

**MINUTES OF THE SPECIAL MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
MONDAY, MAY 1, 2023
5:00 P.M.**

Staff Present: David Malewitz-City Manager; Stephen R. Cooper-City Attorney; Myers-City Clerk; Brian Wright-Finance Director

I. CALL TO ORDER

Mayor Micah Powell called the meeting to order at approximately 5:00 p.m.

II. ROLL CALL

Council Members Present: Mayor Micah Powell; Vice Mayor Sylvia G. Rodriguez; Councilmember George Reuter; Councilmember Sara Curtis; Councilmember Dan Snyder; Councilmember Jose Garcia; Councilmember Michelle Tarango

Council Members Absent: None

III. PLEDGE OF ALLEGIANCE

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

IV. PUBLIC APPEARANCES

There were no appearances from the public.

V. BUSINESS

A. PUBLIC HEARING FOR THE CONSIDERATION OF LOWERING THE RESTAURANT AND BAR TAX

Staff Cover Sheet Report: *Call for a public hearing for the consideration of lowering the Restaurant and Bar Tax.*

On February 27, 2023, staff made a presentation to the City Council regarding the Restaurant and Bar Tax. At this meeting, the City Council expressed a willingness to lower the Restaurant and Bar Tax by 1% or possibly 2%. Staff informed Council that any tax reduction has to be formally approved by the City Council by an Ordinance. The City Council directed staff to follow the required guidelines for the consideration of lowering the Restaurant and Bar Tax.

The first requirement was to post a public hearing notice 60 days before a public hearing takes place. This public notice was posted on the Finance Website and placed 60 days ahead of the May 1st public hearing date. After the public hearing, on May 1st, the City Council will instruct staff to prepare or not to prepare an Ordinance for consideration to lower the Restaurant and Bar Tax at the May 8th meeting.

A PowerPoint presentation on the Restaurant and Bar Tax and corresponding information has been prepared for the public hearing.

FISCAL IMPACT: *No fiscal impact at this time.*

Mayor Powell declared a public hearing open to hear comments and questions from the public regarding the proposed reduction in the Restaurant and Bar tax for the city.

Mr. Wright presented a PowerPoint presentation to the Council and the public on the Restaurants and Bars sales tax and Council's request to lower it from six percent (6%) to five percent (5%). Mr. Wright spoke about steps the city would take to reduce the tax and when the new tax rate would go into effect.

After his presentation, Councilmembers voiced their opinion and comments about the proposed reduction.

The following members from the public spoke about the impact the high sales tax has had on their businesses and voiced their support for reducing the city sales tax:

- Gracie Hernandez and Darcie Williams, employees of the Bent Prop Saloon and Skydive Arizona, 4828 N. Taylor Road, Eloy
- Luther Pedigo, owner of Tumbleweed Inn, 3802 W. Frontier Street, Eloy
- Amy Chmelecki, resident, 3910 N. Mya Road, Eloy
- Liz and George Flores, owners of LaPaloma Restaurant, 116 W. Frontier Street, Eloy
- Andrew Rodriguez, executive director for Eloy Chamber of Commerce, 515 N. Main Street, Eloy

With there being no further comments from the public or the Council, Mayor Powell closed the public hearing.

B. DISCUSS THE CONSIDERATION OF LOWERING THE RESTAURANT AND BAR TAX AND PROVIDING DIRECTION TO STAFF ON THE PERCENTAGE THE CITY COUNCIL IS CONSIDERING.

Staff Cover Sheet Report: *Staff is seeking guidance from the City Council on lowering the Restaurant and Bar Tax and what percentage the tax rate should be considered.*

Following the public hearing and presentation, the City Council will give guidance to staff for preparing the Ordinance for the Restaurant and Bar Tax. The Ordinance will be presented at the May 8th City Council meeting.

FISCAL IMPACT: N/A

Mayor Powell wanted to know the direction of the Council.

It was Council consensus to support the one percent (1%) reduction.

Mr. Cooper recommended Council direct staff to

Mayor Powell directed Mr. Malewitz to prepare an ordinance for Council consideration to reduce the Restaurant and Bar sales tax by one (1%) percent. He said he would like the ordinance placed on the May 8th or May 22nd Council meeting agenda.

VI. EXECUTIVE SESSION

No executive session requested by Council of staff.

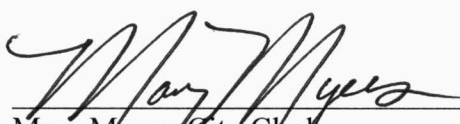
VII. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 5:54 p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk

Agenda Item VII-A

Date: 5/22/2023

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
MAY 8, 2023
6:00 P.M.**

Staff Present: David Malewitz-City Manager; Stephen R. Cooper-City Attorney; Mary Myers-City Clerk; Kazi Haque-Assistant City Manager; Brian Wright-Finance Director; Matt Rencher-Public Works Director/City Engineer; Christopher Vasquez-Police Chief; Sylvia Payne-HR Director; Paul Anchondo-Community Services Director; Jon Vlaming-Community Development Director

I. CALL TO ORDER

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

II. ROLL CALL

Council Members Present: Mayor Micah Powell, Vice Mayor Sylvia Guanajuato Rodriguez, Councilmember George Reuter, Councilmember Sara Curtis, **Councilmember Dan Snyder*, Councilmember Jose Garcia, Councilmember Michelle McKinley-Tarango

**Participated via telephone conference call*

Council Members Absent: None

III. INVOCATION

Pastor Debbie Miller gave tonight's invocation.

IV. PLEDGE OF ALLEGIANCE

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

V. PUBLIC APPEARANCES

A. Scheduled - None

B. Unscheduled

1. Daniel Mudd – 3755 W. Houser Road, Eloy

Mr. Mudd conveyed that he is requesting the City approve his request for a six month extension of his Temporary Use Permit (TUP) for his new business, House Exotics, that he purchased last October. Mr. Mudd said the TUP is scheduled to expire June 2, 2023. He said without at least a 60 day extension, he will have to lay off half of his employees by the end of the week.

2. Kim Allen – 15044 S. Cherry Hills Street, Arizona City

Mr. Allen conveyed that he is requesting Council to approve a resolution supporting the incorporation of Arizona City. He said if it is in Eloy's best interest not to support this, then they have already participated by not holding a vote on the resolution. Mr. Allen stated that instead of listening to a small percentage of Arizona City residents who are for or against the incorporation and not allowing all the citizens of Arizona City to vote is a deterrent to democracy at any level of government. Mr. Allen conveyed approval of the resolution is needed from the Council no later than June 5, 2023, in order to have it placed on the August ballot.

VI. REPORTS AND ANNOUNCEMENTS

A. Council Member Announcements

Councilmember Garcia gave a brief report on a recent policy institute training he attended, sponsored by NALEO entitled, "Economic Mobility, Building the Infrastructure of Opportunity." Councilmember Garcia said discussion topics included grants that are available through the federal government, post-Covid self-care and training of potential workforce after Covid.

B. Mayor Announcements

Mayor Powell made the following announcements:

- Attended the May 3rd Planning and Zoning Commission meeting on solar.
- The Eloy Chamber of Commerce hosted a Cinco de Mayo event last Friday. Mayor Powell said there were a lot of people at the event.
- The Sun Corridor Metropolitan Planning Organization (SCMPO) will be meeting tomorrow at 10:00 a.m., in the Casa Grande council chamber. He and Mr. Haque will be attending the meeting.

C. City Manager Announcements

Mr. Malewitz conveyed the following announcements:

- Moving forward with hiring personnel for the City of Eloy

- Budget work sessions are scheduled for May 15th and 16th, starting at 5:00 p.m., to review and present the proposed FY23-24 budget.

VII. CONSENT AGENDA

- A. Approval of Minutes: 4/24/2023 (regular)
- B. Approval of a Lease Agreement with New Cingular Wireless PCS, LLC, on a portion of the City-owned Police Communications Tower at 95 W. 7th Street, Eloy, for the use and co-location of AT&T cellular telecommunications equipment.

Mayor Powell asked Council if there were any corrections, comments or item(s) to remove from the Consent Agenda.

With there being none, Mayor Powell called for a motion.

Motion by Councilmember Curtis, seconded by Councilmember Garcia to approve the Consent Agenda items as presented, passed unanimously by roll call vote (7-0).

VIII. BUSINESS

- A. **COUNCIL TO CONDUCT A PUBLIC HEARING AND CONSIDER TAKING ACTION ON AN APPLICANT REQUESTED EXTENSION OF TWELVE (12) MONTHS ON THE CONDITIONAL USE PERMIT (CUP2022-022) APPROVED BY THE COUNCIL ON OCTOBER 24, 2022. THIS REQUEST WAS SUBMITTED BY ELOY VALLEY SOLAR, LLC (A NEXTERA ENERGY, INC. COMPANY) C/O ASHLEY JOHNSON, PROJECT MANAGER, OF ITS ELOY VALLEY SOLAR PROJECT TO EXTEND THE TERMINATION DATE OF THE EXISTING CONDITIONAL USE PERMIT (APRIL 24, 2023) TO ALLOW SOLAR GENERATION ON APPROXIMATELY 320 ACRES OF LAND (OWNED BY JOHN P. DONLEY), LOCATED ON PINAL COUNTY ASSESSOR'S PARCEL NUMBERS: 411-41-043, 411-41-044, 411-41-045 AND 411-41-046 IN A PORTION OF SECTION 8, TOWNSHIP 9 SOUTH, RANGE 8 EAST OF THE GILA & SALT RIVER BASE & MERIDIAN, PINAL COUNTY, ARIZONA (PROJECT NAME: ELOY VALLEY SOLAR). THIS SOLAR FIELD IN ELOY WILL BE PART OF THE LARGER ELOY VALLEY SOLAR PROJECT, INCLUDING EIGHT PRIVATELY OWNED PARCELS WITHIN UNINCORPORATED PINAL COUNTY, CONSISTING OF APPROXIMATELY 1,252 ACRES ADJACENT TO, AND TO THE SOUTH OF, THE EXISTING CUP. (PROJECT NAME: ELOY VALLEY SOLAR AND STORAGE PROJECT).**

Staff Cover Sheet Report: *Staff recommends that Council approve the applicant's request for a twelve (12) month extension of time, with a new Conditional Use Permit termination date of April 24, 2024.*

Staff recommends approval of this request, as presented.

FISCAL IMPACT: *If constructed, the portion of this project, located in the City of Eloy, would generate enhanced property taxes and construction sales taxes to the City. Due to the low impact of development and the very low number of full time employees on the premises, the demand for municipal services and police protection are expected to be minimal for this use, located at the City's southern boundary.*

Mayor Powell declared a public hearing open to hear comments and questions from the public regarding the proposed request.

Mr. Vlaming gave a brief overview of the proposed request from Eloy Valley Solar Project (a NextEra Energy, Inc. company) for a 12 month extension of their Conditional Use Permit.

A representative from the company briefly spoke about the request for the extension.

With there being no comments or questions from the public or the Council, Mayor Powell closed the public hearing and called for a motion.

Motion by Councilmember Reuter, seconded by Councilmember Curtis to approve a 12 month extension to Eloy Valley Solar, LLC (a NextEra Energy, Inc. company), passed 6-1 by the following roll call votes:

Yeas: Councilmember Snyder, Councilmember Curtis, Councilmember Tarango, Councilmember Reuter, Mayor Powell, Vice Mayor G. Rodriguez

Nays: Councilmember Garcia

B. ADOPTION OF ORDINANCE NO. 23-946 AMENDING SECTION 16-455 OF THE CITY TAX CODE BY DECREASING THE RATE OF TAXATION ON RESTAURANTS AND BARS FROM SIX PERCENT (6%) TO FIVE PERCENT (5%) AND DESIGNATING AN EFFECTIVE DATE.

Staff Cover Sheet Report: *The City Council shall adopt Ordinance No. 23-946 amending section 16-455 of the City Tax Code by decreasing the rate of taxation on Restaurants and Bars from six percent (6%) to five percent (5%) and designating an effective date.*

On February 27, 2023, city staff made a presentation to the City Council regarding the Restaurant and Bar Tax. At this meeting, the City Council expressed a

willingness to lower the Restaurant and Bar Tax by 1% or possibly 2%. Staff informed Council that any tax reduction has to be formally approved by the City Council by an Ordinance, and a public hearing must occur before this could happen.

Staff published a notice of intent 60 days before the public hearing on May 1, 2023. After the public hearing, the City Council directed staff to bring the required Ordinance forward to lower the Restaurant and Bar Tax by 1% at the next regular Council meeting. Staff informed the City Council that implementing the 1% reduction in the Restaurants and Bars Tax will reduce revenue in the General Fund by approximately \$220,000 annually and could harm General Fund operations.

What are the next steps in reducing the tax after adopting the Ordinance?

- *Within 10 days of adopting the ordinance, the City must notify the Municipal Tax Code Commission.*
- *At least 60 days prior to the effective date, the City must notify the Department of Revenue to comply with the requirements in the collection system.*
- *Staff must also notify the Arizona League of Cities and Towns of a change in tax rates after the adoption of the ordinance.*

FISCAL IMPACT: *The fiscal impact of a 1% reduction in the Restaurants and Bars Tax will be approximately \$220,000 annually from the General Fund.*

Mr. Wright briefly highlighted the proposed ordinance that would reduce the current sales tax rate for Restaurants and Bars from six percent (6%) to five percent (5%).

Mayor Powell asked if there were any questions or comments from the public or the Council.

With there being none, Mayor Powell called for a motion to read the ordinance by title.

Motion by Councilmember Garcia, seconded by Vice Mayor G. Rodriguez to read Ordinance No. 23-946 by title only, passed unanimously (7-0).

The city clerk read the ordinance title into the record.

Mayor Powell wanted to know the effective date of the new tax.

Mr. Wright said the new tax rate would become effective August 1, 2023.

Mayor Powell asked the Council for direction for this item.

A motion was made by Councilmember Curtis and seconded by Vice Mayor G. Rodriguez to adopt Ordinance No. 23-946 as presented, with an effective date of August 1, 2023, passed unanimously by roll call vote (7-0).

C. CONSIDERATION AND ACCEPTANCE OF THE RESIGNATION OF GEORGES REUTER AS A CITY COUNCILMEMBER EFFECTIVE JUNE 30, 2023 AND DIRECT THE CITY CLERK TO ADVERTISE THE COUNCIL VACANCY AND ACCEPT STATEMENTS OF INTEREST FOR THE COUNCIL VACANCY FOR A TWO (2) WEEK PERIOD FOR THE SEAT TO BE FILLED AT A CITY COUNCIL MEETING IN JULY 2023.

Staff Cover Sheet Report: *The City Clerk has declared a vacancy on the City Council, effective June 30, 2023 due to Councilmember Georges Reuter's May 3, 2023 announcement of his resignation effective June 30, 2023.*

The City Council has directed a discussion to determine how to fill this Council seat effective May 31, 2023. The Council has several options available to them:

The current City Council can direct City Staff to advertise a vacancy in office effective May 31, 2023, and have the Council members appointed at a future Council meeting.

Historically, the City Council has directed the City Clerk to post a notice of vacancy and seek statements of interest from eligible City electors. election even though he did receive a majority of the votes at the primary election. Councilmember Reuter did not have the third highest vote total for the three (3) council seats which were up for election. Also, the City

Procedure for filling Council Vacancies from the City Code:

2-7: FILLING VACANCIES IN OFFICES:

The Council shall fill vacancies by appointment in any City office as provided by State law. (Ord. 11-803, 10-24-2011)

ARIZONA REVISED STATUTES:

9-235. Vacancies in council

A. The council shall fill a vacancy that may occur by appointment until the next regularly scheduled council election if the vacancy occurs more than thirty days before the nomination petition deadline. Otherwise, the appointment is for the unexpired term. This subsection does not apply to a charter city.

B. The member appointed shall meet the qualifications established in section 9-232.

SECRETARY OF STATE ELECTION MANUAL:

FILLING A COUNCIL VACANCY

If a vacancy occurs on your city or town council and the incumbent has more than 2 years remaining on his or her term, you are required to put the remainder of the term on your next council election ballot. This only applies if you have 4-year terms and does not affect charter cities. The law provides that if a vacancy occurs more than 30 days before nomination petitions are due for your regular election, then the vacancy is filled by election for the remainder of the unexpired term. A separate nomination petition must be prepared for a 2-year term in addition to the regular petitions for the 4-year terms. To distinguish the petitions, the clerk should print a 2-year term on the top of the petition for those wishing to fill the vacancy. On the ballot, there must be a separate section for the 2-year term listing those candidates who filed 2-year term nomination petitions. Consult with your attorney to determine when a candidate who is elected to fill a vacant position is seated.

Once a resignation occurs, the seat is filled by a person who has to run at the next general election (2 years later) to serve the balance of the four-year term of office.

FISCAL IMPACT: *There is no fiscal impact.*

Mr. Cooper conveyed to the Council that this item is two-fold. One is to accept the resignation of Councilmember Reuter and setting an effective date of the resignation. The other is to direct the city clerk to advertise for the office vacancy, which would occur sometime after the effective date of the resignation. Mr. Cooper said because the seat was an appointed seat, the person would have to run in next year's primary and possible general election if they wish to retain the seat.

Mr. Cooper explained the process for filling the vacant office seat per Arizona Revised Statutes. He pointed out that Councilmember Reuter's resignation letter states his resignation date as June 30, 2023.

At this time, Mayor Powell called for a motion.

A motion was made by Vice Mayor G. Rodriguez and seconded by Councilmember Curtis to accept Councilmember George Reuter's letter of resignation, effective June 30, 2023, passed unanimously by roll call vote (7-0).

It was at this time the Council discussed dates for advertising, reviewing, and interviewing applicants, and setting an appointment date to fill the vacancy.

It was the consensus of the Council to direct the city clerk to do the following:

- Advertise the seat vacancy immediately with a deadline date of June 9, 2023, 5:00 p.m., for accepting letters of interest and resumé.

- At the June 12th regular Council meeting, go into executive session to review resumés. Selection of individuals to interview would be voted on by the Council in the public meeting.
- Hold a special Council meeting June 20th, at 5:00 p.m., to interview selected candidates.
- At the June 26th regular Council meeting, an appointment would be made.
- At the July 10th regular Council meeting, the newly appointed person would be sworn in as Councilmember.

IX. EXECUTIVE SESSION

A motion was made by Mayor Powell and seconded by Councilmember Garcia to hold an executive session at approximately 6:47 p.m., for approximately one (1) hour with Elizabeth Rueter and Stephen R. Cooper, from Cooper and Rueter Law Firm, the city manager, if needed and city clerk (transcribing) for:

A. Performance evaluation including discussion and/or negotiation of salary and/or an employment contract of a public officer - City Attorney (Cooper & Rueter LLP), and possible contract negotiations, pursuant to A.R.S. §38-431.03 (A)(1), (3) and (4).

Motion passed unanimously (7-0).

Mayor Powell reconvened the public meeting at approximately 7:44 p.m.

Mayor Powell called for a motion to go back into Executive Session to continue discussion on item IX-A.

A motion was made by Councilmember Curtis and seconded by Vice Mayor G. Rodriguez to continue with the Executive Session at approximately 7:44 p.m. for approximately 30 minutes with the City Manager, passed unanimously (7-0).

Mayor Powell reconvened the public meeting at approximately 8:15 p.m.

Mayor Powell conveyed to Mr. Cooper that he and Mr. Malewitz would meet with him to discuss Council and staff expectations and contract negotiations. He said the Council would like to continue with his services as legal counsel for the City.

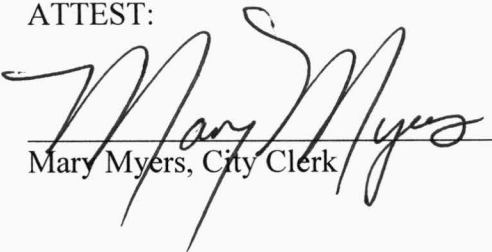
X. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 8:15 p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk