



Founded 1876
Incorporated 1899

TOWN OF JEROME, ARIZONA

POST OFFICE BOX 335, JEROME, ARIZONA 86331
(928) 634-7943 FAX (928) 634-0715

MINUTES

SPECIAL MEETING OF THE JEROME TOWN COUNCIL JEROME CIVIC CENTER - 600 CLARK STREET - COUNCIL CHAMBERS TUESDAY, OCTOBER 25, 2016 AT 6:30 P.M.

<p>ITEM #1:</p>	<p>CALL TO ORDER/ROLL CALL</p> <p>Mayor/Chairperson to call meeting to order. Town Clerk to call and record the roll.</p> <p><i>Mayor Currier called the meeting to order at 6:30 p.m.</i></p> <p><i>Town Manager/Clerk Candace Gallagher called roll. Present were Mayor Currier, Vice Mayor Freund, and Councilmembers Barber, Bachrach and Vander Horst.</i></p> <p><i>Also present was Joni Savage, Deputy Clerk.</i></p>
<p>ITEM #2: 6:32</p>	<p>SUBSIDENCE AREA AND SLIDING JAIL</p> <p>Council will review, and may approve, a Memorandum of Understanding with the Jerome Historical Society regarding property deeded to the Town by the Society in 1964, including the subsidence area and Sliding Jail. A portion of this discussion may take place in executive session, pursuant to A.R.S. § 38-431.03 (A)(3) and (A)(4).</p> <p><i>Mayor Currier reviewed the situation to date, where the Jerome Historical Society wishes to reclaim a portion of the property which they deeded to the Town in 1964, in order to address the subsidence and restore parking. He stated that we now have a draft Memorandum of Understanding with the Jerome Historical Society, which was posted online for public review. That day, it was revised slightly to include a clause regarding rights-of-way. "This is an odd situation," he said, "because the Council is changing in another week. The new Council will take over, so that anything we do tonight will probably reviewed by the incoming Council." He said that he doesn't anticipate action at this meeting, but he would like to hear the pros and cons from everyone. He said that he'd like to hear from the Council first.</i></p> <p><i>Councilmember Bachrach requested clarification regarding that day's changes to the draft MOU. Mayor Currier read the paragraph which was added: "The Town will transfer deeds of the disputed parcels to the Historical Society, less any right-of-way either in the form of an easement held by the Town or in the form of a fee interest owned by the Town." He explained that the Town owns the public rights-of-way independent of the parcels. He noted that Council will need to discuss whether to allow the Society to use the right-of-way while working on the parcels.</i></p> <p><i>The draft memorandum, Mayor Currier said, is not signed, but is "so far what we think that everybody may be ready to agree to. Does the Council have any comments or questions?"</i></p> <p><i>Vice Mayor Freund read a prepared statement:</i></p> <p><i>"I think this MOU and the demands by the Historical Society that the Town return the lower park property stinks. It is nothing less than good old fashioned western land grab, and the Town would be foolish to relinquish any portion of the property deeded in 1964.</i></p> <p><i>The excuse for demanding its return is that the Historical Society will be able to quickly and cheaply mitigate the landslide next to the sliding jail and return the area to parking. At that point, the Town would be able to purchase portions of the lower park back from the Society. This is fallacious, improper, unnecessary and unacceptable. It is fallacious because much of the affected area of the slide was never owned by the Historical Society and would still be the property of the Town even if the deeded property is given to the Society. It is the Conglomerate Street right-of-way which includes half of the sliding jail and the North edge of the failing slide zone. Also the proposed slotted drain cuts across that right-of-way, and then the Rich Street right-of-way cuts directly across the slide zone and encompasses the drainage issues on what we now call Queen Street. It would be improper to allow the Historical Society to do any work on or across these Town rights-of-way without proper advance engineering and following proper procedures to hire contractors if needed. The Conglomerate Street and Rich Street rights-of-way belong to the Town and the citizens of Jerome and any transfer of those</i></p>

properties must be approved by the public. It is unnecessary for the Town to give away valuable properties including parcels far beyond the landslide zone and areas such as the ball courts, which have been improved at considerable Town expense over the past half century.

The Town has an engineering firm on retainer for precisely such matters and the Town also has adequate contingent financial resources in its fund balance to deal with this issue. Also, some of the work recommended in Mr. Muma's drawn plan (which I fundamentally agree with -- it's a good plan) could probably be executed by the Town's public works department, once properly engineered. It is unacceptable that the Historical Society would then grant us permissions to use their basketball court, play on their volleyball court or visit their sliding jail. And what will become of the public open spaces east of Rich Street, would they ever be returned to the Town? We should take Mr. Muma's drawn plan to our engineers, and get their assessment and a realistic estimate of cost to do this job properly. We should get this done and swiftly, but we must get it done right. If the Historical Society wants to help, great. If the Society wants to purchase certain parcels back from the Town, that should be considered separately and openly."

Councilmember Barber noted that the MOU includes two parcels not previously included and asked why they were added. Mayor Currier said that his understanding is that the original memo did not include all of the parcels that it needed to.

Councilmember Barber said that, while Mr. Muma has discussed a ballpark price for this work of \$20,000 to \$25,000, the cost had previously been estimated at \$450,000. She said that she does not see how the savings could be that incredible.

Mayor Currier asked Councilmember Vander Horst if he had any comments.

"No," Mr. Vander Horst replied. "My comments at the last meeting were pretty clear." The Mayor asked him to refresh his memory.

Councilmember Vander Horst said that, as he looks at property in Jerome, the property owned by the Town versus property owned by the Historical Society, such as the Boyd Hotel and the New State Motor Company, "clearly one organization is much more efficient at historical preservation, and it's not the Town." He went on to say, "In the two years that I have been on this Council, there has never been any discussion or willingness to do anything about this property as it slides down the hill. It was never part of our budget discussion. And now, when the Historical Society wants to fix it, now the Town is interested. Prior to that there was never any interest." He recalled that, two years ago, he brought up the disparity between the how the upper and middle parks look compared to the lower park, but there was no interest by this Council in improving it.

Councilmember Barber disagreed, and said that Council had discussed it quite a few times. "The engineer said we should watch and wait to see what happened to it. ... It has been talked about," she said.

Mayor Currier said, "When it first happened, the engineers said, 'short-term, keep your eye on it and wait until it settles.' That's what we've been doing. There was no effort by the Council to do anymore because it hadn't stopped. Up until the last three or four months, it was moving at a noticeable pace."

The Mayor went on to say, "I like the Historical Society. They take care of the buildings, and their mission is to protect the historicity and the ambience from prior years. Our mission is to provide the infrastructure so that they can do that. All those buildings on Main Street would be worthless if we didn't maintain the sewer and the water system." He added that, since he has lived here, the parks have been a lower priority than water, sewer, police and fire. "I'm amazed at how much money we put into parks these days," he said.

"I, personally, want to let them do something," Mayor Currier continued. "I have no objection to what they want to do. I believe it is a useful plan, but we have to get the details out of the way. I understand they are probably frustrated because towns move slower than independent corporations, but we have to cover our back. When the lawsuits start coming down, we will be the target, so we have to be careful about what we do."

Vice Mayor Freund said that he has walked the perimeter of the slide, and "we haven't dropped the ball on this." He said that he does not share Councilmember Vander Horst's confidence in the Historical Society to get this job done, and does not feel that they should repossess the land in order to accomplish their plan. "If they would like to help, that would be great," he said.

Councilmember Bachrach said that he certainly appreciates the public's sudden interest in the restoration of the slide area. "At the last meeting," he said, "I asked the Council if anyone was willing to commit funds to this, and everyone looked at their shoes. That was less than three weeks ago." He asked again if the Town is willing to commit funds to the restoration of that area. "The Historical Society is here," he said, "because of the inaction. Talking about it is

great, but we didn't do anything. We either have to commit the funds to engineering to find out the cost, or there it sits."

Mayor Currier asked Councilmember Bachrach if HE was willing. "I believe we should be," Mr. Bachrach replied.

Mayor Currier said that he, personally, is not willing to put funds toward this, and would much rather have the Historical Society do it. Our budget is "stretched to the max already," he said, and we've just had to raise taxes. To spend even \$25,000 on it, he added, "would be crazy as far as I'm concerned."

Mr. Currier said that he does not believe that the Society's argument that the Town has not addressed the issue is valid, and, if it went to court, he does not think they would win. "But I don't care about that," he said. "I'd rather have them do it." He asked if there is something we can change or do that will "sweeten the pie" for the dissenters.

Vice Mayor Freund said that the engineering study (with the \$450,000 cost estimate) had to do with stabilizing the entire area. Mr. Muma's drawing depicts stabilizing just the very top edge so that parking could be re-established. "I think that is a more promising solution," he said, and agreed with Mr. Muma that it should be graded. He said that he believes the Town should spend the money, take that drawing to the engineers, and find out how much it would cost.

Councilmember Bachrach asked Mr. Kinsella if the Sliding Jail would be returned to above ground grade at that level. Mr. Kinsella replied, "The elevation the sliding jail sits at now--they put walls in and stabilized it so it wouldn't move. We're talking about removing the fill on the valley side of the jail." He said that, over the years, material was dumped in that area and no compaction was done. "Subsequently, the sliding jail ended up in a bowl," he said. "That bowl then filled up with water, and they put in corrugated pipe. Unfortunately, when they put the CMP in, it was at the wrong elevation so it didn't work."

Mr. Kinsella added that the material in that area includes huge red rocks taken from the Grand Hotel, asphalt, concrete, dirt projects and everything else. "As the water came in," he said, "it undermined what was there, and the first thing that went was the road the Town put in that connected the parking areas." He explained that, recently, the soil has cracked, allowing water to seep in and wash out the finer soil. The cracks get wider and wider as a result. "To answer your question," he said, "the valley side will open up for drainage. There will be parking along the House of Joy side and on the Queen's Neighbor side."

Councilmember Bachrach asked Mr. Kinsella, "If the Town took on this plan, or something very close to it, would it satisfy the Historical Society's reversion clause?" Mr. Kinsella replied that he is just the General Manager – he has eight or ten bosses, he said. He referred the question to JHS Board member Steve Pontious, who was present.

Steve Pontious introduced himself as the Secretary of the Jerome Historical Society. "All the Board wants," he said, "is for the property to be used. If the Town will do it and give us a time frame, if you want to spend \$500,000, that's your money. Everyone seems to think we are stealing the land. There is nothing nefarious about what we're doing. We want it fixed. It's been sitting there for two years and you've put a lot of tape around it." He noted that the Town "could have all the time in the world to buy it back from us with no interest."

The Mayor invited other members of the public to comment.

Mike Parry introduced himself as a Director of the Jerome Historical Society. "We all want the same thing here," he said. "We thought we could jump in and fix it. We can do things at a faster pace. People come here to see the sliding jail and they can't get to it. Our intent is to keep a running log of how much we've spent to date. We think we can move faster and get it turned around sooner. The sliding jail belongs to all of us, it's a part of our history."

Jane Moore, a Jerome resident, asked, "Wouldn't the Historical Society be required to go through building inspection and engineering the same way as the Town? ... and so that's the same process." She said that, if the Society's engineer says that they can do this for \$25,000, she believes that the Town could come up with the money to do the same thing. Kids use the court, she said, and want to continue using it. She believes it is much better staying in public hands and she would hope that the Town would commit to spending the money. She said that she doesn't want to see parts that the Town has spent thousands of dollars on go to an entity that may not have the same board in five or ten years, and might not let the Town buy it back.

Mayor Currier noted that the MOU is not a binding contract. Once we agree on what we're trying to achieve, he said, then we start drafting a contract that will be much tighter.

Mr. Pontious said, "As far as the basketball and volleyball courts, we don't want them. We talked about putting a deed restriction in which will not allow us to touch that. You can put that to rest. That's off the table."

Dave Hall, a Jerome resident, said that he had discussed a possible solution with Mr. Muma: to include a clause that, as soon as the survey is done, the courts would revert immediately to the Town. He said that he believes that is the biggest concern of the Town, as it is a recreational resource for the entire community, and he believes that the Town should retain that portion.

Mayor Currier asked Ms. Gallagher what she had found out about the cost of surveys. Ms. Gallagher said that she checked with our engineer about cost and he said it would be in the area of \$8,000 for the title work and survey.

Mayor Currier commented that he believes the Historical Society is underestimating what they're getting into.

Carol Yacht, a Jerome resident, talked about the value of the parcels. "Just looking at tax assessments," she said, "the property is valued at over \$300,000." She estimated the value of the property to be around \$500,000 to \$750,000. She said that she "simply doesn't understand what the objection would be to looking into the work of \$25,000," and wondered if ADOT would not want to be involved, given that the parking lot runs along Hull Avenue / 89A. "Maybe there is work we could do with ADOT," she said. She added that, in her mind, the Town's giving up any property is "completely wrong."

Mayor Currier commented, "When I hear \$25,000 -- that's a crew member. Every \$25,000 we take out of the budget for this, we're taking away from someone else. We're taking jobs away from people."

Ms. Yacht said that, when we have a large bill, we get a loan, or we might have to sell something we don't want to sell. "Maybe a referendum would be needed," she said. She agreed with Ms. Moore that, if there is a different Council or a different Board on the Historical Society, we may never be able to get the property back.

Councilmember Bachrach noted that the Town is under contract to maintain that property. "We're kind of between a rock and a hard place," he said. "The Historical Society gave that property to the Town, and unless we do something about that, they seem to have a legal right to get the property back."

Mayor Currier clarified, "The deed says it can only be used for parking or a park. It doesn't say that anything has to be done with it. It says it cannot be used for anything else. It doesn't say anywhere that it has to be maintained." He said again that he would prefer to see it reclaimed. "We are trying to avoid a legal problem," he said.

Denise Guth, a Jerome resident, asked "Why is this MOU so far reaching? Why isn't it focused on the problem issue?" She said that the basketball and volleyball courts are the "only area where true recreation takes place. It is the only flat area in the Town." Mayor Currier replied, "Unfortunately, that parcel is the same parcel where the sliding jail sits. It is one big parcel. The only way to remove it would be to survey and write up titles." Ms. Guth noted that the Society doesn't say what it is going to do with those courts. "It hasn't been decided yet," the Mayor replied.

"We're on the same page," Mr. Kinsella said. "It is not our intent to do other things with the courts. End of story. The parking I believe Ms. Guth is talking about is on the Queens Neighbor side of the volleyball court. Cars have been parking there, it is the only area not cordoned off. Realistically, people have been parking there for ten years. Tourists park there, shop owners park there. These parking spaces that you see on this drawing are already there." He added that the Society is willing to maintain the basketball and volleyball court.

Ms. Guth said "I am in complete agreement with Mr. Kinsella." She would like to see more detail regarding what the Society wants to do with this area.

Vice Mayor Freund said that the Sliding Jail has been open to the public, so he doesn't see why that parcel is in play. "Why does the Society want that back?" he asked.

Suzu Mound, a resident, suggested raising funds through "Go Fund Me" types of things.

Tracy Freund, a resident, suggested that we borrow the money from the "rainy day fund" and fix it, then raise the money and return it to the fund.

Mayor Currier said, "The situation appears to me as ... someone is standing here with \$25,000 in their hand and someone is standing here with an idea. Which way do we go? Our engineers tell us \$450,000 is the number, not \$25,000."

Vice Mayor Freund talked about the "rainy day fund" which, he said, stands at about half a million dollars. "Yes," Mayor Currier said, "if we sold all of our assets." Ms. Gallagher noted that the fund balance is not just cash.

Ms. Moore commented, "There is land in Clarkdale to sell," and also suggested that the money that the additional bed tax raised could go toward that.

	<p>Ms. Mound said that it would behoove the Town and everyone involved to spend the \$8,000 to get it surveyed and engineered, so that we all know exactly what we're dealing with. Vice Mayor Freund explained to Ms. Mound that \$8,000 was just for splitting the property up, and does not include engineering.</p> <p>Mr. Kinsella said, "If it's a Town project, you don't have to spend the taxpayers' money on slicing a piece of pie. We have an investment in the town, we all want the same thing. Sell that property down in Clarkdale. I am getting tired of answering questions about why that area is cordoned off. We get just as many questions as you get."</p> <p>"You would be giving away over \$100,000 in improvements the taxpayers have done," Ms. Moore said. "As I've said, the Historical Society doesn't necessarily stay the same for ten years. However, we've seen contracts not maintained. The taxpayers don't want to spend money on legal fees to get something back that's rightfully theirs." She said again that a future Board may not want let the people of the Town use the basketball court.</p> <p>Mr. Pontious said, "Again, we don't want the basketball or volleyball courts, we can put a deed restriction on that. The Historical Society gets things done." He said, "You would have a no-interest loan ... you can audit what we've done, give us a check -- problem solved. We don't want the land, we just want it to be used. If you don't want to take advantage of that, that's a decision you get to make."</p> <p>Mike Parry said that he feels this is a "win, win." The contract will guarantee that the Town can get the property back, he said. "We're trying to help out, we're a neighbor."</p> <p>Mayor Currier said that using the "rainy day fund" would be for an emergency. "This is not an emergency," he said.</p> <p>Ms. Freund said, "If the Historical Society will do it and give us a no interest loan, how are we supposed to pay it back, when we don't have the money to begin with? Will we have to take ten years? ... Why don't we do the work and not worry about paying them back?"</p> <p>Mayor Currier said, "We've heard all the various thoughts at the moment. We have a Memo of Understanding. The next Council will make the final call."</p> <p>Councilmember Vander Horst said that the one thing he heard many times tonight is the basketball and volleyball courts. The Historical Society has no interest in it, so perhaps the MOU should not include that property and the Town will have it sectioned off. He noted that this would cost us about \$8,000.</p> <p>Mayor Currier noted that there is a clause in the MOU regarding those courts, and Ms. Gallagher clarified that the clause states that, if they aren't maintaining them, we can take the courts back.</p> <p>Mayor Currier said that both sides should look at the parking near Queen Street again. He added, regarding the MOU, "What happens if things go terribly wrong? There are no penalties?"</p> <p>Ms. Gallagher noted that the MOU is simply stating that we are going to work toward an agreement.</p> <p>Mayor Currier asked three times if any Council member wished to make a motion on this issue. No one spoke.</p> <p>"There is no motion," the Mayor said, "and it is tabled until the next meeting."</p>
<p>ITEM #3:</p>	<p>ADJOURNMENT</p> <p>Upon motion by Councilmember Vander Horst, seconded by Councilmember Barber. and unanimously approved, the meeting was adjourned at 7:44 p.m.</p>

Edited by Town Manager/Clerk Candace Gallagher from minutes taken and transcribed by Deputy Town Clerk Joni Savage.

APPROVE:

ATTEST:

Lew Currier, Mayor

Candace B. Gallagher, CMC, Town Manager/Clerk

Date: _____