

MINUTES OF THE REGULAR MEETING OF THE HONORABLE TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, HELD ON THURSDAY, FEBRUARY 2, 2023, IN THE TOWN COUNCIL CHAMBERS LOCATED AT 325 W. WHITE MOUNTAIN BOULEVARD, LAKESIDE, AZ 85929

➤ **Call to Order**

Mayor Irwin called the meeting to order at 6:00 p.m.

➤ **Roll Call**

The following Council Members were present:

Name	Position
Stephanie Irwin	Mayor
Sterling Beus	Vice Mayor
Jim Snitzer	Council Member
Jerry Smith	Council Member
Lynn Krigbaum	Council Member
Taber Heisler	Council member
James Brimhall	Council Member

Also Present:

Name	Position
Keith Johnson	Town Manager
Kevin Rodolph	Assistant Town Manager/Finance Director
Mackenzie Valichnac	Deputy Clerk
Matt Patterson	Public Works Director
Jeremiah Loyd	Community Development Director
Dan Barnes	Police Chief
Daniel Wilkey	Police Commander
Annie DeRosier	Marketing Coordinator
Betsy Peck	Library Manager
Rob Hephner	Creative Services Specialist

➤ **Pledge of Allegiance and Invocation**

Mayor Irwin led the Pledge of Allegiance to the Flag.

Pastor Diane White offered the Invocation.

B. Call to the Public

Mayor Irwin called for public comments.

No comments were offered.

C. Consent Agenda

Mayor Irwin announced consideration of the Consent Agenda and explained that all items listed would be acted upon by a single vote of the Council, unless a member of the Council asked that specific items be removed from the Consent Agenda, discussed, and voted upon separately.

Vice Mayor Beus moved for passage of the Consent Agenda as presented. Council Member Smith seconded the motion and by show of hands the following vote was recorded:

	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		
Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council member Brimhall	X		

Mayor Irwin then declared that all Consent Agenda items in these minutes were approved, passed, and adopted with a 7-0 vote.

**C.1 Consider approval of the Minutes of the Town Council
Work Session held on January 17, 2023.**

By a unanimous vote under the Consent Agenda, Town Council approved the minutes of the Town Council Work Session held on January 17, 2023.

**C.2 Consider approval of the Minutes of the Town Council
Regular Meeting held on January 19, 2023.**

By a unanimous vote under the Consent Agenda, Town Council approved the minutes of the Town Council Regular Meeting held on January 19, 2023.

C.3 Consider approval of the Town Check Register for the period of December 1 through 31, 2022.

By unanimous vote under the Consent Agenda, Town Council approved the Town Check Register for the period of December 1 through 31, 2022.

D. Business Before the Council

Mayor Irwin announced that Public Comment will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by Staff. Any citizen, who wishes, may speak one time for five minutes on each agenda item before or after Council discussion. Questions from Council Members, however, may be directed to staff or a member of the public through the Mayor at any time.

D.1 Presentation of Public Servant Awards and the Patriot Pen Award from VFW Post 2364.

George Baum and John Beeler of VFW Post 2364 presented the following awards:

Law Enforcement

- Detective Ricky Bunch, Pinetop-Lakeside Police Department
- Deputy Sheriff Jordan Smith, Navajo County Sheriff's Office
- Detention Deputy Sheriff Shaun Hayes, Navajo County Sheriff's Office

Fire Fighter / Emergency Medical Technician

- Grayson Hiremath, Pinetop Fire District
- Keith Plympton, Pinetop Fire District

Patriot Pen Award

- Audrey Woods

John Beeler recognized and thanked Mackenzie Valichnac, Allana Jackson and Council Member Lynn Krigbaum for judging for the Patriot Pen Award.

D.2 Public Hearing and consider the approval of Resolution No. 23-1655 and Ordinance No. 23-457 amending Title 9 Public Peace, Morals and Welfare, by adding Chapter 9.20 Weapons.

Police Chief Dan Barnes stated there have been many inquiries over the years regarding regulations relating to discharging a weapon within Town limits as well

as the carrying of firearms in public establishments and at public events. Chief Barnes shared that this Ordinance reflects what is in State Statute.

Council Member Snitzer shared that he is on the board of the Arizona Historical Society adding that they have had talks about implementing no guns in the museum. Councilor Snitzer stated that there was discussion to have lockers where a gun carrier could store their gun and would eliminate staff from handling a firearm.

Chief Barnes stated that the Police Department has lock boxes with keys and would be happy to talk to any businesses or persons with questions.

Council Member Brimhall asked if the Balloon Festival counted as a public event.

Chief Barnes stated that any event requiring a permit issued from the Town would be considered a public event.

Council Member Brimhall asked if a lock box would be required at every event.

Chief Barnes responded, “yes.”

Council Member Brimhall asked how that would be enforced.

Chief Barnes stated it would be the responsibility of the sponsor of the event.

Mayor Irwin stated that in Section 9.20.040 it reads, “that you may be required.” It does not say, you shall. Mayor Irwin shared that it is at the discretion of the event sponsor or of the public establishment.

Chief Barnes responded that Mayor Irwin was correct. Chief Barnes added that if an establishment or an event sponsor wanted to enforce this Ordinance, they could put signs at the entrances.

Vice Mayor Beus shared what he had been exposed to in the past, which was metal detectors at entrances and before a person reached that point, they would put their gun in a lock box before you entered an event. Vice Mayor Beus stated that this included off duty police officers, adding that he does feel it would be difficult to enforce this at an event such as the Balloon Festival.

Police Chief Barnes stated again, that if an event chose to enforce this Ordinance, they would be responsible for signage and lock boxes.

Mayor Irwin stated that this is more of a tool to give the officers an Ordinance to look back on when enforcing this issue. Mayor Irwin added that there have been guns discharged in Town Limits which raised these questions.

Chief Barnes agreed with Mayor Irwin and shared that this will give the officers more leverage and guidelines regarding weapons violations.

Council Member Heisler moved to adopt and approve Resolution No. 23-1655 and Ordinance No. 23-457 amending Town Code Title 9 Public Peace, morals and Welfare, by adding Chapter 9.20 Weapons. Vice Mayor Beus seconded the motion and by show of hands the following vote was recorded:

	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		
Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council Member Brimhall	X		

Mayor Irwin declared the motion passed with a 7-0 vote.

D.3 Public hearing and consider repealing Ordinance No. 14-384 and replacing it with Resolution No. 23-1657 and Ordinance No. 23-458 updating Title 15 Chapter 15.12 FLOODPLAIN REGULATIONS.

Community Development Director Loyd stated that he was contacted in October of 2022 by a plan administrator of the State and it was requested that the Town update their floodplain regulations. Director Loyd shared that the State identified several issues. Director Loyd stated that the way the Town identified Special Flood Hazard Areas did not match up with language on the federal level adding that the State requested for the Town to identify Special Flood Hazard Area as SFHA which is the acronym used by FEMA. Director Loyd stated that it was also a request of the State to redefine the Town’s definition of an accessory structure to match up more with the federal language.

Vice Mayor Beus asked if the Town will be in Conformity with FEMA as well as the State guidelines with these proposed changes.

Director Loyd responded, “yes.” Adding that a key aspect is that the Town is now members of the National Flood Insurance Program know as NFIP which allows residents to obtain flood plain insurance.

Mayor Irwin opened the Public Hearing. No comments were offered. Mayor Irwin closed the Public Hearing.

Council Member Krigbaum stated that in Chapter 15.12.070 it states that the FIS and FIRM panels are on file at the Town of Pinetop-Lakeside Community Development Department and asked if she should see these documents.

Director Loyd stated that anyone is welcome to come and see the study adding that the FIS is a Flood Insurance Study which is a detailed engineering analysis of the studied floodways. Director Loyd shared that he and Public Works Director Patterson had a conversation with FEMA and they asked: *“Is there other areas the Town would like us to look at?”* Director Loyd stated that they identified some areas along Billy Creek.

Council Member Krigbaum stated that people like to place an obstruction to the flow of water so they can have a pond. Councilor Krigbaum asked if this would address that issue.

Director Loyd stated that it is considered a waterway of the U.S. because it sends water to the Colorado River. Director Loyd added that you would need a 404 permit from the Army Corps of Engineers and would have to show Zero Rise Certification. Director Loyd stated that the Floodplain Advisory Board which, in this case is the Town Council, could make an assessment and take action on this if it was done in a floodplain. Director Loyd shared that this is stated in the Penalties of this Chapter.

Councilor Krigbaum stated that there is a section of trail that runs along Billy Creek and feels when people pool the water, it can do damage to the trail.

Director Loyd stated that this can be a Class II misdemeanor and a civil penalty or dollar value could be assessed.

Council Member Heisler moved to repeal Ordinance No. 14-384 and replace it with Resolution No. 23-1657 and Ordinance No. 23-458 Chapter 15.12 Floodplain Regulations, thereby updating said regulations to reflect the amendments made by the State Floodplain Manager to the States Model Ordinance. Council Member Brimhall seconded the motion and by show of hands the following vote was recorded:

	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		

Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council Member Brimhall	X		

Mayor Irwin declared the motion passed with a 7-0 vote.

D.4 Pursuant to A.R.S. 38-431.03 (A)(3) and (A)(4) the Council may vote to enter into Executive Session:

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session for the following purposes:

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body’s position regarding contacts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigations.

- ***Discussion, Legal Advice and Direction regarding a lawsuit: Personal Injury Claim filed against the Town.***

Council Member Heisler moved to enter into Executive Session. Vice Mayor Beus seconded the motion and by show of hands the following vote was recorded:

	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		
Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council Member Brimhall	X		

Mayor Irwin declared the motion passed with a 7-0 vote.

Council entered into Executive Session at approximately 6:48 p.m.

Council reconvened into Open Meeting at approximately 7:25 p.m.

D.5 Pursuant to A.R.S. 38-431.03 (A)(3) and (A)(4) the Council may vote to enter into Executive Session:

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session for the following purposes:

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body’s position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigations.

- *Discussion and direction regarding the referendum election.*
 - *Council may reconvene to Open Meeting to take action on item D.5*
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Vice Mayor Beus moved to enter into Executive Session. Council Member Heisler seconded the motion and by show of hands the following vote was recorded:

	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		
Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council Member Brimhall	X		

Mayor Irwin declared the motion passed with a 7-0 vote.

Council Entered into Executive Session at approximately 7:28 p.m.

Council Reconvened into Open Meeting at approximately 8:21 p.m.

Mayor Irwin made the following statement, *“I would like to present a timeline on how we have gotten to where we are tonight. Over the last nine month period and a series of nine public meetings first, by the Planning and Zoning Commission then by the Council, a Land Use Map and Major Plan Amendment was made to the General Plan. The Council stands behind the Resolution creating an Amendment to the Land Use Map. However, we do acknowledge that the citizens have the right to exercise their referendum rights under the Constitution. We were proceeding along a path to hold an election. Keep in mind that the Commission voted August 22, 2022 to recommend that the Council pass the amended Land Use Map. On January 17, 2023, five months later, a member of the public alleged that there was a potential conflict of interest by one of our Commissioners. We do not believe there was a conflict of interest. However, that is a personal decision of that Commissioner. The decision*

that Commissioner makes impacts business holdings and employees that work for that Commissioner. It is a far-reaching decision given the delay of five months in asserting this potential conflict and the fact that if this conflict is sustained, meaning she does truly have a conflict, it would make this election unnecessary. Council would end up spending twenty thousand dollars of taxpayer money to conduct this election. It would also cause a lot of divisiveness within our community and that is certainly not what we would want. So, under consideration tonight is delaying the election. This will give the commissioner plenty of time to resolve this alleged conflict of interest. It would avoid spending the twenty thousand dollars approximately if it is not necessary. It does not require us to rescind the Resolution authorizing the General Plan Amendment. Delaying this election would allow people on both sides of the argument to issue their pro and con arguments to go in the publicity pamphlet. This will slow the process down; We were under a really tight time crunch. We had to have everything in by January 31st so the Clerk could get arguments translated into Spanish and to get all that language to Navajo County to get to the printer. Council is going to consider postponing the election. We have our attorney Bill Sims on the phone and I believe he has a couple additional comments to make.”

Town Attorney, Bill Sims offered the following comments, *“I have been working with the Mayor and Council as we have tried to resolve this. We were trying our best to meet a very tight deadline. By extending to August it means that the Commissioner can take whatever action she needs and most importantly, we hope to get the conflict resolved so that when there is an election, the twenty thousand dollars can be spent for a valid election. There were some disagreements on the ballot language. Those disagreements have been resolved and we will have acceptable ballot language for the August election.”*

Vice Mayor Beus moved to rescind Resolution No. 23-1651 Call of Election. Council Member Heisler seconded the motion and by show of hands the following vote was recorded:


	AYES	NAYS	ABSTAIN
Mayor Irwin	X		
Vice Mayor Beus	X		
Council Member Snitzer	X		
Council Member Smith	X		
Council Member Krigbaum	X		
Council Member Heisler	X		
Council member Brimhall	X		

Mayor Irwin declared the motion passed with a 7-0 vote.

D. Adjournment

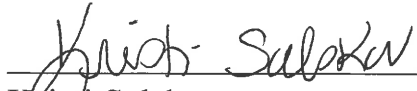
Mayor Irwin

There being no further business at this time, the regular meeting was adjourned at 8:26 p.m.



Stephanie Irwin
Mayor

ATTEST:



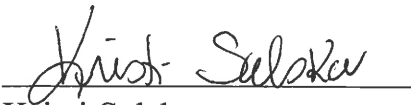
Kristi Salskov
Town Clerk



CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular meeting of the Town Council of Town of Pinetop-Lakeside, Arizona, held on the 2nd day of February 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 2nd day of February 2023.



Kristi Salskov
Town Clerk