

**MINUTES  
EAGAR TOWN COUNCIL  
REGULAR MEETING  
22 W. 2<sup>nd</sup> St., Eagar, AZ  
February 15, 2011 – 7:00 P.M.**

Mayor Kim Holaway called the meeting to order and welcomed those present. Mayor Kim Holaway led the Pledge of Allegiance and Councilor Debbie Rogers offered the invocation. Mayor Kim Holaway said to let the record show that all council members were present, except for Gary Finch who is absent.

COUNCIL PRESENT:        Kim Holaway, Mayor  
                                 James Nelson, Vice-Mayor  
                                 Steve Erhart  
                                 Debbie Rogers  
                                 Byron Smith  
                                 Tim Rasmussen

ABSENT:                     Gary Finch

TOWN ATTORNEY:        Doug Brown

STAFF PRESENT:         Bill Greenwood, Town Manager  
                                 Bruce Ray, Community Development Director  
                                 Eva Wilson, Town Clerk  
                                 Elwin Browning, Public Works Director  
                                 Marion Wiltbank, Assistant Town Clerk

**ITEM #5: SUMMARY OF CURRENT EVENTS**

A. MAYOR

Let public know that there is an Eagar/Springerville Joint Council meeting next Tuesday, February 22 at the Springerville Town Hall at 6:00 p.m.

Welcomed Boy Scout leader Scott Shellenberger and scouts Jeremy Patton and KJ Whiting to the Eagar Town Council meeting.

B. COUNCIL

Councilor Debbie Rogers was at the Arizona State Capitol for the Arizona Centennial kickoff celebration, she was promoting the ATV Jamboree that is held here in Eagar and handed out some White Mountain Magazines. Her husband Hank Rogers also promoted the Trophy Elk contest and Outdoor Expo that is going to be held at the rodeo grounds in April. Councilor Rogers was interviewed by the media and had the only events representing Apache and Navajo Counties.

Councilor Tim Rasmussen went to an unscheduled Pitch In and Clean Up meeting today to set up sub-committees for the Arizona Centennial Project at the gazebo Main Street Park.

C. STAFF

Town Manager Bill Greenwood stated that the WES Bio Mass Plant met today in Snowflake. Once he gets a report on it he will do an update for the council. They are doing two projects right now – one project in Navajo County and one in Eagar.

Town Clerk Eva Wilson Reported that the town received one bid for the land on Central and Butler. The bidding closed at 5:00 p.m. yesterday.

Ms. Wilson said that the town is collecting donations for fireworks in a can that is placed at the water payment window and citizens can round up on their water bills.

Ms. Wilson offered an Arizona League of Cities and Towns poster of the Arizona Senators and Representatives and a calendar to the Mayor and Councilors to take.

**ITEM #6: OPEN CALL TO THE PUBLIC**

Karen Warnick, White Mountain Independent reporter, is on the Kids In the Woods leadership team with the Forest Service. Kids in the Woods started in 2007 by a group of volunteers and the Forest Service to establish a fun educational way for kids to learn in the woods. When we started in 2007 we had 4 programs and 90 participants. Last year in 2010 we had 100 programs and 5000 participants. We offer a free program in all the campgrounds, field trips for the schools and various sites around Apache and Navajo Counties. We actually have quite a few partners on board with us and we are getting grant money to expand the program. The reason I am here is that during our leadership meeting the last two times, I brought to their attention the fishing pond going into Eagar and the fact that you were going to be having to raise funds eventually to do your part for it. The Kids in the Woods would like to partner with the town to create an area in the park that uses natural resources. A hand on activity that the kids could do with all natural materials and the Kids in the Woods would like to help develop/plan it in coordination with the town.

Becki Christensen, Chamber Director, informed the council that the 2011 official Arizona's Visitors Guide is out. We have not yet received our copies yet, but I will probably be handing them out at the next Chamber board meeting. Received eight phone calls from people in Ohio and Idaho, wanting us to send them our vacation packages. Thursday there is a Brag and Share Business luncheon at the Sunnyside Restaurant in the side room at noon.

**ITEM #7: UNFINISHED BUSINESS**

A. DISCUSSION AND CONSIDERATION OF ANY ACTION TO BE TAKEN ON LEGISLATIVE ISSUES

Mayor Kim Holaway said that the Council gets an email bulletin every Friday and there is a proposed bill on Urban Revenue Sharing that would freeze at the current rate for the next 20 years. Any town that grew would not see any additional funding for the next 20 years. That would be a hardship on any fast growing community. It is a good idea to

read the bulletin and contact our representatives and Senator Allen with anything that relates to our town.

Town Clerk Eva Wilson brought to the council's attention the bill that cities and towns would have to hold an election for councilmember's that have vacated their seats and instead of council appointing a new member, a new election would have to be held. The cost of an election is around \$10,000.

**B. DISCUSSION AND CONSIDERATION, SECOND READING OF ORDINANCE 2011-04 AMENDING THE EAGAR TOWN CODE BY REVISING TITLE 18, SECTION 18.64.110 – ALTERNATIVE POWER GENERATION**

Community Development Director Bruce Ray presented the amendments to the Ordinance 2011-04 and said that it was updating the Eagar Town Code on Alternative Power Generation.

Vice-Mayor James Nelson, Jr. moved to approve Ordinance 2011-04 amending the Eagar Town Code by revising Title 18, Section 18.64.110 – Alternative Power Generation. Councilor Byron Smith seconded; all were in favor, motion carried unanimously. 6-0

**ITEM #8: NEW BUSINESS**

**A. DISCUSSION AND FIRST READING OF ORDINANCE 2011-03 AMENDING THE TOWN CODE BY REVISING TITLE 18, SECTIONS 18.18.08 DEFINITIONS FOR MEDICAL MARIJUANA, 18.20.030 AG CONDITIONAL USES FOR MEDICAL MARIJUANA CULTIVATION, 18.56.040 C-2 CONDITIONAL USES FOR MEDICAL MARIJUANA DISPENSARY AND 18.60.030 I-1 CONDITIONAL USES FOR MEDICAL MARIJUANA CULTIVATION**

Community Development Director Bruce Ray said with the passage of Proposition 203 that made Medical Marijuana legal, the League of Cities and Towns had a model code that we took and adapted most of it for our code. Mr. Ray presented that to the Planning and Zoning Commission last month, and they also had a Public Hearing in January on Medical Marijuana. After that Public Hearing the Commission approved the changes presented to them, with the separation of 1320 feet from church and school property and 500 feet from residentially zoned property. It proved that 1320 square feet zoned Medical Marijuana out of the Town of Eagar. Based on the fact that if they have a card for use, and they are not within 25 miles from a medical dispensary they can grow their own. It is advantageous to the town to have one here or in Springerville. The state has not finalized all the rules on Medical Marijuana yet. The final rules will be out March 26<sup>th</sup>.

Mr. Ray made the recommendation to Council and this coincides with the Department of Health Services, that the dispensary be 500 feet from the school property and 200 feet from a church and or park/public recreation facility. Also the separation from private property Mr. Ray recommends that be deleted.

Councilor Steve Erhart asked if Mr. Ray had talked to Apache County and what they are doing and what St. Johns has already done? Mr. Ray has talked to other communities and Show Low is 500 feet from a school, but their business area is larger. Springerville is still deciding on what they were going to do. Springerville has a similar problem with churches.

Councilor Tim Rasmussen asked if anyone had contacted the town about putting a Medical Marijuana dispensary in? Community Development Director Bruce Ray said there was a gentleman here a week ago Monday looking for a location. Several attorneys have called wanting to know what our codes are. Another gentleman called me yesterday about a location. Department of Health Services has 126 CHAA's (Community Health Assessment Area) in the State of Arizona. A CHAA is how they tract cancer throughout the state. Eagar and Springerville, which would include Nutrioso and Alpine are in what they call the Round Valley CHAA. 124 Dispensaries have been allocated through the legislation. The Director of Department of Health Services goal is to have one in each of the CHAA's. They know that there will be extras because the reservations might not use theirs. There are 19 allocated for Maricopa County that is how many CHAA's are down there. Maricopa County might end up with more because the reservations won't use all of theirs.

Councilor Tim Rasmussen asked if Community Development Director Bruce Ray could forecast what the possibilities of tax revenue would be to the town from the Medical Marijuana? Community Development Director Bruce Ray said that all he knew is that the Attorney General has made a ruling that it is taxable. Councilor Rasmussen asked if we didn't adopt an ordinance they could bring in a business and sell it anyway? Mr. Ray said that was correct and we wouldn't have a say and they could set it up as a retail sale in RC-2 zoning district, if we didn't have an ordinance in place. After talking to Town Attorney Doug Brown we need to have this ordinance in place, even if we have to change it in the next few months. Councilor Debbie Rogers appreciated Mr. Ray explaining with the young people in the audience, why the town would want a dispensary here, where we can regulate it.

Community Development Director Bruce Ray said another problem the Department of Health will have is that a caregiver can have up to five patients that they supply and grow 60 plants in their home and their patients could be living in Globe or elsewhere. That will be something to find out how to control in the future.

Councilor Steve Erhart asked on the Attorney General's ruling on taxing, was that exclusive to medical marijuana or any other prescription covered under that? Town Attorney Doug Brown said that under the Model City Tax Code prescription and things are exempted out and basically the opinion was that the laws of the tax code could be amended so that medical marijuana was not a prescription and not be exempted out. Councilor Erhart said so it is not a prescription that people would get for medical marijuana use? Mr. Brown said it was against federal law to give a prescription for marijuana. Mr. Ray said a medical marijuana patient would be given a card. Councilor Tim Rasmussen asked if it was legal from a local standpoint to add an additional tax on or is it already pre setup from the state? Mr. Brown said it was pre set up by the state because all of the Leagues of Cities and Towns agree that we will all abide by the Model City Tax Code, to keep the legislature away from taking away our ability to tax. It was set up a long time ago, because the state is always after the cities.

Councilor Erhart said it was also a proposal that you can't tax one business over and above another. Mr. Ray said that the dispensary to survive, should have another business, like chiropractic.

Commissioner Gary Cressy appreciates Bruce Ray's work on the ordinance and solutions, so it can benefit our community. Police Officers came to the January meeting and explained their views on it. Chief Mike Hogan said the problem is that they can't tell which marijuana comes from a dispensary and which marijuana is from Mexico. Dispensaries will control the prices and prices are more expensive in the medical marijuana. All they would have to do is obtain a card and they can have illegal marijuana in their possession. Mayor Kim Holaway said the person would have to have the card in their possession with the marijuana to show that they have a medical reason for it. Karen Warnick said that at the county they discussed controlling with batch numbers or bar codes and keep track of seeds to know where it comes from and where it is going. Councilor Rasmussen asked Chief Hogan if medical marijuana would be more expensive to buy from a dispensary or would it be cheaper to buy marijuana on the street. Chief Hogan said dispensaries would have more overhead. Ms Warnick said the state was going to tack on a 300% tax on medical marijuana, so if you bought marijuana for \$100 it would end up costing you \$400. Community Development Director Bruce Ray said this is the first reading of this ordinance, so council has some time to think about it.

**B. DISCUSSION AND FIRST READING OF ORDINANCE 2011-02 AMENDING THE EAGAR TOWN CODE BY ADDING TO TITLE 5, CHAPTER 5.20 – LICENSING OF MEDICAL MARIJUANA –RELATED FACILITIES**

Town Clerk Eva Wilson said this is all new territory and we will see a lot of changes as changes come down through the state. Licensing is to ensure that the dispensary is licensed and are known to the town. People that are operating the dispensaries have to have a clean criminal history record and all their employees have a clean background. The business license fees schedule will have to be changed. I have posted it today, so 60 days from now we can hear what kind of fees the town is going to charge. The business license will let the applicant know what they can and can not do. This license will be different, as every employee requires a background check and fingerprints. We will try to keep fees as low as possible to help the people that are sick.

Councilor Tim Rasmussen asked where a person would be allowed to smoke marijuana? A person couldn't just walk out of a dispensary and start smoking it in their car? Can a person smoke marijuana and drive a car at the same time? Karen Warnick said according to the public meeting that was held last week, yes you can, that as long as they have the card they can smoke anywhere and they do not have to have the card with them. The police could pick them up and hold them until they could prove they had a card. Town Clerk Eva Wilson said there is a law against driving under the influence of prescription drugs. Councilor Rasmussen asked what about smoking marijuana at schools? Mayor Holaway said that the smoking laws would apply like anywhere else. Councilor Rasmussen asked if the Town of Eagar could draft a local ordinance that they can't go walking down the street smoking marijuana even if you have a card? Attorney Doug Brown said the state could pre-empt it. Mayor Kim

Holaway asked Mr. Brown to keep an eye on the laws about smoking marijuana in public and what other communities are doing.

Community Development Director Bruce Ray said the time line for the state: comment period ends tomorrow, the final rules are out March 26<sup>th</sup>, and they start taking applications for the dispensaries April 1<sup>st</sup> and they will start issuing cards to patients. Mayor Kim Holaway said it would be ideal to have our ordinance in place prior to that. Town Clerk Eva Wilson said the only thing that would not be ready would be the fee scheduling for a business license as it requires a 60 day requirement of posting. Mr. Ray said they still have to get a conditional use permit to comply with the state and that will take till May to apply.

C. DISCUSSION AND CONSIDERATION OF RESOLUTION 2011-06 APPROVING THE REVISED LEASE AND COOPERATIVE AGREEMENT BETWEEN THE ARIZONA GAME AND FISH COMMISSION AND TOWN OF EAGAR FOR AN URBAN LAKE

Mayor Kim Holaway said the town did not receive the agreement with the Game and Fish yet. Town Manager Bill Greenwood was told it would be Tuesday or Wednesday, as the Phoenix office held it up. They have to have this agreement for their commission meeting in March. The pond site is being moved to the west, because of the pottery shards that were found on that site. There is another piece of property to use in exchange, to move it further away from the pottery shard site. The Game & Fish's concern is they have the money in this year's budget and they want to start this year. They have an agreement in place with NAVIT to start the excavation. Councilor Tim Rasmussen asked how far are they moving it, because won't they find more pottery shards close by? Mr. Greenwood said they examined the entire site and are moving it a couple of hundred feet further west because burial sites usually are to the east. The Hopi's are being kept in the loop.

Resident Scott Shellenberger asked if it would be self-sustaining and what the cost was to the citizens of Eagar? Town Manager Bill Greenwood said that the town would be responsible for emptying trashcans and doing a few things and supplying some water. So it will be a low cost to the town, as the agreement is Game & Fish will be doing the stocking of the fish and help maintain the lake itself. What we do around it as far as a park will be at our expense. Councilor Tim Rasmussen said the urban lake in Payson is doing really well. Councilor Debbie Rogers said it would be another park site for the community. Karen Warnick said if there were an interactive area in the park for the kids it would attract more local kids and people. Councilor Steve Erhart asked how the pond construction would be done? Mr. Greenwood said that NAVIT would do the excavation for free and all the Game & Fish would have to pay for was the diesel and gas. Town of Eagar owns water shares for the pond, so it would not be a big expense right now. Mayor Holaway said the project would be completed in phases.

D. DISCUSSION AND CONSIDERATION OF THE RAMSEY PARK NORTH SURVEY RESULTS

Vice-Mayor James Nelson said that the purpose of the Ramsey Park North property was to build a new pool. ASU student Eileen Bows distributed the survey to the High School students. The existing Ramsey Park holds lots of activity for younger children. Mayor Kim Holaway asked if council wanted to move forward with the survey results or conduct another survey? The public had an opportunity to express their opinion. Councilor Steve Erhart said that 16% of adults filling out the survey was not very high. The adult populations are the taxpayers. Mayor Holaway said not to duplicate what we already have in our community. We as a council need to be realistic; an indoor skate park isn't going to happen. Additional parking, restrooms, drinking fountains, these are things we should give more priority to. Vice-Mayor Nelson said to have Ms. Bow draw up a plan and keep the space for a pool. Have amphitheater and open space to throw a baseball or have a picnic. Councilor Erhart said to have parking centralized, so you can head out to anywhere in the park. Mayor Holaway said that Eileen Bow is doing the project pro-bono and the project is in her masters degree program that ends in May. Mayor Holaway said to have a phase in plan of what we could afford at a time.

Mayor Kim Holaway listed open space, central parking, amphitheaters, armadas, walking path – ½ mile or mile, gathering spaces and pool, restrooms. What about a splash pad- a three-month recreational activity for the kids? Put a splash pad near the pool area, so it can become a part of the pool later. Councilor Steve Erhart said to have activities we can move around besides the big projects-pool, armadas, and amphitheater. Look for low to no maintenance like stone or rock to make more permanent. Councilor Debbie Rogers suggested a snack bar/food court and have a small building for vendors to rent out, close to the amphitheater with electricity and water. A ramada attached would be nice. Mayor Holaway suggested a ramada for 100 people – large groups. Councilor Tim Rasmussen agreed with the large ramada, as there weren't enough seats for Eagar Daze's ice cream social and the pancake breakfast. Mayor Holaway said to add a food prep area to the large ramada.

Mayor Holaway said that Steve Christensen has been working with a committee for a Boy's & Girl's Club in our community. He has gone to great lengths to research this topic.

#### E. DISCUSSION AND CONSIDERATION OF THE CENTENNIAL PROJECT

Mayor Kim Holaway said this was an update for the council on the area around the gazebo that is designated for the towns Centennial Legacy Project. The Challenge Grant will allow us to plant some trees. We can have commemorative bricks, picnic tables and benches that can be donated by citizens, businesses and families. Councilor Debbie Rogers said to research out all the families that have been in the area for 100 years, to get them to donate the bricks. We want to have grass not cinders. Mayor Holaway said to place the picnic tables and benches on cement slabs.

The town is looking for contractors who are willing to donate time to build the kiosks. We are also looking for historical pictures and information that can be used on the kiosks to create a story of how Eagar was founded and major events that have occurred throughout the past 130 years.

F. DISCUSSION AND CONSIDERATION TO REVISE THE TOWN MANAGER'S PERFORMANCE EVALUATION INSTRUMENT

Mayor Kim Holaway stated that the manager's evaluation instrument is lengthy and duplicated in places. Councilor Steve Erhart said to strike out the duplication. Vice-Mayor James Nelson said to make it easier to use and understand. Vice-Mayor Nelson and Mayor Holaway will work on it.

**ITEM #9: SIGNING OF DOCUMENTS**

Mayor Kim Holaway signed Ordinance 2011-04.

**ITEM #10: ADJOURNMENT**

Councilor Steve Erhart moved to adjourn the Council meeting at 8:30 p.m. Councilor James Nelson seconded; all were in favor, motion carried unanimously. Vote 6-0

Attest: \_\_\_\_\_

Mayor: \_\_\_\_\_

Vice-Mayor: \_\_\_\_\_

Council: \_\_\_\_\_

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CERTIFICATION OF COUNCIL MINUTES

I hereby certify that the foregoing minutes are true and correct copy of the minutes of the Regular session of the Town of Eagar, Arizona held on February 15, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
Marion Wiltbank, Assistant Town Clerk