MINUTES
SPECIAL TOWN COUNCIL MEETING
TOWN OF CAVE CREEK, ARIZONA
WEDNESDAY NOVEMBER 28, 2018

CALL TO ORDER 4:03 P.M. Ernie Bunch, Mayor, 37622 N. Cave Creek Road, Cave Creek, AZ.

Roll Call: Jane Fuller, Deputy Town Clerk

Council Present: Mayor Ernie Bunch, Vice-Mayor Ron Sova, Council Members Susan Clancy, Thomas McGuire, David Smith, Mary Elrod and Eileen Wright.

Council Absent: None

Staff Present: Town Manager Carrie Dyrek
               Town Attorney Bill Sims Telephonic
               Deputy Town Clerk Jane Fuller
               Town Building Official Mike Baxley
               Director of Planning Ian Cordwell
               Finance Director Robert Weddigen
               Town Engineer/Public Works Director Hal Marron

Mayor Bunch: Welcomed everyone to the Special Town Council Meeting, Town of Cave Creek, Arizona, Wednesday, November 28th, 2018. Mayor Bunch asked Bill Basore to lead us in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE
Bill Basore led all those in attendance in the Pledge of Allegiance.

ACTION ITEMS:

A. GENERAL AGENDA ITEMS
Ms. Dyrek: Introduced a brief PowerPoint presentation giving a historical background and overview to the IGA. Including possible advantages of the IGA and some required commitments and fees as a result of the IGA if approved.
Garry Hays: Explained that he had been asked by Council Member McGuire about the IGA being posted where the people could see it. He explained that the agenda was noticed in accordance with open meeting law and that the IGA was in the agenda and online as part of the agenda.
Ms. Dyrek: Explained that the Town of Cave Creek south of Carefree Highway is within the City of Phoenix Water Service Area. The Town began serving water or fire flow service to businesses in that area in 2010 without the approval of the City of Phoenix.
Mr. Hays explained that the reason the City of Phoenix has water service within Town limits is because years ago City of Phoenix bought a water company that had water service in the Town limits so that when the City of Phoenix bought the water company they got the service area. It had nothing to do with the Town asking them to serve water in that area; it was merely a result of the purchase of the water company decades ago.

Ms. Dyrek: The City of Phoenix is unhappy that the Town began providing service in their water service area. In 2015 a Development Agreement between City of Phoenix and the Town of Cave Creek came about as a result of the Tractor Supply development of five parcels. The Development Agreement provided that the Town would provide the fire flow for the development of the five parcels while City of Phoenix would provide the potable water. The Development Agreement also provided that if, after an engineering study was completed, the Town would acquire a portion of that service area at fair market value and make it a part of the Town of Cave Creek system.

Mr. Hays: Explained that a very important distinction is that City of Phoenix was asking the Town to acquire this service area infrastructure only without any additional water rights to go along with the acquisition and that the infrastructure to be acquired was antiquated infrastructure.

Ms. Dyrek: The issue came to her attention over a year ago when City of Phoenix contacted her with the proposal and engineering estimates. Carrie explained that it took time to review the City of Phoenix proposal, meet with and build a relationship with City of Phoenix and explain to them the reasons why the Town could not accept the proposal. The primary reasons for the rejection of the proposal included the cost of the acquisition, the age of the infrastructure which was thirty years old or older, that the acquisition did not include additional CAP allocation and that the Town did not have sufficient allocation to cover service to the additional area. Following the proposal rejection Dyrek continued to work to keep the dialogue open with management at the City of Phoenix. The IGA before Council resolves several issues. One is the Town providing water service to customers in the City of Phoenix water service area and this is done without litigation. Another solution is that the IGA allows the Town to continue to provide service to Customers in City of Phoenix water service area until the City completes construction of new water infrastructure. Also, new development is able to occur without delay in that area of the Town limits but served City of Phoenix water service area resulting in additional new sales tax revenue to the Town. The City of Phoenix will continue to provide potable water service and the Town will continue to provide fire flow service to existing and new development until the City completes construction of new water infrastructure. The City will design and construct the new infrastructure over a five year period, including new twelve inch and sixteen inch water mains. The Town will dedicate the existing water mains south of Carefree Highway to the City of Phoenix, transfer existing water service and fire flow service accounts in the City of Phoenix water service area to the City of Phoenix including Tractor Supply, AutoZone and the proposed new development. Both City and Town will continue to negotiate agreements to divert, treat and transport a portion of the Town’s legally available water to a designated water service connection and allow the Town to purchase water under emergent conditions. In time, the Town will have interconnect with the City of Phoenix. The Town agrees to reimburse the City of Phoenix $600,000 over a five year period for the Town’s share of the cost of construction of the new water infrastructure. The Town has time to budget for the reimbursement in the next fiscal year. The $600,000 will be reduced by any “in lieu fees” that the City receives from new development in the City’s water service area within the Town limits during the first five years of the agreement.

Mr. Hays: Explained that the IGA resolves several longstanding issues from an infrastructure standpoint and it puts the Town of Cave Creek in a good position with City of Phoenix. The IGA takes care of
several issues that the Council has been grappling with over the years and in his opinion the IGA is a
win for the Town, City and residents of Cave Creek.
Mayor Bunch asked for questions from Council.
Ms. Wright: Asked Mr. Sims a question; back in 2007 Usama testified under oath that the Water
Advisory Committee (WAC) would be in control of all recommendations of capital improvement
needed for water system; this was mandated by the Arizona Corporation Commission (ACC). But we
basically disregarded this order because we have basically eliminated or bypassed the WAC in this
development. To me this is illegal I would like your legal opinion on this.
Mr. Sims: Acknowledged a component that this IGA does address some of the issues that are under the
WAC’s jurisdiction. But it also addresses things that are outside of WAC’s jurisdiction such as;
longstanding disagreement with the City of Phoenix to avoid litigation. Such as; making sure that the
Town can get development in its jurisdiction that will generate sales tax revenue using water that you
don’t have. Such as; addressing fire flow; something that is not under the WAC’s jurisdiction. In a
perfect world perhaps, we could try to include WAC as we implement the IGA. But there was time
criticality to get this done which is why it is before Council now. Sims explains the five reasons why the
IGA commends itself;
1. It avoids litigation.
2. It frees up water. Water that the Town doesn’t have; water that is now
going to Walmart.
3. It achieves a competent way the CAP allocation can be brought and served
to the Town.
4. It gives the Town an interconnect. Something the Town doesn’t have.
5. It gives the Town emergency access to water.
Mr. Sims agreed that some of the five are of interest to the WAC. As the Town implements the IGA and
works with the developers, we should talk to the WAC. There was critical need to get this done quickly
which is why this is before the Council tonight.
Ms. Wright: Two of the things that you just mentioned will not be covered; they are actually an IGA that
is put within the original one; 2.1.4.
Mr. Hays: Read 2.1.4 for the Council while Ms. Wright was finding it. He suggested to Ms. Wright that
in this agreement the City of Phoenix is agreeing to do these things. It is binding the City to do it which
is why we put it in the agreement so when they sign this agreement, they are bound to do these other
things. Which is why it is in the agreement and why it is important. As it relates to the WAC items, this
is talking about doing it. We will probably take those IGA’s to WAC; that is more of what their purview
is, less so that avoiding litigation. We wanted to make sure City of Phoenix is bound to do the two items
which is why we put them in the IGA.
Mr. Sims: Recommended to take out the word “probably”.
Ms. Wright: Commented that this doesn’t bind them; it just binds them to negotiate. It does not say that
they must do these two things which if to me it was done incorrectly. These two things would be part of
the IGA not aside, in addition to, to be negotiated at a different time and place.
Mr. Sims: Responded to Ms. Wright that you cannot have it both ways. You cannot say that we needed
to include the WAC and now we have left out key concepts that could be included in. Because we do
respect their competence in areas of expertise. They will be included in the IGA’s; had we done it now
you would have criticized us for not including them.
Mr. Hays: Bill Sims may have had a hard time hearing Ms. Wright; the IGA does bind City of Phoenix
and we all agree to negotiate in good faith. They are a sister municipality, we have assurances that we
will get those things done, that is why we put them in the IGA. When you sign this IGA, you intend to
enter into an agreement with the City of Phoenix. What that means in good faith is that we are not going
to try to ask for the stars, moon and sun. We are going to try to do what we basically agreed to. It is
important to get this to Council in a timely manner. City of Phoenix is not the quickest entity to deal
with and it is important to the Town. We are trying to get this portion done and we have already begun
to start working on the second and third portion in 2.1.4. Once we get the next document that we are all
in agreement with, we will bring that to WAC and then will come in front of Town Council.

Ms. Wright: It seems to me, and I guess maybe this is a question for you Garry. What is the rush? Why
aren’t we getting everything done that we need to do? Why are we going so quickly through things as I
see through the whole document?

Mr. Hays: Explained that he wouldn’t say we are rushing. What we are trying to do is fix a long standing
problem without litigation. That is what we are trying to do. What we have as far as we can tell
assurances and agreements from the City of Phoenix. It is important that when we do that to take care of
the longstanding issue that has been hanging out there forever and has caused constant strife between the
Town and the City of Phoenix. The IGA helps the Town on so many levels; not just 2.1.4 which helps
the Town with its long term water situation which is very important. In the shorter term we do not want
to be in litigation with our sister city just across the way. If we can fix it and we have agreement; we
need to strike while the iron is hot. That is why it is broken out that way; 2.1.4 is very important and is
going to take some time. We will have meet with WAC and meet with Council. We also have to do
things that prevent this Town from being subject to costly litigation.

Ms. Wright: Asked Mr. Hays and why you think it wouldn’t be appropriate to put this in this document
at this time? Because why?

Mr. Hays: Told Councilmember Wright that he doesn’t know what “this” is.

Ms. Wright: responded 2.1.4; it needs to be part of this IGA instead of a future negotiation.

Mr. Hays: Explained, I think that hopefully, maybe I didn’t say it clearly but these are long term issues
that we need to solve and we need to get input from the WAC, input from the Council and we need to
work with the City of Phoenix to get that done. Those are the long term issues that we wanted to make
sure were included as part of the document to say we want to get these things done. But having the
actual meat and potatoes of it is going to take input from WAC, Council and input from us working with
the City of Phoenix. That is why we wanted to make sure that it is included in the IGA. To say hey we
are doing this but we also wanted to take care of the litigation issue. The litigation issue is candidly the
driving force and new development in that area as it comes along; anyone who wants to develop in that
area of Cave Creek is stuck and you can’t do anything until we fix this. If we don’t fix this we have
litigation if you don’t do this we are, and remember Councilmember Wright, this is one of your points
all along. It would be someone who develops in the Town of Cave Creek, who pays sales tax to the
Town of Cave Creek but does not use Cave Creek water. Those are the two main issues; development
rights and litigation. That is why it wasn’t a WAC issue. Items 2.1.4 are more of a WAC issue. That is
why we did it the way that we did.

Ms. Wright: The WAC is any capital improvement and other things like that; infrastructure, things like
that. It would seem appropriate to me for them to be a part of what you ended up with here but obviously
that didn’t happen. There are other things, just one more question and I will save the rest for later. I keep
seeing within this document, sometimes it is called the Cave Creek service area and sometimes the
Phoenix service area. Most of the time you are putting them together but they aren’t together. Was that
supposed to be hyphenated?

Mr. Hays: Explained there is the Town Area, the City of Phoenix Area but where the blend is, is when
City of Phoenix is the water provider within the Town Limits then we call it the “Cave Creek Phoenix
Service Area.” It is in the corporate boundaries of Cave Creek but in Phoenix’s service area; that is the
delineation. It is the area that Carrie showed on a map earlier that is hatched in the corporate limits of
the Town of Cave Creek but in the water service area, as I discussed earlier, of City of Phoenix based
upon City of Phoenix buying a water company decades ago.
Mr. McGuire: We have several very important developments in process in that area, those are important
to us. How will making the agreement at this time impact them?
Mr. Hays: If I may Councilman McGuire, until this is done those development cannot move forward.
Ms. Demmitt is here on behalf of those developers. What I believe she will tell you is that when they try
to do something and they go to the City of Phoenix, the City says we aren’t doing anything until we get
this done. That is also as I said earlier, the development as well as the litigation issue that has caused
this. So this fixes the issue. You can imagine that if you are a private property owner, you come to Cave
Creek and Cave Creek says we can’t serve you because that is City of Phoenix. You go to City of
Phoenix and they say we aren’t serving you until you fix the problem with Cave Creek. You get stuck as
a private property owner in a catch twenty-two. This takes care of that issue.
Mayor Bunch recognized Vice Mayor Sova and explained that this is the time for questions.
Mr. Sova: Asked if it is correct that there is a lot of development going on along Cave Creek Road and
Carefree Highway and if one has driven down those streets it becomes quite evident? Another question
is it isn’t it obvious that builders, developers; commercial, residential to some degree have a choice as to
where they can go? Isn’t it also correct that parcels that are under the jurisdiction of Scottsdale, City of
Phoenix, Town of Carefree and the Town of Cave Creek, that isn’t there many commercial
developments that may produce sales tax revenues and wouldn’t it be nice if they built in our Town to
fund badly needed programs we have here given the fact that we do not have a property tax? Isn’t it
correct that the meaning of “tempest fugit” means time flies? Would I be correct, we are in a period of
good economic development? Should we delay this, postpone it, push it on, many months would be lost
and potential opportunities for this Town and for the residents of this Town would be lost and gone
forever? I for one would not like to see that. Those are my questions.
Mr. Hays: Yes.
Ms. Elrod: That last part was more of a comment.
Ms. Dyrek: The development that is coming forward in the Phoenix Water Service Area; those folks
have had their projects in the works for many months. Initially going to the City of Phoenix, Phoenix
would tell them that we cannot serve you water until Cave Creek purchases the system, then you will get
your water from them. We said no, we aren’t doing that. Working through changing the nature of how
we would address that issue. Water wasn’t coming with the acquisition of that water service area.
Changing that to you will get your water service from City of Phoenix. Phoenix didn’t have the fire flow
capabilities and we offered to provide the fire flow. They don’t want that liability. So we worked out this
IGA so that we continue to allow the growth in our Town boundaries; we will provide the fire flow in
the interim until City of Phoenix completes the construction of new infrastructure and then we will turn
over the fire flow and any existing customers that Cave Creek has in that service area. The new
development will be served potable water by the City of Phoenix. That is in the agreement and is a
temporary solution to allow development in Cave Creek to move forward. Eventually we will have the
sales tax revenue and they will have the utility customers when we turn them over.
Ms. Clancy: So Carrie what we are trying to do with this agreement is to take a wrong that is perceived
by City of Phoenix and try to make it right so that the parties together, particularly in the City of
Phoenix service area within the Town boundaries can be in agreement going forward.
Ms. Dyrek: That is correct; we are taking a wrong and making it right.
Ms. Clancy: I think that is why it is important that we consider this in lieu of, trying to pull in, given
where we are with some of the folks, months in trying to make a decision. That is why we are trying to
get it done now. It is very important for us to be part of the group that says let’s take a wrong and make it right.

Mr. Hays: On Councilmember Clancy’s point exactly; look at Item 3.3 in the agreement. It says, “Phoenix will not seek reimbursement from Cave Creek for the water service revenue received by Cave Creek for Walmart, the strip center in front of Walmart or Burger King. I will tell you that I represented the City of Globe when the City of Globe received a nine million dollar notice of claim from the Arizona Water Company. Because Arizona Water Company thought that in 1962 the Corporation Commission gave them a portion of the CCN that covered the City of Globe’s area and so they said hey, we have had this since 1962 and you have been collecting water revenue since 1962 so you have to pay us almost ten million dollars. It was homes, nothing like Walmart. So they calculated from 1962 to 2013 and said you have to pay us. By the way they could win except for the fact that we found that they were serving before 1962 in that area and the surveyor for the Arizona Water Company had written a wrong legal description. We were able to not have to pay them but if you serve someone not in your service area and you receive revenue; there is a high possibility that someone could come back and sue you for that revenue. Getting Phoenix to say in 3.3 they are not going to seek reimbursement. That is part of the litigation stuff that I was talking about. That is a big number that they could come back and say you were serving in our area; that is our money. There is a good cause of action for that. We are righting a wrong Councilmember Clancy that is a good way to put it.

Vice Mayor Sova: Isn’t this agreement in the best interest of the Town and the residents of the Town for the continuing long term, welfare, safety and health of town residents? That is primarily what a Town Council is charged with, along those lines?

Mr. Hays: Yes, it addresses several issues, Bill went through five. This agreement is moving the Town forward for all of its residents. That is my personal, legal and professional opinion.

Ms. Dyrek: I agree, allowing the development to move forward, not having to spend funds on litigation, the sales tax revenue we will receive in the future, and it puts 14 acre feet back in the CAP allocation.

Mr. Sims: I want to give Carrie credit, some on the Phoenix side were upset and did not want to negotiate. We could have been facing down the gun like we were in Globe. Of the five goals that were described two are completely in the Council’s jurisdiction; to avoid litigation and to avoid a multi-million dollar claim is clearing in the Council’s jurisdiction. That is what this does. Secondly, we are not having any development in that area because of that potential litigation. This lets you respond to developers at your doorstep. Those are two key benefits that you as a Council can capture tonight. That leaves the other three that the WAC has a role in; identifying new water, making sure our CAP allocation is preserved and having an interconnect in an emergency. All things WAC has been worried about. We have time to negotiate those IGA’s with WAC input. I initially wanted to get ugly with City of Phoenix and Carrie didn’t let me get ugly and now we have this resolution before you tonight.

Mr. Hays: he meant ugly with the City of Phoenix.

Ms. Clancy: Exhibit A, B, and C that delineates the confusion of who owns what and where. Showing where the new water mains are going to go. They are all integrated. The benefit for us, because of what we are trying to accomplish here, is that the future along Carefree Highway and the development would be solidified with an agreement with our closest neighbor.

Mr. Hays: I would echo Bill’s comments that we were in a situation with the City of Phoenix based on prior manager’s actions that were not good. City of Phoenix wanted the Town to pay lots of money, pay for engineering studies, pay for all these things and Carrie was able to work with them to eventually get to where we are today. This is in the best interest of the Town; it does move us forward.

Mayor Bunch recognized Councilmember Wright.
Ms. Wright: Pointed out to Garry; you mentioned 3.3, that City of Phoenix will not seek reimbursement.

What is the period of time, from when to when? Is that in eternity?

Ms. Hays: It would be when the Town put Walmart in; 2010.

Ms. Dyrek confirmed.

Ms. Wright: But it doesn’t say that here, there is no time.

Mr. Hays: That is right; they are saying they are not going to ask us for anything. The only businesses we served water to are Walmart, the strip center in front of Walmart and Burger King. So they are saying we are not going to ask you for any of that money.

Ms. Wright: So even though there is not an actual date here it is assumed?

Mr. Hays: You don’t need a date because it is from the actual user. So they are saying we won’t ask for revenue from Walmart, the strip center in front of Walmart and Burger King and that is all we have there.

Mayor Bunch announced Public Comment:

Bill Basore 2415 E Rockaway Hills. He reminded everyone that he has delved into the water situation pretty closely. He shared that he is thrilled by this agreement; it is amazing. He looked at what it would cost to buy a service area; it is very expensive for example what Carefree might get to pay the Town for the service area they want to acquire. If the Town acquired the service area it would have to serve all of the residential accounts in addition to the commercial. In the agreement the Town is getting water. Also as a businessman you have to get this agreement done before they would even do a T&T; you wouldn’t know what you are hooking up to. The positives are incredible. The Town will have a second line to get water; an alternative line. You could possibly use Phoenix to bank our water because Phoenix has access. I am looking at this thing going Wow! I see this as having a tremendous positive impact. I recommend that you accept this.

Kerry Smith 7265 E Continental Mountain Estates Drive. I have four issues that I would like to cover. The notice was short; I feel that it is unfortunate that we were not allowed to see this sooner. Had the presentation been summarized in advance, other citizens and the WAC would have had a better understanding of what is going on. It appears that most times we learn the information about many actions that the Council is expecting to take after the action has been taken. It is really unfortunate. An example of that is that issues that came up at the time of the development of Walmart, Tractor Supply, AutoZone, other development in the Phoenix, Cave Creek water service area. These issues never came up. And now we are learning that development pressure is what actually creates the urgency associated with this action. We have heard that the development has been underway for quite some time. The question I want to know is why it didn’t come up. As far as the promises for provisions for further IGA’s; what you see is what you get. I would love to see these other things. I am not going to decide this issue on the basis of it might happen. The long term interest of this Town and its residents is to have full information about the actions that the Council is going to make with adequate time for citizens to come and try to digest it and adequate time and information about what the issues are; benefits and costs. We have not seen that here, we have heard some of it in response to questions. Why couldn’t we have seen that in a one page, two page summary in advance of these decisions? That would be a valuable lesion to come from this.

Mr. Hays: Explained that he heard Mr. Smith say that Council has taken already action. Council has not taken action on this. Council will take action tonight on this if it so chooses. This has been an agreement that the Town Manager and the Town Attorney have been working on the language to bring it to the
Council, but Council has not taken any action on this item to date. At some point there may be this
evening, some action but there has not been any.
Mayor Bunch asked if staff or the Attorneys wanted to respond.
Ms. Dyrek: The public as well as the Members of Council received a copy of the final draft IGA at
exactly the same time. We did not get the final draft until late Monday; it then went out to the
Councilmembers. Since then we have had another glitch with the City of Phoenix on Tuesday which we
had to resolve Tuesday and today I was able to put together the final points of discussion that I was able
to present to you tonight. That is how, when, we had the information together to present to Council and
the public.
Mr. Hays: Reminded everyone what he said about Globe and 1962; it didn’t come up in 1962 because
no one realized it. This has become an issue recently; about a year ago. It was before some of the
development when City of Phoenix said we think you are serving in our area. That is what started this;
what brings stuff about. Sometimes it comes about by happenstance as it did in Globe.
Katya Kinsel 41200 N. Echo Canyon Drive. In rephrasing Dr. Smith’s words, this is a huge lack of
transparency. It is not fair to Council who is just hearing this information now and the citizens. Nothing
in the intending documents concerning, there is nothing in the intending documents concerning
impending litigation. Addressing Mr. Hays, Ms. Kinsel asked, you have been here six weeks, how come
you know so much already? Why rush now? it is not right. Again, why weren’t these issues made known
earlier? We have a professional staff here who should have made the Council and its citizens aware. I
think that as a citizen that is my expectation; not after the fact. And you are just hearing this information
now. Six hundred thousand dollars is a huge expenditure. What is going to fall off the Capital
Improvement Plan? Have you thought of that? You can’t just write a check for six hundred thousand
dollars. It has a huge impact on the Capital Improvement program. And also to rephrase Dr. Smith, why
did the Planning Commission and Council approve up zoning for these businesses; the Dutch coffee
shop, the Pennzoil you know whatever the oil change place
is going to be. The up zoning for these
proposed businesses if there is pending litigation. And apparently it was known. The issues with
Phoenix. I ask you these questions and I please, do not take action tonight.
Bill Allen 38914 N 73rd Street. Five years ago, Water Advisory Committee recommended to the Council
that they move forward with an action to resolve the deficit of water that was potential. If we ever had
any problem with the transmission line between here and the canal. Five years ago. You know, you were
on the commission at that time. It is about time that you do something; it is the beginning of something.
For God’s sake, don’t wait five more years before you complete the rest of this agreement. It is
frustrating. You need to continue with it and not stop when we get this completed. Because we have
known for a long, long time that there was an argument with Phoenix regarding the system down there
and the fact that we had begun to serve in that area. Please, finish this and don’t stop with regard to the
completion of what you are proposing to do. Please.
Susan Demmitty of Gammage & Burnham 2 N Central Ave, 1st Floor, Phoenix, AZ 85004. Here tonight
on behalf of Gammage & Burnham and also a resident of the Town of Cave Creek. She wanted to
address some of the timing questions. She is here on behalf of the Park West Development which
includes Sprouts, Sun Devil Auto and Dutch Bros. Coffee. While the Town of Cave Creek has had
conversations ongoing with the City of Phoenix for some time. These percolated and came to a head in
August as we had invested in these projects and began to move them forward in the system. We needed
assurances that we would have water to serve all three of these projects. It was critical to continue
investing and close on the property which is happening in the very near future. It is at that point in time when each of these developers went to the City of Phoenix and asked for the requisite Will Serve Letter. Phoenix came back and said no, we will not issue Will Serve Letter for these projects until this issue is resolved with Cave Creek. Phoenix held each of these projects hostage and we from August to today have been working very hard and actively with the Town of Cave Creek and with the City of Phoenix to find a resolution that would work. Phoenix was extremely difficult in solving this issue. I am not going to speak to the benefit of the Town as much as the developers who will all be paying their fair share of the cost of the six hundred thousand dollars of additional infrastructure that needs to be paid. But most importantly, getting this agreement done today allows these projects to move forward now with the market while it is here. And to allow the Town to start accruing sales tax revenue from these projects in the near term. Sprouts in and of itself, once it is open, projected in early 2020 close to seven hundred and fifty thousand dollars a year in sales tax revenue for the Town of Cave Creek. If this IGA is not approved tonight it is likely that the Sprouts will locate in another jurisdiction. We ask for your consideration for those reasons. That is our perspective.

Mr. Hays: Ms. Demmitt was also helpful in getting this done. It has been a lot of Carrie and Susan with Bill and me helping to work on some wordsmithing but it has been a lot of your manager that has gotten this done today. Ms. Demmitt has laid it out very well what is at stake here.

Mayor Bunch asked for a Motion from Council.

Vice Mayor Sova: Motion to approve Resolution No. R2018-22, a Resolution of the Mayor and Town Council of the Town of Cave Creek, Maricopa County, Arizona, authorizing the Mayor to approve an Intergovernmental Agreement between the Town of Cave Creek and the City of Phoenix for Water Service Infrastructure.

Councilmember Smith seconded.

Mayor Bunch recognized Vice Mayor Sova.

Mr. Hays: Asked to interrupt because Carrie and he were discussing how to address some of the issues that were brought forward tonight. We would recommend at the end of 2.1.4, now we are not saying that City of Phoenix will agree to it but we could say that Council asked us to put this in. Which is that these IGA’s will be completed within Phase 1 of this agreement. That way we will move it in to the first portion of the time period. Scope of the agreement it will be done in three Phases so if we can say it will be done in Phase 1. At the end of 2.1.4, these IGA’s will be entered into during Phase 1.

Ms. Dyrek: It is actually listed in Phase 1 scope of the agreement. We could reiterate that it be completed by the end of Phase 1. It is broken into the phases of what will occur. If we add the language in 2.1.4 to be completed by the end of Phase 1 that would give it a timeline.

Mr. Hays: So instead of just saying negotiated in Phase 1 we are saying to be completed during Phase 1. That will address some of the comments that you heard this evening.

Mayor Bunch: Asked what if Phoenix staff doesn’t like that and doesn’t send it on then we have an agreement that we passed that they are not in agreement with.

Mr. Hays: I think that what you could do Mayor is to say we would recommend that this language be in there but if City of Phoenix says no then we go back to the other one. But this is language that the Council would like. So you could word your motion in a way and I will defer to Mr. Sims on some of this. But you could word the motion that you would like this language in however the whole of the document is still the most important so staff suggest this language, we would like it, but if not, this is the document.
Mr. Sims: Everything we are doing now is public so City of Phoenix will know that it isn’t a deal killer. I had that language in the draft and they rejected it. Carrie’s approach to City of Phoenix is a good solution. I think that you as a Council should say we approve this, we highly recommend and we request that Phoenix add it. Do it that way. If they don’t, we won’t do it but I think you should say it is something that you want.

We approve this, we highly recommend, we ask

Ms. Clancy: I think we should add it, it is a benefit to our relationship and our growth. Since we are meeting all of their needs, Phoenix and mending fences; perhaps they would consider that for us. I don’t want to demand anything. Carrie has done a great job of mending fences, let’s not start punching holes in that. Be careful how you word it.

Mayor Bunch: So the motion needs to be with suggested request.

Ms. Clancy: If they would please consider.

Vice Mayor Sova: As the maker of the motion maybe after the last sentence, for water service infrastructure, comma, whereby the Town of Cave Creek hereby suggests that IGAs be completed within the period of time frame as stated within Phase 1.

Ms. Wright: may I add to that and change that to be completed by the end of phase 1.

Mayor Bunch: We are just requesting that they do that.

Vice Mayor Sova agreed.

Mr. Sims: I honestly don’t think we should say the word suggest. What I am saying is approve this document. Say to us that we have the authority to add a sentence that says “shall be completed by the end of Phase 1.” And ask Phoenix if they will put that in. I wouldn’t put the word “suggest in the document. Simply, you are approving as is. But you are adding to it a request that we request Phoenix add that sentence. But they would have to agree to it.

Mr. Hays: Mr. Basore commented to be careful because you won’t know where the connection is until they are done with phase two. You don’t want to get yourself stuck in a catch 22. I think he is right. I think what we can say is we would like the execution of these IGAs’s to be done in an expedient manner hopefully by the end of phase 1 so long as we know where that connection might be. Because you can’t do an IGA not knowing where the connection might be. I think he made a very solid point. I think the way to do it is to keep the motion the way it is, then you can say direction from the Council that we would like to have it done sooner than later. Keep the motion the way it is but you are giving us verbal direction which you can do; give us verbal direction. To go talk to City of Phoenix about the best way to do that. Get the IGA in an expedient manner as possible.

Mayor Bunch: so we are actually leaving this as it was before; as it was given to us and add a cover letter.

Mr. Hays: More of a phone call.

Mayor Bunch: Notify City of Phoenix water.

Mr. Hays: Yes.

Ms. Wright: Requested to double check on what she is hearing; so we are leaving it like the document is right now instead of completed by the end of phase 1?

Mr. Hays: doing it the way it is but Council is giving staff direction to say; try and work with City of Phoenix to add language that will get the IGA’s done in as expedient manner as possible. As it was pointed out, we may not want to say at the end of Phase One because we may not be able to do that based on where the connections are. So to get the IGA’s done in the fastest manner possible. That is your direction to us. That you would like us to try and negotiate to put something like that term in there but you are approving the document as is and giving us direction to work with the City of Phoenix. But
understanding that the document if City of Phoenix balks or whatever. I know it is our intent to get these IGAs done as soon as possible because it is important for the Town.

Vice Mayor Sova: Asked would I be correct then, if I am understanding this correctly, to remove the addition to my motion and let it stand as is? Whereby it would end where it says of Phoenix for Water Service Infrastructure period.

Mr. Hays: Yes

Mr. Sims: You remove the addition, you authorize us to deliver it to Phoenix. Say to Phoenix that we are asking that it be done in an expeditious manner. And if they add that section, direct the Mayor that he is authorized to sign it with that additional addition.

Mr. Hays: Yes you are the signatory so you need to get direction from Council that you can sign it if we add that sentence.

Mr. Sims: Yes.

Mr. Hays: Vice Mayor, I will say it and you can just say “Yes, what Garry said.”

Mr. Sova: I like that.

Mr. Hays: You are going to approve the document also giving the Mayor authority to sign the document if the language is added that allows for the IGA’s to be executed in as expedient a manner as possible.

Mr. Sova: Yes.

Mr. Smith: The second agrees.

Mayor Bunch asked for comments from Council and recognized Councilmember McGuire.

Mr. McGuire: This is Huge. He thanked the citizens for their comments. He explained that Council values the Water Advisory Committee’s input but that they are not the only route to Council If we look at the future of Cave Creek, we know that we are very vulnerable in terms of our water supply. The straw and the machinery that we have coming up from the canal is something that we have worried about, rightly so. This helps to get the security that we need in a way that is remarkable and great.

Ms. Wright: Carrie Dyrek thank you I know that you have done an incredible job. You are greatly appreciated. I personally would have liked to have seen documents in here which were listed by a citizen supporting, written staff analysis, things like that that would give us things to look at and to really see what was really happening. Because we don’t have this and I personally do not agree with the new wording in 2.1.4.

Ms. Elrod: Carrie thank you for your hard work. I think a lot has been said. And I will wait for the voting process.

Ms. Clancy: I am big on making wrongs, right; and Carrie has done a good job doing that. Thanks to our Attorneys for their hard work. It is important that we establish a relationship with our neighbor to the south. We see our neighbors to the east establishing relationships to the south with their neighbor. For the health, safety and welfare of this Town in the long term this will prove to be for us, a pivotal moment.

Mr. Smith: this is something as Dr. Allen mentioned, WAC has over several years has recommended be done. It started at least five years ago; there were recommendations made at least three times. It languished because the Town was not ready to do anything at the time. I am very happy that Carrie Dyrek came along ant took ahold of this and said let’s move forward. And, let’s do it in a way where we do not antagonize our neighbor and in fact, make a friend in them at least in this respect. I think this is something that is critical. It addresses so many issues and I think it is something the Council should approve. I will certainly vote in favor of it.

Vice Mayor Sova: Mr. Basore thank you for your comments and Dr. Allen, and Kerry Smith. This Council has been criticized as a Council on more than one occasion for not moving ahead, for not
moving fast enough, for not making decisions. We are now at the crossroad of changing that. We are trying to move forward in a way that is best for the Town and best for the residents. To that I say I am very much in favor of this. I think it is the right direction to go at this time. Should this be debated and many months come and go; developments are going to come and go too. They might not want to locate in our Town; our Town has property that is prime for commercial. The sales tax revenue generated is huge. It is not in our core; it is where it should be. I am totally in favor of it and will vote so.

Mayor Bunch: In 2008 when the economy went south, Mayor Francia created a group that did a white Paper. They came back with recommendations; we never approved the whole thing. However we did create Area 10 and area 18. Both areas which changed the General Plan which we believed were appropriate for commercial use. We didn’t change the zoning on them; we waited until the individual projects came forward that would benefit the Town. The projects now will increase revenues. The reason we did that was so we would not be faced with the dire situation that we had at that time where 25% of the staff was laid off, we couldn’t fix infrastructure, we couldn’t do the things we needed to do. This is a way to try to insulate us from those kinds of issues. Carrie has been working on this for over a year, this is not spur of the moment. It did come together late. We were going to vote on this at the last Council Meeting and we deferred to this Special Meeting tonight because the details were not worked out. The details are now worked out. We will move forward, we will get the other IGA’s, we will get us where we need to be. As far as the WAC, I highly doubt when the Corporation Commission created the WAC; that they ever foresaw a situation where we delivered service outside of our boundary; we are fixing that. I don’t believe that part needed to go to WAC; I do believe it need to go to WAC for the interconnect, something that we have needed to do for a long time.

Councilmember McGuire: Yes, Councilmember Wright: No, Councilmember Elrod: Yes, Vice Mayor Sova: Yes, Councilmember Smith: Yes, Councilmember Clancy: Yes, Mayor Bunch: Yes. Motion passed by Roll Call Vote 6-1 with Councilmember Wright voting No.

2. COUNCIL DISCUSSION AND POSSIBLE APPROVAL OF SECOND READING OF ORDINANCE O2018-11 AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CAVE CREEK, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 156 OF THE CAVE CREEK TOWN CODE “TRANSFER OF DEVELOPMENT RIGHTS” SECTION 156.02 “DEFINITIONS.”

Mr. Cordwell introduced the item; a second reading of the Ordinance.
Mayor Bunch asked Council for Questions: None.

Public Comment: None

Mr. Smith: Motion to approve Second Reading of Ordinance No. O2018-11, an Ordinance of the Mayor and Council of the Town of Cave Creek, Maricopa County, Arizona, amending Chapter 156 of the Cave Creek Town Code "Transfer of Development Rights" Section 156.02 "Definitions."
Mr. McGuire seconded.

Mayor Bunch asked for Comment from Council.

Mr. Smith: this is a rational thing to do.
Mr. McGuire I think Mr. Smith said it correctly.
Motion passed by Voice Vote 7-0.

Mayor Bunch: Asked for a motion to adjourn.

Ms. Clancy: So moved.

Mr. McGuire: Second.

The motion passed 7 to 0, by voice vote.


ADJOURNMENT 5:21 p.m.