

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
AUGUST 28, 2023
6:00 P.M.**

Staff Present: David Malewitz-City Manager, Stephen R. Cooper-City Attorney, Mary Myers-City Clerk, Christopher Vasquez-Police Chief, Brian Wright-Finance Director, Matt Rencher-Public Works Director/City Engineer, 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 Andy Sutton, Councilmember Sara Curtis, Councilmember Dan Snyder, Councilmember Jose Garcia, Councilmember Michelle McKinley-Tarango

Council Members Absent: None

III. INVOCATION

Pastor Ken Blondeaux gave tonight's invocation.

IV. PLEDGE OF ALLEGIANCE

Vice Mayor G. Rodriguez led the Council and the public in the Pledge of Allegiance.

V. PUBLIC APPEARANCES

A. Scheduled

1. Eloy Chamber of Commerce Update – Andrew Rodriguez, Executive Director
Mr. Rodriguez gave a PowerPoint narration of the activities undertaken by the Eloy Chamber of Commerce last quarter.

B. Unscheduled

1. Thomas C. Silva – 501 N. A Street, Eloy

Mr. Silva requested Council to consider creating a charitable organization to help people in the community. Mr. Silva also wanted the city to open several businesses such as a Little Caesars, an arcade and rebuild the Dust Bowl theater and hire high school students to teach them entrepreneurship. He said the revenue would go to churches, schools and the city for repairs. Mr. Silva said he does not want anything from this. He just wants the city to do something for the kids who do not have much to do in the city.

2. Ann Howard – 5445 W. Coral Drive, Eloy

Ms. Howard conveyed that she's noticed that the city has not sent out newsletters since 2021. She enjoyed reading the newsletters and wondered if the city would start sending it out again. On a different note, Ms. Howard proudly announced that 50 years ago today she became an American citizen.

VI. REPORTS AND ANNOUNCEMENTS

A. Council Member Announcements - None

B. Mayor Announcements

Mayor Powell conveyed the following communications:

- He and several members of the Council will be attending the League of Arizona Cities and Towns conference this week in Tucson.
- Announced the retirement of Chief Vasquez. Captain Byron Gwaltney will serve as acting police chief. Mayor Powell said Mr. Vlaming would be stepping down as director of his department, effective the end of the month. However, will continue to work for the city on a part-time basis. Mayor Powell thanked both men for their service and hard work they put in for the community.

Chief Vasquez thanked Council for allowing him to accomplish so much in the five and half years working for the city. He said working for Eloy has been the best place he has ever worked during all his years in law enforcement. He lauded the police staff and department directors and thanked them for their support. Chief Vasquez told the Council that their leadership and support made a tremendous impact on the department's accomplishments.

C. City Manager Announcements

Mr. Malewitz made the following announcements:

- City offices will be closed September 4th, in observance of Labor Day.

- The city will host a flu shot clinic for city employees and the public free of charge on September 27th, from 10:00 a.m. to 2:00 p.m. in the city hall community room.
- He reminded the public of the utility rate increase effective the end of the month. The rate increase is to cover the 5% adjustment for trash. Mr. Malewitz pointed out that this is something that occurs each year.
- The police department received a grant from the Governor's Office of Highway Safety to purchase a speed trailer.
- The police and public works departments have been working on instituting a four-way stop at Battaglia and Eleven Mile Corner Roads. The police department will also be putting out a public safety announcement (PSA) about the new four-way stop location. The PSA will be posted on the city's media pages by the end of the week.

Mayor Powell conveyed that the September 11th regular city council meeting is on tonight's agenda to approve for cancellation. Council will hold a work session on September 18th to hear a presentation from Ralph Varela from the Pinal Hispanic Council regarding a proposed project.

Mayor Powell asked the Council what time would they like to meet.

After a brief discussion, it was the consensus of the Council to schedule the meeting for 5:00 p.m.

Councilmember Snyder conveyed that he has been approach by residents about board openings. He said upon sending information out to the residents about the boards, he noticed that there seems to be some confusion on the process for filling the vacancies. Councilmember Snyder said he could not find anything in city ordinances, but did find something on the website. He would like staff to review the process to determine should this be written into an ordinance or someplace else other than the city's website. Councilmember Snyder pointed to an example where an alternate on the Planning and Zoning Commission was given information that varied, depending on who the person talked to. Councilmember Snyder strongly recommended staff and legal counsel review the process for clarity before applicants are interviewed for board appointments.

Mr. Malewitz said staff would look into this.

VII. CONSENT AGENDA

A. Approval of Minutes: 8/14/2023 (regular)

- B. A recommendation to the Arizona Department of Liquor Licenses and Control (ADLLC) for issuance of a Series 15 Special Event liquor license to the Eloy Chamber of Commerce for the Eloy Glow Event, November 4, 2023.
- C. A recommendation to the Arizona Department of Liquor Licenses and Control (ADLLC) for Series 10 (beer and wine) liquor license for Family Dollar Store #24147, located at 11 N. Santa Cruz Avenue, Eloy, Arizona.
- D. Recommendation from the Eloy Police Department to purchase an Unmanned Ariel Vehicle (UAV)/Drone for an amount not to exceed \$ 56,963.59 in grant funding from the Arizona Department of Emergency and Military Affairs (DEMA).
- E. Authorization to cancel the regular City Council meeting scheduled for September 11, 2023.

With there being no corrections, comments, or removal of item(s) from the Consent Agenda, Mayor Powell called for a motion.

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

VIII. BUSINESS

A. APPROVAL OF THE ANNUAL DEVELOPMENT IMPACT FEE REPORT FOR THE CITY OF ELOY ENDING JUNE 30, 2023.

Staff Cover Sheet Report: *Staff recommends approval of the Annual Development Impact Fee Report for the City of Eloy ending June 30, 2023.*

As required by ARS 9-463.05, the City Manager or designee shall submit the Development Impact Fee Annual Report to the Mayor and Council within 90 days of the end of the fiscal year.

During the fiscal year 2022-2023, the City collected 70 impact fees for Parks and Recreation, 128 for Police, and 70 for Streets for a total collection of Development Impact Fees of \$313,938 while collecting interest revenue of \$2,769.74. The City of Eloy used \$0.00 for related expenses during this same period.

Finally, no development impact fee revenues were used to repay either bond issued by the City or to pay for the cost of a capital improvement project that is subject to a development impact fee assessment or monies advanced by the city from funds other than the funds established for development impact fees in order to pay the cost of a capital improvement project that is the subject of a development impact fee assessment.

FISCAL IMPACT: *There is no fiscal impact.*

Mr. Wright gave a highlighted overview of the city's annual development impact report. Mr. Wright said per state statute, the report is required to be prepared within 90 days of the close of the fiscal year.

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

Motion by Councilmember Snyder, seconded by Councilmember Garcia to approve the annual development impact fee report for the City of Eloy, ending June 30, 2023, passed unanimously by roll call vote (7-0).

B. COUNCIL TO CONDUCT A PUBLIC HEARING FOR A STAFF INITIATED REQUEST TO AMEND THE ELOY CITY CODE, CHAPTER 21-ZONING: ARTICLE III. SECTION 21-3-1.39 SUPPLEMENTAL USE STANDARDS-SOLAR, UTILITY SCALE GENERATION FACILITIES; ARTICLE IX. SECTION 21-9-1 DEFINITIONS; ARTICLE IX. SECTION 21-9-2 ACRONYMS. SEVERAL LETTERS HAVE BEEN RECEIVED BY THE CITY RELATED TO THIS CASE, AND ARE ATTACHED. (CASE NO. TA2023-006).

Staff Cover Sheet Report: *Based on the conduct of the working session with interested stakeholders on June 28, 2023, the Staff, Planning & Zoning Commission and Stakeholder recommendations are as follows for several key discussion points:*

Utility Scale Solar Generation Buffer: *The Planning and Zoning Commission approved the "Black Option" which retained the 1/2 mile buffer from Interstate 10, but allowed the buffer distance to follow the property lines of Mr. Tom Lozzi's property, resulting in no loss of his property for non-utility scale solar use. See the attachment "Project A Buffer Options and Recommendations".*

Staff recommends the "Blue Option" which represents a distance of 2,200' from Interstate 10 and utilizes existing parcel boundaries and ownership to transect through a portion of Project A. This option would result in a potential loss of 71 acres, if approved. See the attachment "Project A Buffer Options and Recommendations".

Zoning Ordinance Text Amendment: *The Planning & Zoning Commission recommended the legislative version attached (see "Chapter 21-Solar Zoning Text Amendment" of Eloy City Code, Chapter 21-Zoning: Article III. Section 21-3-1.39, Supplemental Use Standards-Solar, Utility Scale Generation Facilities). It also includes new definitions (Article IX. Section 21-9-1 Definitions) and an additional acronym (Article IX Section 21-9-2 Acronyms), as shown on the attached draft text.*

However, for several key topic areas, staff recommendations and Planning & Zoning Commission approval and Stakeholder recommendations differed, as shown below:

Topic Area	Recommendation		
	Planning & Zoning Commission	Staff	Stakeholders
Buffer Distance (from the south side of Interstate 10 right of way)	Black Option	Blue Option	Black Option (for those indicating a preference)
B. Acreage Limit and Future Expansion	16%	16%	20%
Table 3-1-1, Lot Coverage Maximum (non-solar array)	5%	3%	5%
Proposed 1,000 foot buffer to north and east of Project A, Milligan Energy Center, as proposed via letter submitted by Viel Gluck, LLC (attached)	Deferred to addressing at the time this case is presented before the Planning & Zoning Commission	Staff concurs with Commission recommendation	Request posed by adjacent property owners who have grown Pecans on their property and believe the adjacency of utility scale solar operations negatively impacts their agricultural operations

The City has been the subject of significant interest for the siting of utility scale solar generation and battery storage facilities due to Eloy's location, existing electrical substation, accessibility to the grid, land values and large parcel ownership. In addition, external factors including the diminishment of support for such facilities in neighboring communities and ongoing discussions regarding reduced surface water deliveries to Central Pinal County, and continued locations for data centers and semi-conductor manufacturing in Maricopa County are all driving large utility scale solar generation and battery storage projects to potentially locate in Eloy.

This onslaught of demand has been a surprise to the City and with the anticipated 25-30 year timeframe of these projects (at a minimum), prompting Staff to request policy direction from City leadership to accommodate such uses in the future. As such, City leadership thought it was prudent to conduct a community conversation regarding these uses to ascertain their short and long term benefits and constraints. Their initial direction was to identify only the area south of Interstate 10 as the appropriate location to consider any future utility-scale solar uses and to identify an appropriate buffer (separation) between Interstate 10 and these uses to not only minimize their visibility to passing traffic but to have the ability to locate conventional employment and residential development pursuant to the City's adopted General Plan and Official Zoning Map. The council was also interested in the amount of area of this portion of the City that would be potentially identified for utility-scale solar use as well as their attendant development standards and post-use clean up provisions (decommissioning).

The City Council held two public work sessions with the members of the Eloy Planning and Zoning Commission and City staff on February 6 and February 27, 2023 to address the issues associated with the provision of utility scale solar generating and storage facilities within the City of Eloy. An additional work session was also held with the members of the Eloy Planning and Zoning Commission on March 29, 2023 to continue the dialogue with interested parties. The Planning and Zoning Commission conducted a public hearing on this item on May 3, 2023, where a continuance was granted by the Commission. The third public hearing with the Eloy Planning & Zoning Commission, City staff has prepared both a recommended buffer

distance from Interstate 10 and amendments to Section 21-3-1.39, Supplemental Use Standards. The key items of these amendments are summarized below:

Establish a Buffer (Separation) of Utility Scale Solar Within Proximity to Interstate 10: *In response to the input from the community relative to the adjacency of existing utility scale solar projects in the northern portion of Eloy, the City Council has directed staff to evaluate a buffer (separation of land that is not developed with utility scale solar) within proximity to Interstate 10. Staff supports the buffer alternative which establishes a distance of 2,200 feet, as measured from the southern boundary of the Interstate 10 right of way. For Project A, this boundary would remove approximately 71 acres (from its original 1,645 acres) as illustrated on the attached map, Solar Buffer Blue Option.*

City staff has received a letter from an adjacent property owner to Project A. This letter requests a setback of 1,000 feet from their common boundary with Project A where existing mature Pecan Trees are currently located adjacent to proposed solar generation facilities. The letter is attached for reference.

Limit Utility Solar Generation and BESS Acreage to 11,744 acres (16% of City-wide total): *City staff met with project stakeholders in late June who requested that the proposed 16% acreage cap be increased to 20% (14,680 acres). While Staff understands the request, it is maintaining its existing recommendation for 16%. **Note:** The text draft dated 7.11.23 indicated that the cap had been increased, but that has been brought to Staff's attention and corrected back to 16% in the attached clean and legislative drafts.*

As background for the acreage cap, the existing constructed, designed and approved acreage within the City is 2,234 acres (3.0 percent of the City's incorporated area).

If Projects A-E were approved as presented and amended with the recommended buffer, this acreage would total 5,530 acres:

Proposed Project A: 1,574 acres (if the recommended buffer is selected)

Proposed Project B: requested to be removed

Proposed Project C: 651 acres

Proposed Project D: 1,285 acres

Proposed Project E: 2,020 acres

Subtotal 5,530 acres (7.5 percent of the City's incorporated area).

The cumulative total acreage is 7,764 acres (10.5 percent) which allows a maximum increment of 3,980 additional acres of solar generation facilities to total 11,744 acres (16 percent of the City's incorporated area). Staff is aware of approximately 3,500 acres (in addition to Projects A-E above, that are contemplated for solar generation facilities at this time south of Interstate 10.

Eloy Zoning Ordinance Text Amendment: *The City intends to amend and augment the Eloy City Code, Chapter 21-Zoning: Articles III and IX. These include the following:*

Section 21-3-1.39 Supplemental Use Standards-Utility Scale Solar Generation and Battery Energy Storage System Facilities;

Section 21-9-1 Definitions;

Section 21-9-2 Acronyms.

The following components have been addressed in the updated text version:

Locational Criteria-Contiguity: *Placed this provision as a "will utilize" provision.*

Utility Scale Lot Coverage: *Staff recommends retaining the previously supported 3% lot coverage maximum (not counting the solar array lot coverage).*

Groundwater Extinguishment: *Staff has removed all references to this provision in the text.*

Gateway Roadway Right of Way Dedication: *Staff has removed the provision for an additional 100' of Right of Way and replaced it with an addition of eighteen feet to the landscape tract (to total 30 feet) on both sides of a Major Arterial Roadway that is designated as a Gateway Corridor.*

A "clean" and legislative draft version of these text changes is included as an attachment for ease of review of the Zoning Code text revisions.

Fiscal Impact: *There is not a fiscal impact associated with conducting a public hearing on this agenda item.*

Mr. Vlaming presented a PowerPoint presentation to the Council and the public on the proposed utility scale generation solar facilities located south of Interstate 10. Mr. Vlaming gave an overview of the proposed changes to the city's existing zoning code based on discussions generated from numerous meetings and work sessions with the Council, the Planning and Zoning Commission and stakeholders over the past eight months. Mr. Vlaming reviewed the black and blue options. He said the Planning and Zoning Commission and stakeholders support the black option, while staff is recommending the blue option. He conveyed that if Council agrees with the recommendations of the Planning and Zoning Commission, the next step would be to adopt an ordinance that would amend and incorporate the language into the city code.

It was at this time that Mayor Powell declared a public hearing open to hear comments and questions from the public regarding the proposed staff initiated request to amend the city's existing zoning code pertaining to utility scale generation solar facilities.

The following individuals came forward in support of the proposed amendments and to ask questions:

Ralph Pew	Pew & Lake, P.L.C.	1744 S. Val Vista Dr., Ste. 217, Mesa
Court Rich	Rose Law Group	7144 E. Stetson Dr., Ste. 300, Scottsdale
Omar Abdallah	Rose Law Group	7144 E. Stetson Dr., Ste. 300, Scottsdale
Bill Golove		6610 Hill St, El Cerrito, CA

Mr. Vlaming answered questions from the Council about the proposed amendments.

Councilmember Garcia said he preferred a larger buffer between Interstate 10 and the solar farms. He did not believe that ½ mile from the interstate is enough distance. Councilmember Garcia said the acreage limit of 16% is too much. He stated that he would like to see it closer to 10%.

Mayor Powell thanked the Planning and Zoning Commission, Mr. Vlaming, city staff and the Council for all the hard work that was put in to address this issue. He said there were numerous meetings and work sessions on the issue. Mayor Powell said the meetings and work sessions were important because the city wanted total transparency and wanted to keep the lines of communications open. Mayor Powell said he is glad that the city is at the end of this road even though there is still more to do in the future.

With there being no further questions or comments, Mayor Powell declared the public hearing closed.

C. ADOPTION OF ORDINANCE NO. 23-950 AMENDING CHAPTER 21-ZONING: ARTICLE III. SECTION 21-3-1.39 SUPPLEMENTAL USE STANDARDS-SOLAR, UTILITY SCALE GENERATION FACILITIES AND ARTICLE IX. SECTION 21-9-1 DEFINITIONS, AND SECTION 21-9-2 ACRONYMS (CASE NO. TA 2023-006).

Staff Cover Sheet Report: *Council to adopt Ordinance 23-950 to amend Chapter 21-Zoning: Article III. Section 21-3-1.39 Supplemental Use Standards-Solar, Utility Scale Generation Facilities and Article IX. Section 21-9-1 Definitions and Section 21-9-2 Acronyms.*

Presented in previous item.

Fiscal Impact: *The adoption of this ordinance will have a positive and negative fiscal impact on the City of Eloy. The positive fiscal impacts will result from the generation of one-time construction sales taxes, indirect retail sales taxes afforded through site development and construction, and enhanced property tax collections for the various taxing authorities (i.e. City of Eloy, public school districts, Central Arizona College and Eloy Fire District, etc.). Potential indirect negative fiscal*

impacts would result from the presence of only several full-time equivalent employees on and serving the property when constructed, long term utilization of the land for modest site improvements-as opposed to the future implementation of entitlements (over the next 25-30 years) that have been adopted previously (typically for conventional master planned residential and supportive commercial community development).

Councilmember Snyder asked Mr. Vlaming if the ordinance being presented tonight for the black option or the blue option.

Mr. Vlaming said the ordinance is for the black option because that was the option recommended by the Planning and Zoning Commission.

Mayor Powell called for motion to read the ordinance by title.

Motion by Councilmember Garcia, seconded by Councilmember Tarango to read Ordinance No. 23-950 by title only, passed unanimously (7-0).

The city clerk read the ordinance title into the record.

Mayor Powell called for a motion.

A motion was made by Councilmember Tarango and seconded by Councilmember Garcia to amend Ordinance No. 23-950 to reflect the **Blue Option** - buffer distance from the south side of I-10 right of way; 16% acreage limit and future expansion; and 3% Table 3-1-1, lot coverage maximum (non-solar array). The motion failed 4-3 by the following roll call votes:

Yeas: Councilmember Garcia, Councilmember Tarango, Councilmember Sutton

Nays: Councilmember Snyder, Councilmember Curtis, Vice Mayor G. Rodriguez, Mayor Powell

Mayor Powell called for another motion.

A motion was made by Councilmember Snyder and seconded by Councilmember Curtis to approve Ordinance No. 23-950 as presented. The motion passed 5-2 by following roll call votes:

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

Nays: Councilmember Tarango, Councilmember Garcia

Mayor Powell asked Mr. Vlaming if he would like to make a final comment before stepping down as planning director.

Mr. Vlaming said that it has been an honor and a privilege to serve as planning director for the city for the past nine years. He said with the help of Community Development staff, the Council and the Planning and Zoning Commission, the city has made some great strides in the community and predicts bright days ahead for Eloy. Mr. Vlaming stated that he will continue to work with Mr. Malewitz on several ongoing planning projects on a part-time contractual basis.

IX. EXECUTIVE SESSION

Mayor Powell called for a motion to go into Executive Session.

A motion was made by Councilmember Tarango and seconded by Councilmember Garcia to hold an executive session at approximately 7:21 p.m. for approximately one (1) hour with the City Attorney, City Manager, Community Development Director and City Clerk (note taking) for:

A. *Consultation with City Attorney and City Staff regarding legal advice, Council's position and to instruct City Staff on annexations and possible or potential litigation involving annexation issues initiated by the City of Coolidge affecting the City of Eloy pursuant to A.R.S. §38-431.03 (A) (3) and (4).*

The motion passed unanimously (7-0).

Mayor Powell reconvened the public meeting at approximately 8:30 p.m.

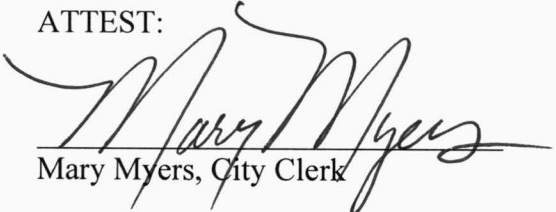
X. ADJOURNMENT

With there being no further business, Mayor Powell adjourned the meeting at approximately 8:31p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk