was retained as the Municipal City Clerk, but through a third party, ESI (Educational Services Inc.), since ASRS requires retired city employees to be out of the retirement system for one year before being rehired on a full-time basis. The City's one-year contract for Mary Myers' employment with ESI terminates on September 24, 2021, allowing for her rehire on September 25, 2021.

Ms. Myers' previous annual salary as a regular full-time employee was \$94,068. The Mayor has recommended an 8% increase which would bring her annual salary to \$101,594, plus benefits and a phone stipend of \$50 per month.

FISCAL IMPACT: *The annual general fund salary expenditure is ~~\$101,594~~, \$101,694, plus a phone allowance of \$50 per month and medical insurance benefits.*

There being no questions or comments, Mayor Powell called for motion.

Motion by Councilmember Snyder, seconded by Councilmember Reuter to authorize the rehiring of Mary Myers as City Clerk as a regular full-time city employee, effective September 25, 2021, at an annual salary of \$101,694, plus benefits, including a phone stipend of \$50.00 per month, passed unanimously by roll call vote.
(7-0)

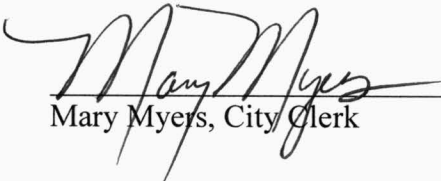
X. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 9:00 p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk