

**BOARD OF ADJUSTMENT AND APPEALS HEARING  
SPECIAL COUNCIL MEETING  
TUESDAY, JANUARY 5, 2016  
6:00 P.M.  
SCHIEFFELIN HALL  
402 E. Fremont Street**

- I. **CALL TO ORDER** Mayor Dustin Escapule called the Board of Adjustments and Appeals Hearing to order on Tuesday, January 5, 2016.
  
- II. **PLEDGE OF ALLEGIANCE** Mayor Dustin Escapule led the Commissioners and the general public in a recitation of the Pledge of Allegiance.
  
- III. **ROLL CALL**

Commissioner Armando Villa	Present
Commissioner Bill Barlow	Present
Commissioner Patricia Moreno	Present
Commissioner Deborah Bachman	Present
Chairman Dustin Escapule	Present

**Also in Attendance:**  
Randy Bays, City Attorney

**A QUORUM WAS DECLARED**

**IV. BOARD OF ADJUSTMENT AND APPEALS HEARING**

**Chairman Escapule;** “We will move into the Board of Adjustment and Appeals before we go into public comments I want a comment from the City Attorney and recommendations from the City Attorney Randy Bays.

**City Attorney Bays -** “Yes Mr. Mayor; before we started today’s council meeting I had a brief discussion with you. I am going to ask that the court, sorry, that the Council not take this action up at all based primarily on a letter that we received from the Tombstone Unified School District dated; December 29, 2015 objecting to Council providing a variance clearly based on the fact that the Tombstone Unified School District still owns that property and the location of where this dispensary is suppose to be is in essence across the street from the school grounds. It appears that it would be in violation of a significant State statue and the Council; the City would be opening themselves up to litigation with the State to go forward. So I am respectfully recommending to you Mr. Mayor that you not even put this on the agenda today. Not even a table. Just take it off for purposes of discussion.”

**Chairman Escapule;** “Having said that Mr. Bays, This item will be taken off the agenda. This Board of Adjustments and Appeals Hearing will therefore be closed. No action taken! This however doesn’t mean that the applicants can’t reapply for a different location. This has nothing to do with their application for the particular

...it just says that the variance is not going to happen for this particular place! Thank you very much and I am very sorry for all the trouble that we put you through.”

Chairman Escapule entertains a motion to adjourn the Board of Adjustments and Appeals Hearing.

## **VI. ADJOURNMENT**

**MOTION** by Commissioner Barlow, **SECOND** by Commissioner Bachman to adjourn the Board of Adjustments and Appeals Hearing.

The Board of Adjustments and Appeals Hearing adjourned at 6:03 p.m.

## **VII. SPECIAL COUNCIL MEETING**

### **NEW BUSINESS**

Mayor Escapule; “We will move into the Special Council Meeting. Having no action by the Board of Adjustments and Appeals; Item A and B will not be addressed. Item C will be taken off the agenda. Item C because there has been too many problems coming up or I should say complaints about how the ordinance has been structured or whatever; so we have asked the attorney; South West Risk to come down and have an executive session with the Council so that we know where we stand legally. We are not trying to push any kind of ordinance or law down anybody’s throats. We are trying to make it safe for the citizens of Tombstone the visitors and the gunfighters. So therefore; on Monday, the 11<sup>th</sup> at five o’clock there will be a Special Council Meeting with an Executive Session and out of the Executive Session and at that time we will make a decision on what to do with the ordinance. So therefore that is taken off the agenda.”

**City Attorney Bays;** “Mr. Mayor, I would simply ask that Pachi be allowed to appear at that Council meeting next Monday telephonically. The reason being, I believe he could say it better; he is suppose to be out of state but he would like to appear. Let’s try something new.

Mayor Escapule; “That would be grand Sir!”

City Attorney Bays; “Sorry Mr. Mayor one other issue. Can we have that Executive Session at six o’clock so that Deb Bachman can ... so won’t make be here by five.”

Mayor Escapule; “Six o’clock is fine.”

**D. DISCUSSION AND/OR ACTION:** Approval to secure proposals from lending institutions to lease or purchase citywide equipment.

**MOTION** by Councilmember Moreno, **SECOND** by Councilmember Bachman to discuss securing proposals from lending institutions to lease or purchase citywide equipment.

**DISCUSSION:** Councilmember Moreno; “What equipment are we talking about?”

Mayor Escapule; “What this is; is over the last six months we’ve done an evaluation on what it’s costing us on a monthly basis to maintain and repair all of the junk equipment that’s twenty years old, we’re trying to work with. So what we are going to do is try to obtain enough finances to purchase patrol cars, equipment for Public Works Department and also some additional fire equipment. Ruben Villa the Financial consultant has determined that one months cost of repairing all of this equipment could make six months payments toward this and we could do it under a bond; financial bond type thing, with a low interest at one and a half or two percent interest. In which only makes sense because we are just continually going backwards.

**Roll Call Vote:**

Councilmember Villa	Yes
Councilmember Barlow	Yes
Councilmember Moreno	Yes
Councilmember Bachman	Yes
Mayor Escapule	Yes

**5 Yes Votes, 0 No Votes**

**VOTE: 5/0**

**MOTION:** Carried

- E. DISCUSSION AND/OR ACTION:** Approval of a Warranty Deed for real property situated in Tombstone, Cochise County, Arizona, Description: Lot 2 and the North half of Lot 3, Block 48, TOMBSTONE TOWNSITE. As per Cochise County Records, Filed Map No. 303.

**MOTION** by Councilmember Moreno, **SECOND** by Councilmember Bachman to approve a Warranty Deed for real property situated in Tombstone, Cochise County, Arizona, Description: Lot 2 and the North half of Lot 3, Block 48, TOMBSTONE TOWNSITE. As per Cochise County Records, Filed Map No. 303.

**DISCUSSION:** Councilmember Bachman; “Just so everybody knows why the City is quit claiming; deeding property. Maybe you could go into it.

Mayor Escapule; “At one time the City owned all of the lots within the City limits of Tombstone in the old town site and over the years they had what they called a Mayors Deed. A Mayors Deed was issued to individuals that came to town purchased property get a lot and the only one that could issue the deed was the Mayor because it belonged to the City of Tombstone. There are still some parcels within the old town site that haven’t actually received a Mayor’s Deed. So what is happening is Pioneer Title is actually becoming more strict with their title research and they are finding these (Inaudible) on these titles and in order for these people to have a clear title on their property the City has to give these. Am I correct in all of this Mr. Bays? I should have let you do this.

City Attorney Bays; “No you are doing fine.

Mayor Escapule; “Okay, so we actually need to give them a Mayor’s Deed or in this case it would actually be a Warranty Deed from the City of Tombstone and I am not sure who their deed is going to but I am sure that Pioneer Title Company is handling it. So that is what that is all about. This is the second one we have done in the last sixty days.

**VOTE:** 5/0

**MOTION:** Carried

#### **VIII. MOTION TO ADJOURN**

Mayor Escapule entertains a motion for adjournment.

**MOTION** by Councilmember Barlow, **SECOND** by Councilmember Bachman to adjourn the meeting.

**VOTE:** 5/0

**MOTION:** Carried

The Special Council Meeting for Tuesday, January 5, 2016 thereby adjourned at 6:09 p.m.

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Dustin Escapule, Mayor

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Brenda Ikirt, Acting City Clerk