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TOWN OF JEROME

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

MINUTES

REGULAR MEETING OF THE JEROME TOWN COUNCIL JEROME CIVIC CENTER - 600 CLARK STREET - COUNCIL CHAMBERS TUESDAY, DECEMBER 13, 2016, AT 7:00 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 Vander Horst called the meeting to order at 7:02 p.m.</i></p> <p><i>Town Manager/Clerk Candace Gallagher called roll. Present were Mayor Vander Horst, Vice Mayor Kinsella, Councilmember Bachrach, Councilmember Barber and Councilmember Currier.</i></p> <p><i>Also present were Kyle Dabney, Zoning Administrator, Joni Savage, Deputy Clerk, and Town Attorney Bill Sims.</i></p>
<p>ITEM #2: 7:02</p>	<p>PLEDGE OF ALLEGIANCE</p> <p>Mayor/Chairperson to lead the Pledge.</p> <p><i>At the Mayor's request, Vice Mayor Kinsella led the Pledge of Allegiance.</i></p>
	<p><i>At this time, Mayor Vander Horst asked Town Attorney Bill Sims to describe the procedure that cities and towns typically use relative to "call to the public."</i></p> <p><i>Mr. Sims stated that the call to the public is acknowledged in the Arizona Open Meeting Law. "You legally do not have to allow for it," Mr. Sims said, "but knowing Jerome, you will always allow for it." He said that most jurisdictions have open calls at the beginning of the meeting, as Jerome does. Nearly every city or town has the open call to the public deal with items which are not on the agenda, so that items on the agenda can be discussed with that subject matter. "I recommend that you do have an open call for all items not on the agenda, and items on the agenda will be considered at the time the item is reviewed by Council," Mr. Sims said. "The question becomes when, during those deliberations, does the call to the public occur?" He said that, in the jurisdictions he works with, the agenda item is opened up, discussed by Council, and prior to the vote, the Mayor asks for a call of the public. In that way, Council gets the public's input before casting their vote.</i></p> <p><i>Mr. Sims went on to say that the Mayor had asked him if the constituents had to sign in in order to speak. The Open Meeting Law requires the clerk to name who is speaking, Mr. Sims said, which is why jurisdictions require a sign-in. Some jurisdictions require everybody to sign in in the beginning of the meeting, which prevents people from speaking if they haven't signed in. They do need to sign in before they speak, he said, and most jurisdictions to require a signed document.</i></p> <p><i>Mayor Vander Horst noted that there are currently two submissions to speak at this meeting, and he believes there will be more. He asked if it is okay to have people sign when the agenda item is called. "That is perfectly fine," Mr. Sims replied.</i></p> <p><i>At this time, Mr. Sims requested and received permission to leave the meeting briefly in order to be present on a phone call with another of his clients, the Town of Globe.</i></p>
<p>ITEM #3: 7:07</p>	<p>STAFF AND COUNCIL REPORTS</p> <p>Written staff reports by the Town Manager/Clerk, Deputy Town Clerk, Utilities Representative, Public Works Department, Building Inspector, Library, Municipal Court, Police Chief, and Fire Chief. Oral and/or written reports by members of Council.</p> <p><i>Mayor Vander Horst asked Ms. Gallagher to present highlights from her report.</i></p>

Ms. Gallagher stated that:

- The Equal Employment Opportunity Commission (EEOC) has dismissed the claim filed by former employee Roy Shelly, but he has filed another Notice of Claim outside of the EEOC.
- She, Councilmember Barber and Mayor Vander Horst attended an Intergovernmental meeting in Clarkdale.
- She and Mayor Vander Horst had a productive meeting with the Town Engineer.
- Water flows have increased at Verde Central, and are now up to 70 gpm. She believes that one spring has been turned out to prevent turbidity.
- Sales tax revenues were very slightly under budget for October, but were slightly up from last October.

Councilmember Currier asked why, in the Manager's report regarding water flows, there was no data listed for Verde Central between August 8 and August 23. Ms. Gallagher said that no readings had been recorded for those dates.

Vice Mayor Kinsella asked if the Risk Pool would be handling the issue with Mr. Shelly. Ms. Gallagher confirmed that they would.

Mr. Kinsella also commented that the Arizona Department of Revenue is not recognizing the new tax on commercial rentals. Ms. Gallagher said that ADOR has had a lot of issues with that. She's had several conversations with her contact there about it and she believes the problem has been fixed. Vice Mayor Kinsella said, "As of 5:00 tonight I was not able to pay my tax." Ms. Gallagher said that she had been assured by ADOR that the problem had been rectified. She will contact them again in the morning.

Mayor Vander Horst said that he wanted to publicly acknowledge Peggy Tovrea's ten years of service with the Town. This was met by applause from those in attendance.

Motion: Councilmember Currier made a motion to approve the staff reports. It was seconded by Councilmember Barber. The motion passed, 5-0.

Mayor Vander Horst invited reports from the members of Council.

Councilmember Bachrach said that he and Vice Mayor Kinsella had recently attended the League's Newly Elected Officials Training. It was very informative, he said, and he would highly recommend it.

Councilmember Currier reported that the Humane Society had raised over \$10,000 at the last flea market.

Mayor Vander Horst spoke about the Intergovernmental meeting that he, Councilmember Barber and Ms. Gallagher attended, where Freeport-McMoRan's soil remediation project in Clarkdale was discussed. They have found contamination in 80 percent of the properties tested, and are expanding the testing area. "I bring this up," he said, "only because they are coming to Jerome next, and will be doing the same thing." He stressed that the soil testing is voluntary. "If you don't want them to do anything, they won't. It will be a year or two before they get here, but we're next on their list."

Councilmember Currier commented that replacing the soil is easier in Clarkdale, but not as simple in Jerome, given the topography.

Mayor Vander Horst added that they would also replace landscaping.

Vice Mayor Kinsella asked if they contact the property owners. "Yes, they do, prior to testing," Mayor Vander Horst replied. Mr. Kinsella noted that we own 19.33 acres in Clarkdale. The Mayor replied that the Town property in Clarkdale is not in the initial area being tested, but it will be in the expanded area.

Councilmember Currier said that he understood that they are testing first closest to where the smelter was, and radiating out from there.

Mayor Vander Horst said that he believed that the Clarkdale smelter operated for a longer period of time than it did in Jerome, so we may not have the same problem they are having.

<p>ITEM #4: 7:15</p>	<p>FINANCIAL REPORTS</p> <p>Issued checks and financial reports for the month of November 2016. 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>Councilmember Currier asked why there was no budget to actual report or balance sheet included in the packets.</i></p> <p><i>Ms. Gallagher said that Ms. Cretti had been out sick recently, and that they will be provided to Council as soon as they are available.</i></p> <p>Motion: Councilmember Currier made a motion to table the financial reports until a full set is available. The motion was seconded by Vice Mayor Kinsella. The motion passed, 5-0.</p>
<p>ITEM #5: 7:16</p>	<p>PLANNING AND ZONING AND DESIGN REVIEW MINUTES/ RECOMMENDATIONS/ZONING ADMINISTRATOR'S REPORT</p> <p>Minutes are provided for the information of Council and do not require action.</p> <p><i>Mayor Vander Horst invited new Zoning Administrator Kyle Dabney to comment on the report.</i></p> <p><i>Mr. Dabney talked about the General Plan Steering Committee and said that they want to provide Council with what they've accomplished so far. He's been working closely with Al Sengstock, he said, who has been very helpful. Right now he's "getting his feet wet," and is living in Cottonwood.</i></p> <p><i>Mayor Vander Horst welcomed him to the area and to Jerome.</i></p>
<p>ITEM #6: 7:18</p>	<p>COUNCIL MEETING MINUTES</p> <p>November 8, 2016 regular meeting</p> <p><i>Councilmember Currier noted a minor typographical error which will be corrected.</i></p> <p><i>Vice Mayor Kinsella commented that the minutes regarding Ms. Uhlman's water presentation were "great."</i></p> <p><i>Councilmember Currier asked if we have done anything about getting the radiological study done on our water. Ms. Gallagher said that we have obtained the samples for testing. It will take a couple of months to receive the report, but the study is underway.</i></p> <p>Motion: Vice Mayor Kinsella made a motion to approve the minutes of November 8, 2016. Councilmember Currier seconded it. The motion passed, 5-0.</p>
<p>ITEM #7: 7:19</p>	<p>PETITIONS FROM THE PUBLIC</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><i>Mayor Vander Horst announced that it is time for the Holiday break, and that the meeting would reconvene at 7:30.</i></p>
<p>BREAK FOR HOLIDAY FESTIVITIES</p>	

ITEM #8	ORDINANCES
7:31	<p>ITEM #8A: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 422, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-1 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL BUILDING CODE, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Building Code, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 422 in title only.</i></p> <p>Motion: Vice Mayor Kinsella made a motion to adopt Ordinance No. 422. It was seconded by Councilmember Currier. The motion passed, 5-0.</p>
7:32	<p>ITEM #8B: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 423, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-1 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Residential Code for One- and Two-Family Dwellings, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 423 in title only.</i></p> <p>Motion: Vice Mayor Kinsella made a motion to adopt Ordinance No. 423. It was seconded by Councilmember Currier. The motion passed, 5-0.</p>
7:33	<p>ITEM #8C: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 424, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-4 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL MECHANICAL CODE, INCLUDING APPENDIX A, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Mechanical Code, including Appendix A, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 424 in title only.</i></p> <p>Motion: Vice Mayor Kinsella made a motion to adopt Ordinance No. 424. It was seconded by Councilmember Currier. The motion passed, 5-0.</p>
7:33	<p>ITEM #8D: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 425, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-2 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL PLUMBING CODE, INCLUDING APPENDICES B, C, D AND E, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Plumbing Code, including Appendices B, C, D and E, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 425 in title only.</i></p> <p>Motion: Councilmember Currier made a motion to adopt Ordinance No. 425. It was seconded by Councilmember Barber. The motion passed, 5-0.</p>

7:34	<p>ITEM #8E: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 426, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-3 OF THE JEROME TOWN CODE TO ADOPT THE 2011 NATIONAL ELECTRICAL CODE, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2011 National Electrical Code, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 426 in title only.</i></p> <p>Motion: Councilmember Bachrach made a motion to adopt Ordinance No. 426. It was seconded by Councilmember Currier. The motion passed, 5-0.</p>
7:34	<p>ITEM #8F: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 427, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-6 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL FUEL GAS CODE, INCLUDING APPENDICES A, B, C AND D, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Fuel Gas Code, including Appendices A, B, C and D, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 427 in title only.</i></p> <p>Motion: Vice Mayor Kinsella made a motion to adopt Ordinance No. 427. It was seconded by Councilmember Bachrach. The motion passed, 5-0.</p>
7:35	<p>ITEM #8G: SECOND READING AND POSSIBLE ADOPTION: ORDINANCE NO. 428, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, AMENDING ARTICLE 7-7 OF THE JEROME TOWN CODE TO ADOPT THE 2012 INTERNATIONAL PROPERTY MAINTENANCE CODE, TOGETHER WITH AMENDMENTS THERETO</p> <p>Council may conduct the second reading of, and possibly adopt, an ordinance to amend the Jerome Town Code to adopt the 2012 International Property Maintenance Code, together with amendments thereto.</p> <p><i>Mayor Vander Horst read Ordinance No. 428 in title only.</i></p> <p>Motion: Councilmember Currier made a motion to adopt Ordinance No. 428. It was seconded by Vice Mayor Kinsella. The motion passed, 5-0.</p>
<p>At this time, a motion was made and approved to re-order the agenda:</p> <p>Motion: Councilmember Currier made a motion to move agenda items 10A and 9B to precede Item 9A. It was seconded by Vice Mayor Kinsella. Motion passed, 5-0..</p> <p>Items 10A and 9B were discussed at this time, but are reflected in these minutes in the order originally agendized.</p>	
ITEM #9	<p>UNFINISHED BUSINESS</p>
8:42	<p>ITEM #9A: SUBSIDENCE AREA AND SLIDING JAIL: MEMORANDUM OF UNDERSTANDING WITH JEROME HISTORICAL SOCIETY</p> <p>Council will review, and may amend and/or 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 with the Town Attorney pursuant to A.R.S. § 38-431.03 (A)(3), (A)(4) and (A)(7)); however, any action would be taken in open session.</p> <p><i>Vice Mayor Kinsella recused himself from the discussion and left the dais because he is employed by the Historical Society.</i></p> <p><i>Mayor Vander Horst also recused himself and left the dais, as he is a property owner below the sliding jail property. He asked Councilmember Bachrach to chair the meeting.</i></p> <p><i>Councilmember Currier noted that the MOU is not a contract, but simply an agreement about what we're talking about. "It simply means we're going to try and craft the</i></p>

contract that fulfills these various points," he said. "Everybody in Town has seen all of the letters. The opening letter from the Society said they thought we weren't living up to the agreement of 1964. They gave us a large group of lots and they said we could use it for parks or parking and nothing else. ... We improved the middle park, we worked on the wall and added the basketball courts. And then came the slide that happened a couple of years ago and continues to this day."

Mr. Currier said that he visited the slide area 10 days ago from Mayor Vander Horst's property. Mr. Vander Horst's survey marker has been buried by the slide, he said, and it is still moving.

Councilmember Currier went on to say that the Town has never used the property for anything other than parks or parking, and had no intention of doing so, and he believes that the Town would probably prevail if we had to go to court. "We don't want to go to court," he said, "but we all would like to see that area cleaned up."

Mr. Currier clarified that the Historical Society does not want all of the property back, just a part of it. They say they are interested in restoring the situation to what it was before the slide - the parking immediately below Hull Avenue that had 10 or 15 parking spaces. "It is a bowl shape now by the sliding jail," he said, "and they want to correct that, and grade the area to make it presentable."

Councilmember Currier noted that, two years ago, our engineers had recommended that we do nothing until the area had stabilized. "I think the upper part has stabilized," he said, "but I am not convinced that the lower end of it is stable at all. That was the short-term plan, to watch and wait. The drainage study looked at that area and said, for \$450,000, we can fix this thing well. I believe what they were talking about is going down to bedrock and reconstructing the hillside. So, that was the long-term plan as soon as we've come up with \$450,000. The Historical Society said they could come in and do an intermediate, cosmetic fix. They would make it presentable and attractive because it is a historical object. That's their position, but to do that, they will have to invest \$40,000 or more, but they don't want to start digging around until they get the collateral. They are willing to take the cost of this project, but they want some collateral. Their position is 'Give us back the parcels, we'll fix it and you can buy it back. This can be done over time. We'll give you receipts along with a monthly report.' But the populous says we're trying to give away the Town commons."

Mr. Currier said, "I think that they are giving us an interest free loan to fix the property... we can get it back whenever we want." Referencing concerns he had heard that the Society would sell the property to developers of the Hotel Jerome, he said, "You've heard tonight that's not going to happen¹." "Where are we?" he said. "Is it still so important to hold on to this stuff? These two lots that are sliding down the hill, is it so important to hang on to them? They look like a pile of dirt to me, they are a liability. I'm worried about the people down below."

Councilmember Barber brought up the most recent letter from the Historical Society which brings up safety and liability issues that the Town has with respect to the properties below the slide. "We definitely have to deal with that," she said. "If the Historical Society takes it over, is it their liability if it falls on Frank's property?"

"Yes," Councilmember Currier replied, adding, "If we give it to Historical Society, they will be the first ones people go to, but we're standing in the background and they might get to us. On the other hand, if we keep it and don't do anything, we're right on the frontline."

Councilmember Barber said that she believes that it will not stop moving.

Councilmember Bachrach said that he has a copy of the petition that was brought to Council with 107 signatures. It says that the signers are interested in keeping the property but states clearly that they want the Town to work with the Historical Society. "I think that we're all in agreement that something needs to happen," he said, noting that the Town does not have the money to work on this. His understanding, he said, is that the Historical Society wants to grade the property so that the water runs off rather than soaking in.

"Apparently, the water soaking in is what is causing the slide area," he said. Mr.

¹ See Item #10A, which had been discussed prior to this item.

Bachrach expressed agreement with Councilmember Currier. "My feeling," he said, "is we need to come to an agreement with them. The Historical Society has bent over backward and if we don't come to an agreement with them, it's never going to happen."

Councilmember Bachrach then invited comments from the public.

Dave Hall, a Jerome resident, said, "We were pretty excited about this, partially because of the adversary first shot fired. We were upset about the courts and retaining wall being a part of that. The memorandum had it written that it was included. We never saw any documentation saying they didn't want the basketball and volleyball courts. Basically what we're saying is that we want you to retain ownership of our public property and work together with the Historical Society to fix the problem. Without the basketball court in there, that changes the nature to some extent. I still think there are problems with conveying property, multiple lots - it hasn't been surveyed since 1926. It seems kind of convoluted." Mr. Hall questioned why the Society can do the work more cheaply than the Town is able to. "The position of most of the folks," he said, "is, 'What are we doing on the property?' We need some drawings, some estimates and costs. If it's just grading, maybe it's only \$10,000. ... If it is just a pile of dirt, it doesn't have a lot of value maybe."

Mr. Hall said that he is a 45-year resident, a business owner, and Fire Chief for 20 years. "You start with a vision, you get a plan, and then you cost it out," he said. "If the Historical Society can do it better, maybe that's the solution, but until we know how much it is going to cost, I believe we should wait."

Councilmember Currier again noted that "what we're talking about is a Memo of Understanding. As long as we can say we agree, then they would feel confident enough to come up with some drawings and plans."

Councilmember Bachrach agreed. "This document is a permission to discuss," he said. "There is no contract, no terms laid out. It's a flexible document that we can add to. We are not entering into a contractual agreement."

Mr. Hall said that he thinks we should include something in the Memo of Understanding regarding what the cost will be, and "what's the best way to do this." "We should get legal advice," he said, "to see if we can even do this." He added that, since the reversion would not include the courts, he feels and believes that the public would feel better about it.

Mr. Bachrach agreed, and thanked Mr. Hall.

Sage Harvey, a Jerome resident, said that the slide is still moving, and asked if the jail is in the area to be reverted.

Councilmember Currier talked about the County maps, and said that there is a question of exactly where the sliding jail is. It is difficult to tell if it is completely within the right-of-way or part of one of the parcels. "I think we should find out," Ms. Harvey said. "It would make a big difference for the people here to know that they aren't taking the sliding jail."

Ms. Yacht asked if the Historical Society could help the Town with a grant or a gift rather than taking back the property, and added that there is no plan or survey.

Councilmember Currier commented, "Obviously, there is a lack of trust. We've all been around this Town long enough to know that the players change quickly."

Ms. Yacht stated, "I have been a member of the Historical Society for several years, and I would never say I don't trust the Town."

Karen Mackenzie, a Jerome resident of 20 years, asked, "As Jerome property owners, don't we own 15 feet down? I think this issue is coming from further down ... I heard there is a dome below us. ... Is it something we can discuss with Freeport-McMoran? At least it should be an inspection, because it's affecting their infrastructure and ours."

Councilmember Bachrach said that he believes we own 25 feet down, but he understands her point.

Councilmember Currier said that the Town did bring in Freeport-McMoran, and "they wouldn't even walk on" the subsidence area. "They don't feel that it is their problem at

all," he said. Mr. Currier added that there was a geological study done after the 1936 collapse. "That's why there are no buildings on that side of Main Street," he said. "They just pushed it all down." He spoke also of studies done during the 1970s, showing that there is "bedrock 50 feet down and then there is rubble up to the surface. Before the rubble, there is sand and gravel. The fault lines run under the sliding jail, it's known as the Verde Fault." He said that his feeling is that it will never be fully corrected.

Ms. Mackenzie recommended that we have documented written communication with Freeport-McMoran about this. "We need their insight," she said. "They can look into the ground differently than the Town and Historical Society can."

Ms. Mackenzie added that she feels that "we were all motivated by the aggressive tone that the Historical Society took initially. It is really sad, because their charter is about the artists and community." She suggested that the Town might partner with the Society in some way to solve this.

Mike Harvey asked if we are going to change the form of the land. He said that he has done construction his entire life, and the only way he's seen this resolved is by terracing or putting in a retaining wall. "When they terrace it, can you make it a sculpture walk?" he asked. "Maybe get a tax break out of it and possible funding. You're going to touch it, you're going to change it and you're going to see it. Could you make it something artistic?"

Mr. Harvey added that he believes the liability is on Phelps Dodge (now Freeport-McMoRan).

Kate Roberge suggested that, if Freeport-MacMoRan is having to do soil remediation here, perhaps we should do some toxic chemical testing in that area. "It would be solving two things at one time," she said.

Jeff Koppelmaa, a Jerome resident, noted that the parcel including the basketball court is still a part of the MOU, and should be removed. Councilmember Bachrach explained that the copy of the MOU that is before Council is still the November 7 draft.

Mr. Koppelmaa went on to say that, as he sees it, the Town faces three elements of legal risk:

- (1) He does not feel that the Historical Society's case, when they had "threatened to sue to get the property reverted," has merit, and "there are things we can do as a Town to keep them in their resolution not to sue us."
- (2) He said that he "doesn't know that it is a safety risk now that nobody is walking on it," but the Town should become informed about that and what must be addressed for public safety.
- (3) He said that perhaps the most important of the three is that we determine whether there is a legal liability risk with respect to those downhill land owners who bought their property "knowing that they had bought those properties in a slide area." "I am not 100% sure," he said, "that any slide that went down there is the Town's liability and if it is an insurable risk. But the particular problem here is that two of the members that would be likely litigants are sitting on the Council. They couldn't be privy to that advice because they would be on the other side of the suit."

Councilmember Bachrach said, "To correct you, I don't believe Mr. Kinsella's property is close, but Mr. Vander Horst's swimming pool area is definitely threatened."

Mr. Koppelmaa went on to say, "It seems there should be a way for everyone to work together to get this project done. From my view, the main thing is to address any real potential liability or safety concern. Make that the baseline and anything after that maybe is negotiable with them. If they want to make it nice, we can split costs on that. But to keep the project focused on addressing what the Town's real exposure is. If the exposure is too much for the Town, then that factors into your decision to sell the property to them and to give them that risk. Make sure in return you get them to indemnify us against any claims that may happen down the road. They have to take the entire risk from us, but we need to understand that risk first."

Mr. Harvey mentioned the water that runs down First Avenue "that is running into the pool," and said that he believes that the parking that had been put in has caused that

change in the flow of the water, and that he believes the Town should consider that because the liability there would be the Town's.

Councilmember Bachrach asked the Town Attorney to comment.

Mr. Sims addressed several of the points raised by those who spoke.

- "The MOU you are looking at," he said, "does currently include the jail, the courts and the wall. When you read the Historical Society's letter, they are willing to take it out, and so if you decide to approve the MOU, which is only binding to require you to negotiate a document, you would direct that those parcels be deleted."
- He noted that the MOU acknowledges that the easements will stay in place.
- Regarding relative costs, he said, "The problem is, lawyers have written laws that are terrible relative to the public bodies doing construction. 'Design, bid and build' is probably the most useless way to spend public money ever envisioned. The Historical Society, if they own the land, can undertake the repairs at a significant cost reduction over what the Town could do. One reason it is less costly for the Historical Society is that they're not subject to public bidding." He explained that this is why it would not be beneficial to have the Society give the Town money to do the work. "Once the money comes to you, it's public and you've got to bid it," he said.
- He said that there are rules about selling public property – it must be auctioned off. However, this property had a reversion clause, so legally, we could transfer it to the Historical Society "and not charge them a dime." In return, he said, they would agree to begin undertaking the repairs. Mr. Sims said that the MOU should clarify that the Town gets to review their plans to make sure it is worth starting. Once they have the property, he said, they agree to do all of the work at their expense and to do it interest-free. "I haven't seen a document where they held a gun to your head to make you buy it by a date certain," he said. "You have the ability to recover this land if and when you wish to pay their costs, interest-free."
- Mr. Sims said that he does not know if we have a claim against Freeport-McMoRan, as had been suggested. "I do suspect," he added, "that some of the adjacent land owners bought their lots well before this started, and I believe we have some exposure."
- "Currently," Mr. Sims said, "I believe we have two choices. One - continue owning the property as is and suffer the likely claims that could ensue. Or two - figure out a way to modify this MOU, to reduce and take out the jail, the courts and the wall. Obligate them to come back to you with designs ... and make sure you have the right to purchase it at their cost, which you get to review and they've agreed to share with you." He noted that it would be at no interest, and that, in effect, they would be floating the Town a loan so that they can repair the land.
- "I have read the petition," Mr. Sims said. "I understand you want to keep ownership. You have every right to keep ownership, but with ownership comes potential liability."

Councilmember Currier said that he had confirmed that day with the Society's manager that they have withdrawn their request for the parcel that includes the basketball and volleyball courts, and that the MOU would be updated to reflect this.

Sage Harvey asked if it would be feasible for the Historical Society to obtain a cost estimate. She expressed concern that their cost may be too high for Jerome to ever afford to buy it back.

Councilmember Currier explained that there is a difference between the MOU and a contract. Before we get to the contract, he said, we can ask for drawings.

Natalie Barlow, a Jerome resident, thanked everyone for the discussion. "I want to talk about the Town saying 'We don't have the money,'" she said, and suggested that the Society loan the money to the Town. She urged Council to come up with a plan for the Town to do the work itself.

Jane Moore asked at what point the Town is required to go out to bid. Ms. Gallagher responded that the bid threshold is \$25,000. Mr. Sims noted that there are certain exceptions that we could look at. Ms. Moore asked if the work could be done in increments, thereby avoiding the need to go to bid. We could start with the drainage, she said, and suggested a partnership between the Town, Historical Society and Chamber of Commerce.

Mr. Sims interjected, "What you're saying is the Town could retain ownership and find exceptions to the bidding requirements that would authorize the Town to do the work.... There are certain exceptions (for parks, bike trails) that you, the Town, could retain ownership and, if you end up doing a contract with a non-profit and volunteer workers, you might be able to do it and retain control."

Ms. Moore went on to say that, below the jail, it is possible that just dirt removal would take care of the problem, and then a "nice fence" could be installed to keep people off of that area.

Mr. Sims recapped the Town's options. The first option, he said, which he would not recommend, is that the Town retain ownership and do nothing with the property. The second option is to figure out a way to get the property to the Society so that they can use their funds without public bidding. "You now have identified a potential third option," he said, "and that is to take advantage of statutory exceptions [to going to bid] - if you use a non-profit and volunteer workforce to accomplish work on public parks or public bike trails - and that might apply here. If you want, you could direct us to look at that option. I am not recommending the first. I am trying to make the second work. You now raise a third, but if it's more than \$25,000, we would have to make sure that the work would be under the cap, because if it's not, it makes no sense to start. This is all on the record, and we can't divide it up to fake the record."

Ms. Moore said, "Let's say the Town's portion is under \$25,000 and there's a match from the Historical Society - a low interest or no interest loan."

"That would be their option," Mr. Sims said, "but they in effect have given you a no interest loan."

Ms. Moore stated that "contracts can easily be broken."

"Not when you record an option," Mr. Sims said. "No. If you want to go with option two, we could figure out a way to protect the Town. You have identified a possible good option three... retain Town ownership, but you have to work with volunteers, you would have to work with a non-profit and we need to make sure the work is isolated on public parks, no structures. You'd have to keep the jail out."

Councilmember Currier noted that they are not talking about doing anything directly to the jail. They are talking about the area surrounding the jail.

Mr. Sims explained that this exception doesn't apply to structures. Ms. Moore asked if it would apply to railings or drainage work. "Drainage, yes," Mr. Sims said, but added that he does not know if railings would qualify.

Councilmember Bachrach said that he would be closing the public comments at this point. "This is no more than a discussion with the Historical Society to see if we can come to terms that are agreeable to everybody," he said. He encouraged all to visit the site to take a look.

Ms. Moore asked if a survey would have to be done. "Yes," Mr. Sims said, "for either option two or three."

Councilmember Bachrach closed the public comments and thanked everyone for their participation. He asked if Council had anything else to add.

Councilmember Currier said that he thinks we are going to have to revise the Memo of Understanding to include items discussed at this meeting.

Ms. Gallagher commented, "It was brought up just tonight about not including the actual sliding jail, and that has never been discussed with the Historical Society."

Councilmember Currier replied that the Attorney has said that we will need a survey, so we will have to determine where the sliding jail is. "It may well be in the right of way," he said, "and it would seem to me that we have the authority to allow the Historical Society

to work in the right-of-way to do the restoration. There is a big sink hole in front of it that is causing a big problem.”

Councilmember Bachrach asked, “But we, the Town, would retain ownership of the jail itself?”

“We would still have the right-of-way, right,” Councilmember Currier replied.

There was brief discussion regarding the legalities around making repairs to the jail itself, and Mr. Sims again said that a survey should be done to see where the jail sits. The bidding exceptions, he said again, do not apply to structures.

Councilmember Currier said again that he has heard nothing about repairing the jail, just the surrounding area. “If that jail is significantly in the right-of-way,” he said, “then I think we can allow them to work on that piece of the property around it.” He added that, even if the Town retains the ball courts, we could allow the Society to do some work on them if we chose to.

Motion: Councilmember Currier made a motion **to direct staff to review the MOU and bring it up to date based on Option 2**, and it was seconded by Councilmember Bachrach. The **motion passed, 3-0.** (Vice Mayor Kinsella and Mayor Vander Horst had recused themselves and did not vote.)

Motion: Councilmember Bachrach made a **motion to take a five minute break** and it was seconded by Councilmember Currier. Council then took a brief recess.

8:12

ITEM #9B: LEASE WITH THE JEROME ARTISTS COOPERATIVE GALLERY

Council will review the existing lease with the Jerome Artists Cooperative Gallery, which expired in November 2015, and may opt to renew the lease with rate and terms to be determined during Council's discussion.

Vice Mayor Kinsella asked for a copy of the lease. Ms. Gallagher provided the copy she had brought to the meeting, explaining that she did not make copies for all because it is a 15-page document. Instead, she had summarized its key points in a staff report.

Vice Mayor Kinsella asked if the lease includes responsibility for maintenance.

Ms. Gallagher replied that it does, and read from the lease regarding the tenant's and landlord's respective obligations:

5.1 Tenant's Obligations: Tenant shall, at Tenant's sole cost and expense and at all times, keep the Premises and every part thereof in good order, condition, and repair, including fixtures, interior walls, windows, plate glass, and any signs, but excluding foundations, the exterior roof, and the structural aspects of the Premises. Tenant shall at all times keep all exit ways and passages free of impediments. Tenant, in keeping the Premises in good order, condition, and repair, shall exercise and perform good maintenance practices.

5.2 Landlord's Obligations: Landlord shall, at Landlord's expense, maintain the electrical, plumbing, heating and cooling facilities, boilers, the foundations, exterior roof, and structural aspects of the Premises in good order, condition, and repair. Landlord shall not, however, be obligated to paint or maintain the interior surface of the exterior walls or to maintain the windows, doors or plate glass. Landlord shall not, in any event, have any obligation to make any repairs until Landlord receives written notice from Tenant of the need for such repairs. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises. Tenant and Landlord expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease, or which affords Tenant the right to make repairs at the expense of Landlord.

Vice Mayor Kinsella asked if there was anything in the lease regarding access to the upper floor. If we plan on doing something on the second floor, he said, then we would need to have that in the lease.

Mayor Vander Horst said that there is only one entrance and it is through the Artist's Co-op. The second floor would be great for an office, he said, but the tenant could only go up there when the Co-op is open, and that would not be convenient for anyone.

Ms. Gallagher read aloud another portion of the lease, regarding right of entry:

29. Landlord's Access, Showing Premises, Repairs: Landlord and Landlord's agents shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or lessees, and for making such alterations, repairs, improvements, or additions to the Premises or

to the building of which they are a part, as Landlord may reasonably deem necessary.

The Council discussed how that part of the lease agreement would not apply to anyone leasing a space on the second floor.

Councilmember Currier stated that the Co-op has a legitimate worry about someone using the second floor. Allowing access during times that the Co-op is closed doesn't work because of their displays.

Vice Mayor Kinsella said that he believes that, for occupancy on that floor, we will need two entrances. An outside fire escape for the second floor was discussed briefly. Councilmember Currier noted that former Councilmember Anne Bassett had looked into that at one time.

Councilmember Bachrach asked if the Co-op maintained liability insurance with respect to the property. Ms. Gallagher confirmed that they do. Vice Mayor Kinsella asked if it was the standard million dollar policy. Ms. Gallagher believed that it was, but would need to look into that to be certain. ²

With respect to the amount charged for rent, Councilmember Currier said that, when the Co-op first moved in there, the building had been rented sporadically. At that time, that area was less busy than it is now and with much less traffic than there is up above on Main Street. "We were trying to bring that whole area to life and the Co-op seemed to be the ideal solution," he said. "They were able to produce more product for sale than a single artist could. We cut them a sweetheart deal. They got the lowest rent in Town because they were doing us a favor." He suggested that it may be time to raise the rent again.

Mayor Vander Horst asked the Town Attorney to talk about what we can do legally with respect to sub-market rates.

Mr. Sims stated, "As you know, Jerome was on the receiving end of a lawsuit brought by the Goldwater Institute. I am working with other jurisdictions where the Goldwater Institute challenges deals where public resources are not adequately compensated. We have a constitutional provision that requires you to charge fair market value, but you don't have to look solely at dollars. If you're going to look at other types of compensation, you have to be able to document it in the lease." Referencing the Manager's report on this item, he noted that the Town does charge dissimilar rents.

"If you wish to renew the lease, you need to address the constitution," he said, and added that a component should be included in the lease to justify the lower rent. He suggested that the tenant's undertaking repairs that the Town would otherwise have to take care of, and providing a public restroom facility that impacts tourist activity, would be two things to document. He asked if the Co-op is providing access to the second floor areas. Councilmember Currier said that there are currently no tenants on the second floor, but there have been in the past.

Mr. Sims said, "You could draft a lease that would justify a reduced rent if you require that they give access to the upper floor. That's an easy solution. Finally, can they provide other services, like educational opportunities for children?" He noted that the statute mentions the "economic welfare of the community." "On its face," he said, "\$0.68 per square foot [charged to the Co-op] versus \$1.55 per square foot [charged to the Ghost Pepper Company] is a problem." He suggested that the Co-op and Manager sit down to see if there are ways to quantify the benefits provided by the Co-op and put those in the lease.

"Can't we choose to subsidize the arts with public-owned properties?" Councilmember Bachrach asked.

"Regrettably, no," Mr. Sims replied. "But the constitution says YES if you can show a quantifiable benefit."

Mayor Vander Horst commented that it would be very difficult to quantify the value of those restrooms unless we closed them, and he doesn't want to do that.

Mr. Sims said, "What I'm hearing is that you want them to occupy the space at a reduced rent. I'm saying that, given that Goldwater has had you in their sights, I'm not

² The lease does require a \$1 million liability insurance policy, as well as property insurance and plate glass insurance.

sure we're not back in their sights. First, for the next six weeks, ask them to tabulate the number of people who use the restroom. Two, do an analysis of the leasehold space above them and see what could be rented out, and modify their lease to require access. That definitely decreases the rent. Three, quantify how much they have repaired in the past and put it in the document. That is a very significant benefit to the landlord. Does the Ghost Pepper undertake repairs? If the answer is no, then that's a no-brainer. I apologize, the law is what it is. One way to keep them there is to figure out a few things to justify the lower rent."

Vice Mayor Kinsella said, "My thought is that Jerome is quite recognized for the arts in the community." He suggested that the Co-op tell us what their building expenses were for the past fiscal year. He added that he is not comfortable "being somebody's target." He noted that we do subsidize the utilities being used for the public restroom there; however, public restrooms at the New State and the Fire station are not subsidized, and he wants to make sure we are doing things right. He said that he "wants to lean toward the Artist's Co-op" and his concern is with accessing the second floor.

Councilmember Currier said, "The problem is real. How do you give someone a key to that building? That's been the problem."

"If that's the case," Vice Mayor Kinsella said, "then maybe we should take that committee off the table, if we're not going to do anything on the second floor."

Mr. Currier suggested that we may be able to isolate that stairway somehow, or find another entrance.

Mr. Sims asked if any of the Co-op artists provide a product that the Town could use. "If you could use their services," he said, "maybe that could be a part of the lease."

Carol Yacht, a Jerome resident, noted that the Co-op participates in Artwalk, which brings a lot of people into Town.

Mr. Sims said that the lease could include an obligation for them to provide some service related to Artwalk, such as a public announcement or advertisement.

Mike Harvey, a Jerome resident and owner of History Walks, said that he uses the restroom at the Co-op on a regular basis, and added that we would not be able to use the second floor without proper egress, and we would need to talk with the Fire Department about that.

Ms. Roberge spoke about an antique store that was in that space years ago. There were rentals above it, she said, and at the time they had sliding gates. She didn't recall if they had access to the plumbing downstairs, and she doesn't know what condition things are in up above. "I think it is tacky, but efficient," she said.

Sarah Harms, a member of the Co-op, said that she creates forged steel bottle openers and corkscrews. She said that she works one day a week, and on some days, 90% of the people coming in are just using the restroom. They would be happy to keep a tally, she said, and added that the Town provides the toilet paper, but the Co-op purchases the cleaning supplies.

Brice Wood, a Jerome resident and member of the Co-op, said that when the Co-op started, they were "at the edge of how far people would walk from ground zero," however, since that time, three galleries have spun off of them. "It seems we are the anchor of "Gallery Row," he said, "and that's hard to quantify." He thanked the entire Council.

Jane Moore asked, "Since the Town is known as an artist's Town, and that's one of the reasons people come here, isn't that enough?"

Mr. Sims said that the repairs are the best argument to justify a reduced rent, as tenants seldom do repairs. The second is the Artwalk and obligating the artists to participate. Third, he said, would be the restroom facilities. It all must be documented, he said, and added that just saying that we are an artist's community, and therefore entitled to lower rent, will not work.

Ms. Moore commented that she can't see how having a restroom in your business could be helpful.

"That's the point," Mr. Sims said. "How many times do you see businesses with a sign

saying 'Not for Public Use'? It's a benefit to the Town."

Mayor Vander Horst suggested that we draft a letter to the Co-op outlining what Mr. Sims has said and asking for input and documentation. He asked if the Co-op could have something ready for the next meeting. Ms. Harms said that February would be better.

Mayor Vander Horst asked Mr. Sims if we would be okay maintaining the current lease for a couple more months. He confirmed that this would be okay.

"These factors work well," Mr. Sims said. "We will have them contractually contribute personal resources to participate in the Artwalk. If they are willing to document historically how much repair they've paid out-of-pocket, and then put in the lease that they will continue that, I believe it would be easy to justify a differential. I wouldn't call it a subsidy, but they are paying rent in a dollar component and a service component. I don't believe the Goldwater Institute would challenge that."

Councilmember Currier questioned what would prevent the Goldwater Institute from saying, "Every other artist in Town participates, why don't they get a subsidy?"

Mr. Sims replied that the Co-op will contractually commit to the Artwalk, whereas other artists in Town have not.

Mayor Vander Horst noted that "the other entity providing a public bathroom does not get a subsidy from us."

"We'll have to talk about that," Mr. Sims replied.

At this time, Mayor Vander Horst closed discussion on agenda Item #9B and moved on to Item #9A.

ITEM #10

NEW BUSINESS

7:36

ITEM #10A: LETTER OF INTENT REGARDING LEASE OF HOTEL JEROME

Council will review, and may take action regarding, a Letter of Intent received from Architectural Renewal, LLC to enter into a long-term lease agreement for the Hotel Jerome. The firm intends to "research, design and restore the building envelope, adjacent public easements, interior floors, basement and rooftop, and provide tenant improvements subject to economic viability and the Historic Preservation Guidelines of the National Park Service and other authorities having jurisdiction." A portion of this discussion may take place in executive session with the Town Attorney pursuant to A.R.S. § 38-431.03 A)(3), (A)(4) and (A)(7); however, any action would be taken in open session.

Mayor Vander Horst explained that the Town has received a letter of intent from Architectural Renewal, LLC to lease the Hotel Jerome. He reviewed the history of this.

He was in the building for the first time in February of 2016, he said, and he fell in love with it. In March, he asked for discussion to take place at the April meeting, where he asked for and was given permission to solicit ideas and people interested in restoration. "We now have this letter, he said, and it is not something we need to discuss tonight, but what should we do with the Hotel Jerome? It is deteriorating and the estimates are \$75,000 to \$100,000 for a new roof. There are several options. We can do absolutely nothing, we could stop the deterioration and fix the roof, and another option is to consider selling the building and have it restored, or to lease the property. I would like to hear from the Council and what option they think we should consider."

Councilmember Currier expressed his appreciation to Mayor Vander Horst for the work he had done in getting these people to look at the property. "I think we need to consider what we need to do if we bring it back to life," he said. "I'm worried about the infrastructure, and the impact on the sewer system would be tremendous. The plumbing between the Hotel and the wetlands I don't think is adequate for a major development. I don't see where the parking is. When I spoke to them, they were talking 50 parking places, and that's beyond anything I can see. I am concerned about fire protection. We would need a hook and ladder, which requires a drastic angle - you can't put the ladder straight up. I looked at the Hotel Jerome and it isn't possible for a fire truck to have a 45-degree angle to the building. At any rate, the water system and supply to put in condos or apartments and maybe a restaurant—those are all big, significant hits on

the infrastructure. If they're willing to finance the infrastructure that's one thing, but I don't get that feeling from them."

Mr. Currier went on say, "What would it do to the character of the Town to bring that building back to life? It had been designed for a town of 15,000 or more. I am not at all sure – I don't see that bringing it back to life would be good. In talking to people, they seem to be perfectly happy with leaving it in disrepair. I know we can't do that because the roof needs attention. I really don't see a way out of this mess."

"Every answer has problems," Mayor Vander Horst said.

Councilmember Currier added, "I wanted to get that out because there is talk of turning the sliding jail into a parking lot. I don't think that will work for the Hotel. Ms. Moore spoke with Paul Handberger, a well-known scientist, and his comment was that you could put a parking lot there but not any cars. I don't believe Mr. Bachrach would want 50 cars parked in his front yard."

Mayor Vander Horst commented that the area above the Hotel Jerome can be very congested. Mr. Currier agreed, and said that he's seen traffic backed up to the Methodist Church.

Councilmember Barber noted that our top priority is infrastructure, and asked "What kind of strain would that huge building put on that?" She added that there is "also the parking situation."

Councilmember Bachrach said, "I believe the building is a gem, a treasure. I was surprised at the amount of deterioration. You would think a concrete building wouldn't deteriorate like that." He said that, if we let it continue to disintegrate, the upper floors will eventually find their way down. He tried to visualize, he said, a boutique hotel and restaurant there and agreed that it would be an impact to the Town. "Other than a loading zone out front," he said, "I don't see people hauling luggage up there. It was built at a time when people were on foot. So, as much as I'd like to see it restored, I oppose a master lease."

Mr. Bachrach added that he feels it is worth investing some time to look at stabilizing the top floors, and said, "The floor above Artists Co-op could probably be easy to turn into apartments."

Mayor Vander Horst said, "So another option would be a partial restoration. I'm not even interested in looking at that lease."

Vice Mayor Kinsella said, "It's nice that this architectural firm shows interest in one of the historical buildings." He noted that the Historical Society helped them do research on it. "I live in that neighborhood," he said. "We do have to do something with the building." He said that there are things that cause great concern. One is height – the ladder truck would never make it up there. There would have to be fire suppression and that type of thing, he said. Another concern is the deterioration of the building, and it's concrete. He said that it is constructed exactly like the New State Building, except that there is a different style of trusses that hold up the roof.

"The roof needs attention and it's a concern," he said, noting that there is an area where water penetration is going through the concrete. "That building is six stories high," he said, "and the possibility of the parapet loosening, cracking and dropping is there." He noted that the cost to replace the roof would be between \$65,000 and \$100,000, but it needs to be fixed.

Vice Mayor Kinsella said that the Town looked at a grant in the past to convert the building to low- to moderate-income housing. The Town no longer qualifies as low-income, so that funding is not available to us now. "We just have to look harder for grants," he said. "They are out there." He added that he likes the idea of restoring the floor above the Co-op.

"It's really nice of this outfit to give us this proposal," he said, "but I'm not comfortable at all with this contract."

Mayor Vander Horst said that he agreed with Vice Mayor Kinsella. He added that he has noticed that the water mark on the wall is getting lower and lower every year, and he assumes that is due to the freezing and thawing cycles.

Councilmember Currier said that he had "two radical thoughts." We could do a property bond, he said, which would need to go in front of the public, but he believes it would appeal to the property owners in town.

"I think that's a great idea," Vice Mayor Kinsella said, and added, "I believe we should sell the property in Clarkdale and utilize that money for the restoration."

Councilmember Currier went on to say that his second thought is that the new administration is coming in, and both houses are talking about improving infrastructure. "We need to think about it, come up with a plan," he said.

Mayor Vander Horst said that he wanted to open the discussion to the public at this time, including a letter submitted by Richard Martin.

Jane Moore, a Jerome resident, thanked Council for their comments and said that she would like to see a new roof put on the building. She suggested that the rental income from the Artists Co-op could be put toward that. She also suggested possible tours to raise money for it. She expressed appreciation for Council's comments and said, "A building that size would put a large strain on the infrastructure."

Kate Roberge, a Jerome resident, thanked the Council. "You have alleviated a deep tension that this letter created," she said. She added that she researched this architect and found that it is a one-person architectural firm. She questioned how he could raise the funds to do this project, and said that he would have to raise the rents. "I'll sleep much better tonight," she said.

Bill Sedaris, of the Jerome Ghost Pepper Company, a business located in the Hotel Jerome, thanked the Council for everything they had said, and agreed with comments made by Ms. Moore and Ms. Roberge. He brought up the effect that losing the Artists Co-Op would have upon the entire street, and the symbiotic relationship enjoyed by all of the businesses there. He added, "If we lost the bathrooms, you'd probably lose half of the foot traffic on that street."

Sarah Harms, a member of the Artists Co-op, thanked Council and reiterated that the letter had created quite a bit of anxiety. "It sounds like it's not being considered," she said, "and I thank you."

Mayor Vander Horst then read into the record a letter received from resident Richard Martin.³

Motion: Vice Mayor Kinsella made a motion **that the Town Manager draft a letter to the architectural firm saying that, at this time, we're not interested, and that it be reviewed and signed by the Mayor.** The motion was seconded by Councilmember Currier. **The motion passed, 5-0.**

Mayor Vander Horst said that there is interest in protecting the building, and he would like to establish a committee of three to five interested citizens to meet and discuss ideas and options about what could be done with the building.

Councilmember Bachrach asked if Councilmembers could participate.

Mr. Sims noted that, if more than two were involved, it would have to be an open meeting. Councilmember Currier said that, in that case, it would have to be posted, which is not a negative but is cumbersome. He said that he liked the idea, and he would like a time limit.

Vice Mayor Kinsella said that there is a lot of square footage in that building. "Could we think about the floor directly above the Artists Co-op?" he asked. He noted that we also need to address the remnants in the old Kids Art Workshop.

Councilmember Currier suggested that the committee could be charged with "triage."

Mayor Vander Horst said that he hasn't thought this through that much and is not prepared yet to define everything the committee would do. He said that he would like to come back with a follow-up at the next scheduled meeting.

³ Mr. Martin's letter is included at the end of these minutes.

9:45

ITEM #10B: PROP 202 FUNDING PROPOSAL

Council will discuss potential projects for submission to the Yavapai-Apache Nation for 2017 Prop 202 funding.

Ms. Gallagher explained that, every year, the Yavapai-Apache Nation is required to provide funding to the towns based on their gaming receipts, and each year we send them a proposal regarding how we would like to utilize those funds. Since she has been here, she said, we have received monies twice – for improvements at Upper Park and for a new Town shuttle van. In the past, staff has determined the projects to be proposed, but this year she opted to bring it to Council. Awards range between \$15,000 and \$20,000, and the deadline is January 3.

"The slide area comes to mind," Councilmember Bachrach said. Vice Mayor Kinsella suggested sidewalk improvements.

Ms. Gallagher noted that we are most likely to receive funding for projects which benefit the entire community, and we should avoid proposing projects that could be perceived as maintenance work. She added that Margie Hardie had called her that day, and had suggested funding to complete the horseshoe pits.

Councilmember Bachrach mentioned work on our various steps. Ms. Gallagher noted that that could be perceived as maintenance work.

A restroom facility at the 300 Level parking area, was suggested, and Ms. Gallagher suggested that it could utilize composting toilets.

Vice Mayor Kinsella recommended that we check with Freeport-McMoRan before choosing this option, as they are the owners of the 300 Level parking area and we would need their permission to do that.

Jane Moore said that she had looked into composting toilets for the Middle Park at one time. Those used by the Forest Service, she said, "are great, and they aren't stinky."

Ms. Mound suggested that the Middle Park parking lot would be a better location for those, and Chad Hembrough, a Jerome resident, said that he thinks the best use of the funds would be putting them toward a restroom facility with 24-hour access in the center of Town.

Councilmember Currier noted that the whole point of having the public restroom at the Co-op is to draw people down there. If we put another restroom in, he said, it might hurt that.

Various other possibilities were brought up:

- *Seating at the 300 Level parking area.*
- *A second Town van.*
- *Landscaping and trees near the parking along Main Street.*
- *A gazebo in Middle Park (where the dead paradise tree was removed).*
- *Smaller projects that could possibly be combined, such as an internet feed for Council meetings and solar lighting around our stairways.*
- *A golf cart to shuttle people to and from the 300 Level parking lot. This was suggested by resident Suzy Mound, who said that this might encourage employees to stop parking in front of their shops.*
- *Mike Harvey asked if the funds could be put toward what the Historical Society wants to do with the sliding jail area.*

Councilmember Bachrach asked if there a time limit to use these funds. Ms. Gallagher replied that there is not. Mr. Bachrach said that he liked the idea of using the funds for beautification.

Mayor Vander Horst asked Council to send their ideas in to Ms. Gallagher and Council will have a "20 minute meeting" at 7:00 on December 27th to make a decision.

10:02

ITEM #10C: APPOINTMENT TO PLANNING & ZONING COMMISSION

Council will consider applications received by the meeting date to serve on the Planning and Zoning Commission, and may appoint a person to fill the remainder of the unexpired term ending February 28, 2017.

The packet included one application to serve on the Planning and Zoning Commission. The application had been submitted by Charlotte Page.

Councilmember Bachrach (Ms. Page's husband) recused himself and left the dais.

Vice Mayor Kinsella expressed support for Ms. Page's appointment, noting that she has tried often to become involved in Jerome, and had applied in the past for employment and as a volunteer here. "I believe she's a good applicant," he said.

Motion: *Vice Mayor Kinsella made a motion to appoint Charlotte Page to the Planning and Zoning Commission and it was seconded by Councilmember Currier. The motion passed with 4 ayes and 0 nays. Mr. Bachrach had recused himself and did not vote.*

10:03

ITEM #10D: RESOLUTION OF SUPPORT FOR PROTEST AT STANDING ROCK

Council will consider and may approve a Resolution of Support for the peaceful protest at Standing Rock, ND, by individuals concerned about the impact on the water supply of an oil pipeline proposed to cross the Missouri River. Resolution 551

Councilmember Barber read aloud the resolution in its entirety:

RESOLUTION OF SUPPORT AND APPRECIATION FOR WATER PROTECTORS AT STANDING ROCK

WHEREAS, the proposed Dakota Access Pipeline would carry as many as 570,000 barrels of fracked crude oil per day for more than 1,100 miles from the Bakken oil fields of North Dakota to Illinois, passing over sensitive landscapes including treaty protected land containing recognized cultural resources and across or under 209 rivers, creeks, and tributaries including the pristine Missouri River, which provides drinking water and irrigates agricultural land in communities across the Midwest; and

WHEREAS, the proposed pipeline violates the collective environmental human rights of the people of the Standing Rock Sioux Tribe to life, health, clean water, and a clean environment, treaty rights secured to them by the 1851 and 1868 Ft. Laramie Treaties between the Oceti Sakowin and the United States, as well as by the Universal Declaration of Human Rights, Art. 3, 25; ICCPR, Art. 6; the UN Declaration of the Rights of Indigenous People, Art. 7, 24, 29; and the American Declaration of the Rights and Duties of Man, Art. 1.; and

WHEREAS, in a show of monumental cooperation not seen in the 140 years since the Battle of the Greasy Grass or Custer's Last Stand, members of the Lakota Standing Rock Sioux Tribe united with other Tribal Nations to establish a peaceful encampment in Cannon Ball, North Dakota known as the Sacred Stone Camp to resist the construction of the Dakota Access Pipeline with a cultural and spiritual presence; and

WHEREAS, on August 15, 2016 the Standing Rock Sioux Tribal Council led by Tribal Chairman David Archambault II called on Tribal nations and indigenous people around the world to issue resolutions in support of the Standing Rock Sioux and the Sacred Stone Camp; and

WHEREAS, more than 200 tribal nations and many US cities have formally passed such resolutions; and

WHEREAS, the Town of Jerome recognizes the importance of maintaining relationships between tribal governments and local, state and federal governments, including our own relationship with our close neighbors, the Yavapai-Apache Nation; and

WHEREAS, the Town of Jerome understands the vital importance of protecting our natural resources, especially our water; and

WHEREAS, on December 4, 2016 the U.S. Army Corp of Engineers denied an easement to Dakota Access to drill under Lake Oahe, and required that alternate routes be explored and an Environmental Impact Statement (EIS) prepared; and

WHEREAS, while this represents a temporary reprieve, the Water Protectors understand the importance of maintaining their vigilance and attention to the EIS process, and that this battle is far from over; and

WHEREAS, in the words of Standing Rock Sioux Tribal Chairman David Archambault II, "As American citizens, we all have a responsibility to speak for a vision of the future that is safe and productive for our grandchildren.";

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the Town of Jerome,

Arizona as follows:

1. We stand in support of the Indigenous opposition to the Dakota Access Pipeline and express our gratitude to the Water Protectors, including veterans of the U.S. Armed Forces, for their passionate protection of our natural resources.
2. We applaud the Water Protectors, who steadfastly maintained their peaceful protest despite enduring serious hardships and physical violence, and showed courage, passion, and determination in the face of impossible odds.
3. We urge the incoming Trump administration to continue to deny this easement, and to honor the treaty rights conveyed to the Standing Rock Sioux Tribe and the rights of all people to life, health, clean water, and a clean environment.
4. We call on all residents of Jerome to raise awareness about this important struggle for Indigenous sovereignty and environmental justice and to continue to support the Sacred Stone Camp's past and future efforts in any way they can.

AND, BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Lakota Standing Rock Sioux Tribe, the Yavapai-Apache Nation, Senator John McCain, Senator Jeff Flake, Representative Paul Gosar, President Barack Obama and President-elect Donald Trump.

Councilmember Currier commented that he doesn't think fracking is a good process, nor is shipping oil across the country. He noted that there have been 800 or so breaks in the lines in the last 10 years. "In the long run," he said, "I believe we will phase out oil-based activities."

Motion: Councilmember Currier made a **motion to approve Resolution 551**. The motion was seconded by Councilmember Bachrach.

Vice Mayor Kinsella commented that the Standing Rock area "is beautiful country."

The motion passed with 4 ayes, 1 nay and 0 abstentions.

10:11

ITEM #10E: PODCAST/LIVE INTERNET FEED FOR COUNCIL MEETINGS

Council will discuss the possibility of establishing a live internet feed for Council meetings.

Mayor Vander Horst said that he had suggested this so that people who can't get to the Council meetings can hear them through a live broadcast.

Councilmember Bachrach said that, during the Newly Elected Officials training, he learned a lot about the Open Meeting Law, and he "absolutely supports this."

Councilmember Currier commented that he thinks it is healthy to have an audience at the Council meetings, and does not want to weaken that. Mayor Vander Horst explained that his hope is that it will not keep people away, but get more people interested in the meetings, and that they will "eventually show up."

Vice Mayor Kinsella asked, "Would this be just viewing, or would it be interactive?"

"I think interactive would be a lot more expensive," the Mayor replied.

"Yes it is," Mr. Kinsella said, "but I'm all for it. We have a lot of people here in Jerome that cannot make it to the meeting. Some of the best dialogue, conclusions and scenarios is when we have a large group. We could do a podcast and maybe later on we could add to it and add dialogue."

Mayor Vander Horst opined that perhaps people could ask questions via email.

Councilmember Currier asked how expensive this would be. Mayor Vander Horst said that he believes a good one-way system would cost around \$1800, including tax and installation.

Mike Harvey, a Jerome resident, suggested using Facebook for this. "You'd still have to buy the equipment to record it," Mayor Vander Horst said.

Councilmember Barber said that she is impartial on this. "It sounds expensive when we have other things we could spend money on," she said. "On the other hand, it is beneficial to those who can't make it here to be able to see it."

Councilmember Currier noted that there had been discussion regarding a PA system for the Council chambers. That could tie into this, and could be a consideration for the Prop 202 funding.

	<p>Mayor Vander Horst clarified that a PA system would not be necessary for a broadcast. He then directed staff to look into this.</p>
<p>ITEM #11 10:18</p>	<p>TO AND FROM THE COUNCIL</p> <p>Council may direct Staff as to items of pending importance that they would like placed on a future meeting agenda.</p> <p>Councilmember Barber asked why the brickwork at the top of the wall near the horseshoe pit area has not been finished. Ms. Gallagher explained that they have had trouble finding a contractor to do the work.</p> <p>Mayor Vander Horst said that he had been a mason contractor, and he believes that there are probably people around Town who could get it done on a volunteer basis. We do have bricks, he said, and Marty Boland has said that the crew could cut them, and repair the fence there.</p> <p>Vice Mayor Kinsella commented that the tree there should be removed, as it will be in the way when playing horseshoes. "Level it out and finish that area before doing the bricks and fence," he said.</p> <p>Vice Mayor Kinsella asked that staff "stay on" ADOR to be sure that the new tax on commercial rentals is properly reflected and acknowledged by them.</p> <p>Vice Mayor Kinsella also said, "I know over the past several months there has been some hate and discontent throughout the Town with different things going on. I want to say I'm an approachable person and if you have a question, don't assume, come up and talk to us. When we signed up for two years, that's part of the game. You can get so much more done with positivity versus negativity. We're outnumbered, and to have a fracture in a community outnumbered - it's an uphill battle. Merry Christmas, Happy New Year, Happy Holidays!"</p> <p>Mayor Vander Horst said, "First of all – what he said." The Mayor went on to say that he would like to get a report from the General Plan Steering committee at the next regularly scheduled Council meeting. He would also like Ms. Gallagher to lead a discussion on property owned by the Town, particularly that which is not located within Town limits. The February meeting would be fine for this, he said.</p> <p>Mayor Vander Horst said that he would like an item on the agenda at the next regular Council meeting that talks about the order of items on the agenda. "It seems that the things that people are most interested in seem to be at the end of the meeting," he said. He also would like a discussion at the next regular meeting about "the tourism tax and what we're going to do with it."</p> <p>Councilmember Currier said that he would like get the revised MOU with the Historical Society on the earliest agenda possible, which would be the special meeting scheduled for December 27. "I believe time is of the essence on this," Mr. Currier said.</p> <p>Suzu Mound, a Jerome resident, said that she thinks that item should be on the regular meeting in January, as a lot of people won't be around on the 27th.</p> <p>After brief discussion, it was generally agreed that the item would be on the special meeting agenda of December 27.</p> <p>Councilmember Bachrach said that he would like to thank the Council for their patience and hard work, particularly Councilmember Currier, who has brought a lot of insight into the slide area. He thanked Councilmember Barber for all of her hard work as well.</p>
<p>ITEM #12</p>	<p>ADJOURNMENT</p> <p>Upon motion by Councilmember Barber, seconded by Councilmember Bachrach and unanimously approved, the meeting was adjourned at 10:29 p.m.</p>

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

APPROVE:

ATTEST:

Frank Vander Horst, Mayor

Candace B. Gallagher, CMC, Town Manager/Clerk
Date: _____