Minutes of the Work Session held February 22, 2011 at 6:05 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez Rogers and Council Members

Jim McDonald, Vice Mayor
Jim Buster
Stephanie Karlin
Charles Vierhout
Ken Weise

ABSENT

Frank Scott

ALSO PRESENT

Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Sammi Curless, Economic Development Specialist
Christopher Reams, Director of Parks, Recreation and Libraries
Andrew McGuire, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL BY THE CITY CLERK

2) PHOENIX CHILDREN'S HOSPITAL

An update regarding Phoenix Children's Hospital and their plans to build a Specialty and Urgent Care facility at the northeast corner of Avondale Boulevard and McDowell Road.

City Manager Charlie McClendon introduced Sammi Curless, Economic Development Specialist who in turn introduced Karny Stefan, Major Gifts Officer of Phoenix Children's Hospital to update the Council.

Ms. Stefan reviewed the history of Phoenix Children's Hospital (PCH) and indicated that currently it is one of the ten largest freestanding children's hospitals in the U.S. and is able to recruit top doctors. Many aspects of the hospital are not only kid friendly but also kid chosen, as an advisory board of children is consulted for input. A consumer children's library provides specialized medical information to families. Services are available full time in English and Spanish, and translation services are available in 120 additional languages. There is a Ronald McDonald House on the property, offering six apartments and twelve suites.

PCH has six Centers of Excellence: for cancer, heart, neuroscience, orthopedics, a newborn ICU (NICU), and a level 1 trauma center. Everything is designed to encourage families to spend as much time as possible at the hospital, since the presence of family members helps decrease patient stress levels and allows them to go home sooner. The Neuro NICU handles children who are born with serious issues. In one program, children are provided cooling therapies that decrease their risk of developing cerebral palsy. The dialysis center operates six days a week and is the only department that will not be coming to Avondale. The Crews'n Healthmobile provides services to homeless kids. The treatments from this van are much cheaper than those at the hospital, and children can be treated before their problems become acute.

PCH has 345 total beds, and employs over 200 physicians. The hospital saw almost 60,000 emergency room visits last year. Once the new tower is built, the emergency department will be massively expanded. PCH is becoming a research hospital, with over 250 active studies. A new agreement ensures that every resident going through the University of Arizona Medical School will do a rotation through PCH. PCH hires more than 2,700 employees with an average annual compensation of more than $60,000.

The basement and first three floors of the new tower are now open. The fourth floor operating rooms will open in April. The pediatric ICUs and patient rooms will open by July. The top three floors are vacant, allowing room for growth in the future. PCH signed an MOU with St. Joseph Hospital, who will send their non-NICU pediatrics to PCH. When the hospital is fully expanded, PCH will have 626 licensed beds, and become the second largest children's hospital in the U.S. This is a $588 million project, which is under budget by about $50 million, and a year ahead of schedule. PCH is attracting top talent from across the U.S., along with the grant money that follows them. The hospital has satellite facilities across the Valley. The Westside is the fastest growing part of the Valley, and the southwest area had no dedicated specialty pediatrics. She credited Mayor Lopez Rogers with helping create an advisory board to raise capital for a facility in the west valley. The medical office building will break ground once it is 75% leased. The specialty and urgent care building in Avondale will break ground once funding becomes available. A footprint has been established for a future 48-bed hospital. Construction will trigger once the population demands it.

Council Member Weise inquired about the growth expectation of other satellite facilities. Ms. Stefan said the East Valley facility is doing great. The Northwest facility is a smaller project with a less visible storefront. Council Member Weise requested an update on the fundraising campaign. Ms. Stefan responded that the focus is currently on the leadership gift, which is necessary before smaller gifts can happen.

In response to an inquiry from Council Member Buster, Ms. Stefan said the first phase of the Avondale project is shovel ready and awaiting funding. The specialty and urgent care portion will take 11 months to build; the medical office building will not take as long. Council Member Buster inquired about the tenants of the medical office building. Ms. Stefan said PCH has no say in who leases space there.

Vice Mayor McDonald expressed admiration for the emphasis that PCH places on preventive medicine. He thanked PCH for choosing Avondale. Council Member Vierhout said the new facility would be a wonderful addition to the west Valley. Ms. Stefan said the facility should provide 70 to 75 skilled positions, which will be a nice economic benefit for Avondale. Mayor Lopez Rogers said it is crucial that the City Council be a voice for this hospital.

3) PROPOSED IGA WITH MARICOPA COUNTY - COLDWATER PARK

Information regarding the proposed use of Coldwater Park and the termination of the 1986 Avondale Landfill Agreement with Maricopa County.

Mr. Reams discussed plans for an IGA to redevelop Coldwater Park through which Maricopa County would run an animal control facility and a dog park on two thirds of the site, while the final third would become a trailhead that Avondale would manage.

In 1997, Avondale and Maricopa County entered into an agreement to relocate a landfill on what it now the park site. The City was required to design and construct the facility, ensure that the plans were compatible with County's needs, and accept maintenance responsibilities. The City also agreed to carry general liability for the site and use the relocated landfill for a recreation facility. Maricopa County agreed to act as a public information source for the project. They would retain all the land rights, provide testing, and coordinate inspections and development. They accepted liability for any future groundwater contamination and conveyed the City the required rights and easements for use of the site as a park. The two entities coordinated on park design, construction and operations, and agreed to comply with all necessary federal and state guidelines.

Over time, the site conditions for the field eroded and became unsafe for baseball. Avondale was going to convert the site to passive use only, but budget reductions negatively impacted that proposal. The new IGA benefits both parties, and will revitalize the area. The trailhead will connect with the existing Agua Fria Trail project. Funds for the trailhead have already been projected as part of the CIP budget for the upcoming fiscal year.

Council Member Karlin said Coldwater Park has become a paradise for gophers. The landfill was not compacted properly and shifting has occurred. For the County to create an animal control facility and a dog park, while preserving open space is an excellent use for the site. She inquired whether the new facility would lower animal control costs for Avondale, since they would not have to be transported long distances. Dr. Rodrigo Silva, Assistant County Manager for Community Collaboration and Director of Animal Care and Control responded that the purpose of the new facility is to create a destination for families who are looking for a new pet. Its presence should increase licensing compliance in Avondale. Maricopa County Animal Control is the number one pet adoption agency in Arizona, adopting close to 14,000 pets every year, and this would be the first outlet in the west valley.

Vice Mayor McDonald inquired whether Avondale could reuse any of the equipment left over from the old park. Mr. Reams said much of the equipment is in poor condition and cannot be reused but could possibly be recycled. Vice Mayor McDonald inquired whether animals would be euthanized and disposed of at the site. Mr. Silva responded that the facility is intended as an adoption center. There might be a small substation to provide services to animal control officers who work in the area, but those animals would not stay there. The plan is to move them to the Durango facility. In response to a further question from Vice Mayor McDonald, Dr. Silva indicated that euthanasia would only occur when absolutely necessary for humane reasons and would not be a regular occurrence. Maricopa County does not cremate animals at any of its facilities.

Council Member Vierhout queried whether site demolition would be performed by Avondale employees or contracted out, and asked about the cost. Mr. Reams said it would be

contracted out and the total estimate has not been prepared. Avondale was planning on demolishing the site in any case.

Mayor Lopez Rogers said the proposal would be a win for both the City and the County.

4) ADJOURNMENT

With no further business before the Council, Council Member Weise moved to adjourn the work session. Council Member Council Member Karlin seconded the motion. The motion carried unanimously.

Meeting adjourned at 6:48 p.m.

Mayor Lopez Rogers

Carmen Martinez, CMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of the Council of the City of Avondale held on the 22nd day of February 2011. I further certify that the meeting was duly called and held and that the quorum was present.

City Clerk

Minutes of the Regular Meeting held February 22, 2011 at 7:02 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Lopez-Rogers and Council Members	Jim McDonald, Vice Mayor Jim Buster Stephanie Karlin Charles Vierhout Ken Weise
ABSENT - EXCUSED	Frank Scott

ALSO PRESENT
Charlie McClendon, City Manager
David Fitzhugh, Assistant City Manager
Rogene Hill, Assistant City Manager
Gina Montes, Director of Neighborhood and Family Services
Chief Kotsur, Police Department
Ken Galica - Development Services
Eric Morgan - Development Services
David Pennartz, City Attorney
Carmen Martinez, City Clerk

1) ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK
Carmen Martinez, City Clerk, read a statement of participation regarding public appearances.

2) RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. **RECOGNITION OF OUTSTANDING EDUCATORS**

Mayor Rogers announced that Dr. Roger Freeman, Superintendent of Littleton Elementary School and Dr. Cathy Stafford, Superintendent of Avondale Elementary School District have been honored by the American Association of School Administrators as Outstanding Superintendents. Additionally, Randy Watkins, Principal of Michael Anderson School was selected as one of eleven Rodel Principal Finalists for his ability to inspire his staff and to contribute to the success and development of a safe, high-achieving campus.

Council Members expressed congratulated the honorees and expressed their admiration for their work and dedication to the children they serve. Mayor Rogers presented plaques to the honorees on behalf of the City of Avondale.

Dr. Cathy Stafford accepted the honor on behalf of all the people who work in the District. It takes a great team of people to be successful. The teachers appreciate the support of the Council. Mr. Watkins expressed that the recognition has been overwhelming. He has great teachers, students, and a wonderful community to work with. The community's support has been instrumental to the school's success.

3) UNSCHEDULED PUBLIC APPEARANCES

There were no requests to speak.

4) CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. APPROVAL OF MINUTES

1. Work Session of February 7, 2011
2. Regular Meeting of February 7, 2011

b. LIQUOR LICENSE SERIES 12 (RESTAURANT) - CARRABBA'S ITALIAN GRILL 5305

A request from Ms. Amy Nations for a Series 12 (Restaurant) License to sell all spirituous liquors at Carrabba's Italian Grill 5305 located at 9920 W McDowell Road in Avondale.

c. BID AWARD - BROOKS BROS. UTILITY CONTRACTORS, LLC FOR STREETLIGHT POLE REPLACEMENTS

A request to award a bid to Brooks Bros. Utility Contractors, LLC to provide installation of City streetlight poles in the amount of $70,000 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

d. PURCHASE AGREEMENT - REHRIG PACIFIC COMPANY

A request to approve a purchase agreement with Rehrig Pacific Company for the purchase of refuse and recycling containers for an amount not to exceed $150,000 per fiscal year, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Council Member Weise moved to approve the consent agenda as presented. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

5 RESOLUTION 2955-211 - AMENDMENT TO 2010-2011 ANNUAL ACTION PLAN

A resolution approving an amendment to the 2010-2011 annual action plan portion of the 2010-2014 Consolidated Plan, authorizing submission to the US Department of Housing and

Urban Development for receipt of Neighborhood Stabilization Funds and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

Charlie McClendon, City Manager advised that Avondale received additional federal funding for its neighborhood stabilization program and Council would need to adopt a resolution to accept it. He introduced Gina Montes, Neighborhood and Family Services Director to present this item.

Ms. Montes acknowledged that the federal government provided Avondale with $1.2 million in neighborhood stabilization funds. The Housing Economic Recovery Act of 2008 provided $2.4 million to address foreclosure issues in Avondale. Avondale undertook homebuyers assistance activities, acquisition rehab and resale, and acquisition and demolition of blighted properties. To date Avondale has 42 foreclosed homes that were purchased by consumers and rehabbed by the City's subcontractor. Most of the buyers realized at least a 20% decrease in their monthly housing cost due to the program. More than 99% of NSP1 funds have been allocated. The remaining funds have been allocated for upkeep of demolished lots and for a feasibility study.

The requirements of NSP3 are very similar to NSP1. Twenty-five percent of the grant must benefit households at or below 50% of the area median income, which is about $25,000 for a family of four. Jurisdictions need to spend 50% of the funds in two years and 100% in three years. At least 200 homebuyers went through a homebuyer education program and many would likely still be interested in this program.

Eligible activities are the same as for NSP1, but this time there is a cap on demolition spending at 10%. Staff recommends continuing Avondale's home buying and homeowner assistance program. It is a good opportunity for promoting homeownership for low-income residents. Ms. Montes noted that in order to target the areas of greatest need, staff looked at neighborhoods with the highest foreclosure rates. Those neighborhoods with greater than 11% combined foreclosures and pre-foreclosures were recommended for the home buying program. Three neighborhoods that did not meet the 11% threshold would still qualify for blighted property demolition.

Vice Mayor McDonald commended staff for their effort and asked if staff would do anything different this time. Ms. Montes responded that the team is looking to reduce the amount of subsidy this round. People are required to put some of their own money into a down payment. The goal this time is to make subsidies more of a flat rate rather than tiered. Lower income families would still qualify for a higher subsidy. Vice Mayor McDonald agreed that families should have a personal stake in the project to encourage them to stick to it.

In response to a question from Council Member Weise, Ms. Montes indicated that there have been no delinquencies or foreclosures among program participants which can be attributed to the tremendous amount of education they had to go through before purchasing a home and understood their responsibilities as homeowners. Council Member Weise agreed that homeowners should have a stake in the project. A second round of foreclosures is presently underway as people who received modifications in the first round realize that they cannot stay in their homes.

Mayor Rogers said as CDBG money is cut, this program enables low-income residents to get much needed help. The training efforts are an important part as well.

Vice Mayor McDonald moved to adopt Resolution 2955-211 authorizing the submission of the 2010/2011 Annual Action Plan amendment to request $1,224,903 in NSP3 funding from the US Department of Housing and Urban Development. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

6) PUBLIC HEARING – RESOLUTION 2957-211 AND ORDINANCE 1449-211 - CITY OF AVONDALE MEDICAL MARIJUANA REGULATIONS

A public hearing, a resolution declaring as a public record a document entitled "City of Avondale Medical Marijuana Regulations", and an ordinance adopting the aforementioned document as Section 13 of the Zoning Ordinance and revising Sections 1, 4, 5, and 13 relating to Medical Marijuana and adding reference provisions to Section 4 relating to sexually oriented businesses.

Mr. McClendon reviewed that Arizona voters passed Proposition 203 in the last election and one provision allows cities to adopt reasonable land use standards regulating the industry. He introduced Ken Galica of the Development Services Department to present this item.

Mr. Galica introduced the City-initiated zoning ordinance text amendment relating to medical marijuana land uses. From a federal perspective, marijuana is still illegal and medical marijuana is classified the same as recreational use as several federal agencies have declared that there is no medicinal benefit from medical marijuana. However, the U.S. Department of Justice in 2009 issued a policy memo stating that they would be unlikely to prosecute defenders in states where the ballot initiatives had been passed.

In November 2010, Arizona narrowly approved the Medical Marijuana Act, which allows for medical use subject to certain state requirements, and allows cities to enact reasonable regulations. A City would be acting unreasonably were it to enact legislation that had the effect of prohibiting it. The Arizona Department of Health Services is currently drafting rules and regulations for licensing. Currently, the proposal is to have one dispensary license issued for every ten registered pharmacies, or about 125 statewide. There would be a limit of one dispensary license per CHAA Community Health Analysis Area. Avondale's CHAA includes the entire city north of the Estrella Mountains, as well as portions of Goodyear and Tolleson. This means that Avondale could have no more than one dispensary.

The State is to begin licensing in May 2011. Currently, marijuana is not a specifically stated use in Avondale, and is therefore prohibited. The Administration and Procedures section would be amended to add three new definitions: medical marijuana, medical marijuana dispensary, and medical marijuana cultivation location.

Mr. Galica reviewed the specifics of the proposed amendment as described in the council report.

Based on the City's regulations, five general areas appear to meet the requirements: the area west of the Agua Fria River and north of Thomas Road; land east of the southeast corner of Avondale Bl. and McDowell Road; Eliseo Felix north of Van Buren; property east of the Agua Fria River north of Broadway, and property west of the Agua Fria north of Southern Avenue. Only one of these areas could be developed with a dispensary, while the other four could have cultivation facilities.

Regarding public participation, he indicated five residents attended the Planning Commission's public hearing on January 4. Notices were distributed and two comments were received. Where possible, their comments were incorporated into the policy. The ordinance meets the purpose of the General Plan. The amendment provides reasonable regulations for medical marijuana uses as allowed by Prop 203, while providing adequate protection against potential negative impacts. The Planning Commission recommended approval of the text amendment by a vote of three to two. Commissioner Scanlon requested language requiring dispensaries to list the City as an insured party. Commissioner Long opposed the measure because he did not wish to see medical marijuana at all. Two other Commissioners were absent.

Council Member Vierhout noted that anyone could buy oxycontin at a drive-thru pharmacy. He questioned why medical marijuana was being treated differently. Mr. Galica said California's experience shows that medical marijuana dispensaries are different from pharmacies. Officers have witnessed illegal sales to non-patients, use in and around dispensaries, increased DUI arrests, burglaries, property theft, robbery of patrons, and concentrated criminal activity. Council Member Vierhout inquired about studies on liquor stores. Mr. Galica said he was unaware of any but noted that the City is treating medical dispensaries similarly to strip clubs. Council Member Vierhout inquired about the rationale for the daytime hours. Mr. Galica responded that the hours were set for two reasons: to conform to medical office hours, and to coincide with the hours of other nearby businesses.

Council Member Vierhout asked whether pharmacies would be expected to reduce their hours similarly. Mr. Galica confirmed they would not. He added that since the federal government still considers marijuana an illegal substance it has a street value that might increase the chances of criminal behavior being associated with it. Council Member Vierhout noted that nothing prevents bars and liquor stores from being allowed outdoor seating. He questioned the purpose of requiring 24/7 interior lighting. Chief Kotsur explained that this requirement is common in Arizona. There are studies that show that the crime rate does decrease with additional lighting. Arizona's policy was largely designed to avoid the increased criminal activity associated with dispensaries in California. Council Member Vierhout stated that any establishment in Avondale could potentially be the scene

of a crime. If special lighting is required for dispensaries, does it stand to reason that other businesses would need it as well? Chief Kotsur said these types of businesses are new for Arizona and public safety is trying to prevent the problems that California encountered. The federal government still perceives this activity as a felony, and the County Attorney still plans to prosecute. These realities warrant a conservative approach.

Council Member Vierhout queried whether other types of businesses are allowed unrestricted access by police and other City employees. Chief Kotsur responded that police have the right to inspect liquor licenses upon request, but that would be the only parallel. Council Member Vierhout inquired whether the City mandates that any other businesses have a security guard at the door. Chief Kotsur said they do not. Council Member Vierhout questioned the rationale for the food consumption restriction. Mr. Galica agreed that the letter of the law would prevent dispensary employees from being able to eat their lunch on the premises.

Council Member Vierhout felt that this ordinance would single out one type of business that the voters gave their approval for and appears that cities are overreacting. Mr. Galica responded that it is a difficult situation. In addition to the federal government's position, 50% of the voters were opposed to the proposition. The goal of the ordinance was to make sure that the half that did not vote for it feel secure, while complying with a law approved by the other 50%.

Council Member Weise said staff handled the planning and zoning meetings professionally, despite the ire directed at them. He pointed out that everything at a pharmacy is sold legally of people who frequent them might not be there for a prescription. Auto dealerships are lit up 24/7, yet still have security guards present when they are closed. The restriction on eating food at a dispensary should be tweaked. He questioned how dispensaries would coexist with new charter schools. In response to a question from Council Member Weise, Mr. Galica responded that if a charter school was requests first to be established at a location, the City would not be able to issue a dispensary license based on the separation requirements. If a dispensary or cultivation location was established first, the charter school should be fully aware of that.

Council Member Weise asked why Avondale's ordinance did not require patrols of the surrounding neighborhood. Chief Kotsur explained that the security guards are restricted to the property line of the facility. The police plan to partner with security staff to patrol nearby areas. Council Member Wiese suggested requiring a Plexiglas barrier similar to what pharmacies or banks have. Chief Kotsur said it was considered, but the proposed requirements were deemed sufficient. In response to a question from Council Member Weise, Chief Kotsur commented that the restriction on the amount of money that may be left at the location overnight is because these types of establishments have been the focus of burglaries. Council Member Wiese felt that the proposition sets a bad precedent. There are more effective ways to take medication than smoking it. It contains many of the same chemicals as tobacco, which is heavily regulated. Marinol is a pill that contains a THC derivative to curb vomiting and nausea. He opined that while the proposition was a big sham, Avondale is handling it the right way.

Council Member Buster inquired about the option of doing nothing as a city. Mr. Pennartz explained that the City needs to make some provisions for this law regardless. The proposed ordinance offers the opportunity to make policy choices on land use. By doing nothing, Avondale would be relying entirely on DHS regulation to determine where dispensaries could locate. Council Member Buster inquired about the number of states that have passed similar initiatives. Mr. Pennartz identified that 15 have. Council Member Buster inquired whether prescriptions are required for medical marijuana. Mr. Galica explained that medical marijuana is dispensed via doctor recommendation. Mr. Pennartz added that the federal government may opt to enforce their laws.

Council Member Buster opined that the supporters of this proposition are not going to stop with this legislation. They will push to have marijuana as widely accepted as tobacco. He felt that Arizona had a better system when the Legislature had the ability to amend voter-passed initiatives, but the Voter Protection Act prevents that from happening. While he supports the initiative process, the lack of a safety valve allows it to run amok. The problem with the initiative process is that voters consider only one issue at a time, whereas the Legislature has to weigh the pros and the cons of competing issues. Avondale should do whatever possible to ensure that any future facility is placed where it can do the least amount of harm. He said he would support the ordinance, but reluctantly.

Vice Mayor McDonald said Council Member Vierhout is right to question why these facilities are being treated differently, but he noted that neither the American Medical Association, nor the FDA have approved of medical marijuana. He felt people will perceive dispensaries the same way they do smoke shops, as unsafe places to be around. City Council is right to be cautious. He agreed with Council Member Buster that Council has to take action to protect the citizens of Avondale, because the dispensaries cannot be prevented.

Vice Mayor McDonald inquired about the restrictions on offensive signage and who in particular gets to dictate what is offensive. Mr. Galica explained that Andrew McGuire added this restriction to the ordinance and he would have to explain why, unfortunately he was not available tonight. Mr. Pennartz, representing Mr. McGuire, agreed that the term is subjective, but it exists in the zoning ordinance, and the Zoning Administrator and Board of Adjustments would probably have to weigh in on any appeal. There are also First Amendment aspects to signage. Mr. McClendon added that Staff would initially work with sign applicants to work out any issues in advance. Mr. Galica noted that staff does not regulate sign content; the sign ordinance mainly addresses design. Vice Mayor McDonald agreed with the lighting requirement, which serves as a crime deterrent. He asked whether the City could revoke the license of an irresponsible operator. Mr. Pennartz said it would be a law enforcement issue and a DHS issue similar to how liquor stores are handled. Chief Kotsur explained that DHS is still working to address several regulatory issues before they issue permits.

Mayor Rogers queried how sign walkers for medical marijuana establishments would be handled. Mr. Galica responded that temporary sign permits would be issued for any business that requests them but speculated that dispensaries would probably not need for such signage, given their lack of reliance on walk-in business.

Council Member Vierhout said he has no problem with a business opting to leave their lights on, but he felt the City should not mandate it. He noted that requiring dispensaries to remove cash from the premises each night would set them up as crime targets of opportunity. Chief Kotsur said one of the main benefits for having a security guard on the premises is to defer minor calls that would otherwise tie up a beat officer. They would also be there to escort cash off the premises. He acknowledged that no other type of business has such a requirement.

Council Member Buster noted that the draft rules allow dispensaries to sell edible food products made with medical marijuana, but they cannot consume it on the premises. Mr. Galica explained that the intent of that provision is to ensure that dispensaries do not function as bars; the intent is not to prohibit the sale of product that the State law has authorized.

Council Member Karlin inquired about limitations on how much medical marijuana could be stored. Mr. Galica said storage restrictions are based on space, not weight, for ease of enforcement. The square footage of the rooms is fairly small. The actual procedures for how medical marijuana is transferred from a cultivation site to a dispensary are being addressed at the State level. Chief Kotsur said the law will be a challenge. People will need documentation and permits to transport various amounts.

In response to Council Member Weise's inquiry, Mr. Galica said separation requirements vary between Valley cities. Smaller cities have less room to work with before eliminating all reasonable locations and added that 2,000 feet is the maximum workable separation. Council Member Vierhout felt that clustering these types of businesses would be a better approach, since people who preferred to avoid them would know where not to go. Mr. Galica said the State has addressed clustering by limiting dispensaries to one per CHAA.

Council Member Weise asked whether Council would prefer to require safety glass in a dispensary, such as that used at banks and liquor stores. Council Member Karlin felt that the City should leave it up to the business owners to decide how to secure their operations. The Mayor and Vice Mayor agreed. Council Member Buster felt employees should be as safe as possible. Council Member Vierhout said he would have no problem requiring a partition between customers and staff. Chief Kotsur commented that he would not be opposed to additional security requirements inside dispensaries, though the DHS prefers that they are set up like doctors' offices. Council Member Weise felt that the ordinance should require the safety feature.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to adopt Resolution 2957-211 declaring as public record a document entitled "City of Avondale Medical Marijuana Regulations," amended to allow employees to bring non-infused food for consumption while at work, and the sale of infused food at the facility. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Nay
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 5-1.

Vice Mayor McDonald moved to adopt ordinance 1449-211, adopting the aforementioned document as Section 13 of the zoning ordinance, and revising Section 1, 4, 5, and 13 relating to medical marijuana, and adding reference provisions to Section 4, relating to sexually-oriented businesses. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Nay
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 5-1.

7) PUBLIC HEARING - TIME EXTENSION FOR THREE RIVERS PAD ZONING - ALTERNATIVELY ORDINANCE 1447-211 - ZONING REVERSION

A public hearing and a request by Mr. Ryan Eller, Paragon Properties, Ltd., to extend the validity of the Three Rivers Planned Area Development (PAD) for one year from the date of expiration, until December 8, 2011. Alternatively, City Council will consider an ordinance reverting the zoning of the Three Rivers PAD from Planned Area Development (PAD) to its previous zoning classification of Agricultural (AG).

Mr. Galica presented a request for a one-year zoning extension for the Three Rivers PAD. The property is located on the southeast corner of Roosevelt St. and 105th Avenue. It was originally zoned in 2006. The extension would be for one year from the previous expiration date, which occurred on December 8, 2010. This would be the third extension of four allowed. One of the key differentiators is that the applicant has processed a site plan and has continued to actively seek development on the property. The master site plan calls for four phases. The first phase is for flex industrial buildings with limited outdoor storage. The second phase is for single story industrial/office space. The third phase is for a hotel, while the fourth phase is a series of four multi-story Class A office buildings with structured parking. The fourth phase is geared to take advantage of the proposed County court complex on the southern half of the 80 acres.

He listed five justifications for the request:

- The approved PAD and site plan remain consistent with the City's goals and objectives for development in this area.
- The property owner continues to work towards locating commerce park users on the site.
- Expiration and reversion of the PAD would substantially reduce the number of shovel-ready sites within the city.
- Expiration and reversion would reduce the inventory of zoned land for Economic Development staff to market.
- The applicant has spent a lot of time and money to get the project to the final stage without actually building it.

Staff recommends approval of the extension for another year. An ordinance has been prepared should the Council instead decide to revert the property's zoning to AG.

Council Member Weise noted that the property is well located near the auto mall. The applicant has been trying to make the project work and he would be inclined to grant an extension. Council Member Karlin concurred. The applicant's effort makes a difference.

Vice Mayor McDonald inquired about progress over the last two years and asked how that differed from every other request. Mr. Galica responded that the site plan approval was within the last two years, which is the most substantial step so far. Staff has actively worked with the applicant to find users for the site. In response to a question from Vice Mayor McDonald, Mr. Galica stated that this is the only site-planned, build-to-suit, industrial park in the city. Council Member Vierhout noted he would support the extension since one of the Council's is to attract light industrial uses.

Mayor Rogers opened the public hearing.

Ryan Eller of Paragon Properties thanked the Council for considering the request. He said the development team and the lender are dedicated to realizing the project. The owners also have 25 acres just to the west of this location with PAD approval. The two sites could potentially be tied together. He commended the City for streamlining its site plan approval process, which allows Avondale to be more competitive.

Vice Mayor McDonald inquired about the lender. Mr. Eller explained that the lender stands behind the project. They want the project to happen, but they want to avoid putting up vacant buildings. The developers are aggressively marketing the project.

Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to grant a time extension for the Three Rivers PAD for one year until December 8, 2011. Council Member Karlin seconded.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

8) PUBLIC HEARING AND ORDINANCE 1445-211 - THE SHOPS AT AVONDALE (SUMMIT) REZONING

A public hearing and an ordinance rezoning approximately 33.957 acres located at the southwest corner of Avondale Boulevard and Interstate 10 from Planned Area Development to City Center District.

Mr. McClendon explained that this item was left out when the original rezoning of the City Center was done because the property owner was not in favor of it at the time. Now that they are in agreement, the City is ready to move ahead. He indicated Eric Morgan of the Development Services Department would present this item.

Mr. Morgan said the General Plan identifies this property as freeway commercial. It fits within the City Center plan that was adopted in 2009. The northern half is in the Gateway Employment Area that is identified for retail office and hotel uses. The City Center Plan's intent was for high-density development, mixed use and a premiere destination. This area has a high-degree of freeway exposure. It does not allow residential, industrial, manufacturing or warehousing. The property is vacant currently, though there is some incomplete infrastructure. The City Center is to the south and west and southeast, and the Avondale Gateway PAD is to the east.

A neighborhood meeting was held on January 5, 2001, though nobody showed up. The City Center zoning is in conformance with the General Plan. The requested zoning conforms to the City Center Specific plan and the requested zoning conforms to the zoning ordinance. The Planning Commission heard the case on January 20 and unanimously recommended approval without conditions.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to accept the findings and adopt Ordinance 1445-211 approving application PL10-0140, request to rezone approximately 33.957 acres from PAD to City Center District. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye

Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

9) PUBLIC HEARING AND ORDINANCE 1448-211 - REZONING REVERSION FOR AVONDALE CROSSING

A public hearing and an ordinance reverting the Planned Area Development zoning of Avondale Crossing located at the northeast corner of El Mirage Road and Corporate Drive, which expired October 15, 2010, to its previous zoning classification of Agricultural.

City Manager Charlie McClendon indicated Mr. Morgan would present this item.

Mr. Morgan indentified that the property's current use is farming. The General Plan identified the land use as employment. It was annexed in 1978, and rezoned to agriculture in 1990. Property was granted PAD on October 15, 2007. The PAD called for general industrial/business park uses. Since then, the PAD expired without development activity. On January 24, 2011 City Council denied a request for a one-year extension. The staff recommendation is for approval of the ordinance.

Council Member Buster inquired about the applicant. Mr. Morgan explained that the applicant, whose headquarters are in Las Vegas, did not show up at the zoning extension request in January. The applicant still owns the property and currently leases it for farming. That use can continue under the reversion.

Mayor Rogers opened the public hearing. There being no requests to speak, Mayor Rogers closed the public hearing.

Vice Mayor McDonald moved to accept the findings and adopt the ordinance approving application PL-11-0020, request to revert the zoning of Avondale Crossing from PAD to its previous zoning classification of agriculture. Council Member Weise seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

10) PUBLIC HEARING AND ORDINANCE 1446-211 - ZONING REVERSION FOR PAPAGO COMMERCE CENTER

A public hearing and an ordinance reverting the Planned Area Development zoning of Papago Commerce Center located at the southeast corner of I-10 and El Mirage Road, which expired October 15, 2010, to its previous zoning classification of Agricultural.

Mr. Galica said this property is very similar to the previous item and is just to the north of it. The property is 11.1 acres. The Avondale Commerce Center is to the west, agricultural land is to the south, and undeveloped land is to the east. The property was rezoned from agriculture to PAD on October 15, 2007. On December 6, 2010 City Council denied a one-year extension request. Staff recommends approval of the rezoning.

Council Member Buster asked whether this parcel has new ownership. Mr. Galica explained that it is the same owner that requested the extension, but a different owner originally processed the PAD. The ownership change took place either in late 2009 or early 2010. Council Member Buster inquired how long it would take to get another project built near the freeway. Mr. Galica said the applicant would need to process a new development plan, regardless of whether it is reverted, since the PAD was not extended. The entire process would have to start over again. The only thing Council could do to make development easier would be to reconsider the extension.

Council Member Buster queried the amount of acreage that Avondale has along the freeway for development compared to Goodyear. Mr. Galica said Avondale has substantial undeveloped acreage south of, and directly adjacent to the freeway. Goodyear also has a similar amount of undeveloped property. Council Member Buster expressed concern that mishandling this prime land near the freeway would put Avondale at a competitive disadvantage.

Council Member Weise stated that the owners did not market the property. Avondale has plenty of property that is marketable with owners willing to market it. The company that owns this land is gigantic and this is but a miniscule part of their portfolio. Owners cannot put the onus on staff to market their property, and constantly request extensions when nothing has been done.

Mayor Rogers inquired whether Council wanted to consider postponing this item. Mayor Rogers opened the public hearing.

Mr. Mike Hurley, apologized that iStar did not appear at the extension request, under the assumption that the extension would be automatic. He clarified that the marketing effort was under Avondale Commerce Center, not Papago Commerce Center. When iStar got the property back one year ago, they invested about $800,000 in the property. Financing is available. There is much zoned but undeveloped acreage available along the freeway in Phoenix, Goodyear, Tolleson and Avondale.

Paul Sharp said iStar is a real estate investment trust from New York that both owns real estate and lends commercially. When iStar takes a property back, it is moved to the real estate side. iStar invested $800,000 in the Avondale Commerce Center. The company did not specifically market the site in question; focusing instead on an effort to market the

greater overall development. Having existing space with a build-to-suit opportunity is a huge asset. The company is in the project for the long haul because no return on investment will be possible in the short term. The company is ready to invest in the property to make it successful. Streamlining the site plan process is essential to making Avondale competitive in a challenging market.

Council Member Weise said iStar dropped the ball. He stated that the leasing agent's response to his inquiry about marketing led him to conclude that the company was not serious about the project. He appreciates the investments made, but said he would not change his mind. Paul Sharp clarified that iStar did not have a leasing agent present.

Mayor Rogers closed the public hearing.

Council Member Buster proposed that this item be continued until March 7, arguing that the new owners did not understand the process. If an applicant makes no effort, that is regrettable, but this situation came about due to a misunderstanding. This is a critical piece of property along the freeway. It is incumbent upon Council to at least give the applicant more than six minutes to plead their case. Two weeks would be enough time to allow them to prepare a presentation to better state their case.

Vice Mayor McDonald said an ownership group with a portfolio of properties should understand exactly what they are doing. They should be able to tell Council with a fair amount of certainty, when they could fill that property. The process might have to start over again, but it has been streamlined. Mr. Galica clarified that the zoning process remains the same; it is the site plan process that has been streamlined. This property has not been through the site plan process yet. He suggested that if Council votes to approve the motion to continue the item, they should include reconsideration of the extension request.

Mayor Rogers inquired whether Council Member Buster would be allowed to bring this item back for reconsideration, given that he voted against it. Mr. Pennartz explained that it is not that type of reconsideration. Under the PAD ordinance itself, Council has the ability to also grant it an extension at the noticed hearing on the reversion. It is not a parliamentary motion for reconsideration; it is an ordinance provision.

Council Member Weise commented he agreed with giving iStar two weeks to provide detailed information on their marketing effort, the improvements they made, and the exact users they are looking to attract. Mayor Rogers inquired about the confusion over the name Papago Commerce Center. Mr. Galica explained that Papago was the name the previous developer used to differentiate this 11-acre parcel from their larger Avondale Commerce Center project. At some point it was combined into one large project.

Council Member Buster moved to continue this item until March 7th meeting, agendizing it for consideration of the extension request as well under the zoning ordinance 603(d)4. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Nay

Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Nay
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 4-2.

11) EXECUTIVE SESSION

The Council may hold an executive session pursuant to ARIZ. REV. STAT. § 38-431.03 (A)(4) for discussion or consultation with the City's Attorney in order to consider its position and instruct the City Attorney regarding the Council's position regarding a potential Economic Development Agreement.

Council Member Weise moved to adjourn into executive session. Council Member Vierhout seconded the motion.

ROLL CALL VOTE AS FOLLOWS:

Vice Mayor McDonald	Aye
Council Member Scott	Absent
Council Member Vierhout	Aye
Mayor Lopez-Rogers	Aye
Council Member Weise	Aye
Council Member Karlin	Aye
Council Member Buster	Aye

Motion carried 6-0.

12) ADJOURNMENT

There being no further business before the Council, Council Member Buster moved to adjourn the regular meeting. Council Member Vierhout seconded the motion. Motion carried unanimously.

Meeting adjourned at 10:02 p.m.

Mayor Lopez-Rogers

Carmen Martinez, CMC

City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Council of the City of Avondale held on the 22nd day of February 2011. I further certify that the meeting was duly called and held and that the quorum was present.

Carmen Martinez

City Clerk