

Work Session Minutes
October 6, 2015

Mayor Mueller called the October 6, 2015 City Council Work Session to order at 4:30 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, AZ

Roll Call

Mayor Rick Mueller – present
Mayor Pro Tem Bob Blanchard – absent
Council Member Alesia Ash – present
Council Member Gwen Calhoun – present
Council Member Rachel Gray – present
Council Member Hank Huisiking – present
Council Member Craig Mount – present

Others Present:

Chuck Potucek, City Manager
Mary Jacobs, Assistant City Manager
Adam Thrasher, Acting Police Chief
Matt McLachlan, Community Development Director
Judy Hector, PIO
Pam Weir, Management Analyst
Jill Adams, City Clerk

2. Presentation and discussion:

A. Presentation and Discussion of Proposed Changes to the Property Maintenance Section of the City's Code of Ordinances

Mr. McLahlan talked stated that Community Development has been working on the proposed amendments to the City Code related to building and property maintenance because for a number of years preceding his arrival, Community Development, mostly due to economic factors, was principally concerned with conducting growth management activities relating to the process of getting bigger. Greater emphasis is now being placed on community development activities, which relates to the process of getting better, strengthening existing neighborhoods, revitalizing business districts, enhancing public roadways and facilities. In this regard, code enforcement plays a vital role in the overall mission of Community Development. It is the Department's job to ensure that property owners are adhering to the standards set forth in the City Code and respond to problem properties that come to their attention in the field or are called in through the complaint line.

First and foremost, the Department strives to achieve voluntary compliance through informal methods involving personal contact and education and that yields about 80% success rate. Code enforcement is an important regulatory tool that cities yield in stemming neighborhood decline, preserving sound neighborhoods, and restoring distressed areas. It is important to keep in mind that the ability to gain compliance is more a function of the economics of a property and a neighborhood as to the effectiveness of the code enforcement system.

Code enforcement needs to be linked to an overall neighborhood revitalization strategy that examines a full range of issues, opportunities and available resources. This is something that the Department hopes to engage more fully in the near future.

The goal of any code enforcement program is to encourage private property owners to maintain their property and use it productively. Responsible property ownership and maintenance is at the heart of neighborhood stability. While most owners meet their obligations, many do not and while the City may not own the properties, it owns the problem.

The Department's job is to encourage negligent owners to carry out the responsibilities and take action to minimize harm to the community. It is important for the public to understand that staff is not just walking around with clip boards and measuring sticks looking to dink people on minor infractions. The Department is prioritizing their resources to focus on chronic nuisance properties and major health and safety violations. This is a team effort that crosses all departments and involves partnerships with outside organizations.

Mr. McLachlan stated that he would not dwell on the operational aspects of code enforcement as the subject of the work session is on the proposed amendments to the City Code; it is important to put the Department's efforts in context with the bigger picture. In order to strengthen the overall system of code enforcement and achieve a higher and faster rate of compliance:

- There has to be clear consistent rules with strong acceptance and support by the community;
- The rational and necessity of the rules that are on the books have to be explained;
- Need to make sure that property owners understand the right to appeal administrative decisions and make their case before an impartial magistrate following the required public notices and due process;

For those cases that do not follow voluntary compliance, the Department needs to make sure that the penalties are adequate to motivate compliance and recover the City's costs.

Mr. McLahlan explained that the over arching purpose of the amendment is to consolidate related, overlapping provisions under one title and chapter and City Code and to streamline the enforcement process. It is not a major departure from the existing standards. It is more of reorganization and blending to provide for more consistency and clarity.

The Department is recommending that the City adopt one set of building and property maintenance standards under one section of the City Code. The City has adopted by reference the Model International Property Maintenance Code under Chapter 150 of the Building Code and additional property maintenance regulations under Chapter 91. The resolution proposes to integrate the separate code standards into a single set of property maintenance and nuisance abatement regulations under Title 15, which relates to land usage. This will provide the public with each access to the standards on line without the need to cross reference in a document that is published outside City Code because in order to read the rules, a \$15 charge to ISCC to obtain a copy or a trip to City Hall is required. This will help make the rules more transparent.

The City's noise regulations that are covered under different sections of the City Code as well as the Development Code are also being addressed. The City has enacted a decibel base standard and a reasonable base standard for enforcing loud and ruckus noise complaints. Staff is recommending that the noise regulations be consolidated and covered under Chapter

93 which relates to noise regulations and adopt the decibel base standard as currently enacted.

Mr. McLachlan stated that a separate resolution will be prepared to remove the same provisions from the City's Development Code as part of a larger packet of amendments that are currently being worked on.

The City Code has a standalone section on junk vehicles and staff is recommending that this issue be treated as a public nuisance under the property maintenance code under a revised definition of inoperative vehicle. Rather than looking at the condition of the vehicle the Department's focus will be limited to whether the vehicle is in working condition and capable of being operated lawfully on public streets. If it is on blocks or without a valid tag, then it is an inoperable vehicle. One such vehicle is allowed on residentially zone property if stored in a garage, carport or covered by a car cover and kept under a reasonable clean matter. An exception is also made for inoperable vehicles on residentially zoned property that authorizes the service of storage of motor vehicles.

Council Member Calhoun asked if the proposed amendment covers inoperable vehicles that are on left on the street. Mr. McLahlan stated that this covers inoperative vehicles on private property. It would be an infraction if such a vehicle was parked on a public street for an extended period of time. Acting Police Chief added that it is covered under Arizona Revised Statutes. The vehicle has to be properly registered with the State to be parked on a public roadway.

Mr. McLachlan stated that the Department is recommending amending Chapter 150 of the Code to reference the adoption of the Building, Plumbing, Electrical, Fuel, Gas, Energy, Swimming Pool and Spa Codes that were passed and adopted under Ordinance 2015-005. It also adopts by reference the Maricopa Association of Governments Specifications and details for Public Works construction as being the minimum uniform standard specifications of the City that are currently in practice.

Chapter 152 is amended to adopt 2015 Edition of the International Fire Code to be consistent with Ordinance 2015-005 as amended by Resolution 2015-048.

The resolution establishes a new chapter under Title 15 providing for a foreclosure registry system modeled after Bullhead City, Arizona that they adopted in 2013 with good success according to their staff. The purpose is to establish a point of contact with a mortgage lender after a list is filed initiating the foreclosure process. The contact information will be used for quicker, more direct communication to get these properties on a more regular maintenance schedule. It is much better for the City for the lender to assume responsibility than to abate the nuisance and then lien the property. Staff recommends that the same ordinance provision be put in place here.

On the subject of enforcement, public nuisance violations as defined in Chapter 150 are deemed a Class One Misdemeanor. If it is the first or second violation within a two-year period the City retains discretion on whether to enforce the Code through civil or criminal procedures pending on the severity of the violation. Staff will defer to the judgment of the City Attorney on which avenue to take on each case. Only a City Police Officer or the City Attorney can bring criminal complaints and there are always a number of enforcement options pending on the nature of the case:

- Voluntary compliance, preferred route that is strongly encouraged;

- The City or Court can enter into a Consent Order which is forced as a contract to the parties;
- Abatement by administrative procedure which is typically reserved for cases like overgrowth;
- Emergency Abatement violations would be applied in situations that pose an eminent public safety threat.

The judge may impose civil penalties depending on the ranging from \$250 to \$750 per violation for residential property and \$750 to \$2,000 for nonresidential property in addition to any abatement or restitution costs incurred to bring the building or land into compliance.

Criminal penalties are capped at \$500 per violation for residential properties and \$1,000 per violation for nonresidential properties. Each constitutes a separate violation and assessments run against the property until paid and are due in accordance with the schedule provided in the ordinance.

Council Member Ash asked if the penalties have changed from the last Code. Mr. McLachlan stated that the penalties from the last Code are listed on page 27 as follows: civil penalties range from \$150 to \$250 and criminal penalties range from \$500 to \$2,500 plus probation for one year. They are different.

Mr. McLachlan stated that in conclusion the City Code and the Development Code establish the template for how the community grows redevelops and operates in an orderly, harmonious, and prospers in a safe manner. The documents are the product of hundreds of legislative decisions that have evolved over time in response to changing conditions and public input. Sierra Vista is a well planned community that deserves a lot of credit for following through on its standards for quality and what is being proposed is not a major shift in community standards. The proposal is essentially making sure that the standards are placed in appropriate sections, terms are defined, standards are easily referenced and the methods of enforcement are streamlined for efficiency.

Mr. McLachlan stated that staff will meet with Planning and Zoning Commission after the work session to go through a similar effort on the Development Code relating to standardizing permitted and conditional uses across all zoning districts and providing for their definition.

Staff is setting the Code on a new chassis and making some tweaks and not rebuilding the engine. The proposed amendments have been vetted internally by City staff and have undergone review by the Planning and Zoning Commission at two work sessions held last month and there have been no objections for moving the resolution forward through the formal adoption process. At this time staff is asking Council for direction to make sure that the Department is on the right track before requesting authorization to set a public hearing.

Council Member Huisking stated that she likes the idea that it is going to be accessible by the public and more understandable and asked Mr. McLachlan how is it going to be more understandable. Mr. McLachlan stated that the City Code can be accessed on line, link to Chapter 150 to read the proposed standards that are outlined in the resolution.

Council Member Huisking stated that what she sees happening is that people who will notice that things are not being cleaned up and wonder what they can do about it, will go to an online source to see what can be done and what are the options.

Council Member Huisking asked about the next steps and timeline for implementation. Mr. McLachlan explained that it is a two step process starting with the adoption of the resolution and a 30-day comment period. Following that process the resolution would come back to Council in the form of an ordinance for public hearing and consideration.

Mayor Mueller noted that Mr. McLachlan is asking for input and asked how much time is available for input and will this go back to the Planning and Zoning Commission. Mr. McLachlan stated that amendments to the City Code do not necessarily involve the Planning and Zoning Commission; but that was done as a courtesy because it relates to land use. They have considered the proposal and have expressed no objections so this item can go straight to Council at the appropriate time.

Mayor Mueller asked what is envisioned for a public hearing. Ms. Jacobs recommend that the item not be a special type of interest ordinance. This is a City-wide ordinance change. The bulk of what is happening is shuffling things around. Mr. McLachlan presented today to Council to give them a heads up; but the intention is to put it on the October 22 agenda, which between now and then will still give Council enough time and there is another 30-day review period after that and because of the Thanksgiving Holiday, this would come before Council for final action at the first meeting in December. The Department would be ready to implement it shortly after the first of the year after the 30 days. Staff is trying to move this forward so that the Department is ready. The two neighborhood officer positions are open right now as the current officer has announced his retirement so the Department would be filling both and it would give time to bring them on board and train them under the new rules.

Council Member Huisking stated that she read the guidelines for the Code Enforcement Officers and offered her appreciation because everyone thought that these were written somewhere; but now it is written for everyone to see exactly what is required of them and how they are supposed to respond to complaints.

Council Member Ash thanked Mr. McLachlan for taking the time to go through the documents and make the proposed changes that he has, which she believes will be well received by the community.

Council Member Ash stated that she noticed something about public education and wonders about the methods to meet that goal and how will the Department know when there is success. Mr. McLachlan stated that there will be variety of methods in pushing out information about the property maintenance standards in the form of social media, personal contact as the officers are patrolling the respective neighborhoods and business districts. Staff plans to schedule time with active neighborhood groups and associations to touch base with them and impart again what is being seen from a code enforcement perspective and ways that they can help. There will be an exchange on a daily basis through the contacts with affected property owners as well as more organized efforts to get the information out there.

Council Member Ash stated that she finds all of the information regarding the Code very interesting; but she often gets asked by members of the public, that may not want to read the Code, what the changes mean. Mr. McLachlan explained that the major reason this is being done is to solve the issue of the Code Enforcement Officer that is out in the field not knowing which standard to reference in a citation because there is duplication within the Code. Secondly, conversely is to give the ability of the affected property owner access to the standards that are being applied to their property through the City's website and legislative code published on line. This is the primary thrust of what the Department is doing is to provide that clarity and consistency within the code document. In simple terms, he has often seen

brochures that list the top ten most common violations that residents need to be aware of and he can anticipate something like that being developed here put out on the City's website and at public facilities around the City.

Council Member Calhoun stated that she likes the idea of the brochure that will be helpful to the residents and noted that she appreciates people voluntarily making corrections to whatever the violations are; but sometimes people don't and the whole issue will be around, now that it is concise, the enforcement piece.

Council Member Calhoun stated that she also likes the idea that the effort will put into education and asked if people can bring civil complaints against a neighbor who is not following the Code, as criminal charges can only be brought by the Police Department and the City Attorney. Mr. McLachlan stated that a person will make a complaint that is investigated by City staff, the Code Enforcement Officer more than likely or it could be himself. Then they are charged with the responsibility of filing a civil action through the municipal court if it is not cured within the prescribed period of time. For an egregious violation or chronic offenders, the Department retains the discretion to prosecute that property owner through a criminal citation method.

Mayor Mueller asked about the decision process for the code enforcement officer with regard to the code enforcement process and recurring violations noted on page 12 of the staff memorandum. Mr. McLachlan explained that the hierarchy of the process is that if there is any doubt on how to write the notice, then it would be escalated to the Community Development Director.

Mayor Mueller asked if that is specifically stated within the Code. Mr. McLachlan stated that it is not, it is in the Standard Operating Procedure. The Department will start with a courtesy letter which means that if you have a repeat violator, that can be bypassed and go straight to a letter of correction. For high priority cases such as graffiti, the Department wants to jump on that right away as well as on broken windows and will order the abatement right away.

Mayor Mueller asked how emergency situations are defined as referenced in paragraph six. Mr. McLachlan stated that emergency situations could be a building that has structural issues that has eminence of posing a threat to the occupants, a dangerous tree or dead tree that poses a public safety risk, and there a number of circumstances that would fall under that category.

Mayor Mueller asked for clarification concerning paragraphs eight, nine and reference to a special magistrate. Mr. Potucek stated that a civil or criminal case could be handled by the magistrate, Judge Dickerson in the Cochise County Court or his deputies; but when talking about various types of complaints, civil and criminal could apply to the magistrate and that is where it would be adjudicated. The City does not have a special magistrate; but the City does have a hearing officer who can hear various cases. However, he would not necessarily get involved in a civil or criminal case.

In response to Mayor Mueller, Ms. Jacobs stated that the paragraph will be revised to state internal and not a special magistrate.

Mr. McLachlan stated that the intent was to use a special magistrate more in terms of adjudicating violations that are more severe in nature. Overgrowth cases will go through the administrative process where the Department will write the notice to correct and if it is not done within 30 days, the abatement will be ordered and lien the property. For more severe

violations, he suggests using the special magistrate. Mr. Potucek explained that those can go to Judge Dickerson and then the next step up is superior court.

Mayor Mueller stated that he can assume that there may be cases where the Department can sit down with the property owner and come to an agreement rather than going to court. Mr. Potucek explained that the consent decree portion is in there prior to a civil complaint so it is possible to sit down with the judge and have an agreement between the parties. Mayor Mueller noted that it also give the judge the option for them to go to talk to a special magistrate or hearing officer. Mr. Potucek noted that it is the magistrate because there is no special magistrate.

Ms. Jacobs noted that included in the revision language is the addition of a special magistrate for these purposes so that will only go into effect if Council agrees to it and then it would be appointed. Staff will look over that in more detail and send a follow up memo to Council about where it can be found and what it is intended to do. The City Attorney has reviewed it.

Mr. Potucek stated that he is not necessarily in favor of that as he would rather work with Judge Dickerson and have one of his assistants serve in that role instead and it would still be within the magistrate system.

Council Member Calhoun stated that she is concerned about violations that are not visible from the street and asked if that is still part of the Code. Mr. McLachlan stated that it is part of the Standard Office Procedure that a violation has to be observed from a public place, be it a street, an alley, a complaint's property and the Department cannot peer over their fences. The Department can use a ladder or any other artificial device to observe violations.

Council Member Calhoun stated that it is bothersome and troublesome to her because the neighbors have that access and they are reporting critters in that yard, which can't been seen from the public street. Mr. McLachlan stated that the Department can get a search warrant if the violation is elevated to that level of severity.

Council Member Calhoun noted that those are abandoned properties too.

Council Member Huisking stated that neighbors complain about people that do not pick up after their dogs and the smell goes all over the neighborhood. Mr. McLachlan stated that if the Department can attribute the smell to a property through ordinary senses, then they can cite the property owner under the nuisance section.

Council Member Mount stated that he is not in favor of peering over into neighbors' yards and noted that he sent up an email on the 29th of September dealing with a letter that was sent out that addresses some of these pieces. There is shrubbery that comes out of private property over onto the sidewalk and the owners have received a letter that states that it is a notice and that after that it will be put into this formal process; but it does not state what it means. Mr. McLachlan stated that the formal process begins with a notice of correction and after that they get another letter and then there is the option to abate, place a lien on the property or go through the civil citation method.

Council Member Gray asked about liens and the bill that went into effect. Ms. Jacobs explained that the City will be unable to place liens unless the property owner actually resides at the property in violation – no vacant or rental property; but it does not apply to commercial property.

Council Member Gray asked about the requirements to register foreclosures. Mr. Potucek stated that it will be put in ordinance and then it is a legal requirement of those organizations be it a mortgage lender or a bank to register at that point. He does believe that it will be a huge help because right now it is difficult to track who owns the properties and if the City can have the force of an ordinance to compel them to that, that is going to assist the City in tracking them down and then Mr. Williams can enforce that for the City.

Council Member Gray asked if it would follow the normal procedure if they don't register. Mr. Potucek stated that it would follow the enforcement procedure.

Council Member Mount stated that he agrees with Council Member Gray's concerns and suggested building a wealth of data to go back to the state representatives to let them know about the complaints to help change that State Law that has affected the City, which is not good for the City.

Council Member Calhoun suggested that perhaps the League of Cities can help because there may be other cities share this interest. Council Member Gray noted that they came out against the bill.

Mr. Potucek stated that it is always a delicate area between property rights and the property rights of others that are being affected.

In response to Council Member Calhoun, Mayor Mueller stated that the first step would be to go through the League of Cities, let them know about the issue and get them on the City's side.

Council Member Calhoun stated that she assumes that acceptance by the community meant that the community understands that these are really not any violent changes to the way things have generally been.

Council Member Calhoun asked if there are any other plans to inform the public other than the brochure as a way of educating the citizens as to what is expected. Ms. Jacobs stated that she and Mr. McLachlan have discussed trying to develop a more comprehensive program of basically how does the Department have the community have that pride. A number of other communities do other types of programs. Flagstaff had at 12 on the 12th of the month everyone went out and spent 12 minutes picking up garbage. There are a lot of opportunities and given the new brand, extraordinary skies uncommon ground and also the fact that it really was the biggest concern that was heard about in the branding survey – the condition of the properties and the message that it sends when there is such potential in the community.

Mr. Jacobs stated that it is at the top of their list and they are also looking at internally at that concept of back to basics and focusing on some of those basics. She also stated that she believes that it could be translated externally to the community as well.

Council Member Calhoun noted that she saw a couple of programs on the upcoming NLC related to community pride and clean up.

Mr. Potucek stated that the people who maintain their properties don't need to be educated as they are in good shape and that is the majority of the community. Staff is focusing on a subset of the community that has further subsets of problems. Those that don't choose to maintain their properties, abandoned properties and other situations that are being dealt with. He believes that what Mr. McLachlan brought up in terms of educating neighborhood groups,

homeowner associations and those kinds of groups is really where the City can have the most effect. People then understand what the standards are the processes to get something done and they can help by being vigilant and watchful.

B. Discussion led by Council Member Mount Regarding City Council Travel and Training

In response to Council Member Calhoun, Council Member Mount stated that there are no slides for this item as he had put in a Council Inquiry about a month or two ago and that is in the Reading Room that talks about the cost of travel.

Council Member Mount stated that he does not want for Council to not participate in any of the conferences as that is not the intent; but due to the fact that the City is in a reduced resource type environment and Council had to raise taxes and is looking for efficiencies, he is asking Council's opinion on:

- Maxing out the number of participants on Council who can attend the conferences, anything below what has the City has been sending, which has been an average of about four;

From July 2014 to March 2015, a total of \$29,341 was spent on trips and some of that was not conference related because there was trip in there that involved going to DC for meetings; but it was rather minuscule compared to others.

If Council caps this out, it automatically reduces the costs that Council has going towards the conferences. There will be a tradeoff, the cost will be that the City won't have as many people there and can't cover as much information and can't meet with as many people; but Council can provide a trip report as the Military has had to do with their reduced funding.

- Standardized trip report with POC's, discussion items, topics and etc. that will get put out so that other Council Members have the mechanism to follow up if they see something of interest. This would also go onto public record which will show an effective way of protecting the tax payers' money.

The limit of the people going is not necessarily a limit of who goes; but it is a rotating piece.

Council Member Mount noted that he will probably not go to many of these conferences and if he foregoes it, then it goes back in as a lottery, raffle, whoever is next up or the Mayor's choice. He also added that he believes that this could help save money and any money that can be save now would be very beneficial because Council will hear about some things coming up later where \$10,000 might be beneficial for something else.

Council Member Calhoun stated that she appreciates his concerns and noted that the \$25,000 that were spoken of did cover several other things besides Council's travel. Council Member Mount stated that it was straight from the budget.

Council Member Calhoun stated that there are so many advantages to the attendance at these conferences that she has experienced that she thinks has been beneficial to several Council Members to attend these conferences. One of the areas that Council could improve on and she would be interested in seeing that form that the Military uses is how Council reports back on the things that Council attended and learned. She also noted that she can't stress enough the advantages to Council Members attending the League of Cities Conferences, things like the contact that they have with other Council Members and the things that are happening in

their communities and that is just kind of the face to face conversations that Council has that would not be an opportunity to have in any other way. The trainings that Council gets on procedures, new activities those communities can participate in, i.e., Let's Move that Council has been able to get involved with in this community to the benefit of the community.

Council Member Calhoun stated that after a couple of years on Council, she finds that they are energizing to attend a conference that Council perks up at the possibilities and come back with that renewed interest and energy in doing good things for the community. The report back has been an area that needs improvement and she would like to have more conversations about that.

Council Member Huisking stated that she agrees with Council Member Calhoun as she thinks that when Council comes back Council is energized and full of ideas and there does not seem to be other than calling a work session to discuss it. For the people that have not attended, they don't have quite the enthusiasm that the people who did attend have unless it is a specific idea that is brought before the City Council and staff about something that Council might adopt, change or another city is doing.

Council Member Huisking stated that what she appreciates most about the conferences is that Council tends to get excited about the things that the City does well; but the things that Council might need help on, it is great to be able to have that networking experience. She would feel disappointed if there is not enough people able to go as usually no more than four attend. If the areas were not covered that the City was interested in, then what is coming back is a report that only the people who got to go to those sessions and if it was not anything that the City was interested in, Council might lose something.

Council Member Huisking stated that she would not like to have the City get into a fish bowl where Council only looks at things in a certain way and do not get out there and talk to other people. One of the other ways that Council talks to other people is by going to these conferences. They are really amazing and what she would like to see more of is that when Council gets ready to go to these conferences, that Council actually meet ahead of time with the agenda and look at what could be of most value to the City to bring back and then discuss what they got out of it so that Council is accountable to the taxpayers and be able to articulate why it was justified.

Council Member Calhoun stated that Council Members have met in the past before conferences; but the people that aren't going to the conference have been a part of that meeting. She also added that it is very difficult to quantify some of the things that Council gets from a conference. Mentioned were things like coming back energized; but it is hard to put a dollar amount on what that means to the community other than how Council contributes in a meeting with the community - how Council communicates what they got out of it. Council Members can say how much it cost to go but it is hard to say what the value of that was to the community. These conferences also raise the visibility of the community and it is important to be ambassadors for the City and that is immeasurable.

Council Member Calhoun stated that she knows that they are in two different areas, one is the how many Council Members go and the other is the value of going to the conferences; but she also sees team building when three or four Council Members attend a conference as well some staff and for those reasons, she would be loath to say that three or four people cannot go to a conference.

Council Member Huisking stated that she would love to see Council Member Mount attend a conference before Council makes any decision about who could go and what could happen. She believes that he would have to speak from the point of view of someone who has participated. Council Member Mount stated that is a fair point and if Council max out, then maybe one day he will opt into it; but as it stands now where Council is in the process of talking about things that the City can't afford and emails, which he gets daily now, from people who want things, need things done and other issues that are coming up that are going to affect the budget, he does not want to contribute to that.

Council Member Mount added that he is not saying that it is all a bad thing, he hears what is being said and it is perfectly valid and stated that he was just throwing it out there as a suggestion because at the end of the day Council Members can only affect what Council Members can affect and the things that Council can easily affect is how many people can go on a trip. The last NLC was \$13,600 for four people to go in March and he knows, that with the conferences that he goes to, a lot of different ones for his job, the value of being there and being an ambassador for the company or whatever else he does and he also understands the interaction with the breakout session and the one on one; but what he is looking for, knows good work was done, is the integration of what was heard at the conference into anything that the City has done over the last seven months. He thinks that some of it probably did; but that is where the trip report would help out because there would be a data base that Council could go back and look up. However, he also has a point where seven Council Members should go or even necessarily four; but he does not want to say that they can't.

Council Member Calhoun noted a quote, "Not all things that matter are measurable and not all things that are measurable matter." There are some parts of being on the Council that she believes are the art of doing the work. So much of it is listening and then being able to get that information to those people who can. They learn a lot of those skills and not all of the Members come to Council with the preparation that other come to the Council with.

Council Member Ash stated that she appreciates the work that Council Member Mount went through in tabulating the money that is being spent and ultimately try to figure out a better way to be accountable to the tax payers because that is what it is all about essentially in city government or any form of government. She further stated that she does not disagree with what was said, particularly with the trip report that would be extremely helpful and asked Council Member Mount if he had a particular form in mind; but as a Council, has to be from each Council Member, which is something that can be worked on better. On the flip side of that, when it comes to Council travel, she thinks that it is incumbent on each Member individually to decide if they are going to be that Council Member who is going to spend tax dollars making that trip.

Council Member Ash asked Council Member Mount if he foresees making this a part of the Council's handbook, or where here he wants to go with this if this is just a suggestion that Council should use or work by. As an individual, Members have to decide because at the end of the day, it is not just a vote that Council has to vote on, i.e., City Code or ordinance; it is the Council Member making that decision whether or not they want to go to a conference.

Council Member Ash also added that she has been to the newly elected official training and she learned an immense amount and she found it extremely helpful for her, her relationships with staff and the way she presents herself on Council, even though some people may say that there are no classes available to be an elected official. The conferences are like one paying a lot of money and getting a degree and someone asking what one got from their degree. She added that she paid a lot of money for a bachelors degree and is about to pay

more for a masters; but she is certainly not going to go through everything that she does in the work place and document what she got from English 101, English 102, and etc. It is certainly a value that is placed on those sorts of things and they are definitely not unusual to any form of business or government.

Council Member Mount stated that he appreciates Council Member Ash's comments and there are some subtle things that have to be remembered. He added that he agrees that it is up to each Council Member to choose whether they want to go out; but he does not know if the comparison with earning a degree and going to conferences is quite the same as somebody who has gone through and gotten a number of degrees and certifications. He also stated that he has got them and the difference is that he was not using tax payer money to do it. He used his own money or money that he had earned through the Military; but what needs to be done is to be cognizant of that piece because Council Members do have to go back and quantify exactly what they went out and learned. The trip report piece does take care of that in a streamline fashion. In closing, he stated that he does have a trip report form that he uses; but staff probably has one that they use.

Council Member Ash stated that she certainly does not want Council Member Mount to take her comments out of context as he made the point that he paid for his education himself. She noted that she did as well; but it is the nature of a conference, taking a class or course. The tax payer's money is extremely important and that is why she made the point that it is incumbent on each Council Member. Her point was specifically when someone takes a class, goes to a conference and networks and asked what is the value put upon when someone is in a business and networks, i.e., the branding, the marketing of the product. There are metrics and if Council wanted to Council could look at that and at the City plan and planning sessions. In closing, she stated that if that is what Council Member Mount wants, she could do it; but her point was that it is the nature of taking any type of class.

Council Member Calhoun stated that she is interested in follow-up to the discussion.

Council Member Huisking noted that there is a conference coming up in November and if Council is interested in following up with a trip report or doing some preplanning, this is an excellent opportunity to already implement Council Member Mount's suggestion, which she believes is a real good one. Council Member Mount stated that it would be fantastic.

Mr. Potucek stated that this issue has come up a number of times during his years with the City and in all cases the Council has always chosen not to limit themselves with regard to travel. He also added that in his opinion, he has not seen any cases of out and out abuse on the part of any Council Member with regard to travel privileges; that is not to say that they haven't seen in some cases; some Council Members travel a lot more than others and use more funds. On the current Council, he does not see that.

Mr. Potucek stated that he thinks that when it comes right down to it, most of the travel that is done is in state and it is relatively an expense to go to a State League conference. The money that is spent is when going particularly to Washington, D.C. It is an expensive place to go and the National League of Cities is an expensive conference to go to as he has been to a number of them himself. It is a tough place to go to; but if Council is focusing on what may be the issue with regard to public spending for conferences, it is those types of trips that are the ones that hit the budget the hardest.

Mayor Mueller stated that what Council has now is what he calls a self identification system and each Council Member decides which meetings, places they need to travel to be effective as a council member.

Mayor Mueller added that he does not see that changing drastically from the conversation he heard today; however, he shared that trip reports have been brought up before. He noted that he has been a part of three discussions while on Council about the issue and it always come back to the individual Council Member being responsible to their constituents on what they spend. That is one of the reasons why for at least the last five or six years, Council has had the quarterly report on Council travel so that there is a public document so that people can have the opportunity to see and make that judgment. That forces Council to be prudent in their choices and he knows that there are good opportunities i.e., the new elected officials training in Phoenix and the National League of Cities that has certain certifications and classes that if attended can in fact provide academic credit and if that is what Council Members feel that they need, he would encourage them to do that. The bottom line is that it is up to each Council Member and they have two responsibilities. One is that they make sure that they are the best educated Council Member and two, to prudently spend tax payer money.

Mayor Mueller shared that he also used government money to go to school on an ROTC scholarship and he then paid it back through service. They paid for his scholarship and he appreciates that. Council Members are responsible people for their spending and they have to make a value judgment and be well aware of that the situation is very tight as Council Member Mount stated. He would encourage all members to really look at where they are travelling and the potential costs and double check the value to make sure that they are in fact spending the money in a most appropriate manner possible to be an effective leader on Council. The trip report is a great idea and he thinks that Council needs to get together and share information afterwards. There have been a couple of attempts at that in the past and it is primarily the DC trips that need to be reported on.

Mayor Mueller also shared that when he was first on Council, he did not go to the local League of Cities in the State for a number of years until he actually saw an agenda where there were two things on there that were of interest; but fortunately those were in Tucson. Those are the things that need to be looked at as Council goes forward because the City does have challenges with the budget and Council needs to be very prudent. If the City can send two people instead of three and then share the information is much better. Right now he sees it at as an individual judgment and there is no consensus of the Council to do a lottery or have the first two that want to go get to go or three type of operation; but should things get worse, that is something that Council should be able to consider and work together on.

Mayor Mueller thanked Council Member Mount for bringing up the issue to have a good discussion; but he does not think that the issue is settled.

Council Member Calhoun stated that she would appreciate getting the after action reports because she know that for her the challenge is always what is the most important piece and what do people really want to hear. If there are any suggestions along that way, she would be interested in obtaining the format to help organize thoughts.

Council Member Mount asked if staff has a trip report format. Ms. Jacobs stated that they are not as formal, a memo form is fine.

Council Member Calhoun noted that she has seen a couple of examples; but her only reasoning was that it helps her to organize her thoughts.

Mayor Mueller stated that in his last job in the Army, they were required to do a trip report any time that they traveled and it was basically where you went, who you saw, how long you were there, key points and next actions.

In response to Council Member Calhoun, Mayor Mueller explained that before they go to a conference, that a work session be held that says where they are going and what they are looking at and when Council Members come back, there be another work session that says a brief rundown of what went down and so everyone is on the same sheet of music or if there is no work session and there is a trip report, put through email and if one Council Member is interested in an item then those two can get together and talk about one on one before bringing it forward to the rest of Council.

In response to Council Member Calhoun, Ms. Jacobs stated that there is a meeting scheduled before the conference in Nashville.

C. Presentation Regarding the Role of Animal Control in Nuisance Animals

Acting Police Chief Thrasher stated that the Department wanted to provide information on what Animal Control practices are regarding nuisance animals in the community. ACO handles all domestic animal calls within the City limits whereas wild animals generally fall under the authority of Game and Fish; however, in cases where there is a health and safety risk, ACO Will respond and coordinate with Game and Fish as necessary. Examples that the Department typically responds to are skunks and bats due to the rabies threat. Foxes and coyotes are another example as just recently they had to a fox that was trapped in the Huachuca Mountain Elementary School that tore up the place. Coyotes going into back yards and getting trapped and bears in coordination with Game and Fish. In those types of situations, the Department has to have permission from Game and Fish to tranquilize them or they will respond and do it themselves.

The Department also responds to numerous snake calls for removal and that is all for health and safety issues. That is not all inclusive; the Department typically handles those on a case by case basis. The primary consideration is whether or not it is a health and safety risk to the community. Animals cause purely private property damage or just being a general nuisance is not something that the Department typically responds to, i.e., javelina running through a neighborhood or a coyote running across a field.

The Department, both ACO and police officers will respond to calls for injured wild animals. In many cases this is the result of car accidents and many times the Police Department ends up having to destroy those animals. Injured birds of prey are caught by ACO and taken to the Great Hawk Center as some of those are protected species and the department does not have experts knowing which are which are not. All of the other type of injured animals the Department will call Game and Fish and get advice and depending on the situation Game and Fish will refer an owner to the USDA through the US Department of Fish and Wildlife on a nuisance type wild animal. The USDA has an employee in the area that handles those kinds of things and he does a lot of work on Fort Huachuca. He either traps them or in certain cases will end up having to kill animals to take care of it. It depends on the situation. He does have a contract with the County to handle certain types of calls like that; but he is unaware of the extent that it is used in that type of situation.

Other types of examples that the Department gets involved with are bees and it is not an ACO Call and it is typically handled by the Police Department or Fire Department. Those are

viewed in both terms of health and safety and nuisance. If the bees have formed a hive on private property that are not causing an issue for anybody, the private owner is then given the number for the bee keeper and it is their responsibility to coordinate and pay for having the bees removed. If they are causing a health and safety risk, i.e., swarming outside and in a public area then the Police Department will call the bee keeper and pay for that bill.

The Department does not get involved in nuisance animals that are considered pests, i.e., rodents unless it is on a property that Community Development needs to abate. Those are considered responsibility of the property owner. The Department's recommendation on these types of situations nuisance wild animals would follow that same type of protocol. If an animal is on private property and is a nuisance and only causing private property damage, that would be left up to the owner. It is their responsibility to make the coordination and pay for the removal. If it is a health and safety risk, then the Department will respond and they will handle the situation.

The Department does not have a contract with the USDA and the Department could individually for those types that are health and safety risks type of situations. He makes you sign a contract for up to \$500 for those cases and he charges an hourly fee at which point once that reaches the \$500 mark, then another contract is signed for it.

Purely nuisance animals on private property are handled by the property owner. Health and safety is handled by the Department.

Council Member Huisking noted that the gentleman that wrote the letter to Council concerning woodpeckers along with some of his neighbors were in the audience to comment on what they are experiencing and have discussion on how the City can assist.

Mayor Mueller stated that it is not the appropriate time to hold the discussion; but they can talk to the Police Chief or the individual Council Members because the meeting was not posted for public comment.

Council Member Ash stated that one of the points made in the email was that they wonder why those types of requests are not considered as other nuisance animals. Acting Police Chief Thrasher stated that the calls are based on a case by case basis. If it is determined to be a health or safety risk meaning that they are causing some type of threat or a health issues, i.e., a batch with rabies, then that is something that the Department would respond to as a public entity; but if it is not in that type of sense the Department has always reserved that to the property owner. If it is property damage that they are causing, that is not something that the Department has gotten involved with. That is more of a decision going on about how the Department's budget money will be used.

Acting Police Chief Thrasher stated that he relates it to Community Development's abatement of properties. The Police Department does not want to use their budget money to fix those properties if they don't have to as they want the owner to take care of it. It is not that the Department does not understand their plight; it is balancing where the Department draws the line on getting involved in property damage as opposed to something that is clearly a health risk, i.e., skunks and bats that carry the rabies and spread that and snakes that could bite a pet or person. Rattle snake calls are received on a daily basis and the Department removes and releases them out in fields. This is how things have been dealt with in the past; but things can change.

Council Member Ash asked about the different rationale on how the City and Council deal with the issues. Ms. Jacobs stated that ARS requires of local governments is for health and safety and call out definitely for rabies control the reason for animal control in cities. Foundation of what the ac does. That is how those offices came into being. She does not know how the County handles it.

Council Member Ash asked if there is a different rationale between the City and County on how these issues are dealt with because that discrepancy was also mentioned. Ms. Jacobs stated that she does not know how the County deals with these issues and where the County draws the line. Arizona Revised Statutes in the requirement of local government and having animal control specifically states that it is for health and safety related reasons. Calls out on rabies control were the original reason behind establishing animal control offices in local government. That is the foundation of what it is that the City's Animal Control Office does, i.e., requiring vaccinating and licensing dogs so that there is documentation that it is really about the spread of rabies. That is how those offices came into being.

Ms. Jacobs added that she does not know whether the County handles nuisance animals like this and it is not within the City's code. The Department has plenty to do and they address health and safety.

Council Member Ash stated that the email referenced that the County has no fee for the removal of a wood pecker and asked if Council would need an agreement for the removal of this type of animal. Ms. Jacobs stated that she does not know what the County is agreeing to do or not do.

Mayor Mueller asked if the property owner resides in the County, paying County taxes and questioned why the County is not abating what the City does not. Mr. Potucek stated that the County may and the City has to investigate that and the other issue for the Council to consider is where the City draws the line.

Council Member Ash stated that she agrees. Mayor Mueller stated that he was going to bring that up because his sister has had wood pecker issues and now she has a nest of owls as well the neighbors across the field and asked if these are nuisances as well and where does the City draw the line. Obviously it is not a health and safety issue but that is one of the benefits one gets from living in a natural rural.

Council Member Huisking commented that her neighbor decided that his owls had fledged too many times in the same palm tree and he cut it down before they fledged; but that is when one gets in trouble with Fish and Game and Wildlife because if they are protected birds then those birds have to be preserved. In this case they were close enough to fledging that they chose his pine tree.

Council Member Mount stated that he is looking at this differently as he is curious whether or not the City sets aside dedicated monies for this is one thing; but how does the City expand the tool box for the Community Development people. Right now the City has hit the minimum threshold because the City is dealing with threatening animals that could affect health and safety. There is nothing foregoing the City to at least explore the options such as what the County put together.

Council Member Mount added that if the County is subsidizing it somehow by having another contract with somebody that is going to come out and do it for \$58 an hour or whatever else, he does not think that it would be too far off for the City to explore the idea. The reason why is

because the City is still facing the fact that there are not a lot of home sales booming. There are a lot of homes sitting out there that don't necessarily have somebody keeping an eye on them.

Council Member Mount asked if there is something to be explored, with the County as a basis, without the City agreeing to match any of that yet and look at cost efficiencies. If \$500 or \$1,000 can be saved and put into a dedicated account to deal with that kind of a problem, he does not think that it is going to be something that is going to be too far off or maybe more bank for the buck than Council realizes.

Mayor Mueller stated that sort of thing can be explored; but to him it is an additional expense on the budget and he is not sure how much bank for the buck the City will get to make the community look better.

Ms. Jacobs stated that staff would happy to talk to the County and get some more information. If Council wants staff to analyze this, staff will also need to look into how many property owners have been taking care of situations themselves over the years that will now be taking advantage of the resource, should the City make that available. Staff would look at what the service expansion could potentially be and what other animals it might have to cover as a result.

Council Member Mount made one more point that Council does not know what is out there and what is being affected. This is the first time that he has heard of the issue and he is not saying to throw \$10,000 at it; but he agrees with the idea of not wanting another expense, but Council has spent some money lately. The point is to try and find out what it is that is going on and he would like to have a tool in the toolbox just in case the unique possibility comes up where there is somebody that cannot afford \$58 to come and have this person come and do it and have the City help out the community. If it is a small cost, he would rather see that than other things that have been discussed by Council.

Council Member Huisking agreed and stated that she would appreciate the City looking into what the County options are and added that in this particular monsoon year, there seems to be an extraordinary amount of mosquitoes and she wonders if the City ever does anything about that and is that health and safety as well. Ms. Jacobs stated that the City does mosquito abatement at the Environmental Operations Park and in public detention basins. Otherwise any other areas that are not public are the responsibility of the property owner.

D. Discussion of City Manager Staff Meeting Minutes

Mayor Mueller commented that the minutes stated that the Mayor/Manager Luncheon will be on September 29th should read was held on September 29.

Council Member Huisking stated that she understands that staff is looking at the cost of replacing the bulk head at the cove and asked that if it is done will that involve closures. Ms. Jacobs stated that some funds were budgeted this year for repairs at the Cove and in analyzing, the City Manager has come to the conclusion that the City would be better off replacing the bulk head and doing it all in fall swoop and so the concept at this point is that staff is looking at getting proposals back for the cost of the bulk head and not to close it in November and to do all of the closures in one sitting in the spring time. The City would work with all of the affected organizations to try to minimize the impacts to all concerned. The City is looking at a good 30-day closure.

Council Member Calhoun asked about the brackets for sign replacement. Ms. Jacobs explained that through a SEAGO grant, the City has been provided with funds to replace all of street signs across the City and needed were some additional brackets. A number of the signs have already been replaced; but it is in the thousands. Every name of the street, u-turn, no u-turn, speed signs, every sign across the City will be replaced with new reflection materials in order to meet the new federal guidelines. Those funds were provided 100% through a grant.

Council Member Calhoun stated that she has had comments from the public about trees blocking street signs and asked if staff will look at that as they go about replacing the signs. Ms. Jacobs stated that at that point they will not; but if there are concerns staff can be informed and they will trim anything that is in the right-of-way that is blocking or in some cases the City will ask property owners to do that.

Council Member Calhoun suggested that people use the new application to let the City know.

- E. Report on Recent Trips, Meetings and Future Meetings – Not discussed
- F. Board and Commission Liaison Update – Not discussed
- G. Future Discussion Items and Council Requests– Not discussed

3. Adjourn

Mayor Mueller adjourned the work session at 6:02 p.m.

Mayor Frederick W. Mueller

Minutes prepared by:

Attest:

Maria G. Marsh, Deputy City Clerk

Jill Adams, City Clerk