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# TOWN OF JEROME

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## MINUTES

**REGULAR MEETING OF THE JEROME TOWN COUNCIL**  
**JEROME CIVIC CENTER - 600 CLARK STREET - COUNCIL CHAMBERS**  
**TUESDAY, OCTOBER 8, 2013 AT 7:00 P.M.**

### TENTH REGULAR MEETING OF 2013

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| <p><b>ITEM #1:</b></p> | <p><b>CALL TO ORDER/ROLL CALL</b></p> <p>Mayor/Chairperson to call meeting to order.<br/>Town Clerk to call and record the roll.</p> <p><i>Vice Mayor Lew Currier called the meeting to order at 7:00 p.m.</i></p> <p><i>Town Manager/Clerk Candace Gallagher called roll. Present were Vice Mayor Lew Currier and Councilmembers Randall Hunt, Anne Bassett and Bill Phinney. Mayor Nikki Check had an excused absence. Councilmember Phinney was not present at roll call, but arrived at 7:08 p.m.</i></p> <p><i>Other staff in attendance at roll call included Public Works Director Dwain Dement, Zoning Administrator Carmen Ogden and Deputy Town Clerk Rosemarie Shemaitis.</i></p>   |
| <p><b>ITEM #2:</b></p> | <p><b>PLEDGE OF ALLEGIANCE</b></p> <p>Mayor/Chairperson to lead the Pledge.</p> <p><i>The Pledge of Allegiance was led by Vice Mayor Currier.</i></p>  |
| <p><b>ITEM #3:</b></p> | <p><b>STAFF REPORTS</b></p> <p>Written staff reports by the Town Manager/Clerk, Deputy Town Clerk, Utilities Representative, Public Works Department, Building Inspector, Library, Police Chief and Fire Chief.</p> <p><i>Ms. Gallagher noted that her staff report indicated that Council would be discussing engineering services at this meeting, but that discussion has since been moved to the October 15 meeting.</i></p> <p><i>Following brief further discussion,</i></p> <p><b>Motion:</b> Councilmember Bassett made a motion to <b>approve the staff reports</b>. It was seconded by Councilmember Hunt and <b>approved by all</b>.</p>  |
| <p><b>ITEM #4:</b></p> | <p><b>FINANCIAL REPORTS</b></p> <p>Issued checks and Budget to Actual reports for the month of September 2013. Figures included therein are presumed accurate as of the report's preparation date, but are subject to adjustment as further information is gained.</p> <p><i>Regarding the Budget to Actual reports,</i></p> <ul style="list-style-type: none"> <li>• <i>Councilmember Hunt asked about amounts expended during September for miscellaneous expenses in the Library. Ms. Gallagher will investigate and provide a report to Council.</i></li> <li>• <i>Mr. Hunt noted that salaries and wages are coming in at much lower, in all departments, than what was budgeted. Ms. Gallagher stated that the Town did not overbudget for salaries, and this may have to do with where the pay dates fall.</i></li> <li>• <i>Councilmember Bassett asked if the "Transfers In" line appearing under actual revenues in the water budget to actual reports represents the amount of the transfer for the entire year. Unless you bother to subtract that out, she said, it "makes the budget look better than it is." Ms. Gallagher confirmed that the transfer for the entire year was made by the finance department at the beginning of the fiscal year. She</i></li> </ul> |

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|   | <p>added that the transfer also shows up as an expense in the general fund. Ms. Bassett said that the "transfers in" line "seems like funny money." Ms. Gallagher responded that it is just an internal transfer of funds.</p> <p>Regarding the payment list, Mr. Hunt questioned two transactions involving the court clerk, where it appears that she paid the Town money and then the Town paid her back. Ms. Gallagher explained that this appears to be a check that was voided and reissued.</p> <p><b>Motion:</b> Councilmember Bassett made a motion to <b>accept the financial reports</b>. It was seconded by Councilmember Hunt and <b>approved by all</b>.</p>  |
| <p><b>ITEM #5:</b><br/><b>7:08 pm</b></p> | <p><b>PLANNING AND ZONING (P&amp;Z) AND DESIGN REVIEW (DRB) MINUTES / RECOMMENDATIONS/ZONING ADMINISTRATOR'S REPORT</b></p> <p>Minutes are provided for the information of Council and do not require action.</p> <p>Councilmember Phinney arrived at this time.</p> <p>Councilmember Hunt noted that the Planning &amp; Zoning Commission minutes of September 4, 2013, reference written comments from several people but they were not attached. Ms. Ogden responded that Council had already seen the comments – they were part of her staff report in a previous packet. Ms. Bassett confirmed this.</p> <p>Vice Mayor Currier referenced item 9 of those minutes, and asked how the Commission is addressing the definition of B&amp;B's and hotels. Ms. Ogden replied that they are continuing to work on revising and amending those definitions. She will be preparing an ordinance for the Commission's review at their November meeting. Once it has been reviewed and has gone through the public hearing process at the Commission level, it will come to Council for action. She added that it also includes boarding houses.</p> <p>Vice Mayor Currier referenced the minutes of the September 24 General Plan meeting. He commented that, in Item 5, the minutes state that there was discussion regarding the annexation of property that the Town services but it doesn't say what was discussed. Ms. Ogden replied that she intentionally keeps the minutes of the General Plan meetings very brief. That topic was discussed, she said, but nothing was decided as to whether or not it would be added to the General Plan. It is still under discussion.</p> |
| <p><b>ITEM #6:</b><br/><b>7:13 pm</b></p> | <p><b>COUNCIL MEETING MINUTES</b></p> <p>June 10 budget meeting; August 13 regular meeting; September 10 regular meeting</p> <p><b>June 10, 2013 budget meeting minutes</b></p> <p><b>Motion:</b> Councilmember Bassett made a motion to <b>accept the minutes of June 10, 2013</b>. It was seconded by Councilmember Phinney and the <b>motion passed</b>. The vote was 3 ayes and 1 nay by Councilmember Hunt, who was actually abstaining, but stated that his abstention, due to recent action by Council, would be counted as a nay vote.</p> <p><b>August 13, 2013 regular meeting minutes</b></p> <p><b>Motion:</b> Councilmember Hunt made a motion to <b>accept the minutes of August 13, 2013</b>. It was seconded by Councilmember Bassett and <b>approved by all</b>.</p> <p><b>September 10, 2013 regular meeting minutes</b></p> <p>Referencing page 5 of these minutes, Councilmember Bassett asked if the reference to the I-1 zone in the language of the vacation rental ordinance had been added. Ms. Gallagher responded in the affirmative. Ms. Bassett then asked if the Supreme Court ruling noted in the next paragraph was in reference to the <u>Arizona</u> Supreme Court. Ms. Gallagher replied that it was, and she will clarify that in the minutes.</p> <p>Referencing a vote on page 5, Vice Mayor Currier asked Ms. Gallagher to clarify that the vote taken was on a motion to enter into executive session.</p> <p><b>Motion:</b> Councilmember Bassett made a motion to <b>accept the minutes of September 10, 2013, as just amended</b>. It was seconded by Councilmember Phinney and <b>approved by all</b>.</p>                            |

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| <p><b>ITEM #7:</b><br/>7:18 pm</p> | <p><b>PETITIONS FROM THE PUBLIC</b></p> <p>Pursuant to A.R.S. § 38-431.01(H), public comment is permitted on matters not listed on the agenda but the subject matter must be within the jurisdiction of the Council. All comments are subject to reasonable time, place and manner restrictions. All petitioners must fill out a request form with their name and subject matter. When recognized by the chair, please step to the microphone, state your name and please observe the three (3) minute time limit. No petitioners will be recognized without a request. The Council's response to public comments is limited to asking staff to review a matter commented upon, asking that a matter be put on a future agenda, or responding to criticism.</p> <p><i>There were no petitions from the public.</i></p>  |
| <p><b>ITEM #8</b></p>              | <p><b>ORDINANCES</b></p>  |
| <p>7:18 pm</p>                     | <p><b>ITEM #8A: SECOND READING: ORDINANCE NO. 406, An Ordinance of the Mayor and Common Council of the Town of Jerome, Yavapai County, Arizona, Amending Sections 301, 302 and 304 of the Town of Jerome Zoning Ordinance, and Adding New Section 306, to Provide For a Citizen Review Process and Neighborhood Meetings In Accordance With A.R.S. 9-462.03, and Declaring An Emergency.</b></p> <p>Council may conduct the second reading of, and possibly adopt, Ordinance 405, an Ordinance amending the Jerome Zoning Ordinance to provide for a Citizen Review Process and Neighborhood Meetings prior to holding a public hearing on rezoning or ordinances that impose a new land use regulation or modify an existing land use regulation, in accordance with statutory requirements. A public hearing on this ordinance was held by the Planning &amp; Zoning Commission on September 4, 2013, and they have recommended its adoption by Council.</p> <p><i>Vice Mayor Currier reviewed the provisions of this ordinance, and noted that this is its second reading. If approved, it will become law immediately, as it includes an emergency clause.</i></p> <p><i>Ms. Gallagher pointed out a typographical error in references under "B. General Regulations." References to "Subsection 2" will be corrected to refer to "Subsection 4."</i></p> <p><i>Councilmember Phinney asked why this ordinance constitutes an emergency. Ms. Gallagher responded that the sooner we have this in place, the better, but it is Council's call.</i></p> <p><i>Councilmember Bassett stated that it's an emergency because we are in violation of state law.</i></p> <p><i>Susan Cloud-Hall, a resident of Jerome, asked how is the town in violation of state law. Vice Mayor Currier explained that state law requires a Citizen Review Process. We are now bringing our Code into compliance with state law, and that is why we are trying to move quickly.</i></p> <p><i>Denise Guth, a resident of Jerome, asked if this is in addition to due process. Mr. Currier responded that it is. This ordinance will not change anything in the existing process, he said, but will add another layer to it.</i></p> <p><b>Motion:</b> Councilmember Bassett made a motion to <b>adopt Ordinance 406</b>. It was seconded by Councilmember Phinney.</p> <p><i>Vice Mayor Currier said that a question has come up regarding the requirement, in Section 6 of the ordinance, that the Zoning Administrator must be present at Neighborhood Meetings. Some feel that this would be a burden to the Zoning Administrator, and that we should rethink that.</i></p> <p><i>Councilmember Phinney asked if state law requires the Zoning Administrator to be present at those meetings. Ms. Gallagher said that it does not.</i></p> <p><i>Curtis Lindner, a resident of Jerome (who also serves as a Commissioner with the Yavapai County Planning and Zoning Commission), commented that, if staff is present at Neighborhood Meetings, it creates a liability issue for the Town. He recommended that we do <u>not</u> require staff to be present at these meetings. Councilmember Phinney agreed.</i></p> |

Mr. Lindner added that the requirement for a Neighborhood Meeting puts an onus on the applicant to try to get support of the neighbors, and to mitigate some of their concerns about the project. It usually works well, he said, but if staff is present, it could change the atmosphere. It works better without staff.

Councilmember Bassett said that she would have no objection to removing the requirement that the Zoning Administrator be present at the Neighborhood Meetings.

Ms. Ogden said that, about 95% of other jurisdictions that have a Citizen Review Process in place do not include staff. She added that staff should not be involved at all in the process.

Ms. Cloud-Hall asked who, then, would moderate the meeting. Vice Mayor Currier explained that, in that case, the applicant would be the host or moderator. He expressed concern that, without staff present, the applicant could skew the required written report of the meeting to make it favorable to them. He asked how the Town would know that the report was inaccurate.

Mr. Lindner replied that the applicant simply brings forth the results of the interaction. There will then be a public hearing, and the neighbors will most likely show up in support or opposition. He said that there is a mitigation factor that goes on in the neighborhood meeting for the applicant, who basically wants to have support for their application. They need to work with the neighbors at those meetings to gain support.

Mr. Currier asked how many of these meetings Mr. Lindner is basing his statements on, and if that has been a long-standing policy of the county. Mr. Lindner responded that he has been on the Yavapai County Planning & Zoning Commission for over 10 years. It has worked very well, he said.

Deni Phinney, a resident of Jerome (and member of the Design Review Board), agreed with Mr. Lindner that, even if the report doesn't reflect reality, the public meetings that are subsequent to it would. She added that certain issues or modifications could be contentious, and it may be appropriate for the Town to make an independent arbitrator of some kind available to the applicant to be present at the Neighborhood Meeting. She suggested that the Town have a list of possible candidates who would be available to moderate.

Ms. Ogden explained that the intention of the Neighborhood Meeting is to conduct an informal dialogue among the neighbors, and it is a precursor to a public meeting. It is established in order to try to figure out the issues before submitting the application. As such, she does not feel that an arbitrator would be necessary.

Vice Mayor Currier referred to a portion of the Ordinance stating that, if the application is substantially modified from what was presented at the initial neighborhood meeting, the Zoning Administrator may require that one or more additional neighborhood meetings be held. He asked who would determine what is "substantial," and how that would be determined. Ms. Ogden replied that the Zoning Administrator would make that determination. If someone comes in with an application, she said, and, because of the results of the meeting, it changes completely, then they would need to hold another one. Councilmember Hunt asked how she would know that anything has changed if they haven't yet filed anything. Ms. Ogden replied that the applicant initially meets with the Zoning Administrator, who will help them set up the meeting. The dialogue is open then with the Zoning Administrator and the Town staff. This is just the first step in the process.

It was discussed and agreed that removing the requirement for the Zoning Administrator's attendance at Neighborhood Meetings would not constitute a change significant enough to require another reading.

**Secondary motion:** Councilmember Bassett made a motion to **amend Ordinance 406 by deleting the last sentence in subsection B-6** [which would require the Zoning Administrator to be present at Neighborhood Meetings]. It was seconded by Councilmember Phinney and the **motion passed**. The vote

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|                | <p>was 3 ayes and 1 nay by Councilmember Hunt.</p> <p>Vice Mayor Currier called the question for the <b>motion to adopt Ordinance 406 (as now amended)</b>, and it was <b>approved by all</b>. The Vice Mayor noted that, since the ordinance has been adopted with the emergency clause, it will go into effect immediately.</p>  |
| <b>ITEM #9</b> | <b>NEW BUSINESS</b>  |
|                | <p><b>ITEM #9A: SPECIAL EVENT LIQUOR LICENSE – JEROME CHAMBER OF COMMERCE</b></p> <p>Council will review and may recommend approval of a special event liquor license for the Jerome Chamber of Commerce for the Town <del>Christmas</del> <u>Holiday</u><sup>1</sup> Dinner scheduled for December 14, 2013 at Spook Hall.</p> <p>Ms. Shemaitis, representing the Jerome Chamber of Commerce, explained that the liquor license will be for the Town's Holiday dinner in December. The Chamber puts it on in conjunction with the Town and the Jerome Historical Society.</p> <p><b>Motion:</b> Councilmember Bassett said that, as long as it is referred to as the Town's "holiday" dinner and not "Christmas" dinner, she would make a motion to <b>approve the special event liquor license for the Jerome Chamber of Commerce</b>.</p> <p>Councilmember Phinney opined that the Chamber can call it anything they want, since it is their event, and noted that Council is just approving a liquor license. Ms. Shemaitis pointed out that the Town pays for part of the cost of the meat.</p> <p>The motion was seconded by Vice Mayor Currier, who called the question, and it was <b>approved by all</b>.</p>               |
|                | <p><b>ITEM #9B: SERIES 12 LIQUOR LICENSE – MADAME MEL'S BISTRO</b></p> <p>Council will review and may recommend approval of a Series 12 liquor license for Madame Mel's Bistro, located at 412 Main Street.</p> <p>It was noted that Madame Mel's will be in the location formerly occupied by Belgian Jennie's, and that there had been a liquor license there previously.</p> <p><b>Motion:</b> Councilmember Hunt made a motion to <b>approve the Series 12 liquor license for Madame Mel's Bistro</b>. It was seconded by Councilmember Phinney.</p> <p>Neither of the applicants were present. Vice Mayor Currier said that he didn't recall ever approving a license without the applicants present, but he opined that that is no reason to deny the license. Ms. Shemaitis explained that both applicants had hoped to be at the meeting but there was a possibility that they wouldn't be able to make it.</p> <p>Vice Mayor Currier called the question and it was <b>approved by all</b>.</p>   |
|                | <p><b>ITEM #9C: FILMING IN JEROME: "A PERSON KNOWN TO ME"</b></p> <p>Council will hear from Stephanie Argy and Alec Boehm, writers and directors of A Person Known to Me, an epic tale set between 1895 and 1905 about the detectives of a legendary Chicago investigative agency, and their assignments that take them all over the United States. They will be telling the story using a mix of forms, including seven illustrated novellas, three short films, and a feature film, set in Chicago, that will wrap up the whole adventure. They are interested in shooting one of the three short films in Jerome this December and have requested to address Council in this regard.</p> <p>Stephanie Argy thanked Council for seeing her and her partner, Alec Boehm. She said that they wanted to introduce themselves and the project, and to answer any questions that Council might have. They also would like to talk about the permit fee for Jerome, which, she said, was extremely high and far beyond their budget.</p> <p>Ms. Argy explained that the project is an ongoing detective adventure. They shot the first short film in Port Townsend, Washington, and worked with their Historical Society. They would</p> |

<sup>1</sup> Clerk's note: Agenda terminology was changed following the meeting, to reflect Council's intention in approving this item.

like to shoot part of the adventure in Jerome, including at the Bartlett Hotel, 34 Magnolia and at various street corners. She said that all of the scenes would be in town, and they would be working with the Jerome Historical Society. They plan to have minimal impact on the Town.

Mr. Boehm noted that the cast and crew would all be housed in Jerome, and would be patronizing the local businesses.

Vice Mayor Currier said that he had looked at the first episode on their website and he thought it was very good. Councilmember Hunt agreed and said that it was impressive.

Ms. Cloud-Hall offered her assistance as an actor, director and screenwriter.

Jay Kinsella, a resident of Jerome and an employee of the Jerome Historical Society, noted that he has spent a lot of time with Ms. Argy and Mr. Boehm scouting out locations. This short film will be the teaser for the grand finale feature film that will be shot in Chicago. After working with them through the Society, Mr. Kinsella said, he feels that these are the kind of people that the Jerome Historical Society wants to see in Jerome. They are going about this the right way, and the Society supports them.

A lengthy discussion ensued regarding the film permit rates that were established in 1997 with Resolution 333. The highlights of that discussion follow (not necessarily in chronological order). During discussion, a five-minute recess was taken between 7:57 p.m. and 8:03 p.m. to allow Ms. Gallagher to retrieve information from her office.

- They are anticipating four days of filming.
- The rate for a feature production, according to Resolution 333, is \$7,500 per day.
- Their project does not fit clearly into any of the categories delineated in the Resolution and described in associated forms. It is not a feature length production. Councilmember Bassett asked if it might be considered a documentary, as she was told that it is more like an historical drama. The fee for a documentary production is \$250 per day.
- The filmmakers intend to be as unobtrusive as possible, and because they are both writers, they would be able to adapt the script to work with the town.
- In Port Townsend, they paid a fee of \$250 per day for five days of filming, plus a \$1,000 deposit that was returned to them. The town reserved 10 parking spaces for their use.
- Ms. Cloud-Hall opined that Council should give them the best deal they can. She said that the filming will mostly be on private property, they will be using few resources and the Governor has reduced the tax credit for filmmakers.
- Because the fees were set by Resolution, and not by Ordinance, they can easily be adjusted by Council.
- It was noted that none of the existing fee categories address the impact of the project on the Town.

Following discussion, it was generally agreed to verbally adopt, at this meeting, a new Resolution (to be reduced to writing by Ms. Gallagher and placed in the Resolution book) that will replace Resolution 333, and will include a provision that the fee for productions that do not fit into any of the listed categories would be set by Council on a case by case basis.

**Motion:** Councilmember Bassett made a motion to **add a category to the existing filmmaking fees, called "All Other Productions," for which fees will be set by Council action.** It was seconded by Councilmember Hunt.

It was clarified that this will be considered a new Resolution modifying and replacing Resolution 333.

Vice Mayor Currier called the question and it was **approved by all.**

Council then addressed the fee to be charged for this project. Councilmember Phinney noted that we charge \$250 per day for a documentary production, and Port Townsend was charging them \$250 per day.

**Motion:** Councilmember Phinney made a motion to **approve a fee of \$250 per day for**

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|                 | <p><b>this project.</b> It was seconded by Councilmember Bassett and <b>approved by all.</b></p>   |
|                 | <p><b>ITEM #9D: ROADWORK/DRAINAGE PROJECT AT QUEEN STREET AND SLIDING JAIL</b></p> <p>Council will hear from resident Jack Guth regarding the roadwork/drainage project at Queen Street and the Sliding Jail.</p> <p><i>Jack Guth explained that he had requested to be on this agenda because there had been issues regarding the roadwork and drainage near his home and gallery on Queen Street. He has had drainage problems for years. However, he said, things have changed. Mr. Guth brought a drawing along that he used to explain the history of the drainage problems. He is pleased with the Town's new system and he thinks that what we are doing will "do the trick." He said that he and his wife are pleased with the Town's effort.</i></p> <p><i>There were questions and comments regarding how and when the drainage problems began, but Vice Mayor Currier closed down that conversation – he said that there are too many conflicting stories about that, and it looks like the problem has been solved. We will just need to wait for the first rain, he said.</i></p> <p><i>Public Works Director Dwain Dement was present, and said that they have been pouring concrete and they will try to have everything completed during the coming week.</i></p> <p><i>Councilmember Hunt commented that he would like to ensure that the road is graded correctly and slopes properly. Mr. Dement said that they are going to be doing more grading.</i></p> |
| <b>ITEM #10</b> | <p><b>TO AND FROM THE COUNCIL</b></p> <p>Council may direct Staff as to items of pending importance that they would like placed on a future meeting agenda.</p> <p><i>Councilmember Phinney asked about the dead tree near Town Hall. Mr. Dement said that they have working on the drainage near Mr. Guth's property, and have not been able to get to it yet. They will take care of the tree when they are finished with the drainage project.</i></p> <p><i>Councilmember Hunt asked who cleans the restrooms in the library, as they have been dirty. Ms. Shemaitis responded that the current janitor used to clean them, but then the library started using community service people. She doesn't know whom they are using now. Ms. Gallagher was asked to follow up on that.</i></p> <p><i>Vice Mayor Currier noted that the Jerome Humane Society's annual brunch is coming up soon.</i></p> <p><i>Councilmember Phinney noted that the dress rehearsal for this year's Ghost Walk will be taking place on Thursday evening starting at Spook Hall.</i></p> <p><i>Ms. Gallagher noted that there is a special meeting scheduled for October 15, starting with an interview at 6:30 p.m. The meeting will then start at 7:00 p.m.</i></p>  |
| <b>ITEM #11</b> | <p><b>REVIEW OF CLOSED SESSION MINUTES</b></p> <p>Council may enter into executive session, pursuant to A.R.S. §38-431.01(A)(2), if necessary for the purpose of discussion or consideration of records exempt by law from public inspection.</p> <p><i>Council did not enter into executive session.</i></p>  |
| <b>ITEM #12</b> | <p><b>APPROVAL OF CLOSED SESSION MINUTES</b></p> <p>September 10, 2013</p> <p><b>Motion:</b> Councilmember Hunt made a motion to <b>approve the closed session minutes of September 10, 2013.</b> It was seconded by Councilmember Bassett and <b>approved by all.</b></p>   |
| <b>ITEM #13</b> | <p><b>ADJOURNMENT</b></p> <p><i>Upon motion by Councilmember Bassett seconded by Councilmember Hunt and unanimously approved, the meeting was adjourned at 8:26 p.m.</i></p>   |

APPROVE:

ATTEST:

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Nikki Check, Mayor

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Candace B. Gallagher, CMC, Town Manager/Clerk

Date: \_\_\_\_\_