

**MINUTES OF THE REGULAR MEETING OF
THE ELOY CITY COUNCIL
CITY OF ELOY
595 NORTH C STREET
JUNE 10, 2024
6:00 P.M.**

Staff Present: David Malewitz-City Manager, Mackenzie Letcher-Assistant City Manager, Stephen R. Cooper-City Attorney, Mary Myers-City Clerk, Sylvia Payne-HR Director; Brian Wright-Finance Director, Dan Symer-Community Development Director, Matt Rencher-Public Works Director/City Engineer, Brian Jerome-Police Captain

I. CALL TO ORDER

Mayor Micah Powell called the meeting to order at approximately 6:01 p.m.

II. ROLL CALL

Council Members Present: Mayor Micah Powell, Vice Mayor Sara Curtis, Councilmember Sylvia G. Rodriguez, Councilmember Andy Sutton, Councilmember Dan Snyder, Councilmember Jose Garcia, Councilmember Michelle McKinley-Tarango

Council Members Absent: None

III. INVOCATION

Invocation was given by Mr. Bob Skier.

IV. PLEDGE OF ALLEGIANCE

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

V. PUBLIC APPEARANCES

A. Scheduled - None

B. Unscheduled - None

VI. REPORTS AND ANNOUNCEMENTS

A. Council Member Announcements

Councilmember Sutton said he attended the community yard sale, sponsored by the Community Services department. It was not highly attended, however, those selling sold a lot of their goods. He is looking forward to the department hosting the event again in the fall when it's a little cooler.

B. Mayor Announcements

Mayor Powell made the following announcements:

- On Saturday, two of Eloy's police officers attended the funeral of the young Gila River police officer that was killed last week. He stated that the officers also attended the police academy with the young man. Mayor Powell said he reached out to the Gila River governor to express the city's condolences and to offer any assistance to their community. Mayor Powell asked the public to please remember the officer who died in the line of duty and to pray that our officers stay safe while protecting the citizens of Eloy.
- Attended the Pinal Regional Transportation Authority (PRTA) board meeting today. The board, which he is a member of, decided to hold an election in 2025 for renewal of the PRTA tax. If approved by voters in 2025, each city in Pinal County would receive one percent (1%) from the taxes received from the PRTA each year. The only exception would be the City of Maricopa. They would receive a little more because they are the largest city in the county. Mayor Powell stated that each city would initially receive \$300,000.00 that would eventually increase to \$640,000.00 by the year 2045. Again, this would occur only if approved by the voters next year.
- Mayor Powell handed out City of Eloy challenge coins to everyone in the audience in celebration of the city's upcoming 75th anniversary in December. He said the city will be hosting a number of events related to the anniversary starting in August.
- The city received notification from the offices of Senators Sinema and Kelly that a grant the city applied for on behalf of the police department in the amount of \$2.0 million was accepted. The next step is receiving approval from the Appropriations Committee. The grant is for replacement of the department's CAD/RMS system (records management software).

C. City Manager Announcements

Mr. Malewitz made the following announcements:

- City offices will be closed June 19th in observance of the Juneteenth holiday.
- Community Services will be hosting "Movies Under the Stars," June 22nd at Jones Park.

- Met with representatives from Pinal County last week, who are working on the renewal of the road maintenance and improvement fund (Proposition 486). The fund brings in over \$36.0 million for the county for road projects, of which the city is a participant. Mr. Malewitz pointed out that this would not be a new tax, but rather a renewal of an existing tax that has to be renewed every 20 years. He conveyed that Eloy fully supports the fund and asked voters to support the proposition in November.
- The city will have an intern starting on June 18th. Mr. Antonio Cortez will assist the city manager's office and staff on a number of projects, such as website design, and marketing materials.

Mr. Letcher added that Mr. Cortez currently attends Central Arizona College and has a degree in graphic design.

VII. CONSENT AGENDA

A. Approval of Minutes: 5/28/2024 (regular)

A motion was made by Vice Mayor Curtis and seconded by Councilmember Garcia to approve the Consent Agenda item as presented, passed unanimously by roll call vote (7-0).

VIII. BUSINESS

A. AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE EIGHT CONTRACTS FOR ON-CALL PROFESSIONAL SERVICES FOR THE COMMUNITY DEVELOPMENT AND PUBLIC WORKS DEPARTMENTS.

Staff Cover Sheet Report: *Staff recommends authorizing the City Manager to execute eight contracts for on-call professional services within the community development and public works departments on behalf of the City of Eloy.*

The purpose of this request is to grant authorization to the City Manager to execute the enclosed On-Call Professional Services Contracts. These contracts will facilitate the provision of specialized services, including project management, development (including building, engineering, and landscape), plan review and inspections, engineering, landscape architecture, survey, and planning services. These services are expected to be utilized for various projects and task orders characterized by their small or medium size, complex scope of work, short delivery time-frame, and where the City does not have sufficient or available in-house expertise.

The objective of these contracts is to leverage the expertise of external professional firms, ensuring cost-effectiveness and efficiency in addressing Eloy's diverse needs. In the fall/winter of 2023, the Finance Director facilitated creating and advertising a Request for Qualifications (RFQ), inviting bids from qualified firms to assist in delivering the specified services. This initiative had two primary goals. First, the city aimed to secure new contracts to replace outdated agreements with vendors currently providing building inspection services and plan reviews. Second, discussions with Public Works revealed that this department could benefit from having on-call professional services to mitigate the need for additional personnel. The increased workload from additional construction projects in Eloy has stretched the capabilities of the Community Development and Public Works Departments. To maintain customer service standards and meet plan review and inspection deadlines, both departments can utilize on-call services to address critical customer needs when necessary.

Each contract's maximum value will not surpass \$200,000 in aggregate fees within any City Fiscal Year. Furthermore, no single award to any individual consultant or firm will exceed \$100,000. Additionally, the total value of all services provided for any single project will not exceed \$150,000 in any City Fiscal Year. For larger projects, staff will continue to seek City Council approval using a qualification-based procurement process to select the most suitable consultant.

FISCAL IMPACT: *Authorization of these contracts does not commit to funding. Funding will be provided as needed by individual capital projects, building and engineering plan review and permit fees, and general fund allocations that have been identified and allocated within the budgets of the Community Development and Public Works Departments.*

Mr. Symer provided information to the Council regarding staff's request for approval of entering into agreements with eight consulting firms for assistance with a variety of city projects and services. He briefly reviewed the process taken in selecting the eight consulting firms. Mr. Symer stated that four of the service contracts would be for community development and the other four would serve the needs of the public works department.

Councilmember Snyder about expirations of the contracts.

Mr. Symer explained that each contract has a two-year expiration date with an option to extend an additional year at the discretion of the city manager.

Councilmember Snyder supported the city entering into the contracts, however, asked that any extensions come back to Council for approval. He was concerned about them being open ended.

Mr. Symer conveyed that the contracts are written with an option to extend. If Council does not want the contracts extended, direction can be given to the city manager at that time. Also, Council has to approve the budget each year which would include the contracts, if extended.

Vice Mayor Curtis pointed out that if the dollar amount is over a certain amount, it has to come before Council for approval.

Mr. Malewitz said this is correct. He is authorized to approve up to \$20,000.00 in one single expense.

With there being no further questions, Mayor Powell asked for direction from the Council.

A motion was made by Councilmember Sutton and seconded by Councilmember Tarango to authorize the city manager to execute eight contracts for On-Call Professional Services for the Community Development and Public Works departments, passed unanimously by roll call vote (7-0).

- B. CONDUCT A PUBLIC HEARING AND CONSIDER THE ADOPTION OF RESOLUTION NO. 24-1572 APPROVING A TWO-YEAR TIME EXTENSION TO THE PREVIOUSLY APPROVED CONDITIONAL USE PERMIT (CASE NO. CUP2022-038) TO ALLOW SOLAR, UTILITY SCALE GENERATION AND BATTERY ENERGY STORAGE SYSTEM FACILITY (A 100 MEGAWATT SOLAR PHOTOVOLTAIC POWER GENERATING AND 100 MEGAWATT BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED ANCILLARY FACILITIES) LOCATED ON THE SOUTHWEST CORNER OF MILLIGAN ROAD AND ELEVEN MILE CORNER ROAD CONSISTING OF APPROXIMATELY 646 ACRES. THE PROPOSED PROJECT IS LOCATED ON THREE PRIVATELY OWNED PARCELS (PINAL COUNTY ASSESSOR'S PARCEL NUMBERS: 408-01-022B, 408-01-022C, AND 408-01-022D), UTILIZING ALL OF SECTION 13, TOWNSHIP 8 SOUTH, RANGE 7 EAST OF THE GILA, AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA. THE EXTENSION REQUEST WAS SUBMITTED BY 301AK 8M LLC IN CARE OF STEPHANIE PERRY, CHIEF OPERATING OFFICER OF AVANTUS, LLC, ON BEHALF OF MDT INVESTMENTS LIMITED PARTNERSHIP.**

Staff Cover Sheet Report: *Staff recommends the City Council find that the criteria to extend the Conditional Use Permit (Case No.: CUP2022-038) for a period of two years has been met, and the extension (Case No. CUP2022-038.E1) is conditioned upon the following Conditions of Approval: 1) Development of the conditional use on the site shall maintain compliance with the Conditions of Approval for Case No. CUP2022-022; and, 2) The Conditional Use Permit (Case No. CUP2022-022) and this extension (Case No. CUP2022-038.E1) shall expire on July 22, 2026, unless the*

Conditional Use Permit (Case No. CUP2022-038) has been used, or extended by the City Council.

On April 22, 2024, the applicant, 301AK 8me LLC c/o Stephanie Perry, Chief Operating Officer of Avantus, LLC on behalf of MDT Investments Limited Partnerships, submitted a request for a two-year extension to a previously approved Conditional Use Permit (CUP) (Case No. CUP2022-038) for a Solar, Utility Scale Generation, and Battery Energy Storage System Facility, located at the southwest corner of Milligan Road and Eleven Mile Corner Road (Pinal County Assessor's parcel numbers 408-01-022B, 408-01-022C, and 408-01-022D), utilizing all of Section 13, Township 8 South, Range 7 East of the Gila, and Salt River Base and Meridian, Pinal County, Arizona. Approved by the City Council on January 22, 2024 (minutes attached), in accordance with the criteria of Section 21-6-7.5. A. of the Zoning Ordinance, the existing Conditional Use Permit (Case No. CUP2022-038) is to expire on July 22, 2024.

In summary, the above-referenced existing Conditional Use Permit allows the development of a Solar, Utility Scale Generation, and Battery Energy Storage System Facility at the above-referenced address on a site zoned Estate Residential (R1-54) consisting of approximately 646 +/- acres. All improvements are required to comply with the applicable provisions of the Zoning Ordinance. Furthermore, this extension of the CUP requires the development of the Solar, Utility Scale Generation, and Battery Energy Storage System Facility to comply with the Conditions of Approval previously approved in Case No. CUP2022-038.

In accordance with Section 21-6-7.5. B., the City Council shall hold a public hearing to consider the granting of a time extension as follows (Staff's analysis of the criteria are in Bold Text):

- 1. Upon request by the applicant.*
 - **The applicant's request for a time extension is attached to this report.***
- 2. When the request is filed in writing with the Community Development Department no less than thirty (30) days prior to the expiration date of the original conditional use permit (CUP) approval.*
 - **The applicant's request for a time extension was received ninety (90) days before the expiration of the Conditional Use Permit.***
- 3. When accompanied by a time-sensitive stipulation noted as a required condition of approval of the original conditional use permit.*
 - **The applicant has requested a time extension to allow up to two (2) years (July 22, 2026) to utilize the Conditional Use Permit.***

4. *Upon determination by the City Council that there have not been any changes in the circumstances or the vicinity of the property or use that would render the previously approved conditional use permit (CUP) inappropriate.*
 - *There are no discernible circumstances or uses in the vicinity of the property or a permit that would render the previously approved Conditional Use Permit (Case No. CUP2022-038) inappropriate.*

FISCAL IMPACT: *There is not a fiscal impact associated with this discussion.*

Mr. Symer reviewed a request from Avantus for a two-year extension of their CUP. Mr. Symer said the applicant asked for a two year extension in February, however, Council approved the extension for six months, which is why the applicant is back to request for the additional two-year extension. Mr. Symer said the applicant meets the criteria for the extension and staff has no objection to the request.

It was at this time that Mayor Powell opened the public hearing.

Mr. Kevin Johnson, senior development manager with Avantus, gave a brief overview of the solar project schedule. Mr. Johnson assured the Council that there would be no changes to the schedule.

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

Ms. JoAnne Galindo asked for clarification of the solar project location.

Mr. Johnson said the project would be located at the southwest corner of Milligan and Eleven Mile Corner Roads.

Mayor Powell added that it would be located south of Interstate 10.

There being no further questions from the public or the Council, Mayor Powell closed the public hearing.

Mayor Powell called for a motion to read the resolution by title only.

A motion was made by Councilmember G. Rodriguez, seconded by Councilmember Snyder to read Resolution No. 24-1572 by title only, passed unanimously (7-0).

The city clerk read the resolution title into the record. The clerk noted a typographical error in the title. The word "*Solra*" should be "*Corner*."

Mayor Powell asked for direction from the Council.

A motion was made by Councilmember Snyder and seconded by Councilmember Sutton to adopt Resolution No. 24-1572 with the correction as noted, passed 6-1 by the following roll call vote:

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

Nays: Councilmember Garcia

C. ADOPTION OF RESOLUTION NO. 24-1575, ADOPTING THE TENTATIVE BUDGET FOR FISCAL YEAR 2024-2025 FOR THE CITY OF ELOY IN THE AMOUNT OF \$64,444,735.

Staff Cover Sheet Report: *Staff recommends the adoption of Resolution No. 24-1575, adopting the Tentative Budget for Fiscal Year 2024-2025 for the City of Eloy in the amount of \$64,444,735.*

State law requires that the City Council adopt a tentative budget on or before the third Monday in July of each fiscal year. Once this tentative budget has been adopted, the expenditures may not be increased upon final adoption, however, they may be decreased. With the adoption of the tentative budget, the Council has set its maximum "limits" of expenditures, but these limits may be reduced upon final adoption. Upon adoption of the tentative budget, a public hearing must be set. The date for the public hearing is set for June 27, 2024, at 5:30 p.m. in the Council Chambers.

The FY 2024-2025 annual budget can be viewed digitally at the following URL link: <https://city-eloy-az-budget-book.cleargov.com/16017>

Once the tentative budget has been adopted, Schedule A-G must be published once a week for at least two consecutive weeks following the adoption. This will be published in the Casa Grande Valley Newspapers. The tentative budget is fully itemized in conformance with forms supplied by the Auditor General as prescribed by Arizona Revised Statutes §§42-17101 and 42-17102 and entered into the Council meeting minutes.

FISCAL IMPACT: *Total annual budget for FY 2024-2025 is \$64,444,735.*

Mr. Wright gave an overview of the proposed tentative budget. He conveyed that once the amount of the tentative budget is approved, adjustments can be made within the budgeted amount, however the amount cannot be increased. Council will hold a special meeting, June 27, 2024, at 5:30p.m., for public hearings on the final budget and property tax, followed by adoption of the final budget. Mr. Wright conveyed that the tentative budget is available for public review on the city's website through a URL link. He announced that this would be his last presentation of the budget. He

has accepted a job with the Town of Florence. His last day with the city will be June 21st.

Mayor Powell called for a motion to read the resolution by title only.

Motion was made by Councilmember Garcia, seconded by Councilmember G. Rodriguez to read Resolution No. 24-1575 by title only, passed unanimously (7-0)

The city clerk read the resolution title into the record.

Mayor Powell asked for direction from the Council.

Motion was made by Councilmember G. Rodriguez, seconded by Councilmember Tarango to adopt Resolution No. 24-1575 as presented, passed unanimously by roll call vote (7-0).

Mayor Powell thanked Mr. Wright for his service with the city and wished him the best in his new job with the Town of Florence.

D. APPROVAL OF AN EMPLOYMENT CONTRACT FOR DAVID MALEWITZ AS CITY MANAGER INCLUDING BENEFITS.

Councilmember Snyder asked to go into Executive Session for legal advice related to the proposed contract.

IX. EXECUTIVE SESSION

A motion was made by Councilmember Snyder and seconded by Councilmember Tarango to hold an executive session at approximately 6:30 p.m., for approximately thirty (30) minutes with the city manager, city clerk (note taking), and city attorney for:

- A. Discussion and negotiations of the employment contract of the City Manager, in order to consider its position and instruct its staff and attorney regarding the public body's position regarding discussions conducted on the City Manager employment contract, City Code and legal advice, pursuant to A.R.S. § 38-431.03 (A) (1), (3), and (4).**

The motion passed unanimously (7-0).

Mayor Powell reconvened the public meeting at approximately 7:16 p.m.

VIII. BUSINESS (continued)

D. APPROVAL OF AN EMPLOYMENT CONTRACT FOR DAVID MALEWITZ AS CITY MANAGER INCLUDING BENEFITS.

Staff Cover Sheet Report: *An employment contract with David Malewitz as Eloy City Manager, effective June 10, 2024, is to be discussed and approved by a majority vote of the City Council. This matter will also be discussed in Executive Session with the City Manager, City Council, and City Attorney for legal advice pursuant to A.R.S. § 38-431.03 (a)(1),(3), and (4).*

y Manager is for an open-ended term (no expiration or ending date) beginning June 10, 2024. The terms of the contract provided for an annual salary of \$161,401.29 (subject to the July 1st market adjustment and other City Benefits such as COLA, bonus/benefits awarded to other City Employees), a car allowance of \$7,200 and a phone, tablet, and technology allowance of \$1,800.00. These sums did not include the expense of benefits paid to the City Manager in the same manner that are paid to City employees, such as insurance, retirement contributions, vacation, and sick leave. The above sums do not include the cost of professional development membership and training costs, which are to be approved in advance by the City Council.

Should Mr. Malewitz wish to resign during the term of this contract, he must give 90 days advance notice to the City Council. This contract also provides that upon termination of this Agreement or the City Manager leaving City employment, either voluntarily or involuntarily, the City shall pay the City Manager for one hundred percent (100%) of the accrued but unused PTO leave in a lump sum.

During the term of this Agreement, Employee shall be required to establish and maintain a residence within a 25-mile radius of the City Hall of the City of Eloy.

Additional key terms are:

- 1. The city agrees to pay the Employee an annual base salary of \$161,401.29 for his services rendered pursuant to this agreement as City Manager.*
- 2. The City agrees to pay the sum of Seven Thousand Two Hundred Dollars (\$7,200.00) per year, payable in equal monthly installments, as a vehicle allowance to purchase or lease a vehicle. The City Manager shall be responsible for paying for liability, property damage, and comprehensive insurance coverage for such a vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle.*
- 3. In the event the City Manager voluntarily resigns as City Manager, he shall give the City Council ninety (90) days advance notice.*
- 4. In the event the City Manager is terminated by the City Council without cause during the time that he is willing and able to perform the duties of City Manager; the City Council agrees to pay nine (9) months of base salary, calculated at the*

rate of pay in effect upon termination and shall be paid in the same manner as if City Manager was still an employee of the City of Eloy.

5. *If the City Manager is terminated within three (3) months of any newly elected Mayor or City Councilmember after being sworn into office after the 2024 election cycle, the City Manager will be compensated an additional three (3) months of severance, in addition to 9 (nine) months, totaling twelve (12) months of base salary, calculated at the rate of pay in effect upon termination.*
6. *The City Manager shall accrue PTO in the same manner as Department Heads of the City of Eloy, pursuant to City of Eloy Administrative Policy #600, subject to a maximum accrual of 600 hours of PTO hours, which shall be payable in a lump sum upon the termination or resignation of employment.*

FISCAL IMPACT: Annual Salary \$ 161,401.29
Annual Car allowance \$ 7,200.00
Annual Phone and Tablet Allowance \$ 1,800.00

The above sums do not include the expense of benefits paid to the City Manager in the same manner paid to City employees, such as insurance, retirement contribution, and PTO leave. The above sums do not include the cost of professional development membership and training costs, which are to be approved in advance by the City Council.

Mr. Cooper gave a brief overview of the proposed employment contract with Mr. Malewitz. He noted the following amendments to the contract:

- Section 12, paragraph 1 states, "During the terms of this Agreement, the Employee shall establish and maintain a residence within a 25 mile radius of the Eloy City Hall." The sentence is amended to read, "During the term of this Agreement, the Employee *is encouraged to live within the city limits of the City of Eloy, but shall be permitted to establish and maintain a residence within a 25 mile radius from Eloy City Hall.*"
- Section 1, paragraph 2 states, "...or in any manner take part in the appointment or removal..." The words "*or in any manner take part*" is stricken from the contract.

Mr. Cooper said if the Council wish to approve the contract with the noted amendments, the motion would be to approve the contract as amended.

Mayor Powell asked for direction from the Council.

A motion was made by Councilmember Snyder, seconded by Vice Mayor Curtis to approve an employment contract for David Malewitz as city manager, including salary and benefits, as amended, passed unanimously by roll call vote (7-0).

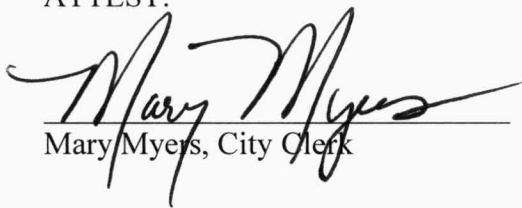
X. ADJOURNMENT

There being no further business, Mayor Powell adjourned the meeting at approximately 7:22 p.m.



Micah Powell, Mayor

ATTEST:



Mary Myers, City Clerk